

Response to the Draft Animal Welfare (Sentencing and Recognition of Sentience) Bill 2017

January 2018

Introduction

- 1 This submission draws on the Nuffield Council on Bioethics' report, *The ethics of research involving animals* (published 2005). The report discusses several issues relevant to the Draft Bill currently under consideration, such as the moral status and welfare needs of animals, and the assessment of pain, suffering and distress in animals. Extracts from the report are provided below [notes in square brackets refer to chapters and paragraphs in the report]. The full report is available at: www.nuffieldbioethics.org/animal-research.
- 2 A wide range of perspectives was represented on the Working Party that produced the report, including academic and industry scientists, philosophers, lawyers and members of animal protection groups. The deliberations were informed by a public consultation and several fact-finding meetings, including visits to animal research facilities. The report aimed to clarify the debate surrounding animal research and help people think through the scientific and ethical issues that are raised.

Question 1: The Bill requires Ministers 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 matters affecting the public interest.” We would be interested in your views on any potential conflict that may arise in discharging these two duties.

- 3 Having regard to matters affecting the public interest in this area of policy making will be challenging given that a range of views on the treatment of animals exists among the UK public. In the context of animal research, for example, some might view it to be in the public interest that research involving animals that could result in benefits to society should be allowed to go ahead. Other people might view any research involving animals to be unacceptable, regardless of the potential public benefit [Chapter 14].
- 4 However, it is not unusual to come up against conflicting interests in policy making. