

NSW Animal Welfare Reform Discussion Paper

HRA Submission

August 2021

Link: https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0004/1324948/NSW-Animal-Welfare-Reform-Discussion-Paper.pdf

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Please see the below responses to the discussion questions of relevance to the activities and expertise of Humane Research Australia.

1. Do you have any comments on the proposal to replace POCTAA, ARA and EAPA with a single, modern animal care and protection law?

It is our opinion that the legislation should be combined, however this should not weaken protection for animals used in research and education simply by creating multiple exemptions for animals used in science. We would also not support this proposal resulting in the disbanding of the Animal Research Review Panel.

6. Do you have any comments on the proposal to introduce a minimum care requirement?

We propose that a minimum care requirement should be added: *companionship, socialisation, and enrichment as appropriate to the behavioural needs of the species.*

11. Do you have any comments on prohibited and restricted procedures?

We propose for the following to be added as prohibited procedures:

- Forced swim test
- Forced inhalation test
- Monoclonal and polyclonal methods antibody production for research, regulatory, diagnostic and therapeutic applications

Draize and LD50 test are currently restricted procedures- there are alternatives for these tests so would like to see exemptions for allowing these tests upon Ministerial approval to be removed.

We understand that there will be further consultation and would welcome the opportunity to participate in this and can provide further detail on the above during this process.

12. Do you have any comments on the proposal to clarify how defences are intended to

apply to give certainty to lawful activities? (Proposal 8).

According to the paper: *The proposed defences apply only in very narrow situations, and most include qualifiers that mean the defence does not apply if a person causes unnecessary harm to the animal.* Under this definition, the defence is likely to apply for those undertaking animal research activities in accordance with the conditions of an animal research licence or project approval, as it would be argued that harm is necessary for achieving the objectives of the research. Therefore, this could be vulnerable to misuse.

17. Do you have any comments on the proposal to amend powers of entry to better support compliance?

We welcome the ability to make unannounced visits.

Inspectors authorised under the ARA have limited evidence gathering powers relative to modern legislative standards. ARA inspectors have no powers to take photographs, bring an assistant, or require a person to answer questions. The ARA also lacks clarity about digital documents and information and only refers to hard copy documents

It is essential that they have these powers in order to provide evidence of any breaches of cruelty.

Increased staffing levels is also recommended to facilitate more frequent and thorough checks.

19. Do you have any comments on enforcement arrangements for the new laws?

Noting that statement: *Given the robust arrangements already in place, the NSW Government did not support the Select Committee into Animal Cruelty Laws in NSW recommendation to establish an independent office of animal protection,* HRA contests that an independent office would bring far-reaching benefits, not just in relation to enforcement and are fully supportive of the Select Committee recommendation.

With respect to the proposed enforcement arrangements, we suggest that there needs to be specialist training on inspecting animal research facilities and evaluating the merits of research proposals.

26. Do you have any comments on the proposed approach to licensing schemes and committees? (Proposal 19)

We are concerned at the suggestion of one AWAC with such a wide remit. It is stated that *The new laws would also provide that the Minister may establish other bodies in the Regulation to advise on animal welfare issues – facilitating the continuing role of ARRP and EAAC.*

However, this is not an assurance of continuation.

In either case, with one committee or multiple committees, to ensure thorough oversight of animal research, members need to have specialist knowledge in non-animal alternatives.

This is different to having knowledge on animal welfare. To ensure animals are not subjected to procedures that duplicate research already conducted or considered

unjustified due to the availability of non-animal methods, HRA recommends that there is collaboration with the department of Health.

We wish to see continuation of the publication of ARRP annual reports.

27. Do you have any comments on the proposal to consider risk-based principles when reviewing licensing schemes? (Proposal 19)

Animal research is reliant on co-regulation by institutional animal ethics committees with little external scrutiny unless a complaint is raised. Therefore, HRA would be opposed to a risk-based approach potentially weakening scrutiny further, at a time when there is exceptionally low transparency in the industry.

For research that is purely observational, HRA would be accepting of a risk-based principle, but as the license is issued for institutions rather than specific projects, this may be difficult to manage as some institutions may undertake low impact observational research as well as more invasive research.

29. Do you have any other ideas or comments for the new laws that were not specifically considered in this Discussion Paper?

Due to the vague terms used in the Australian code for the care and use of animals for scientific purposes, HRA would welcome more prescriptive terms. Words of qualification (regularly, suitable, essential, adequate, and necessary' or justified) should be defined.