



Our Ref: ATIC1896

Don Staniford  
{By Email}

10 March 2020

Dear Don Staniford

## **PROVISION OF REQUESTED INFORMATION**

Thank you for your request for information regarding inspections of salmon farms which we received on 12 November 2019. Your request has been handled under the Freedom of Information Act 2000 (FOIA).

The information you requested and our response is detailed below:

“Please provide information relating to inspections of salmon farms in Scotland since 1 January 2018. Please includes emails, letters, reports and any other information in relation to inspections of salmon farms.....Please include information relating to Mowi - in particular to Bagh Dail Nan Ceann (Bay of the Dead Heads)”.

To assist you with your request we have laid out the APHA role in fish farming:

- APHA are concerned with the welfare of farmed fish, including the investigation of allegations
- The Fish Health Inspectorate (FHI) Marine Scotland are responsible for investigating reports of mortalities and monitoring the health of farmed fish and wild fish
- Local Authorities are responsible for any potential breaches in the Animal-by-Product legislation

APHA have attached documentation to all the welfare related inspections undertaken between 1 January 2018 and the date of your request. The names of the farms visited and the reasons can be seen within the documentation which has been indexed at Annex B attached.

APHA is an Executive Agency of the Department for Environment, Food and Rural Affairs and also works on behalf of the Scottish Government, Welsh Government and Food Standards Agency to safeguard animal and plant health for the benefit of people, the environment and the economy.

You will see the majority of the information retained by APHA as part of these visits are the forms, WF77 Initial Welfare incident record form, WF152 Fish Farm Inspection Report and WF151 Report on Fish Welfare for Scottish Government. Please note that no photos were taken as part of our inspections and so are not held. The majority of correspondence is verbal rather than recorded.

We confirm that APHA does hold the information that you have requested and have included the documentation. However, following careful consideration, we have decided that some of it should be withheld or redacted (blacked out) under the following exemptions:

### **Section 40 – Personal Information**

The information being withheld falls under sections 40(2) and 40(3A) of the FOIA as the information constitutes personal data relating to persons other than you. These sections exempt personal information from disclosure if it relates to someone other than the applicant, and if disclosure of that information would breach any of the data protection principles in Article 5(1) of the General Data Protection Regulation (GDPR).

We consider that disclosure of this information is likely to breach the first data protection principle, which provides that personal data must be processed lawfully, fairly, and in a transparent manner. Disclosure would not constitute 'fair' processing of the personal data because individuals names and details such as telephone numbers, are held to allow APHA to conduct our business. Those persons, such as APHA staff, farmers and veterinary surgeons would not reasonably have expected their names and details to be made public.

### **Section 31 - Law Enforcement**

Section 31(1)(g) states:

31 – (1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice –

(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2)

This is read in conjunction with the following sub sections:

- 31 – (2)(a) the purpose of ascertaining whether any person has failed to comply with the law,

The information contained within the inspection reports is withheld. The information gathered at the time of inspection is the information that would be used, if appropriate, to forward to the necessary authorities for any further proceedings, should that be necessary. The source of the investigation is also withheld.

Investigations into allegations of poor welfare, particularly those protected by section 31(1)(g) via 31(2), can be aided by either individuals, or organisations providing

information to the APHA. Such information is either volunteered by a confidential source, for example someone who has provided information on the understanding that they will not be identified and the information and identity of its source will be protected by section 30(2). However, even where the provider of the information is not a confidential source, APHA consider there is still a public interest in not releasing the details of those providing information so as to not discourage others from providing information on a voluntary basis.

#### Public Interest Test

The exemption in section 31 is subject to a Public Interest Test to ensure it is being appropriately applied.

We recognise that there is a public interest in disclosure of this specific information in order to increase transparency and aid well-informed debates concerning our work on investigating farm welfare complaints. However, the public interest in withholding the information arises from the fact that investigations concern the fish welfare and if necessary, ability to continue inspections for any improvements. Release of investigatory information will disrupt this process and would be likely to prejudice the ability for the Local Authorities and/or Fish Health Inspectorates to perform their functions.

Therefore we have concluded the public interest in withholding this part of the information outweighs that in disclosure.

### **Section 43 – Commercial Interests**

Within the forms provided, APHA has withheld commercially sensitive information which has been provided to them by a third party. Following considerations into this request, APHA have considered the level of harm and the impact possible disclosure would have and have withheld this information under Section 43(2) – Prejudice to Commercial Interest.

The Incident Record forms hold the allegations made from anonymous sources. It may be harmful should the allegations be released as the report does not show any verifications. This information if released could be used against the farms to increase negative publicity.

Some information contained within the withheld information holds business sensitive information which may contain production detail and hatchery capacity which competitors could use to their advantage.

#### Public Interest Test

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

The disclosure of the information you have requested has the potential to prejudice the commercial interests of the 3rd party and breach confidentiality between APHA and the farm. We believe that a breach of this confidentiality could potentially lead to an adverse

working relationship and would interfere with APHA carrying out its statutory duties. The data recorded during our inspections is part of our business in order to determine the weight of any allegations and to undertake regular inspections in order to identify any non-compliances. We also believe in releasing information on a particular farm could interfere with the business and running of a farm in competition with its competitors. APHA record this information in the course of welfare inspections.

Therefore, we have concluded that, in all the circumstances of the case, the information should be withheld.

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.

Annex A is attached 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](mailto:enquiries@apha.gov.uk)

## **Annex A**

### **Copyright**

The information supplied to you continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs or logos) can also be used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

Most documents produced by APHA will be protected by Crown Copyright. Most Crown copyright information can be re-used under the [Open Government Licence](#). For information about the OGL and about re-using Crown Copyright information please see [The National Archives website](#).

Copyright in other documents may rest with a third party. For information about obtaining permission from a third party see the [Intellectual Property Office's website](#).

### **Complaints**

If you are unhappy with the service you have received in relation to your request, you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 11 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to the Access to Information Manager at the address at the top of this letter or email [enquiries@apha.gov.uk](mailto:enquiries@apha.gov.uk) and the team will arrange for an internal review of your case.

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner's Office (ICO) for a decision. Please note that generally the ICO cannot make a decision unless you have first exhausted APHA's own complaints procedure. The ICO can be contacted at:

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

## Annex B

### Index of attached documentation

Appendix Reference	Name of Farm
C01, C01a and C02	Complaints on various farms
GS01, GS01a and GS02	Greig Seafoods
LD01, LD01a to e and LD02 to LD03	Loch Duart
MA01 to MA02	MOWI Ardgour
MBDNC01 to MBDNC04	MOWI BDNC
ML01, ML01a to b and ML02, ML02a and ML03	MOWI Lochailort
MCFF01 to MCFF02	MOWI MCFF
MNS01	MOWI North Shore
AIR01 to AIR07	Scottish Salmon Co-Aird
LDA01 to LDA05	Scottish Salmon Co-Loch Damph
M01 to M02	Scottish Salmon Co-Maay
MM01 to MM02	Scottish Salmon Co-Maragay
NU01 to NU02	Scottish Salmon Co-North Uiskevah
S01 to S04	Scottish Salmon Co-Scallaste
T01	Scottish Salmon Co-Torridon
V01 to V04	Scottish Salmon Co-Vacasay
LS01 to LS03	Scottish Sea Farms