

**First Witness Statement of William Reynolds
On behalf of the Second Respondent
Exhibits WR/1-12
Dated 9th July 2024**

Appeal Number:

**FIRST-TIER TRIBUNAL
(GENERAL REGULATORY CHAMBER)
INFORMATION RIGHTS**

BETWEEN:

Appellant

-and-

THE INFORMATION COMMISSIONER

First Respondent

-and-

HOME OFFICE

Second Respondent

WITNESS STATEMENT OF WILLIAM REYNOLDS

I, William Reynolds, of the Home Office, 2 Marsham Street, London, **WILL SAY AS
FOLLOWS**

1. I am Head of the Animals in Science Policy and Coordination Function (“the Policy Unit”). I have held this role since the creation of the Policy Unit in April 2022. In this role I am accountable to the Director of Home Office Science, Home Office Chief Scientific Adviser and Ministers for policy leadership for the regulation of animals in science.

2. Between June 2017 and April 2022, I was the Head of the Animals in Science Regulation Unit (“ASRU”) at the Home Office. In that role I had responsibility for the delivery of the UK regulatory framework under the Animals (Scientific Procedures) Act 1986 (“ASPA”). Between May 2013 and June 2016, I was Head of Policy and Administration in ASRU, and from June 2016 to June 2017, I was Deputy Head of ASRU, reporting to the Head of ASRU in both of the latter roles. In both these roles I had responsibility, under the Head of ASRU, for the administration and enforcement of the scheme for licensing and regulation for the use of animals in science under ASPA.
3. The contents of this statement are true to the best of my knowledge, information, and belief. I am relying on the documents provided in these proceedings and information provided to me by colleagues for my understanding of the details of work that was done. In addition to those documents provided in these proceedings and information provided to me by colleagues, I am relying on my own recollections from my oversight of the relevant policy area.
4. I have been provided with a copy of a paginated bundle of documents which is exhibited to this statement as exhibit “**WR/1-12**”.
5. This witness statement is filed and served by the Home Office pursuant to the Directions by Judge Foss dated 14 June 2024. This statement focusses on the application of section 38 of the Freedom of Information Act 2000 (“FOIA”) in this matter.

BACKGROUND

6. The need for the use of animals in science spans a number of Government Departments who have critical needs for ensuring human and animal health and the safety of the environment and to the success of the United Kingdom (UK) as a leader in scientific expertise and innovation. The Home Office does not commission or use the outcomes of animals in science work and therefore its role is limited to that of regulatory policy (for which I lead the Policy Unit) and the regulation of animals in science.
7. Animal testing and research is part of a much larger system which, integrated with other work, plays a vital role in understanding how biological systems work in health and disease. The use of animals supports the development of new medicines and cutting-edge medical technologies for humans and animals, and it supports the safety

and sustainability of our environment. Specifically, animal research has been required in discoveries, that include vaccines and medicines to transplant procedures, anaesthetics, and blood transfusions. Although much research can be done in non-animal models, there are still purposes for which it is essential to use live animals as the complexity of whole biological systems cannot always be replicated using validated non-animal methodologies. This is especially the case where the safety of humans and animals needs to be ensured.

8. The use of animal studies is a legally required element in the drug development process. It is required for the identification of adverse effects from potential new medicines in early clinical trials and assists in determining the safe dose which can be given to humans. Where non-animal alternatives are not available, regulatory safety testing using animals is a critical and essential part of protecting the safety of the participants.
9. ASPA permits the use of animals in scientific research and provides the restrictions around which animals can be used and for what purpose. At the heart of ASPA is the requirement to: only use animals in research when there are no alternatives; use the minimum number of animals needed; and, only cause the minimum necessary pain, suffering, distress or lasting harm to animals. To deliver this, and central to ASPA, are the 3Rs: Replacement, Reduction and Refinement. The 3Rs are a framework, embedded in the legislation, regulation and policies of animals used in science. ASPA therefore sets the requirements for regulation of procedures that are carried out on 'protected animals'¹ for scientific or educational purposes that may cause pain, suffering, distress or lasting harm. ASPA also regulates the breeding and supply of certain species of animals for use in regulated procedures or for the scientific use of their organs or tissues and the methods used to kill protected animals.
10. Regulation of the use of animals in science, delivered in Great Britain by the Home Office, exists to implement ASPA through a robust and rigorous regulatory framework.
11. The Regulator (often known as the Animals in Science Regulation Unit – ASRU) has published Guidance on how ASPA will be administered and enforced; in the *Guidance on the Operation of the Animals (Scientific Procedures) Act 1986* (the Guidance)². The Guidance is specifically for holders of establishment licences, project licences and personal licences, and new licence applicants.

