



Mr Luke Steele
[by e-mail: request-146391-
926864b3@whatdotheyknow.com]

MRC Ref: FOIA2013006
15 February, 2013

Dear Mr Steele,

Freedom of Information request - Use of Animals in Research and Related Breeding at MRC Harwell

In your request of 21 January 2013 you have asked for information relating to MRC Harwell for 2011. A response to the questions you have asked is provided below.

Information on the MRC's position on the use of animals in research can be found on our website at the following url:

<http://www.mrc.ac.uk/Ourresearch/Ethicsresearchguidance/Useofanimals/index.htm>.

Information about MRC Harwell can be found on the website at www.har.mrc.ac.uk.

Response

1) By species; how many animals were used in research at MRC Harwell in 2011? In the case of rodents, please list by genetic strain.

2) By species; how many animals were bred for research at MRC Harwell in 2011? In the case of rodents, please list by genetic strain.

The total number of animals used in research at MRC Harwell in 2011 is provided in table 1 below. Table 2 provides the numbers of animals used in research which were received from collaborators or purchased from approved commercial suppliers, all other animals used in research in 2011 were bred on-site.

You have asked for the genetic strain to be listed for rodents. To identify and extract this information would involve the review of information held in different formats in electronic records and databases. We estimate it would take around 150 hours to identify and extract information relating to over 600 strains bred and used at MRC Harwell, this would far exceed the appropriate limit of the FOIA, which is 18 hours. We have however, provided a breakdown of the numbers of rodents by wild type and genetically altered as this information can be provided within the appropriate limit.

table 1: Total number of mice used in research at MRC Harwell in 2011

Species	Number of animals		
	Wild type	Genetically altered	Total
Mouse	39,119	88,066	127,185

table 2: Total number of animals used in research which were received from collaborators and approved commercial suppliers at MRC Harwell in 2011

Species	Of animals used: number of animals bred at NIMR		
	Wild type	Genetically altered	Total
Mouse	1,221	49	1,270

3) By species; how many animals were supplied to external facilities, excluding laboratories and units operated by the MRC, by MRC Harwell in 2011?

The total number of animals supplied to other facilities in 2011, excluding MRC research units is provided in table 3 below.

table 3: Total number of animals supplied to external facilities in 2011

Species	Number supplied to external facilities, excluding other MRC units
Mouse	3,821

4) Copies of health reports for the NIMR breeding colonies for 2011.

Copies of health monitoring reports for MRC Harwell's breeding colonies for 2011 are attached with this response. You will notice that some information has been redacted, this comprises information relating to suppliers. This information has been redacted as it is considered to be exempt under Section 38 and Section 43(2) of the FOIA, an explanation is provided below.

5) Copies of Home Office inspection reports, Nominated Animal Care & Welfare Officer ("NACWO") reports and Named Veterinary Surgeon ("NVS") recommendations for Harwell in 2011.

The MRC does not hold copies of Home Office inspection reports relating to NIMR for 2011.

The MRC does hold Named Animal Care & Welfare Officer ("NACWO") reports and Named Veterinary Surgeon ("NVS") recommendations for 2011. This information is considered to be exempt under Section 44(1) of the FOIA as the MRC considers disclosure under FOIA of the information requested, would be in contravention of section 24 of the Animal (Scientific Procedures) Act 1986 ('section 24 ASPA'). An explanation is provided below.

Health monitoring reports exemption from disclosure

The MRC considers that the following FOIA exemptions apply to some of the information contained in the health reports. Copies of reports are provided, however as you will see information that might identify any organisations has been redacted. Section 38 - Endangering an individual's health or safety and Section 43(2) – Commercial interests are considered to apply. We will look at each of these exemptions in turn.

Section 38 - Endangering an individual's health or safety

Section 38(1) states that:

(1) Information is exempt information if its disclosure under this Act would, or would be likely to—

- (a) endanger the physical or mental health of any individual, or*
- (b) endanger the safety of any individual.*

The MRC has considered both the Information Commissioner's guidance ('Freedom of Information Act Awareness – Guidance No. 19) and the Ministry of Justice guidance ('Exemptions guidance Section 38 – Health and Safety). The Ministry of Justice guidance specifically contemplates that information about sites of controversial scientific research may be targets for sabotage. Further, that fears may be well founded that if the location of such sites were to be disclosed to individuals or groups opposed to the research, there would be risks to the physical safety of staff.

In coming to our decision we have reviewed any relevant Information Commissioner and Information Tribunal decisions which may have a bearing on this matter, in particular the Information Commissioner's **Decision FS50082472 (Home Office)** and the Information Tribunal decision in relation to **British Union for the Abolition of Vivisection and the Information Commissioner and Newcastle University (EA/2010/0064)**

In considering all the above information and taking into account the information which you have requested, we believe that the release of the names of the non-MRC organisations which have assisted us in our research which are contained within the reports would cause:

- risk to individuals' health and safety from activists who are strongly opposed to the use of animals in research, which concern remains alive and current in relation to MRC personnel and facilities.
- risk to individuals' health and safety where the individuals do not work at an MRC site which, if targeted by activists would not be equipped to handle such situations in the way that MRC sites would, especially where these individuals work at organisations with little or no experience in handling activists who, on occasions, can become fairly militant and aggressive.

