Written evidence submitted by the League Against Cruel Sports (AWB0004)

The League Against Cruel Sports is an animal welfare charity that works to expose and end the cruelty inflicted on animals in the name of sport. Our work encompasses the protection and promotion of the welfare of wild animals, domestic animals and those under human control. The sentience and sentencing elements of this inquiry are therefore of the utmost importance to the animals that we seek to protect.

1. Welfare needs of animals as sentient beings:

The Bill requires Ministers to have “regard to the welfare needs of animals as sentient beings in formulating and implementing government policy”. In discharging that duty the draft Bill also states that Ministers of the Crown must “also have regard to matters affecting the public interest.” We would be interested in your views on any potential conflict that may arise in discharging these two duties.

Response

We are concerned that section 1 (2) can be interpreted as ‘carte blanche’ to override section 1 (1) as “public interest” is an extremely wide term. We believe that the bill should therefore give a higher imperative to considering the animal welfare needs. The sentience clause of the Lisbon Treaty itself, which this bill intends to preserve, refers to the need to pay “full regard”. We believe that this Bill has lost some of the scope of the EU Lisbon Treaty clause on animal sentience as it only covers the Ministers of the Crown and not all levels of Government. We think that this Bill could cover local governments and Section 1 should also include policy makers and enforcers at the local government level. Therefore, we believe that section 1 (1) should read:

“Ministers of the Crown and local authorities must have full regard to the welfare needs of animals as sentient beings in formulating and implementing Government policy”

In those cases where there are conflicts between animal welfare and public interest, we believe that animal welfare should not automatically be outweighed by or be regarded as subordinate to the public interest.

2. Definitions within the Bill

The draft Bill does not explicitly define a number of terms, such as: ‘sentience’, ‘animal’, ‘welfare needs of animals’. Do you consider definitions are required for these terms and, if you do so, what definitions should be used?

Response

Yes, we consider definitions are needed.

Sentience

We believe that there is a need to define the term ‘sentience’ in the Bill, not only for clarity but also to establish such definition in the statute books for future reference. We believe the definition should be:
"Sentience is the ability to feel, perceive, be conscious, or experience subjectivity"

**Animal**

We do believe that there is a need to define the term ‘animal’ in the Bill, as different UK laws define it slightly differently, and there are differences between the common use of the term and the scientific use. Animals are all multicellular organisms that form part of the biological kingdom Animalia, and as they are endowed of sensation and voluntary motion all should be considered sentient beings, but for the purposes of the duty conferred by section 1 (1), animals should be understood as:

“all living Vertebrates other than man, all living Cephalopods and all living Decapod Crustaceans”

The reason for our suggested definition including all vertebrates is that these are included in the Animal Welfare Act 2006. The reason for including Cephalopods (i.e. Octopuses) is because these are already considered protected animals in the Animals (Scientific Procedures) Act 1986. The reason for including Decapod Crustaceans (i.e. lobsters and crabs) is because there is now a great deal of evidence showing that such animals experience pain and suffering as the others already mentioned. In particular, decapod crustaceans have a large number of receptor cells for detecting chemical and mechanical inputs, and have compound eyes that cover a wide field and are connected by nerves to the brain. They also have the sensory receptors – nociceptors – necessary to respond to aversive or noxious stimuli, and these send signals to the brain, which cause the perception of pain. Indeed, they have very similar physiological and neurochemical responses to stimuli that would be expected to cause pain to vertebrates. Opioid peptides – enkephalins – have been found in decapod crustaceans, and appear to have a similar role as in vertebrates, strongly suggesting that they mediate pain in the same way. The European Food Safety Authority, which provides independent scientific advice on food safety risks to the European Commission, supports the need for decapods to be protected. In its 2005 Opinion on the ‘Aspects of the biology and welfare of animals used for experimental and other scientific purposes’, it writes: ‘The largest of decapod crustaceans are complex in behaviour and appear to have some degree of awareness. They have a pain system and considerable learning ability. As a consequence of this evidence, it is concluded that cyclostomes, all Cephalopoda and decapod crustaceans fall into the same category of animals as those that are at present protected’.

We also believe that, in any event, whatever definition used must include domestic animals, wild animals, and wild animals living in a wild state. The Animal Welfare Act 2006 only covers domestic animals and wild animals under the control of man, and this is clearly insufficient for the purposes of this Bill.

**Welfare needs of animals**

We do believe that there is a need to define the ‘welfare needs of animals’ as it will be better than making the definition dependant on the interpretation of another law. The universally accepted five freedoms of animal welfare defined by the UK Farm Animal Welfare Council, which are what the Animal Welfare Act 2006 definition is based on, should also be the basis of this definition, but with the original accepted wording. Therefore, we believe the definition should be:
“For the purpose of this Act the ‘welfare needs of animals’ mean the animals’ needs that have to be met to allow the animals have an acceptable quality of life, which at least have to fulfil all the following ‘five freedoms of animal welfare’: freedom from hunger or thirst by ready access to fresh water and a diet to maintain full health and vigour; freedom from discomfort by providing an appropriate environment including shelter and a comfortable resting area; freedom from pain, injury or disease by prevention or rapid diagnosis and treatment; freedom to express normal behaviour by providing sufficient space, proper facilities and company of the animal’s own kind; and freedom from fear and distress by ensuring conditions and treatment which avoid mental suffering”.

3. Mode of trial and maximum penalty for certain animal welfare offences

The draft Bill proposes to increase the maximum penalty for the specified animal welfare offences from six months to five years’ imprisonment under Section 7 of the Animal Welfare Act 2006. We would like to know your view on the proposed new maximum sentence.

Response

We agree with the proposed increase of the maximum penalty. However, we believe that sentencing guidelines may need to be updated in order to reflect the changes, allowing judges to make full use of the new sentences.

We also believe that in addition to increasing maximum penalties for animal abuse offences under the Animal Welfare Act 2006, given that this Act does not cover wild animals in the wild, other legislation that does (such as the Hunting Act 2004) should also be amended along the same lines.

Given the scale of sustained abuse and wider criminality involved in organised dog fighting we ask that the Government makes it clear from the outset that all convictions for dog fighting attract the toughest penalties.

We also believe that in addition to increased sentences, animal cruelty offences should be made recordable and a register of convicted offenders for animal cruelty should be created.

January 2018