

Guilty Government

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1. Introduction: Political brutality

The disturbing story of Government malpractice that is revealed by the Diaries of Despair scandal teaches us a sobering political lesson. Behind a wall of confidentiality, the Government has succumbed to the improper advances of big business and the scientific 'old guard': together they ride roughshod over democracy, the public interest, the rule of law, and the welfare and rights of animals. However, the Diaries of Despair affair is the most extreme and well-documented example of a deeper pattern of Government misconduct. Thanks to Uncaged Campaigns' and Dan Lyons' legal victory, such abuses, once exposed, can be remedied.

This section begins with reference to the regulatory framework for animal experiments in the UK, revealing how democratic processes are bypassed [LINK to 2.]. The stark contradiction between the letter of the law and the spirit of the Government's enforcement results in toothless regulation. The troubling record of the Government turning a blind eye to evidence of cruelty and malpractice is then presented.

Conflict of interest

“Furthermore, the Imutran research was personally authorised by the ministers who were now blocking an investigation.”

Looking at the Government's desperate reaction to the Diaries of Despair exposé, we find the entrenchment of an arrogant, and callous policy. Furthermore, a letter from junior minister Angela Eagle dated 14 December 2001 reveals that the Imutran research was personally authorised by the ministers who were now blocking an investigation. The policy of whitewash and cover-up indulged in by the Government since 21 September 2000 raised the stakes in a

political battle whose outcome would be profoundly influenced by our legal struggle against Imutran and Novartis. The second leak of documents exposing Imutran's cruel experiments has provided yet more evidence of the Home Office's deceit. The Government's own malpractice has meant it has dug an even deeper hole for itself as we now reveal the true extent of this horrific scandal.

Not once in the twenty-five months since Diaries of Despair was published has the Home Office given a direct answer to the numerous questions and concerns arising from the Imutran documentation. Our interactions with the Home Office have led us to conclude that we are dealing with a body with strong authoritarian tendencies reminiscent of Warsaw Pact states rather than an open and democratic department.

2. Bypassing democracy

Disregard for the rule of law is the kind of conduct one normally associates with criminals. However, in the real world of modern power politics, if lobby groups such as the biotech industry feel that legislation, or the way it is enforced, affects their self-interest, then the Government's commitment to upholding the law often disintegrates. But if the Government fails in its fundamental duty to tell the truth, uphold the rule of law and enact its election promises, then it undermines its authority and endangers our democracy. The Diaries of Despair scandal reveals such failures and gives us the opportunity to tackle the slide towards a constitutional crisis of confidence.

Sections 2.2 and 2.3 of the Diaries of Despair report explain how the Animals (Scientific Procedures) Act 1986 and accompanying codes and statements lay down the decision-making process that the Government has a duty to complete when it decides whether to licence painful and lethal experiments on sentient creatures.

However, despite Government claims of 'strict regulation' of vivisection, in reality the secret system is firmly on the side of business rather than acting as a neutral referee, never mind any notion of 'protecting' animals. For example, although the Act requires the Home Secretary to licence only those experiments where the 'benefits' to humans will in all probability outweigh the suffering of animals (an intrinsically flawed idea in any case), the Minister continues to licence cruel and deadly experiments on animals for the sake of the marketing of 'new' household cleaning products, while poisoning animals for the sake of new cosmetics and toiletries was still permitted up until 1998, when public pressure finally forced a change in policy.

"The trouble is, what our Government does is not designed to reflect the values and desires of reasonable people."

Any reasonable person would be sickened that the UK Government could rule that the availability of a new lipstick, hair dye or washing powder justified deliberate and severe violence towards animals. The trouble is, what our Government does is not designed to reflect the values and desires of reasonable people. Rather, it is the commercial interests of the economically powerful that decide

Government conduct. For companies such as Procter and Gamble, their sole value and desire is profit maximisation, and if animals have to suffer and die to serve their interests then, for P&G, so be it. In itself, pain doesn't detract from their profits or affect 'shareholder' value (except when they lose sales due to ethical boycotts) – that's the harsh reality of what motivates the most powerful corporations on the planet. With enormous funding for lobbying, PR and lawyers, these companies get their teeth stuck into Government because laws and regulations can impact on short-term profits. Governments without respect for democracy or any conscience – such as New Labour in Britain – lack the integrity to withstand corporate pester power. The outcome: the wishes of parliament and the public are sidelined as we become enslaved by the selfish, destructive and single-minded interests of corporations (see report on how the Government has allowed the pharmaceutical industry to dictate policy on animal experiments).

