

Animal Welfare (Sentience) Bill: Briefing for Report stage Better Deal for Animals Coalition (BDFA)



This briefing has been prepared by Better Deal for Animals (BDFA)¹, a coalition of over 50 animal protection groups in the UK, who joined forces in 2017 to campaign for a strong law that recognises animal sentience. Five years on, we are nearly there. Ahead of report stage of the Animal Welfare (Sentience) Bill on 14.03.22, on behalf of the thousands of animal lovers in your constituency, we ask you to:

1. Support the Bill

The capacity of animals to both suffer and have good lives has been understood for centuries. This understanding has now been confirmed by strong evidence; modern science has confirmed that most animal species can feel pain, pleasure, joy, sadness, comfort, discomfort, hunger, thirst and warmth.² This capacity to have feelings is known as sentience.

The establishment of the facts of animal sentience requires a policy reaction. Policy making requires a mechanism whereby the ability of animals to have positive and negative emotions can be formally considered in the development and implementation of policies affecting them. The duties under Article 13 of the Treaty on the Functioning of the EU (TFEU) used to provide such a mechanism. However, following the departure of the UK from the EU in January 2021 those duties no longer applied under UK law. As a result, for the past year there has been no legal requirement for the welfare of animals as sentient beings to be formally considered in the UK Government's policy processes.

The Animal Welfare (Sentience) Bill fills this gap and will ensure that impacts on the welfare of animals as sentient beings will be considered within UK Government policy making once again.

The Bill will deliver three key outcomes:

¹ <https://www.wcl.org.uk/better-deal-for-animals.asp>

² See evidence to EFRA Select Committee on the Bill, from Dr Jonathan Birch of LSE <https://committees.parliament.uk/oralevidence/2611/pdf/>

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. 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.
3. The introduction of a duty, whenever the ASC produces a report, for the Minister relevant to the policy area to lay a response before Parliament.

The scope of the Animal Sentience Committee represents an improvement on the EU's Article 13 duties. The ASC will have the ability to consider impacts on the welfare of animals as sentient beings across the whole range of UK Government policy, with the exception of fiscal policy. This also improves on the Article 13 duties, which applied to only prescribed policy areas, with some specified activities within those areas (such as bullfighting) then exempted through derogation. The expanded range of policy areas where welfare will be a consideration, as a result of the Animal Sentience Bill, marks a genuine enhancement of UK animal welfare policy compared to previous EU policy.

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.

2. Enhance the Bill

Whilst we welcome the Bill in its current form, we believe that it could be further improved by the inclusion of an additional duty to require ministers to proactively engage with sentience issues.

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.

This risk was highlighted in the letter from the Chair of the EFRA Select Committee to the Secretary of State for Environment, Food and Rural Affairs ahead of second reading in the Commons, which warned that *"the ASC risks becoming simply another toothless Whitehall committee whose reports gather dust, while critical issues of animal welfare within policy-making go largely unaddressed."*³

An additional duty in the Bill would help guard against this outcome; requiring government to create and maintain a cross-Whitehall Animal Sentience Strategy. Such a strategy would prospectively set 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 would also require the Defra Secretary of State to present an oral report on the strategy on an annual basis to Parliament, presenting a summary of

³ <https://committees.parliament.uk/publications/8506/documents/86078/default/>

the policies that have been considered by the ASC, and any changes in policy or implementation that have occurred in response to the ASC's recommendations.

This combination of forward-looking assessment of how ministers intend to improve the welfare of animals as sentient beings, and regular parliamentary updates on progress against those plans, will ensure proactive ministerial engagement with the issue and allow for detailed parliamentary scrutiny. Such an Animal Sentience Strategy would provide a further, necessary mechanism to *'ensure that animal sentience is taken into account when developing policy across Government'*⁴ (the stated purpose of the Bill).

We hope that **New Clause 1**, proposed by Ruth Jones MP and others, can be supported as it would establish a duty on the Government to provide and report on an Animal Sentience Strategy.⁵

We also support **amendment 1**, which would require Ministers to lay oral responses to ASC reports. This would enable detailed parliamentary scrutiny of reports and the ministerial response to them.

3. Reject amendment 2, which would weaken the Bill

Amendment 2 seeks to place a duty on the ASC to ensure that its recommendations 'respect legislative or administrative provisions and customs' relating to religious rites, cultural traditions and regional heritage. The amendment is founded in a misunderstanding of the powers of the ASC.

It is important to clarify that ASC will inform policy, but not direct it. The scope of the ASC will be wide, but its powers will be advisory only. Ministers will be able to disregard ASC conclusions if they do not agree with them or feel that other factors (including socio-economic, religious or cultural factors) override animal sentience considerations. The ASC will advise, ministers will decide. This achieves the consideration for religious rites, cultural traditions and regional heritage that amendment 2 is concerned with – if the Minister in receipt of an ASC report decides that any of these accepts trump welfare considerations, they will be free to reject ASC recommendations.

Given that the Bill already assures consideration of non-welfare factors, all amendment 2 would achieve is the placing of an arbitrary barrier to expert animal welfare advice in some policy areas. This would impoverish the policy process. Law should not prevent ministers from accessing knowledge that could improve decision making.

A fencing off of some areas of policy from animal welfare consideration would also perpetuate the flaws that undermine the EU's approach to animal sentience – flaws that the Government promised to address when bringing forward legislation to replace Article 13. The derogation to Article 13 of the TFEU exempts cultural, religious and heritage practices from animal welfare considerations, allowing some EU member states to continue to support horrifically cruel activities such as bullfighting.⁶ There is no need for such continued alignment with the EU now the UK has left, we have the freedom to do better.

By allowing the ASC to consider a wide range of policies, the Bill does do better than what came before, enabling the provision of welfare information on all policies with a bearing on animals whilst preserving

⁴ <https://www.gov.uk/government/news/animals-to-be-formally-recognised-as-sentient-beings-in-domestic-law>

⁵ https://publications.parliament.uk/pa/bills/cbill/58-02/0195/amend/sentience_rm_rep_0310.pdf

⁶ <https://www.advocates-for-animals.com/post/animal-protection-laws-from-around-the-world-spain>

ministers' freedom to make decisions after weighing up all the relevant factors. This strikes the right balance between welfare and other policy considerations.

Amendment 2 would carry over a flawed approach to UK law, undermining the Bill as a step forward for animal welfare – all to achieve a consideration of non-welfare factors which the Bill already assures. It should be rejected.

Conclusion

New legislation to recognise animal sentience in UK law was contained in the 2019 Manifestos of every major party. [Polling](#) shows consistently high levels of support for the Bill, applying across all political parties. We ask that you fulfil the democratic promises made on sentience, support the Bill at report and take a historic step forward for animal welfare.

For more information please contact:

Claire Bass, Executive Director, Humane Society International UK, cbass@hsi.org

David Bowles, Head of Public Affairs, RSPCA, david.bowles@rspca.org.uk

James West, Senior Policy Manager, Compassion in World Farming, James.West@ciwf.org

Matt Browne, Advocacy Lead, Wildlife and Countryside Link, matt@wcl.org.uk

Sonul Badiani-Hammett, UK Country Director, FOUR PAWS UK sonul.badiani-hammett@four-paws.org

10.03.22