

The Vegan Society's response to the Repeal of Section 24 of the *Animals (Scientific Procedures) Act 1986* Consultation

13 June 2014

The Vegan Society seeks the improvement of all scientific research, by bringing into law and practice the improved, effective, relevant research methods that have superseded experiments on animals in almost every sphere. We seek the end of all unnecessary use of animals for any purpose.

On Friday 13 June 2014 The Vegan Society responded to the Home Office Consultation on the review of Section 24 of the Animals (Scientific Procedures) Act 1986:

<https://www.gov.uk/government/consultations/section-24-of-the-animals-scientific-procedures-act-1986>.

The Home Office prepared an Impact Assessment, which reads: "There is a requirement for a more flexible framework that will protect personal safety, proprietary rights and intellectual property, while providing greater transparency to assist public understanding about the use of animals in scientific procedures. It is imperative that the amended legislation does not harm the competitiveness of the UK in the life sciences ... It is not our objective to provide information so the public or other external bodies can conduct their own harm / benefit analysis as to whether a particular project should be initiated."

Another charity, the National Anti-vivisection Society (NAVS), had prepared the following Statement:

"Section 24 of the Animals (Scientific Procedures) Act 1986 (ASPA), as amended, prevents the release of information on animal experiments, which is at odds with the spirit of EU Directive 2010/63/EU to promote transparency and public accountability.

"In order to allow scrutiny of the scientific robustness of proposed animal research, we urge the government to repeal Section 24 following its review of ASPA. This would in no way compromise personal information, health or safety, commercial interests, or information that is confidential or intended for future publication; the Freedom of Information Act 2000 already provides for this."

"The NAVS is opposed to this [Government preferred] option and is supporting Option 3 "Repeal Section 24 of the Animals (Scientific Procedures) Act 1986 (ASPA)"

The Vegan Society's response to the consultation, copied below, reflects the NAVS position.

CONSULTATION

Section 24 of the Animals (Scientific Procedures) Act 1986 (ASPA)

The use of animals in scientific research within the UK is regulated under the Animals (Scientific Procedures) Act 1986 (ASPA). Section 24 of ASPA provides for the protection of information received in confidence that is provided in connection with the Home Office's regulatory activities under the 1986 Act. The current provisions under Section 24 mean that the Home Office cannot release any information received in confidence under ASPA, even when the provider has no objection to its disclosure. Section 24 is incompatible with the government's policies on openness and transparency and the central principles of the Freedom of Information Act (2000). The Coalition government has committed to a review of Section 24 as part of the Coalition commitment titled 'Working to reduce the use of animals in scientific research'.

The primary objective of the review of Section 24 is to increase openness and transparency in order to assist public understanding of the use of animals in scientific procedures, whilst not putting people or property at risk or disclosing genuinely commercially confidential information and intellectual property on which UK jobs depend. This consultation paper sets out the government's proposals for the review and indicates our preferred option. Initial stakeholder engagement has assisted in the development of proposed policy options which are the subject of this consultation. Following the consultation, we will analyse the responses and public as government response to the consultation. We aim to progress quickly, finalising a chosen option and amending ASPA through Parliamentary process if required.

Option 1: Do nothing. Retain Section 24 in its current form

Under the current legislation, information can only be released where it does not contain information provided in confidence. Technically, this prevents disclosure of information even when the provider has no objection to its disclosure.

1: Do you believe we should retain Section 24 in its current form?

No

Option 2a: Repeal Section 24 and amend ASPA, creating a criminal offence of malicious disclosure of information about the use of animals in scientific research

All information may be disclosed provided it is not exempted from release under the Freedom of Information Act 2000 (FOIA). If information is disclosed with malicious intent (defined in the legislation), it will be a criminal offence. (This option does not include the statutory bar as under option 2b).

2: To what extent do you believe, if at all, that this option meets the government's primary objective of increasing openness and transparency about the use of animals in scientific research?

Not at all

'Malicious' intent is currently not defined within the Freedom of Information Act 2000

3: To what extent do you believe, if at all, that this option appropriately clarifies who and what is covered by the legislation?

Not at all

4: Question 4: To what extent do you believe, if at all, that this option provides appropriate protection for sensitive information (eg, people and place details and intellectual property)?

Not answered

5: Question 5: Would this option change any processes, directly or indirectly, associated with operating under ASPA, compared to the current regime (eg, a change in the way a licence application is constructed)?

Not answered

Option 2b: As option 2a. The amended legislative framework would additionally include a statutory prohibition on disclosure of information relating only to people, places and intellectual property.

All information may be disclosed provided it is neither exempted from release under FOIA nor specifically contains information about people, places or intellectual property. If information is disclosed with malicious intent, it will be a criminal offence.

6: To what extent do you believe, if at all, that this option meets the government's primary objective of increasing openness and transparency about the use of animals in scientific research?

Not at all

7: To what extent do you believe, if at all, that this option appropriately clarifies who and what is covered by the legislation?

Not at all

8: To what extent do you believe, if at all, that this option provides appropriate protection for sensitive information (eg, people and place details and intellectual property)?

Not answered

9: Do you agree that the additional statutory prohibition on disclosure is necessary to protect certain types of sensitive information?

Not at all

10: Would this option change any processes, directly or indirectly, associated with operating under ASPA, compared to the current regime (eg, a change in the way a licence application is constructed)?

Not answered

Option 3: Repeal Section 24

All information may be disclosed unless it is exempted from release under FOIA. There would be no additional, or alternative, protection provided for confidential information other than that provided by the exemptions within FOIA.

11: To what extent do you believe, if at all, that this option meets the government's primary objective of increasing openness and transparency about the use of animals in scientific research?

Very much so

Under the 1997 Animal Welfare Act in The Netherlands animal experiments involving biotechnology are not allowed without a licence from the Ministry of Environment. Following initial advice from the Committee on Biotechnology in animals on a particular research proposal, the Minister would publish a draft decision. Full biotechnology research proposals and details were then made available for public scrutiny, and public hearings would be held provided there was sufficient interest. Participants would verbally express concerns or ask researchers any questions, and follow up with written views. These procedures were held and outcomes published for nearly twelve years until 2009. This level of openness and transparency was appreciated by the Dutch

public, and not once did the disclosure of project or institute details lead to any misuse.

12: To what extent do you believe, if at all, that this option appropriately clarifies who and what is covered by the legislation?

Very much so

13: To what extent do you believe, if at all, that this option provides appropriate protection for sensitive information (eg, people and place details and intellectual property)?

Very much so

Provisions in the FOIA allow for appropriate protection of sensitive information.

14: Would this option change any processes, directly or indirectly, associated with operating under ASPA, compared to the current regime (eg, a change in the way a licence application is constructed)?

Not answered

Impact assessment

15: Are there any additional costs or benefits that have not been identified in the impact assessment but should be taken into consideration?

Yes

The current lack of transparency is a cost to non-human animals used in research. Please review 'The Costs and Benefits of Animal Experiments by Dr Andrew Knight: <http://www.palgrave.com/philosophy/animalexperiments/about/>

16: To what extent do you agree or disagree with the risks and assumptions made in the impact assessment?

Disagree

The latter part of the following assumption on Policy option 3 "Significant risk of the UK appearing to provide insufficient protection to confidential information. This may lead to an increased loss of investment in the UKBS, with a resultant negative impact on UK economic growth" seems extremely far-fetched. If the UKBS is confident their research complies with ASPA standards and the Home Office have granted licences on the basis of adequately considered cost-benefit analyses, full disclosure of information should not pose a threat to their ability to do business. To the contrary, hiding behind a veil of secrecy is more likely to result in challenges made by pressure groups and critics, thereby increasing the overall costs to the UKBS. Investment in the UKBS could significantly increase if the sector moves away from the use of non-human animals and towards humane, ethical non-animal research.

17: Can you provide any further information which may help to quantify the scale or direction of the costs or benefits, as identified in the impact assessment, as a result of these proposals?

Not answered

Further questions

18: With regards to options 2a and 2b, in what instances do you believe disclosure of information about the use of animals in scientific research is malicious?

General criminal activities not related to specific concerns about the animals themselves. In contrast, investigations of both unlawful treatment of animals in laboratory, and also, the true impact upon and costs to the animals of currently lawful practices.

19: What do you believe should be covered by the term 'intellectual property'? Please provide comments to explain your answer.

Intellectual property should not be applied to concepts derived from manipulation, use and killing of living beings.

20: Do you consider that Section 24 of ASPA, being a statutory bar and an absolute exemption, provides greater protection for intellectual property than other qualifying FOIA exemptions?

See question 13. Section 24 decreases transparency and is unnecessary as protection is offered by the Freedom of Information Act.

21: Are there any other views or comments that you would like to add in relation to the review of Section 24 that were not covered by the other questions in this consultation?

We seek the improvement of all scientific research, by bringing into law and practice the improved, effective, relevant research methods that have superseded experiments on animals in almost every sphere. We seek the end of all unnecessary use of animals for any purpose. For transparency and to ensure proper consideration of all relevant factors, project licence applications involving animals should be publicly scrutinised before any decision to grant the licence is taken.

22: Which of the following best describes the organisation or professional interest that you represent? Please state the name of the organisation in the box below.

Charity