



#BetterDealForAnimals

ENSURING THAT THE UK CONTINUES TO RECOGNISE ANIMAL SENTIENCE IN LAW AS IT LEAVES THE EU

The 40 organisations backing the #BetterDealForAnimals campaign welcome the Government's commitment to incorporate recognition of animal sentience, and associated duties to sentient animals' welfare needs, which are enshrined in Article 13 of the Treaty of Lisbon, into UK law. However, we are increasingly concerned that a Bill has not been brought forward in the more than 18 months since this commitment was made.

If the UK leaves the EU on 31 October and Government has not brought forward sentience legislation, animals will no longer be legally recognised as sentient beings and there will be no legal requirement for Government to pay regard to their welfare needs when formulating and implementing policy. The need to pay 'all due regard' is essential as it ensures that animals cannot be treated as 'goods' in the creation of new laws which impact them, and it ensures that animal welfare is given full consideration alongside other public policy needs. The absence of a cross-governmental requirement to consider animal welfare in the context of forthcoming trade deal negotiations is of particular concern.

Recommendations

- It is essential that the Government introduces animal sentience legislation as soon as possible to avoid leaving the EU without sentience being implemented in UK legislation;
- The legislation should cover all sentient animals, including decapod crustaceans and cephalopods;
- The legislation should set out the process for how Government departments will assess and report on animal sentience, and how they have discharge of associated animal welfare duties, in all policy areas covered;
- The legislation should include a power to establish an Animal Welfare Advisory Commission to support Government - including individual departments and public bodies - in discharging its duty to animals, providing independent and transparent advice.





Our key expectations of the legislation are that it should:

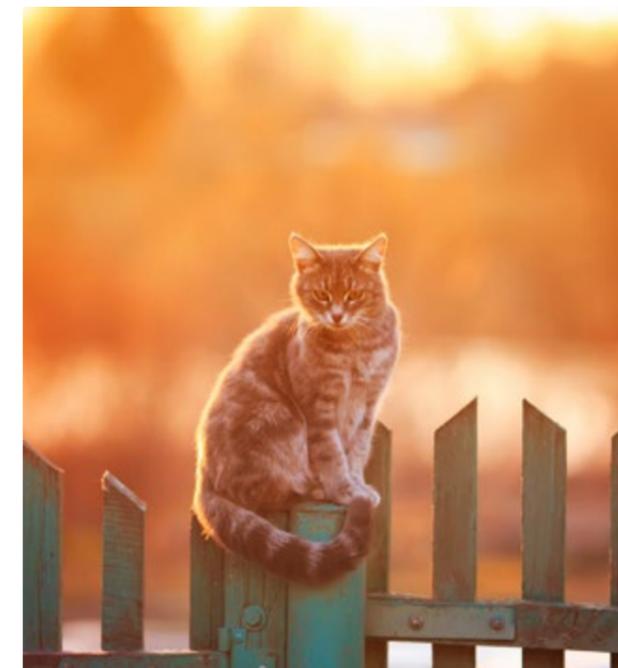
- Be introduced to take effect prior to the date of the UK leaving the EU;
- apply to all sentient animals - whether farmed, wild, research or companion - and in all policy areas. If an animal is sentient, then the duty should apply;
- ensure that, at a minimum, all vertebrates, cephalopods and decapod crustaceans are legally defined as within the scope of application of the Bill, and provide a mechanism for this list to be expanded in future based on the latest science¹;
- confer an active duty of the following nature (adhering closely to Article 13 of Lisbon): “Ministers of the Crown, public bodies and authorities must pay all due regard to the welfare needs of sentient animals when formulating and implementing their policies.”;
- set out, through guidance, how animal sentience is to be interpreted and applied by Government departments and public bodies making, developing and revising their policies. Guidance should also establish an independent, open and transparent framework to support Ministers and public bodies in discharging the duty, allowing public interests to be weighed against the welfare of sentient animals, incorporating different viewpoints, knowledge and expertise with respect to animal welfare, as well as expertise and experience in ethical appraisal. All decision-making processes relating to the implementation of the legislation must be appropriately balanced, fair and robust;
- require Government to publish an annual report, presented by the Secretary of State for Environment, Food and Rural Affairs to Parliament and relevant Select Committees, detailing how the duty has been discharged, including animal welfare risk assessments undertaken, policy options considered, and the reasons for the choice of the final policy option;
- create a Statutory power for the creation of an Animal Welfare Advisory Commission, with a mandate of providing support to all Government departments and public bodies in discharging and reporting on this duty, replacing and replicating the advisory role of key European animal health and welfare bodies such as the European Food Safety Authority. Consultation would be needed to establish the Commission in the most effective way. More details on the importance and value of the Commission can be found in the appendix.

¹ Scientific evidence indicates that cephalopods (octopuses, cuttlefish and squid), and decapod crustaceans (such as crabs and lobsters) are sentient, so they should explicitly fall under the scope of the term ‘sentient animals’.

Article 13 – history, purpose and value

Article 13 of the Treaty of Lisbon, which sets out a framework to pay full regard to the sentience of animals when developing and implementing public policy, was proposed and successfully negotiated by the UK Government during its EU Presidency in 1997. The existence of this article has been contextually and symbolically referenced as a shared purpose and responsibility in numerous key pieces of European animal welfare law.

We welcome the Government’s commitment to ensuring continued recognition of animal sentience, combined with a duty to pay full regard to animals’ welfare needs in policy making and implementation. We further welcome the Government’s stated ambition of ensuring that the duty is discharged meaningfully through an implementation framework.



Animal Welfare (Sentencing) Bill

After the Government agreed in November 2017 to leave the EU with a better provision on animal sentience, a Sentencing and Sentence Bill was published on 12th December. Following a public consultation by Defra that concluded 31st January 2018, the Bill was withdrawn.

We are pleased to see the part of this Bill to increase sentences for animal cruelty offences now laid before Parliament, but we are concerned that no further progress has been made on the sentence provisions. Several of the groups² behind the #BetterDealForAnimals campaign have met regularly with Defra civil servants over the last 18 months to help shape this important legislation.

While we are pleased to see our feedback reflected in some areas, we are concerned at the limited scope of application of the Bill as it currently stands (in terms of both public bodies to which it applies, and animal groups covered), and the absence of a framework and expert body through which the duty will be meaningfully discharged.

We understand that Parliamentary time is limited and that consideration is therefore being given to whether animal sentience and associated duties will be enacted in a stand-alone Bill or as part of another Bill (e.g. Environment). Our preference is a stand-alone Bill, but our overarching request is for the Government to pass legislation that fulfils the recommendations in this brief.

² Compassion in World Farming; Humane Society International, RSPCA, Wildlife and Countryside Link, World Animal Protection.



APPENDIX

Importance and value of establishing an Animal Welfare Advisory Commission

Animal welfare policy, and advice on the impact of all policies on animal welfare, must be informed by independent scientific advice. After the UK leaves the EU, Government will no longer be able to draw on the advice of important scientific institutions such as the European Food Safety Authority (EFSA). It is important, therefore, to establish a body that is able to fulfil an advisory role to all Government departments, independent of Defra, and to represent the wealth of scientific, ethics and animal welfare expertise available in the UK. This body would provide Ministers with scientific and ethical opinion and advice on animal welfare issues, and conduct welfare impact assessments and ethical appraisal for legislative proposals affecting the welfare of animals. This body would work in conjunction with existing expert groups such as the Farm Animal Welfare Committee and the Animals in Science Regulation Unit, ensuring a consistent approach across Government. It could also liaise with, and provide expert opinion to, relevant Select Committees (e.g. EFRA) and Parliament.

An independent and transparent Animal Welfare Advisory Commission will be crucial in delivering public and stakeholder confidence that animal welfare impacts of policies are fully assessed and the weighing process is fair, proportionate and meaningful. The Commission would need to:

- Have an open, transparent recruitment process
- include independent members with appropriately wide ranging specialist perspectives and expertise (including, crucially, in both animal welfare and ethical appraisal) plus lay members
- be able to co-opt appropriate additional expertise as necessary
- understand and respect the views and interests of the full range of stakeholders
- be transparent in its advice to Government, and
- include a mechanism to take representations (including concerns and complaints) from the public.

It is envisaged that a maximum of around twelve members would be most effective in reviewing, and making decisions on a specific area, noting that bodies of this nature can work well with a pool of members.