Environment, Climate Change and Land Reform Committee

EU Environmental and Animal Welfare Principles

Written submission from the Dogs Trust

Dogs Trust is the UK’s largest dog welfare charity. We care for more than 15,000 stray and abandoned dogs each year through our network of 20 rehoming centres across the UK, including in Glasgow and West Calder. We have rehomed almost 900 dogs in Scotland in the last year alone.

1. How important is the EU principle of animal sentience?

Although the UK is currently a country with some of the higher animal welfare standards in Europe, when it comes to animal sentience the UK has no legal instrument other than Article 13 of the Treaty on the Functioning of the European Union (TFEU), which states that animals are sentient beings.

The current EU obligation to fully consider animal sentience is important because it obliges policymakers to pass positive laws which promote and protect animal welfare, and is important for ethical reasons in terms of acknowledging that animals have conscious feelings.

2. How and where have these principles had an impact on environmental and animal welfare policy in Scotland?

The promotion of positive animal welfare laws has seen the Scottish Government put the issue at the centre of its work. In its most recent Programme for Government it has made commitments to increase the maximum sentence for animal cruelty offences, consult on plans to introduce regulation of rehoming organisations and animal sanctuaries and take steps to prohibit the use of electronic training devices for dogs.

3. Views on the appropriateness of retaining/adopting/enshrining these EU principles in law or alternative principles/approaches that could be adopted.

Dogs Trust strongly supports the need to recognise animal sentience in domestic law. Currently, the UK has no legal instrument which achieves this other than Article 13 of the TFEU and so it is crucial to ensure that this principle is retained in future UK legislation after EU exit. As animal welfare policy is devolved, Dogs Trust believes it is crucial for animal sentience to be equally recognised in domestic legislation in England, Scotland, Wales and Northern Ireland after we leave the EU in order to fully protect animal welfare.

We feel the recognition of sentience in domestic law would provide an opportunity to move the principles of the Animal Health and Welfare (Scotland) Act 2006 forward. At present the five welfare needs of animals under Section 24, whilst critical to ensuring the welfare of animals, promote an approach of ‘a life worth living’. We believe enshrining sentience in domestic law will underpin a move towards the promotion of positive welfare for animals, i.e. a good life by acknowledging that animals have conscious feelings such as pain, fear, pleasure and hunger.
4. Views on if and how environmental principles could and should be enshrined in law in Scotland and enforced.

Whilst we are not best placed to comments on wider environmental principles, Dogs Trust believes that primary legislation is the best vehicle for enshrining the principle of animal sentience in domestic law.

As there are currently varying definitions of sentience we suggest that for this legislation to be robust experts within this field should convene to agree a workable definition which will assist in promoting and protecting animal welfare.

Our suggestion for a possible definition would include the key notions that a sentient animal has the capacity to have conscious subjective experiences such as sensations and feelings, including pleasure and pain. We also believe that such a definition establishes a responsibility for those in charge of animals to treat them in such a way as to prevent unnecessary pain or distress and to provide opportunities for them to experience positive emotions as outlined in answer to question 3.

A concern with the wording of Article 13 of the Treaty on the Functioning of the EU is that it includes caveats which can mean that animal welfare is not always fully protected, such as in relation to cultural heritage and regional heritage. We believe that all UK Governments must take steps to ensure the principle of animal sentience is enshrined in domestic law and that this legislation covers Defra (or the equivalent in the devolved administrations) policy areas as well as all other relevant policy areas. The Governments must also ensure that the duty to consider animal sentience extends beyond Ministers, to include all public bodies or ideally to any body which exercises powers of a public nature.

Furthermore, we suggest that the Governments develop an impact assessment which must be completed before the introduction of any new policy. This should include an assessment of the impact of the policy on animal welfare and could be conducted in a similar way to the ethical review process for animal experimentations. Such an impact assessment should be developed together with recognised experts in animal welfare.

5. Examples of where key environmental principles have been enshrined in domestic legislation elsewhere.

New Zealand

A model which merits consideration is that of New Zealand. In 2015, New Zealand amended its Animal Welfare Act 1999, extending the long title of the Act to include recognition “that animals are sentient” (Animal Welfare (Amendment) Act No 2 2015, s 4(i)).

Worth noting is that the meaning of ‘animal’ has also been defined -the 1999 Act.

\[ \text{animal—} \]

\( (a) \) means any live member of the animal kingdom that is—

\( (i) \) a mammal; or

animal—

(a) means any live member of the animal kingdom that is—

(i) a mammal; or
(ii) a bird; or

(iii) a reptile; or

(iv) an amphibian; or

(v) a fish (bony or cartilaginous); or

(vi) any octopus, squid, crab, lobster, or crayfish (including freshwater crayfish); or

(vii) any other member of the animal kingdom which is declared from time to time by

the Governor-General, by Order in Council, to be an animal for the purposes of this

Act; and

(b) includes any mammalian foetus, or any avian or reptilian pre-hatched young, that

is in the last half of its period of gestation or development; and

(c) includes any marsupial pouch young; but

(d) does not include—

(i) a human being; or

(ii) except as provided in paragraph (b) or paragraph (c), any animal in the pre-natal,

pre-hatched, larval, or other such developmental stage

Should the Scottish Government move to define ‘animal’ as part of any new

legislation on animal sentience, Dogs Trust would be supportive of adopting this

definition of animal in Scotland. However, for dogs we would prefer foetal and

embryonic forms throughout their gestation to be included in order to capture issues

relating to dog breeding such as exaggerated conformation and inherited diseases.

UK

The UK Government recently consulted on the Draft Animal Welfare (Sentencing

and Recognition of Sentience) Bill 2017. Whilst we welcome moves to ensure that

the principle of animal sentience is enshrined in domestic law after we leave the EU,

we do not believe that this Bill is robust or enforceable and therefore cannot truly

protect animal welfare whilst in its current state.

Importantly, the draft Bill does not explicitly define a number of terms including

‘sentience’, ‘animal’ and ‘welfare needs of animals’. These concerns were echoed by

the Environment, Food & Rural Affairs Committee’s pre-legislative scrutiny of the
draft Animal Welfare (Sentencing and Recognition of Sentience) Bill.

Whilst Dogs Trust strongly believes that the Scottish Government should enshrine

the principle of animal sentience in domestic law, we urge the Government to ensure

that any proposed legislation is robust and enforceable in order to truly protect

animal welfare.