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Department for Environment, Food and Rural Affairs
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16 March 2018

Dear John,

ANIMAL SENTIENCE

Thank you for inviting FAWC to give advice on recognising animal sentience in UK law. We consider that it is important that the recognition of animal sentience in Article 13 of the Lisbon Treaty is carried forward and we welcome the opportunity to provide advice on this matter.

In our discussions in the short time available, we explored the criteria for sentience, including whether consciousness and positive experiences could be defined for the purposes of this legislation, and whether objective 'measurability' of any criteria should be a fundamental requirement. We also considered the wider effects of the possible definitions of sentience, including the recognition of sentience in various species, existing animal welfare provisions and the differing circumstances of animals in the wild as opposed to those under human control.

We are of the view that defining sentience is essential. There is a broad range of established definitions, from that in the Oxford English Dictionary to the widely-known and respected definition of the Global Animal Law Project. The FAWC panel also suggested possible definitions based on measurable criteria. Whilst many of the different definitions have merits, they also present challenges in this context. Our view is that if a definition for the sentience of non-human animals is used in the context of this legislation, it should be along the following lines:

Sentience is the capability to experience pain, distress and harm.

Whilst this does have an emphasis on the negative state, it is by definition a conscious experience and lends itself to the inclusion of further animal groups as the responses can be demonstrated in research.

We consider that setting out a definition of sentience is the main requirement. With regard to which animals should be in scope, we did not consider it essential to define that in this legislation; the primary concern was that given the dynamism of scientific research in this field, there must be the scope and flexibility to take proper account of developing research and evidence in future, such as for the cephalopod and decapod crustacean groups. This may be better achieved in guidance, which can be amended more promptly to reflect key scientific developments, than in legislation. We also noted that there are existing definitions of 'animal' in other relevant legislation (Animal Welfare Act 2006 and the Animal and Scientific Procedures Act 1986) and that creating a third definition in this legislation would be unhelpful.

In considering welfare needs, we examined the current provisions and explored whether positive experiences and the notion of a 'life worth living' could be readily captured. We consider that the existing definition of welfare needs in the Animal Welfare Act 2006 is suitable in this context and will deliver a measure of consistency, but that the regard for welfare needs should be imperative, i.e. 'must have regard'. Our deliberation on the welfare needs of animals was also concerned with the needs of animal in the wild as opposed to those in the context of responsibilities conferred by farming, domestic and zoo keeping and similar. We recommend that the needs of wild animals be reflected in guidance.

It is the responsibility of Government to legislate to safeguard from negative experiences and advocate for positive experiences. FAWC has advocated strongly for positive experiences in its guidance and opinions, moving on from an emphasis on harm towards the notion of 'a life worth living', an approach that Government has supported. The recognition of animal sentience in law is complex but we consider that the recommendations we have made apply in the broader context.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Jinman', is written over a light blue rectangular background.

Peter Jinman
Chairman, Farm Animal Welfare Committee