



Rural Payments
Agency

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18 January 2017
Ref: RFI 4328

Dear [REDACTED]

RE: Environmental Information Regulations – Information Request

Thank you for your request for information dated 27 December 2016, which is being dealt with under the Environmental Information Regulations (EIR) 2004.

You have asked the following questions about the discovery of a hidden pesticide cache on Hurst Moor, North Yorkshire in 2014:

- 1. Did the CAP subsidies received by the specified business in 2014 cover the land where the poisons cache was discovered?**
- 2. If so, does having a poisons cache, administered by a gamekeeper, qualify as a cross-compliance breach?**
- 3. If so, will the Rural Payments Agency be applying a subsidy penalty?**

The RPA has determined that a subsidy penalty was not appropriate, for the reason set out below. It therefore did not need to establish the precise location of land where the poisons cache was discovered.

We considered this case under the cross compliance rules that applied in 2014 and we hope the following will explain why RPA does not have the scope to apply cross compliance penalties for breaches of this nature.

Within cross compliance, all breaches relating to storage of pesticides were provided for by a set of rules known as the sustainable use rules. These were part of the wider set of rules covered by the plant protection product Statutory Management Requirement (SMR) which, in 2014 was SMR 9. Please refer to page 63 of the [Guide to Cross Compliance in England 2014](#), for further information.

From 1 January 2014 a change to European legislation meant the sustainable use rules were removed from the scope of SMR 9 as far as cross compliance rules applicable to SPS payments were concerned. This meant there was no scope to apply cross compliance penalties to SPS

payments for pesticide storage and unapproved product breaches that occurred from 1 January 2014 onwards.

The sustainable use rules continued to apply to rural development schemes covered by cross compliance rules, for example the full range of Environmental Stewardship schemes. This was the case until the end of 2014, after which further changes to European legislation fully removed the sustainable use rules from the scope of cross compliance.

In the rural development legislation that applied in 2014, the obligation to comply with the statutory management requirements did not apply to non-agricultural activities on a holding. In this case the evidence is that the breach was committed in connection with the non-agricultural activity of game shooting. In addition, the evidence is that the cache was not found on agricultural land, but within a small plantation of trees. Therefore it is not possible to apply cross compliance penalties to rural development payments for a breach of this nature.

If you are not happy with the way we have handled your request, you can ask for an internal review. These requests should be submitted in writing within two months of the date of receipt of the response to your original request and should be addressed to the Information Rights Team at the Rural Payments Agency, North Gate House, 21-23 Valpy Street, Reading, RG1 1AF or alternatively email your request for a review to irt@rpa.gsi.gov.uk.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted RPA's own complaints procedure. The Information Commissioner can be contacted at: [Information Commissioner's Office](#), Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

If you have any queries about this let us know.

Yours sincerely

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