

**STATEMENT FROM THE ASSOCIATION OF DoH/DSS FUNDED RESEARCH
WORKERS ON THE DoH/DSS CONTRACT OF RESEARCH**

In 1987, the contract for Department of health and Social Security funded research was altered by the Minister. Whereas the previous contract had given DHSS funded research workers freedom to publish their findings after allowing the Department 28 days to comment on manuscripts, the new contract stated that

"any publication of research material is subject to the prior consent of the Secretary of State, which consent shall not be unreasonably withheld."

The clause continued

"such consent may be given unconditionally, or subject to conditions in which case any publications shall be subject thereto."

These changes, which were made without warning or prior consultation with those concerned, were widely considered as having very serious implications and raised fundamental questions concerning the conduct of independent research. It was felt that, by insisting that consent to publication could now be withheld (and for an indefinite period in unspecified circumstances) the new contract threatened the principles of academic freedom and undermined the obligation of research workers to disseminate the results of their research. It also posed a threat to collaborative research by creating possible difficulties for those undertaking DHSS-funded research work in obtaining funds from other sources pledged to open dissemination of the results of the research they supported.

For these reasons, the wisdom, appropriateness and ultimate intentions behind the changes were strongly questioned by individual research workers, universities, professional and academic associations, the media, and politicians of all parties. Critics have included the House of Lords Select Committee on Science and Technology in its inquiry into medical research priorities, the Committee of Vice-Chancellors and Principals, the British Medical Association, the Royal College of Nursing and the Association of University Teachers. The changes were directly responsible for the formation of the Association of Department of Health and Department of Social Security Funded Research Workers.

In response to these objections, Ministerial statements from the Department

of Health (DoH) and the Department of Social Security (DSS) have consistently stressed that the changes in the contract were necessary because

"the standard conditions for research contract showed that their wording was not fully consistent with the responsibilities for Crown Copyright delegated to (the Department) ... by the Controller of Her Majesty's Stationary Office ..."

but insist that they

"did not indicate a change of policy towards publication"

However, according to expert legal opinion obtained by the Association, changes in Crown Copyright *did not in fact necessitate any such change in the contract for research.*

In view of the seriousness of the issue for the future of all DoH and DSS funded research, it was felt that every effort should be made to obtain clarification about how the new contract was indeed to be understood. After much further discussion, Mr Jack Barnes, Director of Research Management at DoH made the following statement in a letter to the University of Oxford of 30 May 1989, concerning the contract for the Childhood Cancer Research Group:

"It is the Secretary of State's intention that research commissioned by the Department of health should result in publication whatever the research might show. The clauses in our standard conditions should be read with that in mind. It is not possible to change the terms of our standard conditions for research contracts, nor to modify its effect through the means of a covering letter. The paragraph implements those powers and responsibilities which have been delegated to the Secretary of State by the Controller of HMSO in relation to Crown Copyright

However, it is important to bear the following in mind when considering how those powers are to be used. First they are intended to be used in such a way as to achieve the object for which the particular research was commissioned ... The Department has made clear that ... the facts brought to light by the research would not, of themselves, be grounds for withholding consent to publication ... Consent to publication, the reasons for any refusal or exceptionally the reasons for delay would be given within 28 days; in this latter case a new timetable for decision will be set, in discussion with the researcher. Consent to publication will not be unreasonably withheld and in the event of an application for consent to publication being refused, the reasons for refusal will be given, so that the researcher might reconsider the proposed text in the light of perceived objections ... The Secretary of State is committed to encourage the dissemination of scientifically sound research material."

With regard to jointly funded research, if another party was contribution more than half of the funding to any project or unit, the Secretary of State was permitted to concede Copyright to the other party, provided the Crown was given access to and able to use the research on favourable terms.

On the basis of the statements in Mr Barnes's letter of 30 May 1989, the University of Oxford accepted the DoH contract. On 19 June 1989, Mrs Jean Clark, Senior Assistant Registrar wrote, "In accepting the contract we assume that the normal understandings concerning academic freedom will apply." She continued "...the University was glad to learn that ... the intention of the

contract was not to limit academic freedom as this is normally understood."

Mr Barnes has subsequently circulated copies of the correspondence between Oxford University and DoH to all directors of DH and DSS-supported units and has confirmed that the contents of his letter of 30 May 1989 applies to all DoH and DSS-funded research. DoH has also confirmed that the letter from Oxford University of June 1989 correctly described the position of the DoH on publication.

Although ministers have refused to amend the new contract in any way, with the result that, henceforth, consent will have to be sought for the publication of any research funded by DoH or DSS, the Association welcomes the assurances of Ministers and the recent clarification from officials, on the intentions of the two Departments on publication.

It seems highly unlikely that any further progress can be made for the time being in negotiating a better contract. Accordingly, the Executive Committee of the Association recommends that the new contract of research should be accepted. The commitment to publication given in Mr Barnes' letter of 30 May 1989 would seem to ensure that there is little likelihood, in practice, of publication being prevented and that our colleagues and those who read our work will not have grounds to suspect that we are subject to censorship.

The Association will undertake a monitoring role to ensure that the new contract is indeed interpreted in the way which has been indicated by Mr Barnes and others. In the longer term, there remains the need to question the principle that a funding body may be able to refuse consent to publish research findings.

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