

# Dealing with disagreements between inspectors and individuals at establishments

## **BACKGROUND**

In addition to many positive comments made in the 2009 Hampton Review of the Animals in Science Regulation Unit<sup>1</sup> (ASRU), there were some comments that suggested that ASRU should take steps to ensure greater transparency and accountability, both real and perceived. The Review Team was “concerned with effective regulation – achieving regulatory outcomes in a way that minimises the burdens imposed on business. Key to this is the notion that.....regulators should be.... transparent and accountable for their actions”.

Inspectors in ASRU communicate on a day-to-day basis with licensees and others at establishments and may be the only point of contact that some individuals have with the Home Office. In reality, inspectors use formal and informal referral processes, both internal and external, but these are not always transparent to individuals. As a consequence, the perception is often that the inspector is the sole decision maker on matters such as whether a licence application is to be granted or how advice in the Codes of Practice should be interpreted. This means that individuals may feel inhibited from disagreeing with an inspector, particularly since this is part of an ongoing relationship.

Inspectors are thus placed in a position of considerable responsibility and it is essential that they exercise their professional skills and judgment to ensure that they are always fair to licensees and other individuals, are clear and transparent in the advice they give, and are held accountable for that advice. A process for individuals to get a second opinion on any matter, together with involvement of the individual in such a referral process, will help to achieve fairness, clarity, transparency and accountability and to avoid the development of disagreements or misunderstandings.

This document aims to make individuals aware that such a process exists and to provide a ‘route map’ (see **Annex 1**) as to how to use the process. It is expected that the offer of a second opinion will normally be initiated by the inspector when s/he becomes aware of a developing issue or emerging lack of agreement. However, it is equally feasible for the individual to be the initiator, preferably by raising the matter directly with the inspector and requesting a second opinion. However an approach can alternatively be made to ASRU management as outlined in the ASRU Licensing Charter<sup>2</sup>.

It should be remembered that inspectors are only one of several advisors to the Secretary of State. It is the Secretary of State who ultimately decides what to authorise under the Animals (Scientific Procedures) Act 1986 (ASPAs).

## **PROCESSES FOR RESOLUTION**

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<sup>1</sup> <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/10-610-animals-scientific-procedures-division-inspectorate-hampton-implementation-review>.

<sup>2</sup> <http://www.homeoffice.gov.uk/publications/science-research-statistics/animals/licences/licensing-charter/>

A formal appeals process is described in the legislation, currently Section 12 of ASPA. It is intended to be used when the Secretary of State proposes to refuse, vary or revoke an authorisation. However this appeals process may be cumbersome and is neither designed, nor appropriate, to be used at an early stage when it is becoming apparent that disagreement or misunderstanding is developing. Therefore a simpler process is needed which is more amenable to use at an early stage and which preserves an effective ongoing relationship between an individual and an inspector.

With the above in mind, this guidance outlines a process (see **Annex 1**) for seeking a second opinion which:

- is applicable to any issues on which an inspector's advice is sought and where there is a lack of agreement between the inspector and the person seeking advice (the individual);
- may be implemented at any time by either an individual or an inspector, not just at a point of formal refusal to grant a licence;
- is transparent and accountable;
- involves both the individual and the inspector;
- involves an element of independent assessment;
- follows a series of steps which allow issues to be dealt with as simply as possible but which provide access to higher level decision making where appropriate;
- is not intimidating to the individual; and
- is not damaging to the long term relationship which it is necessary to maintain between the individual and the inspector.

This process aims to resolve issues at the earliest possible stage following recognition of the problem. Escalation should only be necessary in those instances where early resolution has not been possible, using wider experience from within the Home Office and possibly also independent external advice.

### **OUR COMMITMENT**

As part of this process, we commit to handling second opinions in an appropriately transparent and timely manner. The individual will be kept informed and involved in each stage of the process which will be pursued efficiently to avoid any unnecessary delays to applications.

We will review this advice, in consultation with relevant stakeholders, between one and two years after introduction.

**Animals in Science Regulation Unit**  
April 2012.

**THE COMPLETE PROCESS**

It is envisaged that not all stages of the process will be needed in all cases. In many situations, mutual resolution will be achieved through the various discussion points along the way.

