

From: [Foi Enquiries](#)
To: [REDACTED]
Subject: EIR-17-1553 - Health & Safety at Work Act 1974
Date: 15 November 2017 08:59:49
Attachments: [Further Information - Right to Review & Appeal.pdf](#)
[EIR-17-1553 - List of HS Notices.pdf](#)

Dear [REDACTED],

Thank you for your information request of 24 October 2017. Aberdeen City Council (ACC) has completed the necessary search for the information requested.

• **Health & Safety at Work Act etc. 1974 - S21 & S22**

We would be obliged if you can provide us with the following details in regards to notices/Orders that have been made by Aberdeen City Council under the legislation listed above:

• **Notices or Orders that remain extant as at 24th October 2017**

It is not possible to provide details of all extant notices as these may be subject to ongoing enforcement action including reports to the Procurator Fiscal

• **Notices or Orders that have been complied with and have monies owed to Aberdeen City Council as at 24th October 2017**

Not applicable

• **Notices or Orders that have invoices pending in respect of works carried out by or on behalf of Aberdeen City Council to resolve the matter as at 24th October 2017**

Not applicable

If it is not possible for the details of outstanding monies to be confirmed we would be obliged if you can provide us with the following details:

• **all notices served or orders made by Aberdeen City Council, from 28th March 2017 to 24th October 2017 under the legislation listed above**

Please find attached a list of relevant notices served and complied with within the period. Information on notices that have not been complied with have been excluded as these will be the subject of ongoing enforcement action including reports being submitted to the Procurator Fiscal. Information on notices served which have not yet expired have also been excluded as there is the potential for ongoing enforcement action including reports being submitted to the Procurator Fiscal.

When answering in the negative to any of the above, we would be obliged if you would confirm that you are doing so.

Wherever possible we would be grateful if the information could be prepared to include the following:

- reference numbers.
- addresses of the subjects the actions are served over.

- **summary descriptions of the nature of the works/contravention.**
- **relevant dates.**
- **status of the action.**
- **amounts owed to the council (when available).**

ACC is unable to provide you with information on ongoing enforcement notices as it is excepted from disclosure. In order to comply with its obligations under the terms of Regulation 13 of the EIRs, ACC hereby gives notice that we are refusing your request under the terms of Regulation 10(5)(b) – Course of Justice – of the EIRs.

In making this decision ACC considered the following points:

Where an officer has assessed that a business has not complied with enforcement notices, this is routinely reported to the Procurator Fiscal Service for consideration for prosecution. Therefore disclosure of notices that have not been complied with may impact upon the administration of justice. Notices which are still within the time period for compliance, may not be complied with and therefore disclosure may impact on the administration of justice as above.

An official appeals mechanism exists for enforcement notices. An appeal may result in the notice being overturned or amended. Disclosure of this information at this time may impact upon the actions of the Procurator Fiscal, on the defendant and upon the courts, causing harm to the judicial system and the ability for all parties to receive a fair trial.

The likelihood of these notices going to the Procurator Fiscal if not complied with is high. As such, the potential for harm to be caused by premature release is also high.

Whilst ACC recognises that releasing information regarding establishments that have not complied with enforcement notices may assist consumers making an informed choice, it is felt that the release of this information will inhibit our ability to conduct a fair and thorough investigation and may affect the course of justice detrimentally.

On this basis, ACC considers that information regarding ongoing enforcement notices is excepted from release into the public domain under the Environmental Information (Scotland) Regulations 2004 (EIRs).

We hope this helps with your request.

Yours sincerely,

Grant Webster
Information Compliance Officer

INFORMATION ABOUT THE HANDLING OF YOUR REQUEST

As the information which you requested is environmental information, as defined under Regulation 2(1) of the Environmental Information (Scotland) Regulations 2004 (the EIRs), ACC considered that it was exempt from release through FOISA, and must therefore give you notice that we are refusing your request under Section 39(2) of FOISA (Freedom of Information

(Scotland) Act 2002). However, you have a separate right to access the information which you have requested under Regulation 5 of the EIRs, under which ACC has handled your request. Please refer to the attached PDF for more information about your rights under the EIRs.

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*03000 numbers are free to call if you have 'free minutes' included in your mobile call plan.
Calls from BT landlines will be charged at the local call rate of 10.24p per minute (the same as 01224s).

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EIR-17-1553

Notices served under Health and Safety at Work etc Act 1974 – Section 21 [for period 28th March to 24th October 2017]

Serial Number	Name	Address	Contravention	Date Served	Expiry Date	Disposal	Disposal Date
I/11/17/VDO	COLIN'S TYRES	Farburn Terrace	HSAW S 2[1], LOLER Reg 9 [3]	21-Apr-17	15-May-17	Complied	08-May-17
I/13/17/VDO	CAFE ROZA	100 Holburn Street	Electricity at work Regs - Reg 4]	23-May-17	30-Jun-17	Changed Ownership before Expiry	28-Jun-17
I/13/17/VDO	CAFE 100	100 Holburn Street	HASAWA Section 2[2]; Electricity at Work Regs, Reg. 4	23-May-17	30-Jun-17	Extended	28-Jun-17
IN/VDO/270617/02	CAFE 100	100 Holburn Street	HASAWA, 1974 - Section 2[2]; EAW Regs - Regulation 4	28-Jun-17	30-Jul-17	Direct Action Taken	03-Aug-17
IN/ACG/290617/2	CHINA CHINA	218-222 George Street	HSAW S 3[1], HSAW Reg 1992	18-Jul-17	18-Aug-17	Complied	18-Aug-17

Notices served under Health and Safety at Work etc Act 1974 – Section 22 [for period 28th March to 24th October 2017]

Serial Number	Name	Address	Contravention	Date Served	Expiry Date	Disposal	Disposal Date
P/5/17/NID	CUMIN TANDOORI / TIGERS BAR	401-405 Union Street	HSAW S2 P1 Par2D, S3 Par1, LOLER Reg 9 par 3	07-Apr-17	N/A	Ceased Trading	10-Oct-17
P/6/17/NID	CUMIN TANDOORI / TIGERS BAR	401-405 Union Street	HSAW S2 P1 Par2D, S3 Par1, LOLER Reg 9 par 3	07-Apr-17	N/A	Direct Action Taken	12-Apr-17
P/AND/030617/1	QUARTERDECK BAR	Blaikies Quay	HASAWA Sec 2[1] and 3[1]; Control of Asbestog Regs Reg	03-Jun-17	N/A	Direct Action Taken	14-Jul-17
P/AND/030617/2	QUARTERDECK BAR	Blaikies Quay	HASAWA Sec 2[1] and 3[1]; Control of Asbestog Regs Reg	03-Jun-17	N/A	Direct Action Taken	14-Jul-17
P/AND/030617/3	QUARTERDECK BAR	Blaikies Quay	HASAWA Sec 2[1] and 3[1]; Control of Asbestog Regs Reg	03-Jun-17	N/A	Direct Action Taken	14-Jul-17
P/AND/030617/4	QUARTERDECK BAR	Blaikies Quay	HASAWA Sec 2[1] and 3[1]; Control of Asbestog Regs Reg	03-Jun-17	N/A	Direct Action Taken	14-Jul-17
HSP/NID/170417/1	CUMIN TANDOORI / TIGERS BAR	401-405 Union Street	HASAWA - Section 2 and 3; LOLER - Reg 9	23-Aug-17	N/A	Ceased Trading	10-Oct-17