3. Toothless regulation

The day-to-day assessment of applications to conduct animal experiments is conducted by the secretive Animals (Scientific Procedures) Inspectorate (ASPI) which is a unit of the Home Office. Disturbingly, the vast majority of this small group have a professional background in animal experiments. Even if the ASPI were minded to be objective, the allocation of a few dozen Inspectors to assess and continually oversee experiments on over 2.5 million animals every year gives no opportunity for rigorous scrutiny. Political bias and dereliction of duty mean that vivisection is literally a law unto themselves.

In the background, a committee of ‘hobby’ advisors¹ – the Animal Procedures Committee (APC) – meets about six times a year to try to deal with the issues raised by animal experiments, respond to evidence of wrongdoing, examine particularly controversial vivisection proposals, make recommendations to Ministers and produce an annual report. But the APC is confined in a political straightjacket. Far from being independent, its members are appointed by the Government and its conduct is answerable to the Home Secretary. The Home Office provides the facilities and secretarial support for the Committee. The APC is dependent upon the ASPI for information to facilitate its deliberations – a fundamental hindrance to independent scrutiny. In practice, critics of animal experiments are in an overwhelmed minority on the Committee that presently contains 21 members, 11 of which have a direct financial or professional interest in animal experimentation, with 3 further members (including the chairman) having close links with organisations or companies involved in vivisection. Only three members have associations with organisations that have explicitly criticised experiments on animals to any degree.²

In the heady days following the arrival of New Labour in power, the APC chairman, Professor Michael Banner, spoke about the Committee’s vital ‘watchdog’ role: ‘lapdog’ would be a more honest assessment now. Even when the Committee has dared to recommend small improvements, such as:

1. revealing the figures for the several million animals bred and then killed as surplus to the industry’s requirements
2. larger cages for ferrets
3. including sentient species such as squid under the remit of the Act
4. greater openness about animal experiments

the Government has dismissed or ignored the Committee. Perhaps the APC was being more candid than it realised when it stated: “The successful operation of the 1986 Act depends upon self-regulation by the scientific community, assisted by the Home Office.”³ But that’s rather like expecting Slobodan Milosevic to investigate himself for human rights violations.

When evidence of law-breaking and cruelty comes into the public domain, this frequently amounts to *de facto* criticism of the ASPI itself for not preventing or otherwise acting to

Strict regulation?

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¹ All the members have additional full-time professional jobs.

² See the Animal Procedures Committee website at www.apc.gov.uk/members/interest.htm .

³ Report of the Animal Procedures Committee for 1997, para 114, page 16.

deal with the problems so identified. Such a situation creates a potential conflict of interest and does little to engender faith in the credibility of investigations by the ASPI. However, the Government has reneged on a pledge to Parliament just to include a tiny amount of external input (though this would come from the APC) into ASPI investigations – this occurred in the immediate aftermath of Diaries of Despair. It successfully ensures that ASPI investigations are a foregone conclusion.

4. Turning a blind eye

The evidence contained within the Diaries of Despair documents coupled with the public track record of the Home Office, led Uncaged Campaigns' to the conclusion that the Government could not be trusted to examine fairly the serious public interest concerns that arise from Imutran's primate experiments. Therefore, public disclosure and a demand for an independent inquiry were necessary to hold Imutran, HLS and the Government to account for their wrongdoing.

In summary, the following areas of Government dishonesty and malpractice are revealed by the Diaries of Despair:

- ignoring severe animal suffering
- 'rubber-stamping' of vivisection licences
- distorting and failing to apply the legally-required cost-benefit assessment
- inaccurate and misleading Parliamentary statements
- a collusive and indulgent relationship with Imutran
- failing to punish breaches of the law
- unjustified support for HLS

These are examined in the "Government treachery" section of "Futile Atrocities" and the "Home Office misconduct" section of 'Legal Battle' on this website.

The gaping chasm between the Government's rhetoric of 'strict' regulations and the reality of animal research out of control – as discussed above - shows the desire of the Government simultaneously to permit horrific cruelty to animals while protecting it from public scrutiny. This is not the behaviour of a trustworthy and impartial state.

