

Response ID ANON-WQQA-U7B5-W

Submitted to **Consultation on the draft Animal Welfare (Sentencing and Recognition of Sentience) Bill**
Submitted on **2018-01-28 22:30:02**

Introduction

1 What is your name?

Name:

Vanessa Hudson

2 What is your email address?

Email:

info@animalwelfareparty.org

3 Are you replying as an individual or an organisation?

An organisation

4 If you are responding on behalf of an organisation, please let us know which organisation.

Organisation:

Animal Welfare Party

Defining 'sentience'

5 Do you consider that the term 'sentience' should be defined explicitly?

Sentience definition - y/n:

Yes

6 If you answered 'yes', what definition should we use?

Definition of sentience - explanation:

Sentience is the ability to perceive one's environment, and feel and experience sensations such as pain, suffering, pleasure and comfort.(a) It is a philosophical (and increasingly legal) concept that is inherently linked to the scientific concept, consciousness: sentience requires the existence of external and internal sensors to detect stimuli, but also assumes the mental capacity to consciously or subjectively experience those perceptions and feelings.(b)

We call for an explicit recognition of the sentience of all vertebrate animals, all cephalopod molluscs and all decapod crustaceans and recognise that evidence of the likely sentience of additional animals is expected in the future. When this occurs, such animals should also become protected by this Act.

a. Judy Pearsall, Sentient (Oxford Dictionaries) <<http://oxforddictionaries.com/definition/english/sentient>> (accessed 8 February 2015); ed Jacky Turner and Joyce D'Silva, Animals, Ethics and Trade, The Challenge for Animal Sentience (Earthscan, London, 2006).

b. James Kirkwood, 'The Distribution of the Capacity for Sentience in the Animal Kingdom', in ed Jacky Turner and Joyce D'Silva, Animals, Ethics and Trade, The Challenge for Animal Sentience (Earthscan, London, 2006) at 12-13.

Supporting documents:

Richman A (2014). Sentience - The Test for Moral Concern and Legal Status. AAPLJ. 10. 39-45.

Animal Sentience and the Precautionary Principle, Jonathan Birch.

Additional docs - 'sentience':

Sentience Richman AAPLJ 2014 10 39-45.pdf was uploaded

Defining 'animal'

7 Do you consider that the term 'animal' should be defined explicitly?

Animal definition - y/n:

Yes

8 If you answered 'yes', what definition should we use?

Definition of animal - explanation:

Animal: Any mammal, bird, reptile, amphibian, fish, insect or other multi-cellular organism that is not a plant or fungi.

We would like to draw particular attention to the need for decapod crustaceans to be included under the definition of 'animal'.

Supporting documents:

WAN Model Animal Welfare Act.

Briefing on Crustacean Sentience and Welfare, Crustacean Compassion 2018.

Additional docs - 'animal':

WAN-Model-Animal-Welfare-Act.pdf was uploaded

Defining 'welfare needs of animals'

9 Do you consider that the term 'welfare needs of animals' should be defined explicitly in the clause?

Welfare needs definition - y/n:

Yes

10 If you answered 'yes', what definition should be used, and should the list of needs in the Animal Welfare Act 2006 be changed?

Welfare needs - explanation:

The current list of needs in the Animal Welfare Act 2006 should be developed to refer to the 'Five Provisions' of 1. Good nutrition, 2. Good environment, 3. Good health, 4. Appropriate behaviour 5. Positive mental experiences.

These provisions are elaborated upon below and in the uploaded file - 'Updating Animal Welfare Thinking: Moving beyond the "Five Freedoms" towards "A Life Worth Living"' David J. Mellor 2016.

1. Good nutrition: Provide fresh water and a diet to maintain full health and vigour.
Minimise thirst and hunger and enable eating to be a pleasurable experience.

2. Good environment: Provide shade/shelter or suitable housing, good air quality and comfortable resting areas.
Minimise discomfort and exposure and promote thermal, physical and other comforts.

3. Good health: Prevent or rapidly diagnose and treat disease and injury, and foster good muscle tone, posture and cardiorespiratory function.
Minimise breathlessness, nausea, pain and other aversive experiences and promote the pleasures of robustness, vigour, strength and well coordinated physical activity.

4. Appropriate behaviour: Provide sufficient space, proper facilities, congenial company and appropriately varied conditions.
Minimise threats and unpleasant restrictions on behaviour and promote engagement in rewarding activities.

5. Positive mental experiences: Provide safe, congenial and species-appropriate opportunities to have pleasurable experiences.
Promote various forms of comfort, pleasure, interest, confidence and a sense of control.

Supporting document:

'Updating Animal Welfare Thinking: Moving beyond the "Five Freedoms" towards "A Life Worth Living"' David J. Mellor 2016.

Additional docs - 'welfare needs':

Animal Welfare Frameworks Mellor 2016a.pdf was uploaded

Policy scope

11 Do you agree that the draft Bill should apply to all policy areas?

Policy Areas - y/n:

Yes

12 If you answered 'no', why do you not agree with this?

Policy areas - explanation:

Specifying the level of regard

13 Do you agree that the draft Bill should adopt the term 'should have regard'?

All due regard - y/n:

No

14 If you answered 'no', how do you think the level of regard should be specified?

Level of regard:

The text must specify that Ministers must pay 'full regard' to the welfare needs of animals as sentient beings in formulating and implementing government policy e.g. "Ministers of the Crown must pay full regard to the welfare needs of animals as sentient beings in formulating and implementing government policy."

This is important because it provides a better indication of the weight that should be given to animals' welfare requirements when formulating policy. Simply taking account of animals' welfare requirements and balancing them against other interests will not suffice.

Overall approach

15 Do you have any views or comments on the consequences of this new duty?

Consequences of new duty :

16 Do you have any views about whether a different formulation or approach might achieve the policy objectives? Views would also be welcome on how the approaches adopted in other countries might apply here.

Different approaches- explanation:

Maximum sentences for animal cruelty

17 Do you agree with the new maximum sentence?

Approval for max. sentence - y/n:

No

18 If you answered 'no', can you explain why you do not agree with the new maximum sentence?

Maximum sentences - explanation:

AWP considers five years' imprisonment insufficient as a maximum penalty for some of the worst cases of animal abuse. The UK is a country with a proud history of thought leadership in animal welfare and AWP welcomes the Written Ministerial Statement of 12th December 2017 which speaks of the government's ambition "to set a global gold standard for animal welfare".

This, AWP asserts, can only be achieved by meeting or exceeding the standard already set by the US states of Louisiana, Alabama, Connecticut and Massachusetts where the maximum custodial sentence for animal cruelty is ten years'.

It is also important to note that in the Australian state of Queensland and the US state of New Hampshire the maximum custodial sentence for animal cruelty is seven years' imprisonment.

Therefore, AWP asserts that the maximum sentence for the specified animal welfare offences should be ten years' imprisonment. This, we believe, would more adequately reflect the seriousness of the offences and act as a more meaningful deterrent to the worst cases of animal abuse.

Supporting document:

Battersea Dogs and Cats Home Cruelty Report 2017.