1. Welfare needs of animals as sentient beings:

The Bill requires Minister 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 matter affecting the public interest”.

We would be interested in your views on any potential conflict that may arise in discharging these two duties.

In its current form the Bill may expand the consideration for animal welfare beyond that of the Lisbon Treaty, a positive step for animals and the UK as a leader in animal welfare. However, there are other issues regarding the duties towards animal welfare and public interest.

Using the same terminology to impose a duty to have regard for animal welfare and public interest, weakens Clause 1(1). As the Bill is intended to protect animal welfare, the public interest duty should be secondary. This can be simply resolved through amendment of Clause 1(2) to state “…should also have regard to matters affecting the public interest”.

Furthermore, duties discharged under the Bill should be expanded beyond Ministers of the Crown to include all government departments as well as local authorities in England. This would ensure the government’s stated aim to maintain and improve animal welfare laws following Brexit. The existing wording indicates that other government officials, and those working in local authorities, responsible for the formulation and implementation of animal welfare policy may not be legally required to give consideration to animal sentience, which could lead to a weakening of animal welfare measures.

Do you consider definitions are required for these terms and, if you do so, what definitions should be used?

Sentience:
The term should not be explicitly defined because the currently drafted approach allows the term sentience to have the necessary flexibility to reflect the latest scientific evidence when formulation and implementation of government policy concerns animals.

Animal:
The draft Bill does not explicitly define the term ‘animal’, and in the absence of a legal definition this term may be given its ordinary meaning. The Oxford English Dictionary defines animal as ‘an organism endowed with life, sensation and voluntary motion’.

**Welfare needs of animals:**
The clause should include an explicit definition of welfare needs of animals, based on the well defined and widely recognised “five freedoms”(1). These are:

- Freedom from hunger and thirst;
- Freedom from pain, injury and disease;
- Freedom from discomfort;
- Freedom from fear and distress;
- Freedom to express normal behaviour.

Although Section 9(2) of the Animal Welfare Act alludes to most of the five freedoms (basic level needs to avoid negative welfare), it does not include “freedom from fear and distress”. This is essential in recognising the capacity of animals to suffer not only physical but also mental distress. Acknowledging that the welfare needs of animals should also include “freedom from fear and distress” is important in imposing the duty to recognise the sentience of animals and therefore their welfare needs.

Section 9(2) of the Animal Welfare Act 2006 details some of the basic needs for animals to avoid negative welfare. However, it is increasingly acknowledged by scientists (2)(3) that the welfare needs of animals should also promote states and experiences fundamental to ensuring positive welfare, not simply avoiding negative states. It is important in defining these needs that the Bill (and the Animal Welfare Act) recognises both negative and positive welfare. In doing so, the legislation would be stronger and more effective than the Lisbon Treaty, reflecting the pledge by Prime Minister Teresa May to “maintain and enhance our animal welfare standards when we leave the EU” (1). It would also move the UK closer to the goal of setting “a global standard for animal welfare” as expressed by Minister Michael Gove.

**References:**

**2. 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 offenses from six month 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.

ADI hopes that stronger sentences mean the abuse of animals is taken more seriously and offenders given sentences that will be a real deterrent to others. ADI investigations have exposed a number of cases of animal cruelty where punishments have been minimal. For example, a circus worker was sentenced to just 4 months after being convicted of multiple counts of cruelty to the elephants in his care (1). For the abuse of animals to be taken more seriously, offenders must be given punishments that reflect the severity of the abuse, providing a just punishment that is a meaningful deterrent to others.

There is a strong correlation between animal abuse and violent behaviour towards humans, including domestic violence (2)(3), child abuse (4), sex offences (5), and even links with homicide (5) and school massacres (6). It is estimated that those who have abused animals are five times more likely to violently harm humans (7). For these reasons, increasing the maximum penalty for animal abuse is also an important deterrent, ensuring the general public are protected from those who may engage in other violent behaviour.

References: