

Scottish Salmon Watch, 29 August 2018

**REVEALED:
Legal Threats to Prevent Publication
of Damning Photographs of Diseased & Deformed Scottish Salmon**

**- Scottish Government's FOI Unit forces disclosure despite objections
from the lawyers of Scottish Sea Farms & The Scottish Salmon Company**



Documents disclosed by the Scottish Government via Freedom of Information (FOI) [reveal legal threats from the salmon farming industry](#) to stop the publication of damning photographs graphically illustrating diseased and deformed farmed salmon [1].

Lawyers acting for Scottish Sea Farms wrote to the Scottish Government in May stressing that "our clients are very concerned about the proposed release". Disclosure of the photographs "may be a breach of duty and actionable at law" argued lawyers acting for The Scottish Salmon Company in June. Despite the industry's legal threats the Scottish Government [published the offending photos in June](#) and [published more images in August](#).



The FOI disclosure on 13 August 2018 (see [FOI Dossier for more details](#)) included:

Scottish Sea Farms wrote to the Scottish Government on 12 June asking that the photographs not be released into the public domain "in order to safeguard the safety of our personnel, protect our legitimate economic interest, and prevent loss of confidence in the product and the wider Scottish salmon farming industry." "There is no need for these images to be released and to do so will harm Scottish Sea Farms' commercial reputation as the photos are likely to be interpreted incorrectly and used against us," stated Scottish Sea Farms.

"The impact of such negative imagery would unjustly portray Scottish Sea Farms Ltd., and Scottish salmon farming in general in a negative perspective which will prejudice our legitimate economic interest through the loss of confidence in our product and that of the wider Scottish industry," argued a four-page legal submission also dated 12 June from Scottish Sea Farms' lawyers [Shepherd & Wedderburn](#).

The Scottish Salmon Company (TSSC) claimed on 1 June that: "Disclosure of these photographs will therefore prejudice substantially TSSC's confidentiality of commercial/industrial information by releasing information which is protected. Release of such confidential information could have an economic impact on TSSC should the photographs be used against us.....They are at best meaningless to an untrained eye, at worst liable to deliberate or accidental misinterpretation and could easily be used against TSSC by the party who has made the request, in circumstances which do not take account of the context in which these photographs were taken. This exposes TSSC to reputational damage which could have an economic impact."

The Scottish Salmon Company's lawyers submitted further legal comments to the Scottish Government on 13 June 2018 threatening that disclosure "may be a breach of duty and actionable at law". "The Scottish Salmon Company was not under any legal obligation to supply the fish to be photographed; did not allow the fish to be photographed so that the photographs could be released in to the public domain; and the salmon were in the ownership of The Scottish Salmon Company when the photographs were taken and The Scottish Salmon Company do not give their consent to the release of the photographs," stated [CMS Cameron McKenna Nabarro Olswang LLP](#).

"Given the comment around 'breach of duty' and 'actionable' by law to me there appears to be a possible threat of legal action should we release information," wrote Marine Scotland Science on 14 June to the Scottish Government's FOI Unit.

The FOI request for photos of diseased Scottish salmon - filed on 1 March 2018 by the Global Alliance Against Industrial Aquaculture - prompted briefings for the Cabinet Secretary of Rural Economy & Connectivity (Fergus Ewing):

"We are seeking advice from the FOI unit regarding untested exemptions in this case, for example commercial confidentiality," stated a Cabinet Briefing dated 31 May. "We will not be releasing information until this process is complete and we will keep SpAds [Special Advisers] and Ministers up to date. There is a very large collection of fish images held by the fish health inspectorate and the result of this FOI will have implications on the release of further images."

Civil servants working for the Scottish appeared to be working with the salmon farming industry to prevent disclosure:

"I note your concerns regarding the release of images in relation to economic interests," wrote an unnamed Marine Scotland Science official in an email to The Scottish Salmon Company dated 8 June. "If there is any potential for substantial prejudice to economic interests, it would benefit use if you could provide further evidence of the harm which could be caused or has been caused (?) from the release or use of similar types of information. This may help support any argument made under this exception. Such evidence could include, but would not be limited to evidence which supports: the loss of confidence in your product; a detrimental impact to buyers contracts; a detrimental impact to consumer sales. Firm evidence associated with the release of these types of information would be most beneficial to supporting a case rather than just relaying [sic] upon the potential impact, although I appreciate this may not be available."

"Can you advise if there is any way that the information could be withheld please," asked Marine Scotland Science in an email to the Scottish Government's FOI Unit dated 30 May. "We have tried to argue in the past that the information is already publicly available because case reports are published, minus photographs. However, advice from you was that if there was information in the photos that wasn't replicated exactly in the published information then we couldn't rely on this."

The [FOI disclosure revealed](#) that the salmon farming industry refused to publish the photographs themselves:

"We contacted the SSPO [Scottish Salmon Producers Organisation] to discuss the potential for the PO [Producer Organisation] to publish these photos collectively on behalf of the individual companies," wrote Marine Scotland's Aquaculture Unit on 13 June in an email to the Cabinet Secretary for Rural Economy & Connectivity (copied to the Cabinet Secretary for the Environment, Climate Change and Land Reform). "The SSPO were not in favour of this approach and felt that the release of the photos by the PO could have the opposite of the intended effect, making it easier to sensationalise the images made available."