In 1999, another anti-vivisection campaign group, the British Union for the Abolition of Vivisection (BUAV), made a number of allegations of breaches of the law and Government guidelines by an animal breeding company, Harlan. In March 2000, the Home Office's ASPI produced a report which appeared largely to exonerate the company. The BUAV, in turn, prepared a detailed response to the report which it submitted to the APC.

The APC discussed the Home Office's report and the BUAV's response at its meeting in April 2000. The minutes of this discussion are significant:

- “5.6 ... it was felt by a majority of members that the Inspectorate's report left a number of outstanding questions. Many members felt that the report sought to exonerate Harlan Hillcrest, with the risk of creating the impression that the conditions which prevailed there were deemed acceptable by the Inspectorate.”

In the context of the guarded language normally used by advisory committees in general and the APC in particular, this represents strong criticism of the Inspectorate. The significant pro-division bias within the committee means that criticism from it is all the more startling.

Numerous undercover investigations conducted by animal protection groups have all, without exception, revealed a catalogue of animal suffering on a large scale and sloppy scientific practices, apparently undetected by the Inspectorate. For example, in 1997 Channel Four broadcast a documentary based on footage filmed undercover at HLS. This exposed straightforward brutality towards beagles, including punching the animals, as well as housing falling well below minimum guidelines. Staff were caught falsifying test results. The Government responded by setting 16 conditions for HLS to meet before being given a new licence to perform animal tests. Without producing supporting evidence, the Government deemed that HLS had put its house in order – the truth now shows otherwise.

In May 2002, another undercover exposé, this time at the University of Cambridge, brought to public attention sickening brain experiments on primates. Once again, experiments causing severe suffering were classified by the Home Office as moderate, and there was inadequate staffing. Botched procedures led to the paralysis and death of monkeys while others were found dead after being left for hours unattended while sick. In response to the report prepared by the BUAV, the Government ignored concerns about the independence of the Home Office voiced by the APC and a House of Lords Committee and instead conducted an internal enquiry. True to form, the Chief Inspector's review glossed over whole issue of animal suffering and went to extraordinary lengths to exonerate both the Home Office and the animal researchers themselves.

5. Government cover-up

a. Stonewall

On 29 September 2000, a week after we had sent the Diaries of Despair report to the Home Office, we received a response from Mike O'Brien MP, Home Office Minister. He stated in connection with Huntingdon Life Sciences:

“... a number of issues are raised in relation to the establishment's compliance with the conditions of issue attached to the Certificate of Designation which merit further consideration and I will ensure that this happens.”

But with regard to the central recommendation for the setting up of an independent judicial inquiry, Mr O'Brien claimed:

“They [the allegations regarding the Home Office] all relate to administrative or regulatory issues and my immediate thoughts are that it would be entirely proper for the Home Office to investigate them subject to certain conditions.”

Quite what Mr O'Brien meant by this nonsensical sentence is a mystery. If there are serious question marks over the Home Office's performance, how can it be appropriate for the Home Office to investigate itself? It was disturbing to discover over a year later that the Imutran research was personally authorised by Ministers – no wonder they were keen to sweep the matter under the carpet.

On 2 November 2000, a meeting took place between Mr O'Brien and Home Office officials, and Uncaged Campaigns together with representatives from the British Union for the Abolition of Vivisection and Animal Aid. However, Mr O'Brien had not read the Diaries of Despair report in preparation and was not keen (or in a position) to discuss the substantive issues, the meeting was therefore virtually pointless.

Following the meeting with Mr O'Brien, we received a letter from the Minister on 29 November 2000, timed to coincide with a Written Answer in Parliament from the then Home Secretary Jack Straw. Once again, Mr O'Brien – having apparently discussed the matter with the Home Secretary - dismissed our recommendation for an independent judicial inquiry without explanation. Most extraordinarily, Straw and O'Brien retreated from the position stated in a Written Answer of 1 November 2000. Instead of an unsatisfactory investigation led by the Inspectorate but with input from the Animal Procedures Committee, the Ministers revealed that they had:

“asked the Chief Inspector of the Animals (Scientific Procedures) Inspectorate to carry out a routine assessment of compliance with the relevant authorities but this will not amount to a special investigation.”

Despite Mr O'Brien's earlier assurance that the concerns regarding HLS's regulatory compliance would be considered, the Chief Inspector's review focussed solely on Imutran's compliance. Most importantly, the review was conducted by - and failed to consider the conduct of - the Inspectorate itself. This response has even drawn criticism from the APC [see below].

Since our meeting with Mike O'Brien on 2 November 2000, we have written on four occasions to the Home Office to request a further meeting in an attempt to present our case for an independent judicial inquiry and understand the reasoning behind the Home Office's position. On every occasion we have received a discourteous snub, without explanation of course.

b. The Chief Inspector's review

Published in July 2001, this is a key document because it is the Home Office's primary political response to Diaries of Despair. However, the Chief Inspector's review is a blatant attempt to cover-up wrongdoing and unfairly discredit the Diaries of Despair report. On several occasions the review exploits the information vacuum that existed in July 2001 and explicitly distorts the facts: it is breathtaking in its brazen dishonesty and inaccuracy.

But now, for the first time, Uncaged Campaigns can publish the full response to the Home Office review, and present the evidence that demonstrates it to be an act of deceit. Furthermore, the information contained within the October 2002 Home Office leak exposes additional falsehoods in the Chief Inspector's review (see below).

Our response to the review can be viewed at www.xenodiaries.org. Here we summarise the principle deficiencies in the review:

- The Home Secretary’s decision to request a report from the Chief Inspector with a narrow remit was unjustifiable. The Chief Inspector’s report intrinsically lacks independence and thoroughness. Our central criticism in the Diaries of Despair report came about because of the strong evidence of inadequacies in the Home Office’s regulation of Imutran’s research at Huntingdon Life Sciences. This has neither been acknowledged nor investigated.
- Throughout his review, the Chief Inspector seeks to downplay or gloss over the terrible trauma suffered by the primates, especially after the transplant experiments. The few token criticisms made by the Chief Inspector use mealy-mouthed language designed to exonerate Imutran from blame. For example, the Chief Inspector refers to a “perceived” failure to kill monkeys at a specified endpoint – i.e. when the animals’ suffering reaches a certain level of severity. These monkeys were dying in severe pain from kidney failure and other complications resulting from kidney xenotransplantation. Yet the Chief Inspector’s discussion does not help to inform the public about the true impact of this research programme and any breaches that occurred.
- The Chief Inspector’s statement: “Imutran did not advance, and the Home Office did not consider, claims of imminent clinical trials as a realistic short-term benefit,” is both untrue and unethical. This has important repercussions for the adequacy of the Home Office’s operation of the crucial cost/benefit assessment. It also may have prejudiced the Court in our legal battle with Imutran/Novartis by giving a falsely optimistic impression of the accuracy of Imutran’s statements.
- Errors and breaches committed by HLS, such as the illegal re-use of animals and overdosing errors, are incorrectly attributed to Imutran (presumably this is a politically-motivated tactic designed to shield the controversial firm HLS from criticism) and then implicitly dismissed as unimportant.
- Paragraph 5.8.2 of the Home Office review refers to “unfounded” concerns in Diaries of Despair regarding understaffing. In paras 3.24 to 3.27 of our response we explain that the Chief Inspector’s assertion here is, by his own admission, completely without foundation. This unfounded ascription seems to be a dishonest attempt to discredit the Diaries of Despair report. As such, we are particularly concerned by this aspect of the CI’s report because it is such a blatant example of bad faith and a failure to uphold the standards that the public expect of civil servants.
- Breaches of animal welfare commitments to the Home Office and conditions of licences are dismissed by the Chief Inspector as of no importance. The Home Office has a deeply callous attitude to the abuse of animals.

In public statements, the Home Office refers to two infringements that it has deemed not worthy of prosecution. However, the Home Office omits to mention the nature of these infringements in its communication with members of the public and MPs. ‘One’ of those infringements is, in fact, the failure on “several” (the words of the Chief Inspector) occasions to put dying primates out of their misery at the time ordered by the Home Office – in other words additional, unlicensed suffering of a deeply traumatic nature caused by irreversible kidney failure. Furthermore, one would imagine that the infliction of unlicensed severe suffering would attract severe punishment in a “strict” regulatory system. Instead, the Home Office claims that the gravest breach of the law possible in this area does not merit prosecution: instead, they have been “dealt with by issuing letters of admonition to those

responsible”. This astonishingly weak response cannot be consistent with Ministers’ claims that they “are working to ensure that the highest standards of animal welfare are being implemented.”

