

COUNTRYSIDE ALLIANCE BRIEFING NOTE

Animal Welfare (Sentience) Bill

House of Commons - Remaining Stages

Monday 14 March 2022

KEY POINTS

- **The Countryside Alliance fully supports legal recognition of the sentience of animals but shares the widespread concerns that have been expressed at each stage about the Animal Sentience Committee this Bill would create.**
- **Concerns have focused on the membership of the Committee and how it might be structured, operate and be resourced. The Bill has not been amended to address any of these issues and is essentially the same as introduced. The draft Terms of Reference are not an adequate substitute for the absence of detail on the face of the Bill. We therefore urge support for a range of amendments that have been tabled to address these issues, in particular Amendment 2 tabled by Sir Geoffrey Clifton-Brown MP and those tabled by Greg Smith MP.**
- **The Bill allows the Committee to examine past policy decisions and implementation, so it could opine on any historical policy and report that the animal welfare consequences had not been duly considered. In highlighting and calling into question established policy it could start to drive its own agenda.**
- **The Bill fails to provide any definition of what amounts to ‘policy’ nor a definition of sentience, perhaps because the issue is so hotly debated among scientists. Sentience is probably a scale and we are more inclined to recognise it in animals that seem to react as we do. Already recognition of sentience was extended at the Report stage to cephalopods and decapod crustacea.**
- **The Countryside Alliance believes that the Bill lacks the necessary detail and safeguards to ensure the Sentience Committee cannot be hijacked or extend its reach beyond its legally defined role. There need to be safeguards to ensure that the committee does not become a Trojan horse, used to attack proper wildlife management, farming or the economic well-being and way of life of our rural communities.**
- **We would also draw attention to the Lords Third Reading debate on the Bill on 13 December 2021, and in particular the comments of the Rt Hon Lord Herbert of South Downs from the Government benches and Baroness Mallalieu QC from the Opposition benches:**

Lord Herbert:

“...The Government rejected every other amendment put to them. We pointed out that sentience is not actually defined in the legislation; apparently that does not matter. What matters is that Ministers must have regard to sentience, even if we do not know what it actually is. We asked for safeguards to ensure the expertise of the committee’s members. We were told that such protections were not necessary. We asked for constraints to the committee’s scope. We were told that limits to the committee’s unfettered remit were not necessary either. Crucially, we asked why the balancing provisions in the Lisbon treaty, which specifically exempt religious rites, cultural traditions and regional heritage, were not included and why the Bill goes so much further than the EU measure it claims to replace. We were told that this balancing provision was not necessary either. In fact, apparently no change was necessary.

“The Government have been able to ignore every concern expressed, largely on this side, by relying on the kindness of strangers—uncritical support for the measures that would have guaranteed the defeat of any amendment...”

Baroness Mallalieu:

“...the former Master of the Rolls, the noble and learned Lord, Lord Etherton, told us during the passage of the Bill that it creates a magnet for judicial review; when the foremost vet in this House, the noble Lord, Lord Trees, who supports the Bill, tells us that its scope needs definition and its focus sharpened on to future policy decisions; when the former Leader of the House, the noble Lord, Lord Strathclyde, the former leader of the party opposite, the noble Lord, Lord Howard, and many others, tell the Government that they need to think again, yet they resist and reject all amendments, save for a small number of government ones, it makes me wonder whether this House has actual value as a scrutinising House when they have the comfort of a large majority in another place and know that they are able to push defective Bills through almost unamended there...”