¹ See s.1 ASPA [in WR/1]

² See WR/2

12. My present role is the leadership of the Policy Unit. Historically there had not been a dedicated integrated unit with responsibility for the legislation and policy for the regulation of the use of animals in science. In October 2021 it was determined by Ministers that the Home Office would take responsibility for all regulatory policy matters. The Policy Unit is the resulting structure.
13. The Policy Unit principally seeks to deliver on two key public goods under ASPA; 1) ensuring the benefit from the use of animals in science; whilst, 2) maximising the protections and welfare of the animals used therein. My specific responsibilities include: departmental stewardship of ASPA; development of policy on the regulation of the use of animals in science that acts as direction for ASRU; and, management of stakeholder relationships for the regulation of the use of animals in science. The outcomes sought are: to enable the UK be a world leader in scientific progress, with the benefits that brings for human and animal healthcare, innovation, public safety, the environment and the economy; protecting animals in science through a culture that proactively explores, promotes and enforces approaches that replace, reduce and refine their use; and, is understood and has the confidence of the public.

THE CONTEXT FOR THE PROTECTION OF INFORMATION

14. I fully adopt, and draw heavily on the detail in, the witness statement of Gideon Winward³ dated 28 February 2024 (submitted in support of this First-tier tribunal appeal). His statement fully reflects my position and I therefore adopt the same evidence and materials on information protections that we have used in the Animals in Science Policy Team.
15. The use of animals in science is a controversial issue. In recent decades, animal rights activists have taken extreme action that can cause harm to the physical and/or mental health, and/or endanger the safety of individuals working at scientific establishments licensed under UK law.
16. Past examples have included the threat of, and actual, bomb attacks against individuals associated with, or believed to be associated with, the use of animals in science⁴. Successful legal action has also been taken against extremists who targeted

³ Gideon Winward was previous Head of Policy in my team until June 2024

⁴ See WR/3 and WR/4

a breeding establishment for animals used in science, culminating in the theft of the body of an elderly woman from her grave due to her relationship with individuals associated with the establishment⁵. Such examples illustrate the very real risk to the safety, and physical and mental health of individuals associated with establishments using animals in science.

17. It is unfortunately evident that these risks are not consigned to the past. This is demonstrated by more recent extreme animal rights activity impacting the health and safety of individuals at licensed organisations in recent years. Such evidence was provided in the Home Office's correspondence to the ICO of 18 January 2023 in the Appeal case of this case⁶, which referenced the persistent harassment and intimidation of individuals going about lawful activity at a licensed organisation, of a nature sufficiently serious to require regular police intervention. The details provided in that letter were based on knowledge of incidents at a licensed organisation and information provided by the relevant Home Office policing team.

18. The letter of 18 January 2023 stated:

"The risk to health and safety is evidenced in a recent and ongoing example of an organisation licensed under ASPA having to seek police protection and a court injunction due to the threat to the safety of their staff. Individual workers at the site have been followed and targeted for intimidation and abuse, including at their own homes.

Between July 2021 and July 2022, 43 individuals have been arrested for 50 offences. The most common reasons for arrests are harassment, intimidation of persons connected with animal research organisation, obstruction of highway, criminal damage, assault on police and common assault. This activity has continued and in December 2022 a break in at a site resulted in the theft of animals and multiple arrests (14) by police."

19. Further to the information provided in that letter, there are numerous online FaceBook posts of videos that show protest activity at scientific establishments. The posts show intrusion on property and protest behaviours that have necessitated significant police presence⁷.

⁵ See WR/5

⁶ See WR/6

⁷ See WR/7

- 20.** I provide below further examples of incidents of behaviour that have been reported to the Home Office and inform the Home Office assessment of the risk to the health and safety of individuals that could result from the release of specific information about organisations licensed under ASPA:
- Regular verbal abuse of staff as they enter and exit the site, including aggressive profanity.
 - Staff followed as they leave work.
 - Staff car registration plates recorded and shared on social media with request to trace the owners.
 - Targeting of staff at their family homes, with properties and vehicles vandalised and graffitied with 'scum' and 'puppy killer'.
 - Staff receiving threatening letters at their home addresses.
 - Verbal abuse of staff away from work.
 - Targeting of staff with aggressive social media messages.
 - Staff sent funeral plans, indicating threat of physical harm.
- 21.** These actions have caused: anxiety and stress for the individuals impacted and for their family members; negatively impacted their private and family relationships; and, caused some to resign their employment.
- 22.** The Home Office is aware of further evidence of targeting of individuals at their own homes or workplaces for intimidation, including trespass, graffiti, breaking windows, and the use of smoke grenades, which can be found in open-source material⁸. It is reasonable to assume that there are other cases not reported online. The Home Office is also aware of allegations of attempts to pick the lock on an individual's family home, social media posts identifying an individual and their family, and an individual having to swerve to avoid a collision after being driven at by a known protestor.
- 23.** Activist activity has demonstrably required all establishments to take significant measures to defend legitimate and regulated business. Some establishments that have been particularly targeted have had to take what could be considered extreme protection measures for individuals, property, and the business. It is also recognised

⁸ See WR/8-11

that many establishments have taken action to protect the animals themselves from harm.

