

Our Ref: IM-FOI-2017-2869  
Date: 10 January 2018



## FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

For ease of reference, your request is replicated below together with the response.

**We are aware of one incident, in March of this year on the A9 near Blair Atholl, when a transport lorry shed its load of dead fish and blocked the road with toxic waste for several hours. With a quarter of the entire production from fish farms dying accidentally during the production process, a total of over 20,000 tonnes each year, there is a clear risk of other accidents of this sort. It is also essential to ensure that the containers are leak proof, to avoid toxic material being spread over wide areas.**

The questions to which we would like answers are as follows.

**1. Are there any protocols between Police Scotland and (a) local authorities or (b) operating companies regarding the disposal of waste from fish farms? If so please provide copies.**

Police Scotland has no protocols with any local authority or operating company regarding the disposal of waste from fish farms. Police Scotland would need to be informed if the disposal was categorised as an "Abnormal Load". This is where a load would contravene the requirements of the Road Vehicles (Construction & Use) Regulations 1988, in relation to the weight, width or length, etc. The notifications and conditions that are required vary according to the size of the abnormality.

**2. Did Police Scotland inform the relevant department of local authority dealing with environmental matters about the A9 incident referred to?**

BEAR Scotland was informed of the road traffic collision that occurred on the A9 on 17 March 2017.

**Do you have details of any other incidents involving the shedding of dead fish on our roads? If so please supply details.**

I regret to inform you that I am unable to provide you with the information you have requested, as it would prove too costly to do so within the context of the fee regulations.

As you may be aware the current cost threshold is £600 and I estimate that it would cost well in excess of this amount to process your request.

As such, and in terms of Section 16(4) of the Freedom of Information (Scotland) Act 2002 where Section 12(1) of the Act (Excessive Cost of Compliance) has been applied, this represents a refusal notice for the information sought.

By way of explanation, whilst incidents are of course categorised on our systems, the categories are relatively high level in nature and so the only way to provide an accurate response to your request would be to examine thousands of potentially relevant incidents to establish which, if any, were relevant to your request - an exercise which I estimate would far exceed the cost limit set out in the Fees Regulations.

**3. In relation to the A9 incident and also any other incidents of which you are aware, please confirm (a) the name of the company operating the transport (b) the name of the owner of the waste (c) the point of departure (d) the intended destination and (e) details of how the spilled waste was disposed of and of any measures taken to clean the site.**

In response to this question, parts (a), (b), (c) and (d), I would advise you that in terms of Section 16 of the Freedom of Information (Scotland) Act 2002, I am refusing to provide you with the information requested.

Section 16 requires Police Scotland when refusing to provide such information because it is exempt, to provide you with a notice which:

- (a) states that it holds the information,
- (b) states that it is claiming an exemption,
- (c) specifies the exemption in question and
- (d) states, if that would not be otherwise apparent, why the exemption applies.

I can confirm that Police Scotland holds the information that you have requested.

The exemptions that I consider to be applicable to the information requested by you is as follows:

#### Section 34(1)(b) - Investigations

Section 34(1)(b) of the Act provides an absolute exemption from disclosure in that information is exempt information if it has at any time been held by Police Scotland for the purposes of an investigation which may lead to a decision to make a report to the Procurator Fiscal to enable it to be determined whether criminal proceedings should be instituted.

In respect of (e), I can provide that Bear Scotland was responsible for the clean-up at the incident on 17 March 2017. As such, in terms of Section 17 of the Freedom of Information (Scotland) Act 2002, this represents a notice that the information you seek is not held by Police Scotland.

Should you require any further assistance concerning this matter please contact Information Management - Dundee on 01382 596657 quoting the reference number given.

If you are dissatisfied with the way in which your request has been dealt with, you are entitled in the first instance, and within 40 working days of receiving this response, to request a review of our actions and decisions.

Should you wish to do so, please contact us at the following address, stating what has caused your dissatisfaction and what you require us to review:

Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH - [foi@scotland.pnn.police.uk](mailto:foi@scotland.pnn.police.uk)

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Scottish Information Commissioner within six months for a decision. You can raise an appeal using the online service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal) or by writing to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS, or via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info).

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