Written evidence submitted by World Animal Protection

Executive Summary:

Scope of the Bill:

- We believe that having ‘regard’ to the sentience of animals does not impose sufficient weight to the need to consider the welfare needs of sentient animals. Instead those to whom the Bill applies should have full regard if the Bill is to achieve its minimum purpose of ensuring UK law and policy making replicates Article 13 Treaty on the Functioning of the European Union (TFEU.)

- We believe the restriction of the need to have regard to “Ministers of the Crown” is too limited. Instead, those with a duty to have full regard and respect for the welfare needs of animals should be extended to all public bodies and local authorities that have decision-making powers for developing policy.

Definitions:

- It will be apparent that there are merits to both providing definitions that are very specific, and to definitions which permit a degree of interpretation when stating the meaning of sentience, what animals the Bill covers and what the welfare needs of an animal may be.

- In our view what is important is to recognise the original purpose of creating the Bill. This is to ensure the welfare needs of sentient animals are properly taken into account when formulating policy; and, to provide a degree of future-proofing, in so far as that is possible, given that our understanding of animal welfare needs and sentience is a developing scientific field.

Reviewing definitions, scientific review and effectiveness of sentencing:

- Critically, it will be necessary to closely monitor whether and how effectively the Bill is delivering its potential in practice, as well as how conflicts with ‘public interest’ are being dealt with in the Courts.

- We recommend that a formal independent review body is established to report every two years on the practical effects the legislation is having.

Increased sentences:
• World Animal Protection welcomes the increase in sentences for those who have acted illegally by causing suffering and cruelty both through neglect and intentional harm.

Introduction:

1. World Animal Protection welcomes the opportunity to respond to this inquiry. We are a global animal welfare charity with offices in 13 countries. We work with local partners, animal welfare organisations, governments and businesses, and we influence decision makers internationally, nationally and locally. We have formal relationships with key international bodies including the Food and Agriculture Organisation (FAO) of the United Nations, the UN Environment Programme (UNEP), the Council of Europe and the World Organisation for Animal Health (OIE). World Animal Protection also has general consultative status to the UN Economic and Social Council (ECOSOC).

2. We provide the Secretariat for the Universal Declaration on Animal Welfare (UDAW) and are committed to working towards its adoption by the UN. The UK Government has, as part of its role in the EU Council of Ministers, endorsed, in principle, support for the UDAW. This included the responsibility of governments to ensure the need to observe, recognise, promote and respect the welfare needs of animals. As of today, over 70 countries have joined the UK in support of the adoption of the UDAW.

3. We have also developed the Animal Protection Index (API): a ranking of 50 countries around the world according to their commitments to protect animals and improve animal welfare in policy and legislation. First published in 2014, we will be undertaking and publishing an updated version later in 2018.

4. The UK currently sits in the top band ranking of World Animal Protection’s API alongside New Zealand, Austria and Switzerland. The UK Government referred to the ranking in the media as evidence of the high standards of animal welfare in the country during the debate about how the provision of Article 13 of the Treaty on the Functioning of the European Union (TFEU) would be transposed into UK law post Brexit.

5. In relation to sentience and in order to maintain its position in the Index, the UK would need to have full formal recognition of sentience or of separate elements of sentience (physical and psychological, positive and negative), whenever they are applicable to all categories and uses of animals and at least to all vertebrates.

6. World Animal Protection has been calling on the UK Government to take action to address the potential risks to animal welfare standards arising
from the eventual departure of the UK from the European Union (Brexit). A substantial proportion of animal protection legislation applicable in the UK is of European Origin. Special legislation will need to be enacted to incorporate these after Brexit.

7. Our key concerns are focussed around the implications of Brexit on farm animal welfare, including for farming payments; welfare monitoring systems; the consequences for wildlife trade; and the potential impacts from the terms of future trade agreements on animal welfare standards.

8. World Animal Protection calls on UK Government decision-makers to ensure that animal welfare standards are not just maintained but wherever possible improved in the post Brexit future.

World Animal Protection’s views on the Bill in general:

9. We welcome the publication of the draft Animal Welfare Bill, both to resolve the serious concerns about how animal sentience will be taken into account post Brexit, and to increase sentences for those who have caused suffering and cruelty to animals.

World Animal Protection’s views on the scope of the Bill:

10. We welcome the broad scope of the Bill in terms of its application across all policy areas. We are also in firm agreement of the decision not to replicate the exemptions from Article 13 (TFEU) with regards to cultural or religious practices.

World Animal Protection’s views on any potential conflict that may arise in discharging these two duties.

11. We believe that having ‘regard’ to the sentience of animals does not impose sufficient weight to the need to consider the welfare needs of sentient animals. Instead those to whom the Bill applies should have full regard if the Bill is to achieve its minimum purpose of ensuring UK law and policy making replicates Article 13 (TFEU).

12. Further to this and in line with the UDAW, which the UK Government already supports in principle, we recommend extending the phrase to “have full regard and respect to the welfare needs of animal as sentient beings”. The addition of ‘respect’ would reflect the moral weight that sentience should carry when being balanced against other morally important factors. We are concerned that having ‘regard’ or even ‘full regard’ alone would not achieve this and that sentience could all too easily be dismissed.
13. With regards to potential conflict between animal welfare needs and public
interest; we believe that such conflict is not inherent. Indeed, there are
many occasions on which human and animal interests are intertwined.
Protecting animals contributes, for example, to achieving environmental
sustainability, protecting livelihoods during disaster situations, tackling
poverty and reducing the risk of transmission of zoonotic diseases.

