

Executive Summary

- BDFA expresses our strong support for the Animal Sentience Bill, which delivers on manifesto and government commitments that there would be no loss of legal protections for animals following the UK's departure from the EU. The legislation replaces and improves upon the duty to consider sentience that applied when the UK was a member of the EU.
- The legislation commands strong public support, exemplified by an e-petition that reached 103,000 signatures² and a 2021 YouGov poll showing over two thirds of the British public to be supportive of requiring the consideration of animals' interests across government policy.³ The legislation also attracts significant media interest, and has cross-party political support.⁴
- The Bill will deliver three key outcomes:
 1. Legal recognition of the sentience (capacity to experience feelings and/or emotions, both positive and negative) of all vertebrate animals, decapod crustaceans and cephalopods.
 2. A responsibility for ministers to consider the welfare needs of animals as sentient beings when making and implementing policies.
 3. The establishment of an Animal Sentience Committee (ASC), with licence to scrutinise the extent to which the Government is considering the ways in which any and all policies may impact the welfare of animals. It also creates a duty, whereby the ASC produces a report, for the minister relevant to the policy area to lay a response before Parliament.
- Criticisms of the Bill during its passage through the Lords appear to have been based on a misunderstanding of an inflated role and powers of the ASC. It will continue to be up to ministers, under scrutiny from Parliament, to weigh up animals' interests against other public policy needs, including economic, environmental, social, and religious considerations. Ministers will not be answerable to the ASC but will be accountable to Parliament.
- BDFA welcomes that the scope of the Bill is based on years of scientific research and numerous scientific reports.
- We welcome the inclusion, by government, of an amendment to include decapod crustaceans and cephalopods, which followed a comprehensive scientific review by the London School of Economics.⁵
- Whilst we welcome the Bill in its current form, we acknowledge that the Bill could be further improved by the addition of a new duty to require ministers to proactively and strategically engage with sentience issues, including through a requirement for the government to maintain a cross-Whitehall Animal Sentience Strategy.
- We encourage members of the House of Commons to unite to progress this landmark piece of welfare legislation, which will significantly help to deliver on the desire of over 80% of the British public to see UK animal welfare laws maintained or improved following our departure from the EU.⁶

¹ The Better Deal For Animals coalition comprises over fifty of the UK's leading animal protection organisations. See page four for supporting organisations.

² <https://petition.parliament.uk/archived/petitions/242239>

³ https://www.wcl.org.uk/docs/WCL_Results.pdf

⁴ See for example [Sentience and Welfare of Animals - Hansard - UK Parliament](#)

⁵ <https://www.gov.uk/government/news/lobsters-octopus-and-crabs-recognised-as-sentient-beings>

⁶ [Survey Report \(d25d2506sfb94s.cloudfront.net\)](https://www.surveymonkey.com/Reports/2506sfb94s)

Improving the Bill

It would be helpful if you would consider raising the following points at second reading:

1. Broad support for the Bill

The Bill, its introduction of animal sentience, the species it covers including cephalopods and decapod crustaceans, and the formation of the Animal Sentience Committee to advise ministers are welcome. This legislation will increase the global status and reputation of the UK on animal welfare.

2. The Bill should not prevent the ASC from considering positive welfare effects

At the Bill's second reading in the Lords on 16 June 2021, Peers raised concerns about the prescriptive wording of the question clause 2 of the Bill requires the ASC to consider.⁷ By limiting consideration to ways in which the policy might have an *adverse* effect on the welfare of animals as sentient beings, the clause appears to prevent the ASC from considering *positive* effects. This could lead to policy opportunities to actually enhance animal welfare being missed. The framing and assessment of animal welfare not only in terms of *avoidance of harm* but also in the measurement and promotion of *positive welfare states* is an enlightened scientific approach, as set out in Mellor et al's 'Five Domains' approach.⁸

On the first day of Lords Committee on 6 July 2021, Minister Benyon signalled his agreement with Peers, saying that "*the committee should be free to consider positive effects*".⁹ This appears to have informed the proposed terms of reference for the committee¹⁰, which state:

"The committee may consider how ministers have had a positive effect on animals as sentient beings in the policy-making process. However, the committee should prioritise supporting government departments in minimising policies' actively harmful effects on the welfare of animals."

This is a sensible approach, which balances giving the ASC the freedom to consider all opportunities to enhance animal welfare with the need to prioritise the avoidance of harmful effects.

However, the wording of the Bill itself remains unchanged and continues to require the ASC to only consider adverse effects. This contradiction could lead to significant complications, as an ASC report focused on positive effects could be challenged, with any defence based on the licence to consider positive effects conferred by the terms of reference being undermined by the prohibition on doing so in the text of the legislation.

A simple amendment, removing the word 'adverse' from the text of clause 2, would allow the sensible approach proposed in the proposed terms of reference to be safely and fully implemented by the ASC, ensuring that opportunities to actively enhance animal welfare through policy are not missed.

⁷ [https://hansard.parliament.uk/lords/2021-06-16/debates/81851658-6B9F-4739-8199-22398F81085F/AnimalWelfare\(Sentience\)Bill\(HL\)](https://hansard.parliament.uk/lords/2021-06-16/debates/81851658-6B9F-4739-8199-22398F81085F/AnimalWelfare(Sentience)Bill(HL))

⁸ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5575572/>

⁹ [https://hansard.parliament.uk/lords/2021-07-06/debates/B8CBC730-DC86-4D6C-B915-C145CF158B80/AnimalWelfare\(Sentience\)Bill\(HL\)](https://hansard.parliament.uk/lords/2021-07-06/debates/B8CBC730-DC86-4D6C-B915-C145CF158B80/AnimalWelfare(Sentience)Bill(HL))

¹⁰ <https://depositedpapers.parliament.uk/depositedpaper/2283872/files>

3. The Bill should require ministers to proactively consider sentience

The new duties imposed by the Bill place the lightest of burdens on ministers. A requirement to react to an ASC report by laying a written response before Parliament is far from onerous.

In a worst-case scenario the slightness of this responsibility could allow for a future government's engagement with sentience to degrade to a level that is no longer meaningful, comprising solely of sporadic, one-line dismissals of ASC reports. This would technically discharge the duties in the Bill but would fall far short of the Bill's aims of enshrining animal welfare in policy making.

An additional duty in the Bill would help guard against this outcome. We would recommend a duty to require government to create and maintain a cross-Whitehall Animal Sentience Strategy that prospectively sets out how ministers, supported by the ASC, plan to have all due regard to animal sentience during the upcoming Parliamentary session, including through animal welfare impact assessments and the commissioning of any necessary independent research or opinions.

Such a duty could also require the Defra Secretary of State to report on the strategy on an annual basis before Parliament, presenting a summary of the policies that have fallen under the purview of the ASC, and any changes in policy or implementation that have occurred in response to the ASC's recommendations. This report could be made in person by the Secretary of State, as opposed to merely laying it in writing, to allow full and constructive parliamentary scrutiny of the extent to which the government has recognised animal sentience in the policy options considered.

The government's duty would be discharged by creating the strategy and laying the annual strategy progress report, resulting in minimal judicial review risk.

This strategy, and its reporting mechanisms, would ensure that both ministers and Parliament proactively, regularly and meaningfully engage with how policies affect the welfare of animals as sentient beings.

This briefing has been prepared ahead of the Commons' second reading by Better Deal for Animals (BDFA), a coalition of over 50 animal protection groups in the UK, who have joined forces to campaign for a strong law that recognises animal sentience. Our previous briefings on the bill can be found [here](#).

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The full Better Deal for Animals coalition:

