



RESOURCE SHEET NUMBER 7 – SECTION 24 OF ASPA 1986 – SECRECY CLAUSE

Animals (Scientific Procedures) Act 1986, revised 2012 (ASPA)

Section 24: Protection of confidential information

- (1) A person is guilty of an offence if otherwise than for the purposes of discharging his functions under this Act he discloses any information which has been obtained by him in the exercise of those functions and which he knows or has reasonable grounds for believing to have been given in confidence.
- (2) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

A consultation to review s24 of ASPA was undertaken in June 2014. Taken from the consultation document is the statement: The Government is reviewing Section 24 since its inflexible confidentiality requirements are now out of step with government policy on openness and transparency and with the approach taken in other legislation, such as the Freedom of Information Act 2000. In addition, there is a lack of understanding as to the application of Section 24 and therefore the information that can be released.

Ten years on the results remain unpublished despite numerous promises. The options under consult were:

- 1 – No change to policy
- 2 – Repeal Section 24 and replace with a criminal sanction for malicious disclosure
 - 2a - Repeal Section 24 and amend ASPA, creating a criminal offence of malicious disclosure of information about the use of animals in scientific research.
 - 2b - As option 2a - The legislative framework would additionally include a statutory prohibition on disclosure of information relating only to people and place details and intellectual property.
- 3 – Repeal Section 24

From consultation responses posted online we have seen none that select option 1. https://www.rsb.org.uk/images/SB/2014/UKBSC_response_to_Section_24_consultation.pdf Even this response from the UK Bioscience Sector Coalition selected option 2b.

The Home Office Consultation document:



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https://assets.publishing.service.gov.uk/media/5a7e0ba7e5274a2e87daf307/Consultation_on_the_review_of_Section_24_of_ASPA.pdf

The Home Office Impact assessment:

<https://assets.publishing.service.gov.uk/media/5a7e33d2ed915d74e33f0b6e/Section24IA.pdf>

Section 24, ASPA 1986 prevents stakeholders from reviewing documents, including project licences.

Requests for information under the Freedom of Information Act 2000 (FOIA) are also largely exempted mainly by s38 (health and safety), s41 (confidentiality), s36 (prejudice to effective conduct of public affairs). We are now finding that s44(1)(a) (exempts information where its disclosure is prohibited by other legislation) is cited in relation to S24 ASPA 1986.

Typical wording of an s44 FOIA exemption is:

Section 44(1)(a) of the FOIA is engaged by virtue of Section 24 of the Animals (Scientific Procedures) Act 1986 (ASPA) which states '*a person is guilty of an offence if otherwise than for the purpose of discharging his functions under this Act he discloses any information which has been obtained by him in the exercise of those functions and which he knows or has reasonable grounds for believing to have been given in confidence*'. The withheld information is considered to have been provided to the Home Office in confidence. Release of this information is therefore prohibited under Section 24 of ASPA. Section 44 is an absolute exemption and is not subject to a public interest test.

The sector remains shrouded in secrecy and is certainly not transparent as is claimed.

Another interesting document which argues for s24 to be repealed was published by Naturewatch in 2018.

https://naturewatch.org/files/uploads/Transparency_and_Animal_Experiments15.06.18.pdf

This is out timeline of chasing publication of the 2014 consultation including FOI's, FOI Internal Reviews, Information Commissioner Office complaints, MP Statements and formal complaint to Will Reynolds Deputy Head of ASRU.

FOI Response 14.01.22



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“there is no confirmed date for the publication of the findings of the consultation of the review of Section 24 of ASPA. A pressing issue has been the lack of a policy unit to manage this work. This Unit is being convened and we can expect publication by early summer”

Parliamentary debate 07.02.22

<https://hansard.parliament.uk/commons/2022-02-07/debates/E7D8AF2F-9BB3-4475-86D6-39091FB54AC4/LaboratoryAnimalsAnimalWelfareAct>

In response to a number of mentions to s24 and the consultation results which still remain unpublished since June 2014 Kit Malthouse MP stated:

