



Animal &  
Plant Health  
Agency

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Our Ref: ATIC1502

[REDACTED]  
{By Email}

14 November 2018

Dear [REDACTED]

## PROVISION OF REQUESTED INFORMATION

Thank you for your request for information on live animal exports which we received on 18 October 2018. Your request has been handled under the Freedom of Information Act 2000 (FOI).

The information you requested and our response is detailed below:

With reference to a sailing close to midnight on Tuesday the 16<sup>th</sup> of October 2018.

1. Do you know if on arrival in Calais they were unloaded and rested as EU law prescribes?

Council Regulation (EC) No 1/2005 Section 2 Chapter V (1.4 )(a) states that “Unweaned calves must, after nine hours of travel, be given a rest period of at least one hour sufficient in particular for them to be given liquid and if necessary fed. After this rest period, they may be transported for a further nine hours”. Point 1.5 states “After the journey time laid down, animals must be unloaded, fed and watered and be rested for at least 24 hours”

As the entire journey time for this part of the journey had not been completed, in full accordance with Council Regulation (EC) No 1/2005 the animals were not unloaded at Calais.

2. Did the correct teats get fitted at the port of Ramsgate as surely your inspectors would have noticed this at once? They must have been very efficient as the Joline was not delayed and sailed just after midnight with her very sad cargo.

Council Regulation (EC) No 1/2005 Annex I, Chapter VI (2.2) 'The watering devices shall be in good working order and be appropriately designed and positioned for the categories of animals to be watered on board the vehicle.'

Council Regulation (EC) No 1/2005 Annex I, Chapter III (2.7) states: 'Due regard shall be paid to the need of animals to become accustomed to the mode of feeding and watering.'

Furthermore, Animal and Plant Health Agency's guidance for inspectors completing a vehicle /livestock compliance report form (WIT32) and in particular completing Question 21 "Are the watering devices appropriately designed and positioned for the types of animals being transported?" is as follows:

Metal nipples or troughs alone are not considered as being a suitable delivery system to provide liquids to unweaned animals (see Weaned / Unweaned P.4). Only vehicles equipped with pails and flexible teats are considered acceptable for that purpose. Vehicles carrying unweaned animals which don't provide flexible teats or pails may be treated as a breach of the Regulation on the grounds the transporter hasn't given regard to the need of unweaned animals to become accustomed to the drinking facilities on board, unless the transporter is able to prove otherwise.'

The inspector for the supervised loading provided the attached 3 pictures (Appendix 3, 4 and 5) of buckets with teats that were used for this consignment, in accordance with both Council Regulation (EC) No 1/2005 and APHA guidance for compliance with the aforementioned regulation.

The Inspection forms WIT 32 and 59 have been attached as Appendix 1 and 2.

Some of the information has been redacted under Section 38, Section 40(2), read in conjunction with 40(3)(a)(i) of the Freedom of Information Act (2000).

### **Section 38**

Section 38 refers to the exemption from the duty to provide information if it would, or would be likely to affect anyone's health or safety. The exemption in Section 38 is subject to a Public Interest Test to ensure it is being appropriately applied.

### **Public Interest Test**

We recognise that there is a general presumption in favour of transparency and openness concerning our work, and providing the general public with the right to request access to information held by public authorities.

We also recognise that there is a public interest in disclosure of this specific information in order to increase this transparency and aid well-informed debates concerning the welfare and transportation of animals, and the individuals associated with them.

However, we feel that there is a stronger public interest in withholding the information as the full addresses, including the county of origin, the destination and/or rest stops, transporter details and individual names would identify further information and would, or would be likely to, endanger the health and safety of staff. This poses a substantial risk to the health and safety of individuals associated with the transportation of animals that

would be of significant severity and is likely to occur in some cases. We consider this to be a significant factor in favour of maintaining the exemption.

APHA has balanced the real threat to the health and safety of individuals which disclosure of the requested information would be likely to cause, against the public interest arguments in favour of disclosure. In this instance the APHA does not consider that disclosing the information requested in order to inform public debate and to promote accountability and transparency would justify the risk to individuals' health and safety.

## **Section 40**

Some of the information contained within the requested documents have been withheld under section 40(2), read in conjunction with 40(3)(a)(i) (third party personal data), of the FOIA as the information constitutes personal data relating to a third party. Section 40(2), read in conjunction with 40(3)(a)(i), of the FOIA provides that personal data relating to third parties is exempt information if disclosure would breach the Data Protection Act 2018 (DPA). APHA consider that disclosure of this information is likely to breach the first data protection principle in Schedule 1 of the DPA, which relates to the fair and lawful processing of personal data, in two ways. First, disclosure would not constitute 'fair' processing of the personal data, second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 to the DPA. Therefore, we have concluded that this information is exempt from disclosure under section 40 of the FOIA

Information disclosed in response to this FOI request is releasable to the public. In keeping with the spirit and effect of the FOI and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on GOV.UK, together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

I attach an Annex which explains the copyright that applies to the information being released to you and contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact the Access to Information Team at the email address below or postal address at the top of this letter.

Yours sincerely

### **ACCESS TO INFORMATION TEAM**

Email: [enquiries@apha.gsi.gov.uk](mailto:enquiries@apha.gsi.gov.uk)

## Annex

### Copyright

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### Complaints

If you are unhappy with the result of your request for information you may request an internal review within 40 working days of the date of this letter.

If you wish to request an internal review, please contact: The Access to Information Team at [enquiries@apha.gsi.gov.uk](mailto:enquiries@apha.gsi.gov.uk) or at the postal address at the top of this letter, who will arrange for an internal review of your case.

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 APHA's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF