



Parliamentary Briefing

Transposition into UK law of EU Directive 2010/63 on the use of animals for scientific purposes:

Section 24 and the Animals (Scientific Procedures) Act 1986

March 2012

S.24 Animals (Scientific Procedures) Act 1986 and Directive 2010/63/EU

Summary

Section 24 of the Animals (Scientific Procedures) Act 1986¹ (ASPA) places a blanket ban on the release of any information from animal experimentation laboratories. This ban has prevented open public debate and wider scientific scrutiny of the use of animals in research, a matter of intense public concern. However since the passage of the ASPA, the Freedom of Information Act 2000 (FOIA) has established a right to freedom of information and improved the accountability of public bodies. The FOIA does allow for certain information to be withheld, where there are concerns about health and safety (S.38), or personal information (S.40, S.41) and for the protection of intellectual property (S.22). Public accountability and access to information is a fundamental tenet of Directive 2010/63/EU on the use of animals for scientific purposes and therefore the transposition of the Directive into UK law should have a profound effect on public access to information, accountability and wider scientific scrutiny of animal research.

Section 24 goes against the spirit of the Directive

Section 24, which is currently used to pursue a policy of blanket confidentiality, should be repealed. It is incompatible with modern, accountable governance. It is also at odds with the commitments to transparency within the Directive. For example, Recital 41 of the Directive provides *“To ensure that the public is informed, it is important that objective information concerning projects using live animals is made publicly available”*².

At a 2002 conference held for the House of Lords Select Committee on Animals in Scientific Procedures addressed freedom of information, it was reported that *“Section 24 should be repealed because, in practice, little information is considered by the Home Office to be non-confidential and little is therefore released to the public on request. Repealing section 24 would help to change the culture of secrecy”*³.

If Section 24 remains as it is, it would contradict and seriously compromise the “transparency” that the new Directive attempts to establish. It would likely be subject to legal challenge.

If the Government were to ignore calls for Section 24 to be repealed, there are a number of measures which must be taken anyway to remain compliant with the Directive, to ensure that transparency, public confidence and steps towards more advanced non- animal science are not compromised:

Information that can remain confidential

The NAVS and Lord Dowding Fund stand by the commitment that we have made on many occasions to the Home Office and successive governments, that it is not necessary to compromise personal information or security to achieve balanced and workable public access to information on animal experiments.

Only access to the technical details of experiments is necessary to enable stakeholders to provide advice, critical assessment and wider scientific input. Identities of individuals are not relevant.

Recital 41 of the Directive provides that informing the public about animal experiments should not breach proprietary rights nor expose confidential information. Additionally, the published details should not breach anonymity. We agree. These, therefore, are the key balancing factors when considering the public right to information.

In the UK, our FOIA already provides the protection that is needed for personal information, intellectual property and commercial interests coming under the exemptions of that Act. Section 24, the secrecy clause of ASPA, is therefore redundant.

It has long been accepted that the identity and personal details of the researcher/s and research assistants and specifics of a research application such as location of the procedures will remain confidential. However, there is no justification for all information regarding the procedure and animals to be withheld. The Directive provides protection for intellectual property and confidential information in Articles 38 and 43, therefore these matters are not an issue.

It should be ensured that once the Directive is transposed it should not be necessary to invoke the FOIA in order to secure technical information on the procedure and animals used, as it is the clear intent of the Directive for this to be in the public domain.

Information which the public have a right to know

Animal experimentation is an area of considerable public concern and so information should be readily available. Yet to date the public have been excluded from any information that would allow a meaningful judgement. The Home Office concedes, in its own transposition impact assessment, policy option 3, that *“Retention of current legislative prohibition on disclosure of information (limiting transparency) would potentially harm public confidence.”*

The information available should allow the public and other interested parties to consider the scientific, ethical and animal welfare aspects of animal use. This should include sufficient information regarding the aims and findings of a project, to facilitate assessment of non-animal alternatives and include lay descriptions of procedures, care and accommodation. There should be enough information, of the correct level of detail, to allow the public to understand events in a laboratory.

Currently, published research cannot be critically assessed against details provided to the Home Office when a Project Licence has been applied for, because the application is made in secret. It is also important for the public to be able to understand the rationale behind the decisions on granting licences.

No-one is happy with section 24

The NAVS is not alone in believing that Section 24 should be abolished. The ministerial advisory body, the Animal Procedures Committee (APC) submitted to the Home Office transposition consultation, *“The APC believes that Section 24 of the ASPA should be abolished.”* This is because the original purpose no longer exists as *“there have been two major changes in the ability of the public to access information since 1986. First, the Freedom of Information Act has made it possible for people to access information about animal use (subject to exemptions); and second, the availability of free search engines has made it easy for anyone to find publications associated with individuals and institutions.”*

The APC conclude that *“In our view, this renders Section 24 obsolete, at least from a certain point in time. In the experience of some members, over-interpretation of Section 24 has also hampered the dissemination of good practice, which is another reason to abolish it in the new legislation.”* They continue, *“The applicant’s information is protected under the Freedom Of Information Act and by an obligation elsewhere in the Directive to keep proprietary information confidential. The issue is the difficulty for the Home Office in deciding which information is confidential. In our opinion, to be compatible with the aims of the Directive, the presumption should be on transparency”⁴.*

Refs

1. Animals (Scientific Procedures) Act 1986, Section 24: protection of confidential information, <http://www.legislation.gov.uk/ukpga/1986/14/section/24>
2. Directive 2010/63/EU on the protection of animals used for scientific purposes <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ.L:2010:276:0033:0079:En:PDF>
3. Select Committee on animals in Scientific Procedures. Proceedings of the Conference held in the House of Lords on 21 May 2002.
4. Consultation on options for the transposition of European Directive 2010/63/EU on the protection of animals used for scientific purposes. Response from the Animal Procedures Committee.

Parliamentarians are urged to insist that the secrecy clause, Section 24 of the Animals (Scientific Procedures) Act 1986, is abandoned and the provisions for transparency and public accountability in Directive 2010/63/EU are fully implemented in the UK.



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