



Animal &
Plant Health
Agency

Animal and Plant Health Agency Access to Information Team
Weybourne building
Woodham Lane New Haw Addlestone Surrey
KT15 3NB

ATIC1836

Don Staniford
{By Email}

11 October 2019

Dear Don Staniford

PROVISION OF REQUESTED INFORMATION

Thank you for your request for information regarding salmon farming we received on 16 September 2019. Your request has been handled under the Freedom of Information Act 2000 (FOI).

The information you requested and our response is detailed below:

“Please provide information since 1 January 2018 in relation to photos of farmed salmon and salmon farms.

Please include photos obtained via APHA inspections, unannounced site visits, email correspondence with salmon farming companies, whistleblowers & vets and other sources.

Please include correspondence, emails, letters, press briefings and other information relating to photos including the non-disclosure and non-publication of photos.

Please include any legal correspondence with lawyers acting for salmon farming companies.”

The information that you have requested is exempt from release under the legislation in relation to the following sections:

Section 40

The information contained within the requested documents has been withheld under section 40(2), read in conjunction with 40(3)(a)(i) (third party personal data), of the FOIA as the information constitutes personal data relating to a third party. Section 40(2), read in conjunction with 40(3)(a)(i), of the FOIA provides that personal data relating to third parties is exempt information if disclosure would breach the Data Protection Act 2018

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(DPA).

APHA consider that disclosure of this information is likely to breach the first data protection principle in Schedule 1 of the DPA, which relates to the fair and lawful processing of personal data, in two ways. First, disclosure would not constitute 'fair' processing of the personal data, second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 to the DPA. Therefore, we have concluded that this information is exempt from disclosure under section 40 of the FOIA.

Further to this;

Section 38

Section 38 refers to the exemption from the duty to provide information if it would, or would be likely to affect anyone's health or safety. The exemption in Section 38 is subject to a Public Interest Test to ensure it is being appropriately applied.

Public Interest Test

We recognise that there is a general presumption in favour of transparency and openness concerning our work, and providing the general public with the right to request access to information held by public authorities.

We also recognise that there is a public interest in disclosure of this specific information in order to increase this transparency and openness concerning our work, and providing the general public with the right to request access to information held by public authorities.

However, we feel that there is a stronger public interest in withholding the information as the full details would identify further information and would, or would be likely to, endanger the health and safety of individuals and staff. This poses a substantial risk to the health and safety of individuals associated with salmon farming or on salmon farms that should be of significant severity and is likely to occur in some cases.

We consider this to be a significant factor in favour of maintaining the exemption. APHA has balanced the real threat to the health and safety of individuals which disclosure of the requested information would be likely to cause, against the public interest arguments in favour of disclosure. In this instance the APHA does not consider that disclosing the information requested in order to inform public debate and to promote accountability and transparency would justify the risk to individuals' health and safety.

The following section has also been applied:

Section 43

Section 43(2) of the FOIA exempts information if its disclosure under the Act would or would be likely to prejudice the commercial interests of any person. The exemption in

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Section 43 is subject to a Public Interest Test to ensure it is being appropriately applied.

Public Interest Test

APHA recognises that there is a general presumption in favour of openness and transparency concerning our work, and providing the general public with the right to request access to information held by public authorities.

However, APHAs relationship with Salmon Farmers and farms is based on trust. Releasing this information could prejudice the commercial interests of any such establishments and mislead the general public, who would base their opinions on such information even if any potential problems had been rectified. This could lead to financial losses, whether through a loss of trust and custom or through the cost in time, or of repairing reputational damage.

Furthermore, this would result in breach of confidentiality between APHA and its customers and could potentially lead to an adverse working relationship and interfere with the relevant Public Authority carrying out its statutory duties.

APHA have concluded that, the commercial interest of our customers outweighs that of the public right to know.

Information disclosed in response to this FOI request is releasable to the public. In keeping with the spirit and effect of the FOI and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on GOV.UK, together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

I attach an Annex which explains the copyright that applies to the information being released to you and contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact the Access to Information Team at the email address below or postal address at the top of this letter.

Yours sincerely

ACCESS TO INFORMATION TEAM

Email: enquiries@apha.gov.uk

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Annex

Copyright

The information supplied to you is Crown copyright, unless otherwise stated, and is protected by the Copyright, Designs and Patents Act 1988. You are free to use it for your own purposes, including for the purposes of news reporting. You can find details on the arrangements for re-using Crown copyright information at:

<http://www.nationalarchives.gov.uk/doc/open-government-licence/open-government-licence.htm>

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Complaints

If you are unhappy with the result of your request for information you may request an internal review within 40 working days of the date of this letter.

If you wish to request an internal review, please contact: The Access to Information Team at enquiries@apha.gov.uk or at the postal address at the top of this letter, who will arrange for an internal review of your case.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted APHA's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

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