The Bill

- The Animal Welfare (Sentience) Bill is only six clauses long. It would establish an Animal Sentience Committee, with members appointed by the Secretary of State for the Environment. This Committee “may” produce a report in relation to “any government policy” that “is being or has been formulated or implemented”. The report will set out the Committee’s views on “whether, or to what extent, the government is having, or has had, all due regard to the ways in which the policy might have an adverse effect on the welfare of animals as sentient beings”. These reports are to be published and the Secretary of State must respond and share that response with Parliament. The Bill remains substantially unamended, since its introduction in the Lords.
- In effect the Bill establishes a mechanism for holding government to account but one that does not stop decisions or policies that may have negative animal welfare consequences, so long as those consequences have been properly considered. It does, however, mean that ministers will face greater scrutiny and policy development may experience a ‘chilling effect’, especially if the Committee starts to opine on whether a particular policy decision was right or wrong, as opposed to reporting on the question of whether due regard was had to welfare in the process reaching a decision, as the Bill sets out.
- The Animal Sentience Committee is in principle an oversight and reporting body. However, the name is misleading. The Committee is not concerned with decisions as to whether animals are sentient but rather whether in the development and implementation of government policy those animals, already deemed sentient in law, have had their welfare considered while policy is being developed and implemented. It is Parliament which ultimately decides which animals are sentient for the purposes of the law and therefore need to have their welfare considered.
- Much will depend on how the Animal Welfare Sentience Committee works in practice. As the legislation is drafted the Committee is a creature of government, whose members are appointed by the Secretary of State. Given that the Committee’s remit covers the entirety of government policy, from formulation to implementation, the Committee will need huge resources. It should be looking not just at wildlife management and farming practices and the Defra brief, but also policy areas such as planning, trade, and even procurement of medicines for the NHS. There is seemingly no limit.
- Throughout its passage through the Lords there was widespread concern that the legislation was completely silent on the membership of the Committee and how it might be structured, operate and be resourced.
- It is also unclear from the Bill how this new statutory Committee, required to report to Parliament, is to relate to existing non-statutory committees advising on animal welfare but which do not have the same powers to act and advise on their own initiative, as the Sentience Committee is empowered to do.

Amendment 16, tabled by Greg Smith MP, addresses this issue by requiring the Animal Sentience Committee to consult with the Animal Welfare Committee and note its advice.

Amendment 23 would require Ministerial responses also to note advice from other relevant expert committees.

- The Animal Sentience Committee is a Defra appointed committee but with a role which should see it roaming across a range of policy and across departments. However, there is no requirement for other government departments to notify the Committee of policies being formulated or implemented, which may have animal welfare consequences, or for other departments to co-operate with the Sentience Committee's work.

New Schedule 1 with its establishing Amendments 3, 4 and 5, tabled by Greg Smith MP, would require Government Departments to co-operate with Committee inquiries where reasonably practicable. It also bases staff in the Cabinet Office rather than Defra so that the Committee can better maintain an oversight across the whole of the Government, while not being seen as a Defra committee.

- The Bill not only covers all policy, across all departments, but across all time. The Bill allows the Committee to examine past policy decisions and implementation. The Committee could therefore opine on any policy decided by a former minister under a previous administration and report that the animal welfare consequences had not been duly considered. In practice the Committee would be highlighting and calling into question an established policy and in doing so could start to drive its own particular agenda.
- At the Lords Report stage the Minister responded to concerns about the retrospective powers of the committee, saying: "Prioritising policies that the Government are currently pursuing fulfils the committee's statutory function under Clause 3... There are limits to how far you can hold a current Government to account for the decisions they did not make, and this would certainly not be timely... To put it more simply, the committee would not be doing its job properly if it sought to rake over old coals and to reignite past policy issues that are now closed." That may be the Government's view but it is not what the Bill does.

Amendments 10 and 12, tabled by Greg Smith MP, would restrict the remit of the Committee to the consideration of future policy decisions rather than past decisions or their implementation.

- While the Bill does also establish the Committee as a mechanism for holding government to account by requiring it to report to Parliament, there is a danger that policy development may experience a 'chilling effect', especially if the Committee starts to report in a way which makes clear whether it believes a policy or policy proposal to be right or wrong. Minister's may be inclined not to take difficult decisions, preferring to avoid a negative report from the Sentience Committee.
- It should be remembered that animal welfare considerations have to be balanced against other competing public interest considerations. There are also scenarios where a policy may have negative consequences for one group of sentient animals but be positive for another group of sentient animals. The Bill should make clear that this balancing exercise remains for Ministers, and define more closely the limits of the Committee's powers.

Amendment 2, tabled by Sir Geoffrey Clifton-Brown MP, would restore the requirement in the Lisbon Treaty that the Committee must have regard for balancing factors in regard to religious, cultural and regional customs.

The alternative Amendment 3, tabled by Greg Smith MP, would clarify that the role of the Committee is limited to considering whether in taking a decision the

Government took full account of the sentience of Animals; other considerations would therefore be left to Ministers.

- There also remains confusion as to whether the Animal Sentience Committee has a role to play in advising on which animals are to be considered sentient, as its name would suggest. Much seems to depend on how the Animal Welfare Sentience Committee works in practice, because the Bill is devoid of detail.
- There is also no definition of sentience, perhaps because where sentience begins and ends in the animal kingdom is a hotly debated point and where scientific consensus is hard to reach. Sentience is probably a scale and we are more inclined to recognise sentience in animals that seem to react as we do, or to which we are closest. Already the Government has amended the Bill in the Lords to extend recognition of sentience to cephalopods and decapod crustacea.

Amendment 20, tabled by Greg Smith MP, would seek to ensure that any extension of the definition of a sentient animal species is made on the basis of sound scientific evidence and would require that evidence to be laid before Parliament.

Amendment 19, tabled by Greg Smith MP, would restrict the Bill from applying to foetal or embryonic animals except in relation to scientific experiments, consistent with existing legislation.

- The Bill fails to provide any definition of what amounts to “policy”. Does policy include decisions not to do something as well as to do something?

Amendment 18, tabled by Greg Smith MP, would clarify that the absence of a decision to take some action does not constitute a policy that it is within the Committee’s remit to examine.

- In response to all these concerns and questions the Government undertook to publish Terms of Reference ahead of Lords Report stage. The draft Terms of Reference were published on the 18 November 2021 and circulated to peers. While providing a little more detail, the Terms of Reference provide little reassurance or clarity. (see below)

At Report Stage in the Lords the Defra Minister, Lord Benyon, responded to criticisms of how the Bill had been drafted, saying:

“I am conscious that I am in the presence of experienced legislators and people very much more experienced, perhaps, than I was in the other place where, when a piece of legislation was described as “terrible” or “poorly drafted” it was usually code for the fact that the speaker did not agree with it. Here, I am sure that that is not the case”.

The draft Terms of Reference

- There is little in the Terms of Reference that is binding, either on Ministers or the Committee. They are expressed almost exclusively in terms of “may”, “could” or “is expected to”. This may be in the nature of terms of reference but is concerning for a committee established by statute and which could play an important role in driving government policy. Terms of reference are easily changed or amended, as Lord Benyon made clear at Lords Report Stage, and is perhaps illustrative of the fact that terms of reference are not an adequate substitute for good legislation. The draft Terms of

Reference for the Sentience Committee would seem to confirm the concerns raised at previous stages of the Bill.

- The draft Terms of Reference also refer to an entirely new entity within Defra to be called the Animal Welfare Centre of Expertise (AWCE). The Terms of Reference suggest that any conflict between the Animal Sentience Committee and other committees will be avoided through negotiation within the AWCE, but fail to acknowledge the substantive difference between a statutory committee reporting to Parliament and non-statutory committees with no reporting function. It is stated that the members of the various committees are “in equal standing as members of AWCE”, but it is hard to see how this is the case when the committees are not themselves “in equal standing”.

At Lords Report Stage, Lord Benyon defended the Bill’s lack of detail, saying:

“Our approach strikes the right balance between offering clarity about the committee’s role and powers in legislation and allowing it sufficient flexibility. It provides flexibility to update the terms of reference when needed without the need to take up parliamentary time unnecessarily. Our other animal welfare expert committees, including the Animal Welfare Committee and the Zoos Expert Committee, have provided valuable advice to the Government for years without the need to set out their terms of reference in legislation.”

However, unlike the proposed Animal Sentience Committee, these are not statutory committees and could be reformulated or even abolished at the current government’s will. Statutory committees commonly do include terms of reference in their establishing legislation. A better comparison for the proposed Animal Sentience Committee would be the Climate Change Committee, a statutory committee established by the Climate Change Act 2008, which includes extensive detail as to terms of reference of the Committee in Schedule 1.

