Written evidence submitted by The Donkey Sanctuary

Introduction
The Donkey Sanctuary is the largest equine charity in the world. Originating in Devon in the UK we provide safe homes and care for thousands of donkeys and mules in the UK, Ireland and other countries as well as groundbreaking interaction with humans with our Donkey Assisted Therapy programme.

We welcome the fact that the Government is bringing forward legislation in the proposed Animal Welfare (Sentencing and Recognition of Sentience) Bill. We are also grateful to the EFRA Select Committee for undertaking a pre-legislative inquiry and giving us the opportunity to contribute.

We believe that sentence should be recognised in law and given due regard by governments. We also believe that courts should have more flexibility when passing sentence on those convicted of animal cruelty.

The EFRA Select Committee has asked for comments on three issues relating to the draft Bill. We shall answer each in turn.

The EFRA Committee is conducting pre-legislative scrutiny on this Bill and would be interested in your views on the Bill in general, on the scope of the Bill, and in particular on:

1 - Welfare needs of animals as sentient being:
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.

The Donkey Sanctuary believes there is a potential conflict for Ministers of the Crown if they have to “have regard for the welfare needs of animals as sentient beings in formulating and implementing government policy” whilst being required to “also have regard to matters affecting the public interest”.

It is therefore important that the Government sets out how such a conflict would be resolved. This could be achieved by an independent body. Whilst the Government already has a number of bodies that advise on animals it is likely that none of these would fit the remit of the proposed legislation. Therefore a new body may have to be established to deal with this issue and this should be subject to a further consultation.

In any case what is important for the Government to acknowledge is that sentient beings should be protected and that the sentiments of their Farm Animal Welfare Council who said in 2009 that “all farm animals should have a life worth living, from their point of view and that an increasing proportion should have a good life” is a good guiding principle to ensure the protection of all sentient animals is not unreasonably compromised by public interest considerations.

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

The Donkey Sanctuary believes that the terms “sentience”, “animal” and “welfare needs of animals” should be defined. Whilst from our own perspective there is no doubt that donkeys and mules are sentient animals with well established welfare needs we nevertheless support the development of legislation that protects other sentient animals as well.
The definition of a good life for animals has been defined as one that has more positive experiences than negative ones. Therefore the definition of sentience could be the capacity to have positive and negative experiences such as pain, fear, distress or pleasure.

The RSPCA has set out a definition of “animal” in their submission to this inquiry and we have nothing to add to that definition which seems reasonable for the purpose of this Bill.

The welfare needs of animals were part of the consideration and implementation of the Animal Welfare Act (2006) which defined them as:

- need for a suitable environment
- need for a suitable diet
- need to be able to exhibit normal behaviour patterns
- need to be housed with, or apart, from other animals
- need to be protected from pain, suffering, injury and disease.

Given that the intended scope of this Bill is wider than the Animal Welfare Act (2006) it may be necessary to incorporate the same or similar in this Bill. This is complicated by the proposed legislation covering wildlife and therefore it can be difficult to protect in every instance from pain, suffering, injury and disease. However what is important is that sentient wildlife is covered by a definition so that their needs are taken into consideration by Government Ministers and protected where reasonable to do so.

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.

The Donkey Sanctuary supports the proposed increase in the maximum penalty under Section 7 of the Animal Welfare Act 2006 from six months to five years’ imprisonment. Whilst it is for parliament to determine consideration should be given as to whether this change to an existing piece of legislation should be a separate Bill given the sentience provisions are not and cover a wider number of animals.