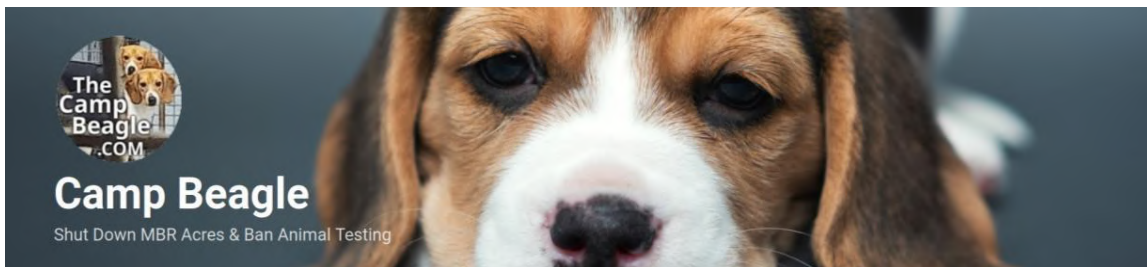
*‘I am not aware of why we have not published the outcome of the consultation. Section 24, however, only blocks public officials from releasing information given in confidence, and it came into place before the Freedom of Information Act 2000. It has never been used alone since the Freedom of Information Act came into effect, and information is released on a regular basis—a couple of times a week, in frequency terms—under the terms of that 2000 Act, so it is not correct to say that it is section 24 that is restricting access. I understand, from my officials, that the **consultation response will be issued later this year**, as part of the work of the policy unit, which I will say more about shortly.’*

FOI response 13.03.23

“Section 24 of the Animals (Scientific Procedures) Act 1986 (ASPA) remains under active review. The Home Office’s forward-look commission for advice from the Animals in Science Committee of 17 August 2022 refers to a review of Section 24 (www.gov.uk/government/publications/animals-in-science-committee-ministerial-commission/letter-from-baroness-williams-to-chair-of-the-animals-in-science-committee-accessible). The progression of this work during 2023 will continue to be balanced against other policy priorities and demands on resource.”

Internal Review response 11.05.23

The original response explained that the matter is under review but will be balanced against other policy priorities. As such, there is no timeframe for when this review will take place. I have checked with the responding unit if there is an update on the status of this and they have confirmed that this still remains the position. I note that a link was provided to the Animals in Science Committee (ASC) Ministerial Commission which sets out the policy priorities that the Home Office will engage the ASC on, which includes Section 24. The ASC is an independent, non-executive advisory Non-Departmental Public Body (NDPB). The Committee provides impartial and objective strategic advice to the Home Office, on issues relating to the ASPA.



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ICO complaint response 11.09.23

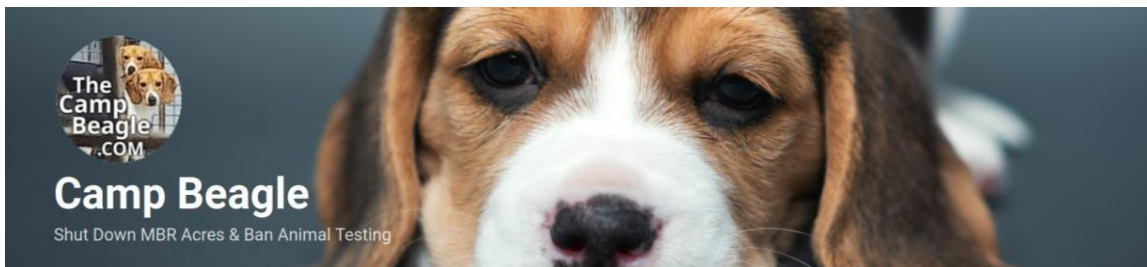
“On 1 August 2023, the Commissioner sought clarification from the complainant about the specific grounds of complaint, which was provided on 6 August 2023 and included the (now) nine year delay in publishing the findings of the consultation as well as belief that further recorded information in scope of the request must be held by the Home Office. In addition, for part 3 of the request (ie whether the Section 24 ASPA review results will be worthwhile and relevant after such a delay), the complainant submitted the following grounds of complaint: “This must be something over a 9 year period that the Home Office have discussed, can they confirm if minutes were taken re any discussions re publishing the s24 consultation results, if so am I allowed to know what they say? This is important as clearly if they have made a decision that data is no longer relevant there would be no real intention to ever publish it.”

“Therefore, the Commissioner has sought to determine whether, on the balance of probabilities, the Home Office holds any further recorded information within the scope of the request. Accordingly, he asked the Home Office to explain what enquiries it had made in order to reach the view that it did not hold any further information. In reply, the Home Office said: “Home Office officials are currently undertaking a review of Section 24 and are therefore familiar with the information that is available on this subject. Home Office officials have additionally searched all recorded information regarding Section 24 held on Home Office systems, including SharePoint file storage and emails of key officials working on the review, and have found no recorded information that would answer the questions. This is policy in development and this work has to be managed against competing priorities. As the consultation took place in 2014 the situation has moved on and Home Office officials are undertaking a review of the policy this year.”

“The Home Office confirmed that it had undertaken searches for any minutes (as raised by the complainant in the grounds of complaint) and that none had been located.) The Home Office confirmed it had used the search term “Section 24” and said that if information were held, it would be held electronically rather than in manual records. It said, to the best of its knowledge, that no records have been deleted or destroyed.

