



Don Staniford
salmonfarmingkills@gmail.com

Our Reference: 202200333363
Your Reference: FOI re. seals & salmon farms since 1 February 2021

19 May 2023

Dear Don Staniford,

Further to my letter of 20 April 2023 I have now completed my review of our failure to respond to your request under the Environmental Information (Scotland) Regulations 2004 (EIRs) for:

"Please provide information on seals and salmon farms since 1 February 2021.

Please include photos, videos, letters, emails and any other documents in relation to seals and salmon farms.

Please include data and information on any seals trapped, shot, killed and injured at and close to salmon farms.

Please include any warning letters, prosecutions, Marine Scotland Compliance involvement, Police Scotland involvement, US MMPA reference, Cabinet Briefings, press discussions and any other information relating to seals killed/injured/impacted by salmon farms.

Please include any reference to The Ferret, Mowi, The Sunday Times and any other media discussion of seals and salmon farms.

Please provide the information electronically."

We wrote to you on 20 December 2022 to seek clarification on the scope of your request in order to help us locate the information you require. We asked you to confirm the following:

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“Are you seeking all information held by Scottish Government on seals and salmon farms since 1 February 2021 or are you specifically seeking data and information on any seals trapped, shot, killed and injured at and close to salmon farms including warning letters, prosecutions, Marine Scotland Compliance involvement, Police Scotland involvement, US MMPA reference, Cabinet Briefings, press discussions and any other information relating to seals killed/injured/impacted by salmon farms, including any reference to The Ferret, Mowi, The Sunday Times and any other media?”

You provided clarification to us on 5 January 2023 to confirm that it was the latter of the above that you were interested in (highlighted in bold above) for the period from 1 February 2021 to the date of your request (8 December 2022) inclusive.

In accordance with regulation 16(3)(b) of the EIRs, I have also reached a decision on your request.

We would like to apologise for the delay responding to your request, which was due to a combination of factors. This request involved cross-divisional working that required coordination of responses and searches from a number of different individuals across a number of teams. Furthermore, leave arrangements over the Christmas and New Year period also had an effect on the collation of responses. The scope and wording of the request meant that a high number of documents were captured in our initial search. As you will appreciate, ensuring these documents received a thorough review, including considering the views of the third parties who provided some of the information took up a substantial amount of staff time. High workloads of staff also meant that handling took longer than usual.

I can now provide our response to your original request.

Response to your request

As the information you have requested is 'environmental information' for the purposes of the Environmental Information (Scotland) Regulations 2004 (EIRs), we are required to deal with your request under those Regulations. We are applying the exemption at section 39(2) of the Freedom of Information (Scotland) Act 2002 (FOISA), so that we do not also have to deal with your request under FOISA.

This exemption 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 exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption, because there is no public interest in dealing with the same request under two different regimes. This is essentially a technical point and has no material effect on the outcome of your request.

I enclose a copy of most of the information you requested in the format you asked for. This comprises of 17 documents numbered 1 to 17.

Documents 9 and 16 have been released to you in full.

In respect of documents 1 – 8 (inclusive), 10 – 15 (inclusive) and document 17, an exception under 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

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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.

In respect of documents 7 and 8, an exception under regulation 11(1) of the EIRs (personal information) also applies to references to your own name in the emails of 25 May 2021 (09:28) and 24 May 2021 (12:39) respectively because this is personal information of which you are the data subject, and so it is subject to the General Data Protection Regulation (GDPR) and 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.

Appeal to the Commissioner

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: [Appeal to the Commissioner | Scottish Information Commissioner \(itspublicknowledge.info\)](https://www.scot.nhs.uk/itspublicknowledge/info)

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

Louise Cameron
FISH : Marine Conservation

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