24. Details of a recent and specific case with verifiable evidence from a Home Office licensed establishment are submitted to the tribunal in the closed witness statement.
25. I have visited many of the GB establishments and can personally attest to the significant security measures that are in place at most, including the measures and incidents described in the closed witness statement.
26. Further evidence of matters concerned with the safety and/or endangerment of individuals (physical or mental health) is provided in the Closed witness statement provided alongside this Open witness statement.
27. In summary, Section 38 of the FOIA provides an exemption from disclosing information if it would endanger an individual.
28. Indeed, the ICO website⁹ on '*how we should interpret the terms used in this exemption*' cites:

"[...] Information involving living individuals is covered by section 40 (personal information). The focus of section 38 is on other information that might pose a risk, if disclosed. This could be information about:

- *sites of controversial scientific research where disclosure could lead to sabotage and therefore there would be risks to the physical safety of staff; [...]"*

The application of section 38(1)(a) is explained on the same web site by the ICO as:

"[...] In the context of section 38, even if the risk falls short of being more probable than not, it needs to be such that there may very well be endangerment. [...]"

The ICO website goes on to say:

[...] an issue where disclosure might have an adverse effect on public health (e.g. research into the safety of a particular medication);

It is the case that this issue is the very basis for ASPA under which the information in the present case has been generated i.e. ASPA is a permissive Act of Parliament that enables the use of animals in science for the purposes of benefit. These benefits are

⁹ See WR/12.

to people, animals and the environment and includes, among other things, regulatory safety testing i.e. the testing of medicines-.

29. In broad terms the aim of the Policy Unit is to publish information in a regular and predictable way, and in a format that is easily understandable by the public. The outcome we seek is to increase trustworthiness in the regulation of the use of animals in science through a predictable, open, and transparent approach to publication of information.
30. We believe this approach can provide reassurance to the public and stakeholders on Government policy and the regulatory regime, and thus maintains the social contract for the legitimacy of the Regulator. This is particularly important for a Regulator working in a socially contentious area such as the use of animals in scientific procedures where a review of the regulatory literature and comparison with other regulators evidence that it is good practice to be as open and transparent as possible. Proactive, curated and analysed release of information is preferable and more useful for the public than the reactive release of isolated information out of context through FOIA requests.
31. Therefore, the Home Office seeks to be open and transparent about the licensing and regulation of the use of animals in science through publishing the following:
 - detailed guidance¹⁰ on the operation of ASPA and the care accommodation of animals under ASPA¹¹;
 - anonymised non-technical summaries (“NTS”) of all project licences authorising scientific procedures using animals¹²;
 - retrospective assessments (where it has been required by the Regulator)¹³;
 - detailed and comprehensive annual statistics¹⁴ on the number, type and purpose of all scientific procedures using animals; and,
 - annual reports detailing regulatory activity and anonymised non-compliance cases.

¹⁰ <https://www.gov.uk/guidance/research-and-testing-using-animals>

¹¹ <https://www.gov.uk/government/publications/code-of-practice-for-the-housing-and-care-of-animals-bred-supplied-or-used-for-scientific-purposes>

¹² <https://www.gov.uk/business-and-industry/animal-research-and-testing#transparency>

¹³ <https://www.gov.uk/government/collections/animals-in-science-regulation-unit#non-technical-summaries>

¹⁴ <https://www.gov.uk/government/collections/animals-in-science-statistics>

- 32.** Each of the above are known classes of information which the applicant provides in their application, or as part of the regulation, in the clear knowledge that they will be published by the Home Office and as required by ASPA.
- 33.** Some information held is potentially sensitive for a variety of reasons, including:
- personal information;
 - information that, if released, could pose a risk to the health or safety of an individual;
 - information provided in confidence by scientific establishments that, if released, could undermine their competitiveness and/or commercial or intellectual interests;
 - information that, if released, would lead to less open exchange of information between licence holders and the Regulator thereby preventing the effective conduct of public affairs; and
 - information relating to the formulation and development of Government policy.

When a FOIA request is received, Officials in the Policy Unit apply careful consideration to the request and the potential impacts of publishing or releasing and sensitive information.

- 34.** In conclusion, the evidence available to the Home Office strongly suggests an ongoing threat to the physical or mental health and safety of individuals associated with scientific establishments conducting lawful activity licensed by the Home Office under the Animals (Scientific Procedures) Act 1986 (ASPA). The Home Office takes the health and safety of individuals extremely seriously and believes it is not normally appropriate to release the names of establishments, held for the purpose of delivering regulation under ASPA, due to the risk to individuals associated, or perceived to be associated, with any licensed establishment. The Home Office understands that some licensed establishments may voluntarily choose to disclose information about their activities, which is rightly a decision for each licensed establishment having undertaken their own risk assessment.
- 35.** It is the Home Office's position that the materials presented in this open bundle, together with those in the closed witness statement provide sufficient evidence to show that there is a demonstrable causal link between the likely endangerment of individuals (safety and/or physical and mental health) and the disclosure of the information.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:

A handwritten signature in black ink, appearing to read 'W Reynolds', written over a horizontal line.

Dated: This day of 9th July 2024

Print name: William Reynolds