

[request-215032-4ae5e4ff@whatdotheyknow.com](mailto:request-215032-4ae5e4ff@whatdotheyknow.com)

30 June 2014

Dear Mr Foster

**REQUEST UNDER THE ENVIRONMENTAL INFORMATION (SCOTLAND)  
REGULATIONS 2004 (EIRs)**

Thank you for your request dated 3 June 2014 under the Environmental Information (Scotland) Regulations 2004 (EIRs).

Your request

You asked for information regarding the recent spate of approximately 22 raptor deaths in the Conon Bridge area and specifically asking for recorded toxicology data on the birds investigated from this incident, to include:

- i) Species, sex, age if indicated
- ii) information on any pesticides or poisons identified in animal tissues from toxicology results
- iii) level detected of any pesticide or poison identified
- iv) any internal comments that may indicate a scientific view on whether any particular bird had died as a result of deliberate abuse or accidental poisoning, or whether the death had been allocated to any particular cause.
- v) any data which indicates the laboratory or pathology results had been attributed to 'abuse' or any other cause

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.

#### Response to your request

While our aim is to provide information whenever possible, in this instance we are unable to provide the information you have requested because exceptions under regulations 10(5)(b) (course of justice, ability to receive a fair trial or ability to conduct a criminal or disciplinary inquiry) and 10(4)(d) (material in the course of completion, unfinished documents, or incomplete data) of the EIRs apply to that information. The reasons why the exceptions apply are explained in the Annex to this letter.

#### Your right to request a review

If you are unhappy with this response to your EIRs request, you may ask us to carry out an internal review of the response, by writing to Dr Jonathan Pryce, Director for Agriculture, Food & Rural Communities, Q1 Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD. Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your rights is available on the Commissioner's website at: [www.itspublicknowledge.info](http://www.itspublicknowledge.info)

Yours sincerely

*Elizabeth Sharp*

**ELIZABETH SHARP**  
Senior Analyst



## REASONS FOR NOT PROVIDING INFORMATION

Exceptions apply

An exception under regulation 10(5)(b) of the EIRs applies to all of the information requested. This regulation relates to environmental information where its disclosure would, or would be likely to, prejudice substantially "the course of justice, the ability of a person to receive a fair trial or the ability of any public authority to conduct an inquiry of a criminal or disciplinary nature" and applies because the incident is the subject of an ongoing police investigation.

In addition, an exception under regulation 10(4)(d) of the EIRs, which relates to material which is still in "the course of completion, unfinished documents or incomplete data", applies to all of the information you have requested because the laboratory report for this investigation is incomplete.

These exceptions are 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 exception. We have found that, on balance, the public interest lies in favour of upholding the exception. We recognise that there is some public interest in release because of the impact this incident may have on the bird of prey population, and in particular the red kite population, in the area. However, this is outweighed by the public interest in ensuring that the ongoing police investigation is not jeopardised and that incomplete data are not released.