14. World Animal Protection is concerned that Clause 1(2), by which “Ministers
of the Crown must also have regard to matters affecting the public interest”
creates a duty that does not exist in our legal system, and that goes beyond
the realm of the statutory consideration of relevant matters in the exercise
of policy production.

15. As such, while we recognise and understand that there might be cases in
which there is a need to balance public interests with the welfare of
animals, the lack of “having full regard and respect” will result in legislation
that actively undermines the welfare needs of animals and, perhaps
dangerously, presupposes that a conflict between the two exists. Moreover,
the assessment of these interests falls more naturally in the powers of
judges in the UK and not in the Ministers of the Crown and other policy
makers.

16. By introducing stronger wording, such as the one proposed, there is room
to encourage the use of mitigating measures to meet those needs and even
mechanisms by which this is monitored and evaluated in secondary
legislation, such as impact assessments of policy production.

17. We believe the restriction of the need to have regard to “Ministers of the
Crown” is too limited. Instead, those with a duty to have full regard and
respect for the welfare needs of animals should be extended to all public
bodies and local authorities that have decision-making powers for
developing policy.

Definitions within the Animal Welfare Bill

World Animal Protection’s views on whether definitions are required
for sentience, animal and welfare needs of animals and these terms
and what definitions should be used.

18. It will be apparent that there are merits to both providing definitions that are
very specific, and to definitions which permit a degree of interpretation
when stating the meaning of sentience, what animals the Animal Welfare
Bill covers and what the welfare needs of an animal may be.
19. In our view what is important is to recognise the original purpose of creating the Bill. This is to ensure the welfare needs of sentient animals are properly taken into account when formulating policy; and, to provide a degree of future-proofing, in so far as that is possible, given that our understanding of animal welfare needs and sentience is a developing scientific field.

**Sentience:**

20. Currently, scientific research confirms that all vertebrates are sentient, and indicates sentience in some invertebrates. Recognition of animal sentience is an important step in the protection of animals and is fundamental to ensuring that animals' welfare needs are met. Furthermore, and given that we agree that no definition of “animals” is needed, this is the defining criteria by which the law will operate.

21. We recommend the following definition (which is the same used in the UDAW and by which countries are assessed in the API):

> Sentience shall be understood to mean the capacity to have feelings, including pain and pleasure, and implies a level of conscious awareness. Scientific research confirms that all vertebrates are sentient animals and indicates sentience in some invertebrates. This is an active research area and knowledge of sentience of different species continues to grow.

22. Crucially, the Bill should take into account a relatively recent shift in scientific perspective on animal welfare, which is to consider welfare to be more than just about the absence of pain and suffering, but about the provision of positive experiences and states. If the UK is to be truly progressive, World Animal Protection believes UK legislation must give greater consideration to providing positive states for animals, ensuring that animals have ‘a good life’, not just ‘a life worth living’\(^1\).

**Animal:**

23. In terms of delivering the Government’s aspiration - and indeed the wish of the vast majority of people in the UK - to improve and advance animal welfare across all species, there is no need to make specific reference to certain species of animals or how they are used. To be clear, we believe that the Bill should apply to all animals, and any definition must ensure this is the case when the Bill is applied to policy making.

\(^1\) [http://www.mdpi.com/2076-2615/6/3/21](http://www.mdpi.com/2076-2615/6/3/21) - This academic paper provides a definition of these terms.
24. If the definition of an ‘animal’ as set out in the Oxford English Dictionary were to be used, i.e. “an organism endowed with life, sensation and voluntary motion”, we do not foresee that this would cause any particular issues of interpretation and is unlikely to be improved upon by a new statutory definition.

Welfare needs of animals:

25. World Animal Protection believes the Five Freedoms could provide a good starting point for defining welfare needs:

- Freedom from hunger and 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 through rapid diagnosis and treatment.
- Freedom to express normal behaviour: by providing sufficient space, proper facilities and company of the animal’s own kind.
- Freedom from fear and distress: by ensuring conditions and treatment which avoid mental suffering.

26. The Five Freedoms are unambiguous and are internationally recognised and accepted. For example, the United Nations Committee on World Food Security (CFS) recommendations on sustainable agriculture from 2016 explicitly references the Five Freedoms. This could prove to be advantageous in future trade negotiations when considering how the terms of trade deals could affect UK policies, for example on rearing farm animals.

27. However, we believe these should be augmented by the need for animals to be in a ‘positive state’.

28. The Five Freedoms are also referenced in the UDAW as providing valuable general guidance for animal welfare.

Mode of trial and maximum penalty for certain animal welfare offences

World Animal Protection’s view on the proposed new maximum sentence.

29. World Animal Protection welcomes the increase in sentences for those who have acted illegally by causing suffering and cruelty both through neglect and intentional harm. We suggest that legal mandates are put in place to

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2 Please see http://www.fao.org/3/a-bq854e.pdf.
capture and report this information in a way that enables an assessment to be made of the effectiveness of the proposed changes.

Conclusions

30. Overall, World Animal Protection believes the draft Animal Welfare Bill has great potential to solidify and even enhance the lead the UK has taken globally in advancing animal welfare. We also believe that it has the potential to move billions of animals from not just having ‘a life worth living’ but to having ‘a good life’.

31. Critically, it will be necessary to closely monitor whether and how effectively the Bill is delivering its potential in practice, as well as how conflicts with ‘public interest’ are being dealt with in the Courts.

32. We recommend that a formal independent review body is established to report every two years on the practical effects the legislation is having.

World Animal Protection

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