New Schedule 1 and its establishing Amendments 3, 4 and 5, tabled by Greg Smith MP, would provide statutory terms of reference for the Committee on the face of the Bill. These are similar to those establishing the Scottish Animal Welfare Commission (SCWC).

The alternative Amendments 8 and 9, tabled by Greg Smith MP, would require the Committee to be established by regulations which must include statutory terms of reference so that any changes to these would be subject to parliamentary approval.

Statutory functions - Aims and purpose – Objectives and responsibilities

- The Bill states that when any government policy is being or has been formulated or implemented, the Animal Sentience Committee may produce a report containing its views on whether, or to what extent, the government is having, or has had, all due regard to the ways in which the policy might have an adverse effect on the welfare of animals as sentient beings”. According to the Terms of Reference the reports should also “contain recommendations on the steps the Committee considers the government should take for the purpose of ensuring that, in relation to any further formulation or implementation of the policy, the UK Government has all due regard to the ways in which that policy might have an adverse effect on the welfare of animals as sentient beings”. The Committee’s reports are to “support accountability to Parliament”.
- However, the Terms of Reference state that: “Once established, it will be for the Committee to formally ratify its objectives and responsibilities”. As a Committee established by statute

the Committee's objectives and responsibilities are to be found in the establishing Act of Parliament. It is not for the Committee to ratify its "objectives and responsibilities". The Terms of Reference also state that the role of the Committee's members "could" include "ensuring that the "Committee's policy on transparency is adhered to". It would seem that the Committee determines its own level of transparency and they could ensure it is adhered to, or they might not.

- The draft Terms of Reference state that: "The Committee is not expected to consider individual operational decisions (e.g. planning adjudication decisions) nor to consider matters of fiscal policy". Individual operational decisions are then defined in the Glossary as "decisions for which no bespoke Ministerial direction is sought or required. For example, an official-level decision to grant an individual licence under a licensing scheme would constitute an operational decision and therefore not fall within the scope of the Committee". This is contrasted with "the establishment and design of the licensing scheme" which "would constitute policy, and therefore be in the Committee's scope". This would appear to conflict with the Bill. The Bill makes no such distinction and does not define 'policy'. It does, however, expressly allow the Committee to examine policy in terms of the way it "is being or has been" implemented. The Bill would seem to allow the Committee to examine the very things the draft Terms of Reference claim are excluded from its remit. It is also at odds with the definition of 'policy' in the same Glossary, where policy includes a decision "which affects the activities of government, business, charities or members of the public...including but not limited to, the process of making regulations, legislating, allocating resources or promoting a course of action". The whole definition is open ended and not binding on anyone.

Amendment 13, tabled by Greg Smith MP, would require the Committee to report on all matters having a bearing on the welfare of animals as sentient beings, regardless of which Department had policy oversight.

- The draft Terms of Reference state: "The Animal Sentience Committee is established...to furnish accountability to Parliament for consideration of animal welfare in Ministerial decisions... The Committee scrutinises policy decision by all UK Government Departments". This is what is provided for in the Bill, but the Terms of Reference, like previous ministerial comments, suggest the Committee's activities may extend far beyond what is set out in the legislation. The Terms of Reference refer to it being "beneficial for UK Government Departments to seek advice from the Committee to assist them in understanding the effects of particular policies on the welfare of animals". It seems the Committee will not simply be looking at process but the policy itself under consideration.
- When discussing members of the Animal Sentience Committee, who are also members of other AWCE committees, it is noted that where they have advised a government department as a member of another committee they "may not participate in the Committee's scrutiny of a related policy decision". It is not the role of the Committee to scrutinise a policy decision but the process by which that decision was reached and whether all due regard had been had to animal welfare. It may be poor drafting, but the Terms of Reference as a whole seem to imply a role for the Committee at odds with the legislation bringing it into existence. For a committee established by statute and which cannot, unlike the other committees making up the AWCE, be abolished without further legislation this has significant implications.
- There is also the question as to how a policy decision by ministers can be acceptable if the process is identified by the Animal Sentience Committee as being defective. If Ministers failed to have all due regard to animal welfare in reaching that policy decision

then by definition they cannot have been in a position to have undertaken the proper balancing exercise between the various public policy considerations in making a particular policy decision where there are consequences for animal welfare.

At Lords Report Stage, Lord Benyon responded to these concerns by saying:

“Clause 2(2) envisages that the committee can examine what adverse effects a policy might have on the welfare of animals and whether the Government are aware of all those possible adverse effects and fully understand them so they can properly take them into account in their decision. This is clearly about the process followed in decision-making.”

These remarks do not, however, address concerns about the draft Terms of Reference appearing to contradict this intention.

Appointments to the Committee

- The Terms of Reference make clear that the appointments to the Committee are not regulated by the Office of the Commissioner for Public Appointments, only that the Secretary of State will “generally adhere to its guidelines on best practice”. The Secretary of State will merely “seek to appoint experts with appropriate experience relating to policy-decision making and/or the welfare of animals”. Despite the fact that the Committee is supposed to be an expert Committee it “shall be guided by expertise, including scientific matters”.
- There are to be 8 – 12 Committee members, but these are part time doing 15-20 days a year. Members are appointed by the Secretary of State and can be dismissed by the Secretary of State on the grounds of “unsatisfactory conduct”, whatever that means. The Chair is also part-time, working at least 20 days per year. It is evident that the Chair and members of the Committee could not possibly keep under review the animal welfare implications of past, present and future policy across government on that basis. The Committee’s work plan will it seems only cover “six to eight substantive reports a year”.
- Given that appointments to the Committee are effectively unregulated and that the Terms of Reference can be changed or amended at will, the Committee remains open to manipulation and to an ever-expanding remit. Moreover, it enjoys the permanence and the enhanced status of being statutory, in contrast to the other welfare committees with which it is expected to work.
- It is also of note that Committee members are only “expected to uphold the standards of conduct set out in the Committee on Standards in Public Life’s Seven Principles of Public Life”. Why is this an expectation and not a requirement?
- The role of members, according to the Terms of Reference, “could include ensuring that the Committee works within its statutory remit”. It is hard to see how that could be the case as the statutory remit is far more limited than the remit suggested by the Terms of Reference.

At Lords Report Stage, Lord Benyon said,

“Defra has a long track record of recruiting expert advisers to give balanced, reasonable advice on animal welfare issues. Appointments will be decided in accordance with the Governance Code on Public Appointments, and this is important. The aim of the code is to ensure the best applicants are appointed. Anybody suitably qualified and wishing to apply would need to be assessed alongside other candidates according to a rigorous

selection procedure. Applicants would, in line with best practice, be required to declare any potential conflicts of interest to the recruitment panel.”

Later, however, when pressed for reassurance that Chris Packham and Mark Avery of Wild Justice would not be eligible to be on the Committee, Baroness Bloomfield of Hinton Waldrist responded for the government,

“I am afraid I am not able to give that reassurance. All I can say is that they might not be considered to be experts.”

The issue would not, however, be with their expertise but with their partiality. It should also be noted that while the Minister says appointments would be decided in accordance with the Governance Code on Public Appointments, but the Terms of Reference only state that the Secretary of State will “generally adhere to its guidelines on best practice”.

New Schedule 1 with its establishing Amendments 3, 4 and 5, tabled by Greg Smith MP, would as part of a proposed set of statutory terms of reference disqualify from membership of the Committee legislators and current or former employees of animal welfare or rights groups, or those who had been paid or funded by such groups. It would also require the Secretary of State to ensure that the Committee included expertise in an appropriate range of areas.

The alternative Amendment 6, tabled by Greg Smith MP, would implement similar requirements and restrictions without requiring the adoption of the New Schedule in full.

The alternative Amendment 6, tabled by Greg Smith MP, would on a standalone basis exclude from membership those connected with animal rights groups.

Other amendments

Amendments 14, tabled by Greg Smith MP, would require that Committee reports make explicit whether it is their conclusion that, regarding the decision under discussion, the Government had had all due regard to the welfare of animals as sentient beings or not.

Amendment 15 would ensure that the Government was only required to respond to a Committee report if the Committee had maintained it had not done so.

New Clause 4 and the consequential Amendments 21 and 22, tabled by Greg Smith MP, posit a more pro-active approach to animal welfare. They provide that the Government must lay before Parliament an Animal Welfare Strategy, and require Departments to notify the Committee of any instances where a policy decision is likely to impact on the welfare of animals. The role of the Animal Sentience Committee would then become one of monitoring the Government’s compliance with its strategy.

Countryside Alliance Position

- The Countryside Alliance welcomes the Government’s commitment to animal welfare and to ensuring that our departure from the EU not only does not result in any lessening of animal welfare standards but should be seen as an opportunity to raise standards in several areas, where previously this was not possible. For example, tackling puppy smuggling and the abuse of the pet passport scheme.

- The Countryside Alliance recognises the fact that animals are sentient beings. Those who have the task of husbanding animals and managing wildlife acknowledge and understand the fact that animals are sentient and the consequent need to avoid causing animals unnecessary suffering and of acting humanely in their dealings with animals. Indeed for animals kept by or under the control of man there is the additional duty of care as set out in the Animal Welfare Act 2006, which adopts the “five freedoms” also applied in EU law. Recognition of sentience and the welfare needs of animals is not the same as recognising that animals have rights, in the sense that human beings have rights. It is important that animal welfare does not become confused with the animal rights agenda.
- In principle, recognising sentience and holding the Government to account in this area is not of itself a bad thing, and the Countryside Alliance has always supported all genuine animal welfare measures. The existence of this Animal Sentience Committee could ensure that animal welfare is given due consideration in policy making across government, and not just where Defra is concerned. It could drive a cultural shift across Whitehall.
- It is equally possible that the Bill will achieve little that could not have been achieved by other means, without the need for this Bill, and at considerably less public expense. Of course, such an approach is harder to explain to the public and would not get the Government the positive headlines it so clearly craves.
- There is already an Animal Welfare Committee, formerly the Farm Animal Welfare Council (FAWC). This Committee has a greatly expanded role now, beyond farming, and advises government on animal welfare. Why could the role and powers of this Committee not be expanded or placed on a statutory footing?
- The Government needs to address the following concerns and questions:
 - The Committee will be entirely appointed by the Secretary of State, assumably the Defra Secretary. There is no indication of who can be appointed, what their qualifications and expertise should be, nor any guarantee that these will be independent individuals.
 - What is to prevent the Committee becoming dominated by animal rights groups or individuals pushing agendas that are currently in favour with a particular government or Secretary of State?
 - The Committee is free to report across all areas of government policy. If it is genuinely going to ensure animal welfare is being duly considered it is going to have to be either an enormous committee, or have an enormous staff covering all government departments. The draft Terms of reference imply a Committee with very limited resources.
 - The Committee “may” report, it has no duty to report. As a creature of Defra will it in practice be focussed mostly on areas of policy in Defra? How will it be ensured that the Committee looks across all departments?
 - Will all ministers and departments have to notify the Committee of areas of policy formation, work streams, etc. so the Committee can decide what to investigate and report on?

- Will its remit extend to extra territorial considerations. For example, farming welfare standards in other countries in relation to trade policy or the testing of medicines on animals in relation to policy around the procurement of medicines? What about the sale and manufacture of weapons, or aid policy to countries with low levels of animal welfare?
- The Committee's reports will be published and the Secretary of State must lay a response before Parliament. The Reports are supposed to be ensuring that "all due regard" has been had to the impact of a policy on animal welfare, it is not the Committee's role to comment on the merits of a decision, even where a negative impact on welfare could be argued, so long as ministers have had "all due regard". Why is it not made clear that the Committee is there to ensure due process has been followed but not to opine or comment on the merits of a decision except where there has been a failure to consider animal welfare as part of the process?
- There remains the danger that the Committee itself is hijacked by an animal rights agenda, using reports to stir up political controversy and thereby forcing decisions that satisfy the ideological agendas of campaign groups. How is this to be avoided?
- The Committee's seeming lack of independence and its limited powers and resources (at least that is what the draft Terms of Reference seem to suggest) are clearly designed to prevent it being used against government, but it could also be used by the government of the day to justify decisions that are not based on principle and evidence but suit an agenda or narrative that is not really about welfare but about political advantage. It could give government a licence for decisions that go far beyond welfare. Will it be made clear that the Committee must concern itself with process and not policy and ministerial decisions?
- There needs to be further consideration as to how the work of this Committee relates to the Animal welfare Committee, recognising the distinction between statutory and non-statutory committees. The former should, according to the Bill, be concerned with due process, the latter with expert scientific advice on welfare to inform decisions. Why not reform, and expand the role and resources of the Animal Welfare Committee so it can report and proffer advice on its own initiative? Why not require animal welfare to be included as a distinct section in all regulatory impact assessments? Why not have a Committee outside any specific department with responsibility to set and oversee the necessary policy development processes to ensure animal welfare is being duly considered across government?
- Animal Welfare could be advanced without creating another Committee, which risks being weaponised, especially against those in the countryside who are largely responsible for the management of animals both domestic and wild.
- There also needs to be clarity as to how it will be funded and resourced, if it is to do the enormous job which the Bill seems to envisage, as opposed to what is suggested by the draft Terms of Reference.
- The Alliance believes that the current Bill lacks the necessary detail and safeguards to ensure the Sentience Committee cannot be hijacked or extend its reach beyond its role as set out in the Bill. We continue to believe there need to be safeguards to ensure that the committee does not become a Trojan horse, used to attack proper wildlife management, farming or the economic well-being and way of life of our rural communities.

- The Committee's role in law is cross-departmental, but the Terms of Reference suggest that it should not interfere in areas where other bodies exist, such as the Trade and Agriculture Commission. There is little clarity as to how the Committee will relate to the Animal Welfare Committee, whose remit already covers most animals, or other committees. Given the existence of the other committees, is the Sentience Committee actually providing the 'value-added' referred to in the Terms of Reference?
- The Sentience Committee has the power to report retrospectively on decisions taken by previous Ministers and governments. Far from being an independent expert committee acting as a mechanism to ensure animal welfare is properly considered in all policy making and implementation across government and reporting to Parliament to assist with ministerial parliamentary accountability, the Committee's choice of investigations could end up driving particular campaigns and agendas. Its reports could lead to review of existing policy, and it is significant that in deciding what to investigate the Animal Sentience Committee can take account of public opinion.
- Despite being a statutory body, it is entirely in the control of Defra being dependent financially on Defra, having its secretariat in Defra and with the Defra Secretary of State's control of appointment and dismissal. It would be all too easy for it to be manipulated to support the particular agenda of the government of the day.
- The draft Terms of Reference show all the marks of being an attempt to address the deficiencies identified in the legislation, while avoiding having to amend the legislation. The result is a Bill which will create a statutory committee whose function, role and relevance remain very unclear.

CONCLUSION

- The Alliance is fully supportive of advancing animal welfare, but on the basis of principle and evidence, and effective laws and government action.
- The Alliance will continue to work constructively with the Government, other stakeholders and parliamentarians to ensure that the Bill does achieve what the Government says it wants it to achieve in ensuring animal welfare is integrated into policy formation and implementation.
- However, we believe there need to be safeguards to ensure that the committee does not become a Trojan horse, used to attack proper wildlife management, farming or the economic well-being and way of life of our rural communities.
- The sentiment behind the Bill is good, but sentiment should not drive legislation, nor animal welfare policy. This Bill's good intentions could be achieved without legislation, while at the same time avoiding the potentially harmful unintended consequences, and the expense to the public purse. It remains questionable as to whether the Bill is either necessary or desirable. The Government needs to consider carefully what it is doing and why; and whether there might not be a better and more effective way in achieving its laudable objectives, even if that way may not generate headlines.
- The Bill and the draft Terms of Reference are both unsatisfactory as they stand, both individually and when taken together. The Government's refusal so far to amend the Bill in any way is both extraordinary and regrettable.

- The Bill needs substantial amendment before it can be considered good law, or fit for purpose.

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