

9 April 2024

Dear

Our ref: Complaint in respect of ATISN 19253 – Poisoning reports and also in relation to ICO Case Reference: IC-278931-F6Z7

I am writing to provide you with the information you initially requested of Welsh Government on 6 November 2023, namely the final Fera Science Reports related to the Wildlife Incident Investigation Scheme, for the following investigations:

Reference Number					
W/15/01	W/15/03	W/15/04	W/15/06	W/15/10	W/15/19
W/15/21	W/15/28	W/15/30	W/15/32	W/15/33	

As we advised in our response of 9 November 2023, we were unable to respond to your original request because at that time you were working in concert with others which resulted in us receiving five requests for a total of 155 reports within a period of less than 40 days. Following ICO guidance on this matter, the decisions to aggregate the requests, and find them exceeding the threshold of manifestly unreasonable, were made. Subsequently your complaint of 13 November 2023 resulted in a thorough internal investigation which upheld the decision to refuse your request.

Following this your complaint to the Information Commissioner has resulted in our revisiting this case and we found that since your original request, all other requests originating from yourself (including those with whom you were working in concert at that time), have now closed and as such we are able to provide you with the 11 toxicology reports you requested.

This decision has been taken on the basis that had we received your request today – in isolation of the other requests made by people acting in concert with you – it would not be considered a manifestly unreasonable request. Indeed, all information access decisions are arrived at while considering the presumption in favour of release. As such the Welsh Government has never objected to releasing these reports, it was the aggregation of requests we had received (the above mentioned 155 total reports from you and those working with you), within a period of less than 40 working days, which resulted in the decision to treat all of the requests collectively as manifestly unreasonable.

Whilst there is no barrier to releasing the 11 reports as per your original request, we would also like to provide some context around our response. As I would hope you would acknowledge, we have previously tried on more than one occasion to reach out to you in order to come to an agreement on the release of the reports you are interested in, in a timely and reasonable manner, but we have not received a response. I would like to repeat this offer to reach a wider agreement on these reports and I suggest it would be helpful for us to meet either face to face or virtually with myself or a colleague to discuss a way forward.

When your request was initially refused, the amount of time (based on careful sampling) we estimated it would take to locate, retrieve, and redact the requested information exceeded the level, following ICO guidance, at which is reasonable and in the public interest. We also noted that in your subsequent complaint to us regarding that decision there was no objection raised in relation to our assessment you were working in concert with others (nor was this raised by the other requestors who were informed of the same decision to refuse the requests they had submitted).

It is likely that following your previous complaint to the ICO which resulted in the Welsh Government being instructed to release four-digit grid references relating to these poisoning reports, you believed the time it would take to redact documents would be significantly less and that would result in this request falling within reasonable levels. Unfortunately, the outcome of that ICO ruling has, in fact, increased the time it takes to redact these sensitive reports due to the more subtle nature of some of the identifiers used in the narrative such as job titles, personal relationships and other such information. When the grid references were previously redacted it was not necessary to be concerned about such references as, without a specific location, they couldn't be used to identify individuals.

I am aware from the team that you previously worked on these poisoning cases in England and so it is possible with that knowledge of their filing systems and databases, you have determined your request of Welsh Government to be reasonable. The Welsh Government, however, utilises an entirely different system to England. Our system is far more labour intensive – this is why the internal review upheld the decision following a rigorous testing of our processes to locate and extract data. Likewise, the team in Wales is far smaller than in England. The work of locating and extracting this data can only be executed by the 3 FTE people in the Wildlife team who have access to the system and the knowledge of what might constitute personal data within those reports. There is no dedicated or separate resource for complying with these FOI/EIR requests and the team of 3 FTE wildlife policy specialists must be diverted from essential work on badger licensing, investigating wildlife poisonings and a wide range of wildlife policy work.

I hope this letter has provided you with a more rounded context for the reasons for refusing your initial request and why we are now able to release this information to you. If you would like to discuss further or indeed you would like to discuss an arrangement on releasing additional poisoning reports, in a timely and reasonable manner, please do not hesitate to contact me as per the details below.

I would also like to take this opportunity to inform you that we intend to review our data retention policy for Fera reports in the near future. We are mindful of ensuring the data protection principles are adhered to in this area of data the Welsh Government retains. As such it is possible that a new policy will result in the deletion of a number of older files for which we have no purpose in retaining. Should this be the case there will be a substantial notification period, of potentially 6 to 12 months before any files are deleted. If you would be interested in receiving a copy of the new policy, please advise us as soon as possible at wildlife@gov.wales

Please note this letter and information release has been copied to ICO Senior Case Officer, Joanne Edwards.

Yours sincerely,

Head of Plant Health & Wildlife Protection