Animals in Science Committee (ASC) response 15.06.23

Thank you for your email of 21 May 2023 regarding Animals in Science Committee (ASC) review of Section 24 of ASPA. Your request has been handled as a request for information under the Freedom of Information Act 2000 (FOIA).



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You explain that you recently received a reply to an FOI from the Animals in Science Regulation Unit which included a link to the Minister’s Commission of work for the ASC, ([Animals in Science Committee: ministerial commission - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/animals-in-science-committee-ministerial-commission)), setting out the Home Office’s work priorities for the Committee. One of the priorities includes seeking advice on issues related to regulation including “*the protection of confidential information, including clarifying Section 24 of ASPA*”. You have written to the ASC to ask:

Can you please let me know when your own findings will be published and if you have access to the responses of the June 14 consultation.

I can confirm that the Home Office has not yet commissioned the ASC to undertake this work. The ASC understand it is still the intention of the Home Office to seek advice from the Committee on Section 24 of ASPA, however the Home Office has not indicated when a request for this advice will be made.

FOI response 25.07.23

The letter referred to in our previous response quoted in your request clearly states that the Home Office intends to engage with the Animals in Science Committee on the issue of section 24 of the Animals (Scientific Procedures) Act 1986 before the end of 2023.

Although it was the intention of the Home Office at the time of the Parliamentary debate in February 2022 to respond to the consultation on section 24 in 2022, the subsequent Home Office letter of 17 August 2022, published on the Animals in Science Committee’s website, states that this issue is intended to be considered by the end of 2023.

Formal Complaint 18.08.23 and 06.09,23 - response by Will Reynolds 27.09.23
animalsinsciencepolicy@homeoffice.gov.uk

In response to your first complaint, the Government intends to engage with stakeholders this year on transparency of information and the protection of confidential information regarding the regulation of the use of animals in science. In doing so, the Government intends to clarify section 24 of the Animals (Scientific Procedures) Act 1986, taking account of the previous 2014 consultation. This was explained in responses to your correspondence on this issue. I understand your frustration that the consultation in 2014 has not been responded to but I can reassure you that this work is being actively progressed at this time.



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Further Response 18.12.23 to chase update on 06.11.23

Regarding the 2014 consultation on Section 24 of ASPA, the response of 27 September set out that work is actively being progressed at this time. We have no further substantive update to give at this time.

Further Response 12.02.24 to chase update on 12.01.24

Regarding Section 24 of ASPA, we have no further update at this time.

Animals in Science Committee Minutes of the 42nd Meeting: 12th March 2024

https://assets.publishing.service.gov.uk/media/66a7af0b49b9c0597fdb0685/ASC+meeting+minutes_+12+March+2024.pdf

Section 24

30. The Committee were provided with background on Section 24 and the steps taken by ASRPU to ensure transparency. The Committee were advised that the Minister had decided not to review Section 24 of ASPA at that time, and that stakeholders had been informed.

31. The Committee advised that there was still confusion amongst establishments about the scope of Section 24. It was noted by the Committee that there would be potential scope in the NTS & RA work to provide some clarity on this issue.

Further Response from Home Office to complaint 04.09.24

The previous correspondence sent to you regarding Section 24 of ASPA was correct at the time it was sent. Since that time, the outgoing Minister, of the previous administration, decided not to review Section 24 of ASPA.

**FOR OVER TEN YEARS THE CONSULTATION RESULTS
HAVE NOT BEEN PUBLISHED. THE 'ACTIVE' REVIEW
OVER THE LAST TEN YEARS HAS NOW BEEN STOPPED.
PLEASE WRITE TO YOUR MP**



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Even this House of Lords Select Committee of 2002 was damning of s24.

See Chapter 9, 9.11 onwards:

<https://publications.parliament.uk/pa/ld200102/ldselect/ldanimal/150/150.pdf>

Of particular note:

We consider the current levels of secrecy surrounding animal experiments to be excessive” (para.9.13) –

ii. Secrecy also contributes to public disquiet with animal experiments, as scientists and others are not seen to be held accountable”. (para 9.14)

iii. “the debate surrounding animal experiments has been stifled for too long, and with damaging results, by the overly restrictive nature of the Act” (para 9.17)

iv. “The debate currently centres around what information should be released and made public. We consider that this approaches the question from the wrong direction. There should be a presumption in favour of complete openness, and consideration should then be given as to what information should remain confidential. This would be in line with the provisions of the Freedom of Information Act 2000.” (para 9.15)

v. “We recommend that Section 24 should be repealed. Specific justification should then be made for each class of information that needs to be kept confidential, such as the identity of researchers and matters of commercial confidentiality and intellectual property” (para 9.18)