The MRC is not seeking to withhold all of the information in the relevant reports under this Section 38 exemption, only the names of third party organisations who have assisted the MRC in its work. This exemption is a qualified exemption and the MRC has applied the public interest test as explained later in this letter under the heading 'Public Interest Test'.

Section 43(2) – Commercial interests

Section 43(2) states:

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

While Section 38 exempts disclosure of information that would cause physical harm, we believe that the threat of harm would, or would be likely to also have a negative impact on organisations providing services to us and whose names are included in health monitoring reports. In essence we believe that if the names of these organisations are released there is a strong likelihood that these organisations could be targeted for demonstrations, this could in turn intimate other customers from using their services and thus drive away much needed and valued business. Any damage to the commercial relationship between the suppliers and the MRC would also impact on the MRC's commercial interests and may result in the costly exercise of securing new suppliers.

Public Interest Test

In relation to section 38 and section 43(2) the following public interests are relevant:

Public Interest in favour of disclosure

There is a strong public interest in preserving animal welfare and informing understanding of the MRC's views on the benefits of research involving animals. Disclosure of health monitoring reports, including the names of the providers could reassure the public as to standards of welfare.

There is a strong public interest in preserving animal welfare. Disclosure of the names of the organisations providing health monitoring services might reduce the potential danger to people by making them aware of the risks in order to take mitigating action.

Public Interest in favour of refusal

There is a strong public interest in protecting the health and safety of individuals, both MRC employees and employees of the organisations providing health monitoring services. The nature of the potential threat envisaged is substantial.

There does not currently appear to be any high profile or intense debate in the public arena to suggest that the relevant statutory controls under ASPA are not being properly effected by the MRC or the third party organisations assisting it. As such, by giving out the majority of the reports and redacting only the names of the third party organisations which have assisted the MRC, we believe that we've been able to provide an appropriate balance between allowing the public to understand the work of the MRC, while still protecting the individuals working for the MRC and those working at the third party organisations which have assisted us in our research.

Disclosure of the names of the third party organisations which have assisted the MRC in its work, do not, at this time, add any further value to transparency or public understanding of the work which the MRC have been conducting.

Disclosure the names of the providers may impact on the relationship between the MRC and the provider. Disclosure would be damaging to the MRC's commercial

interests if another provider needed to be sought, exposing the MRC to the costly process of securing a new supplier and the ability to negotiate good terms.

There is a clear public interest in how public funds are being spent, particularly given the current economic climate.

Disclosure would be damaging to the commercial interests of the provider, any demonstrations targeting the provider may drive away business in the harsh economic climate.

NACWO and NVS reports and recommendations exemptions from disclosure

Section 44 – Prohibition on disclosure

The MRC also considers that Section 44 – Prohibition on disclosure would apply to any reports or recommendations from the Named Animal Care & Welfare Officer (“NACWO”) and Named Veterinary Surgeon (“NVS”). The MRC has considered whether disclosure under FOIA of the information requested, would be in contravention of section 24 of the Animal (Scientific Procedures) Act 1986 (‘section 24 ASPA’).

Section 24 ASPA provides that:

‘a person is guilty of an offence if otherwise than for the purpose of discharging his functions under this Act [ASPA] he discloses any information which has been obtained by him in the exercise of those functions at which he knows or has reasonable grounds for believing to have been given in confidence.’

Unlike the Upper Tribunal decision in the *University of Newcastle v the Information Commissioner* [2011] UKUT 185 (AA), the MRC believes that because your requests concern distinct functions under ASPA the provision of information to you would be a disclosure in contravention of section 24 ASPA. A breach of section 24 ASPA permits the Home Office and/or other relevant prosecuting authority to prosecute the MRC and/or its individual employees.

Section 44(1) FOIA states that:

‘Information is exempt information by virtue of section 44(1) if its disclosure (otherwise than under this Act [FOIA]) by the public authority holding it is prohibited by or under any enactment.’

Given our position in relation to section 24 of ASPA and that disclosure of the information would amount to a breach of our obligations in terms of ASPA, the MRC considers that the information you have requested is exempt from disclosure under section 44 FOIA. Section 44 of the FOIA is an absolute exemption and does not require the application of the public interest test.

I hope that you find this information useful, if you have any questions, or would like any further information, please let me know.

However, if you are not satisfied that this response has been handled appropriately, you may appeal using the MRC’s complaints procedure. Details are on the MRC website at www.mrc.ac.uk/index/about/about-contact. You may contact the MRC Complaints Officer by email at customer.service@headoffice.mrc.ac.uk or write to The Complaints Officer, Medical Research Council, 14th Floor, One Kemble Street, London WC2B 4AN.

If you remain dissatisfied with the handling of your request or complaint, you have a right to appeal to the Information Commissioner at:

The Information Commissioner's Office,
Wycliffe House, Water Lane,
Wilmslow, Cheshire, SK9 5AF.
Telephone: 0303 123 1113
Website: www.ico.gov.uk

Yours Sincerely,

Rosa Parker
Freedom of Information Officer
Medical Research Council

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