The Home Office’s deceitful and evasive response to the Diaries of Despair report merely serves to confirm the necessity of an independent judicial inquiry to examine the Home Office’s regulation of Imutran’s xenotransplantation research at HLS and its implementation of the Animals (Scientific Procedures) Act 1986.

c. The Animal Procedures Committee (APC)

The Home Office’s dismissal of legitimate concern in this area extends even to its own advisory committee, the APC. The Chair of the APC has written three times to the Minister in an unsuccessful attempt to extract a justification for the Home Office’s refusal to initiate any form of special investigation. The APC has itself expressed its “surprise” to the Minister that the Home Office has chosen not to commission a “special investigation” into the “serious issues raised by the allegations by ‘Uncaged’” and has stated: “Most members were concerned that the remit [of the Chief Inspector’s review] had not been wide enough.” (para 4.7, October 2001 meeting minutes).

Uncaged Campaigns is also concerned that the Home Office may have sought to obstruct the APC’s deliberations on this matter. The Secretariat to the APC is supplied by and located in the Home Office. Until April 2001, the APC Secretariat had informed both ourselves and concerned members of the public that APC members had seen the full Diaries of Despair report. Following a direct question on this matter, it transpired that this had not in fact happened and that the Committee had not been given access to the most important material – the primary documentation. Had this situation not been rectified, this would have severely hindered the APC’s ability to scrutinise the matter properly. The Secretariat has since apologised for the “confusion”. It may have been an innocent mistake, but when set in the context of the Home Office’s general approach to such matters, one cannot help but be suspicious about this incident.

However, the APC, as the primary body responsible for reviewing the actions of the Home Office, lacks the power and independence to perform an effective watchdog role. Furthermore, in relation to their independence with regard to the Diaries of Despair concerns, the APC has stated:

“Because the original licence applications had been referred to the Committee, the Committee itself had been involved in some of the processes criticised by “Uncaged”.” (para 6.2, Feb 2001 minutes)

It is this lack of power and independence on the part of the APC which means that its role in an investigation would fail to prevent any conflict of interest. The Committee is incapable of holding the Home Office to account and, for this reason, limiting disclosure of the Imutran documents to the APC (rather than into the public domain) would fail to protect the public interest. This is one of the reasons we stood up to Imutran/Novartis’ legal bullying and our eventual victory ultimately confirms this. In calling for an independent judicial inquiry, we are simply asking for the basic principles of justice and due process to be observed.

d. The 'New Documents'

In October 2002, a second devastating leak of documents concerning Imutran's research occurred, this time from the Home Office itself. These new papers reveal in detail the internal mechanics of the secret vivisection licensing system in the UK, and expose shocking new information about Imutran's experiments and the behaviour of the Home Office. In particular, this documentary evidence brings to light numerous inaccuracies and falsehoods in the Chief Inspector's review of Imutran's research – the Government's main political defence in this affair:

- Imutran successfully applied for permission to conduct monkey-to-baboon heart xenotransplantation experiments with the intention of using sick babies as the first human guinea pigs. This practice has been completely hidden from public view until now and was later criticised as unethical by a Government committee.
- Imutran exaggerated the potential benefits of their research in submissions to the Home Office. The documents provide numerous statements that directly contradict the Home Office Chief Inspector's claim that Imutran did not suggest that human trials of pig organs were likely to take place in the near future.
- Pig liver transplants have been dismissed as particularly improbable due to the highly complex and species-specific metabolic function of the liver and numerous known differences between human and pig liver function. Despite this, Imutran applied and received permission to conduct pig-to-primate liver transplantation experiments.
- In confidential correspondence, the Home Office and the APC complained to Imutran about the company's apparent 'cavalier' attitude to the regulations, and felt that the company had taken advantage of a 'degree of latitude' afforded them by the Home Office. Despite these protestations, the regulators were unwilling to enforce their will or punish transgressions by Imutran. On the contrary, ministers personally authorised the research and have gone to extreme lengths to conceal embarrassing errors and breaches of the law.
- Imutran experimented on primates "without the Home Office's prior knowledge or consent". This directly contradicts the Chief Inspector's report which claimed that all animals were used with the consent of the Home Office.
- Imutran grossly underestimated the extent of the suffering of the primates in many of their licence applications.

For more detail about the implications of these new documents, view the briefing or the documents themselves at www.xenodiaries.org.