

From: [Foi Enquiries](#)
To: [REDACTED]
Subject: EIR-17-0502 - Health & Safety at Work
Date: 19 April 2017 08:50:43
Attachments: [Further Information - Right to Review & Appeal.pdf](#)
[EIR-17-0502 - Notices Served.pdf](#)

Dear [REDACTED],

Thank you for your information request of 28 March 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 28th March 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 28th March 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 28th March 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 12th September 2016 to 28th March 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 effect 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.

Information Compliance Team
Communications and Promotion
Office of Chief Executive
Aberdeen City Council
3rd Floor North
Business Hub 17
Marischal College
Broad Street
ABERDEEN AB10 1AQ

foienquiries@aberdeencity.gov.uk

01224 523827/523602

Tel 03000 200 292

*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).

www.aberdeencity.gov.uk

EIR-17-0502

Notices served under Health and Safety at Work etc Act 1974 – Section 21 [for period 12th September 2016 to 28th March 2017]

Serial No	Name and Address	Contravention	Date Served	Date Expires	Disposal
I/4/16/DKJ	Keystore 11-13 Grampian Road	HSWA 1974	11/10/16	10/11/16	Complied 7/11/16
I/5/16/ACG	Silk Road 21 Chattan Place	HSWA 1974 Electricity at Work Regs, Reg 4	25/10/16	5/12/16	Ceased trading
I/6/16/ACG	Silk Road 21 Chattan Place	HSWA 1974 Gas Safety Regs [Installation and Use], Reg 35	25/10/16	5/12/16	Ceased trading
I/7/16/NID	Wonderful 493 George Street	Workplace [Health Safety and Welfare] Regs 1992 - ventilation	20/10/16	20/11/16	Complied
I/9/16/NID	Blue Moon 11 Holburn Street	Workplace [Health Safety and Welfare] Regs 1992 - ventilation	3/11/16	3/12/16	Complied
I/10/16/NID	Blue Moon 11 Holburn Street	Electricity at Work Regs, Reg 4	3/11/16	3/12/16	Complied
I/11/16/NID	Blue Moon 11 Holburn Street	Gas Safety Regs [Installation and Use], Reg 35	3/11/16	3/12/16	Complied
I/1/17/VDO	Fair Deal Ltd 468a King Street	Workplace [Health Safety and Welfare] Regs 1992 - Reg 12	26/1/17	1/3/17	Extension – I/6/17/VDO
I/2/17/VDO	Fair Deal 2 Ltd 468a King Street	Workplace [Health Safety and Welfare] Regs 1992 - Reg 12	26/1/17	1/3/17	Extension – I/7/17/VDO
I/6/17/VDO	Fair Deal Ltd 468a King Street	Workplace [Health Safety and Welfare] Regs 1992 - Reg 12	22/2/17	1/4/17	Complied 5/4/17
I/7/17/VDO	Fair Deal 2 Ltd 468a King Street	Workplace [Health Safety and Welfare] Regs 1992 - Reg 12	22/2/17	1/7/17	Complied 5/4/17

Notices served under Health and Safety at Work etc Act 1974 – Section 22 [for period 12th September 2016 to 28th March 2017]]

Serial No	Name and Address	Contravention	Date Served	Date Expires	Disposal
P/2/16/ASG	Fair Deal Foods Ltd 14 St Machar Road	Regulation 9 LOLER	5/10/16	n/a	14/10/16
P/3/16/ASG	Fair Deal Foods 2 Ltd 14 St Machar Road	Regulation 9 LOLER	5/10/16	n/a	14/10/16
P/4/16/ALM	Fair Deal Foods Ltd 14 St Machar Road	Workplace health & Safety & Welfare control of Asbestos	6/10/16	n/a	14/10/16
P/5/16/ALM	Fair Deal Foods 2 Ltd 14 St Machar Road	Workplace health & Safety & Welfare control of Asbestos	6/10/16	n/a	14/10/16