



Don Staniford
salmonfarmingkills@gmail.com

Our Reference: 202200320862
Your Reference: FOI review request re FOI/2022-00320862

16 November 2022

Dear Don Staniford,

Response to request for review of original response

I have completed my review of our response under the Environmental Information (Scotland) Regulations 2004 (EIRs) to your request for “Review of Whiteshore Cockles & the dumping, ensiling, burning and transport of dead/diseased Scottish salmon since 12 November 2021” FOI/2022-00320862. I have concluded that the original decision should be confirmed, without modifications.

As was explained in the original response:

“An exception under regulation 10(4)(e) of the EIRs applies to some of the information you have requested. Regulation 10(4)(e) of the EIRs allows a Scottish public authority to withhold internal communications. In this case internal Scottish Government discussions in relation to general policy and decision making, including ministerial correspondence and legal advice for formulating official responses. This exception is subject to the ‘public interest test’. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in high quality policy and decision-making, and in the properly considered implementation and development of policies and decisions. This means that Ministers and officials need to be able to consider all available options and to debate those rigorously, to fully understand their possible implications. Their candour in doing so will be affected by their assessment of whether the discussions on aquatic animal by-product disposal will be disclosed in the near future, when it may undermine or constrain the Government’s view on that policy while it is still

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under discussion and development. Regulation 11(2) of the EIRs (personal information) applies to some of the information requested because it is personal data of a third party and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exception is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exception."

I note that you strongly disagree with this statement and in particular you consider the argument that Ministers and officials need to be able to consider all available options and to debate those rigorously to fully understand their possible implications, to be ludicrous in this case.

However, having reviewed the information supplied and redactions that were made, I am satisfied that the appropriate exceptions and public interest tests have been correctly applied.

If you are unhappy with the outcome of this review you have the right to appeal to the Scottish Information Commissioner about our decision within 6 months of receiving this letter. Information on how to make an appeal, along with an application form, is available on the Commissioner's website at:

<https://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

You can also contact the Commissioner at:

The Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS
E-mail: enquiries@itspublicknowledge.info
Telephone: 01334 464610

Should you then wish to appeal against the Commissioner's decision, there is a right of appeal to the Court of Session on a point of law only.

Yours sincerely

Andrew Voas
AHW : Animal Welfare

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