"We are also preparing for the eventuality that the photos are released and are working on the attached narrative to accompany the photos," continued the Cabinet Briefing dated 13 June. "We will keep Ministers updated. If the photos are to be released, lines will be prepared which draw upon the attached text in preparation for any media activity."

"After stakeholder consultation, none of the companies concerned have expressed the desire to publish these photographs themselves," wrote Marine Scotland Science on 15 June in an update for the Cabinet Secretary for Rural Economy & Connectivity.

Despite the legal threats, the Scottish Government's FOI Unit concluded that the photographs must be disclosed:

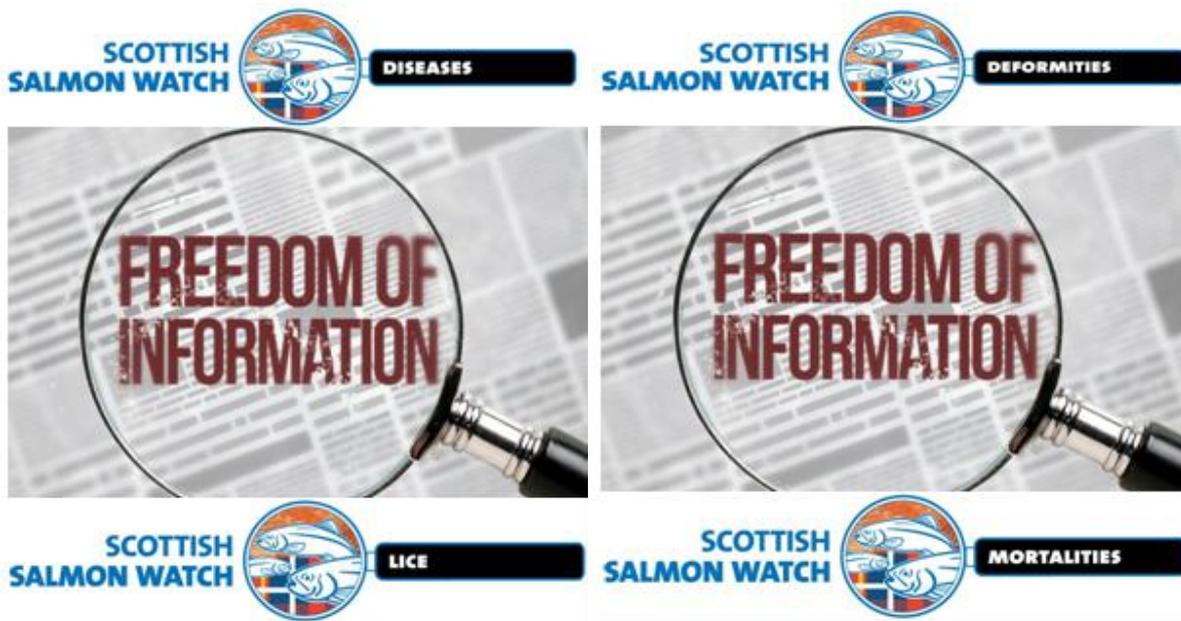
"I have communicated with you over the intention to release these photographs in response to the request received and whilst some stakeholders expressed no or limited concern regarding the same others have had concerns which have been more substantial," wrote Marine Scotland Science in an email to Marine Harvest, Scottish Sea Farms, the Scottish Salmon Company, Loch Duart, Grieg Seafood, Cooke Aquaculture and the SSPO dated 14 June



"Scottish farmed salmon is diseased, deformed and hazardous to the health of the marine ecosystem as well as public health," said Don Staniford, [Director of Scottish Salmon Watch](#), who obtained the damning images via FOI. "If consumers could see what horrors were lurking inside salmon farms they would not touch unhealthy Scottish salmon with a barge pole. No wonder the salmon farming industry fought desperately to keep such shocking images from being published. The camera never lies, unlike salmon farmers who are falsely marketing Scottish salmon as healthy, responsibly source and welfare-friendly."



"Shame on The Scottish Salmon Company and Scottish Sea Farms for trying to cover up the harsh reality of salmon farming," continued Staniford. "The contrast with Marine Harvest's apparent willingness to allow the photos to be published could not be more stark. Praise must be heaped on the Scottish Government's FOI Unit for standing up to the companies and their threatening lawyers. Thankfully, such is the power of Freedom of Information in Scotland that the public's right to know trumps the economic interests of the corporation. This FOI decision now opens the floodgates to further damning disclosures into the murky world of Scottish salmon farming."



Please read more via:

[Hard Evidence: Photos of Diseased & Deformed Scottish Salmon \(August 2018\)](#)
[Horror photos of farmed salmon spark legal threat](#)
[EXPOSED: Gruesome Photos of Deformed & Diseased Scottish Salmon](#)
[Hard Evidence - Photos of Diseased & Deformed Scottish Salmon \(June 2018\)](#)

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Notes to Editors:

[1] Read more details via: "[FOI Dossier: Photographs of Diseased & Deformed Scottish Salmon - Scottish Government FOI disclosure despite legal threats from Scottish Sea Farms & The Scottish Salmon Company](#)" (August 2018)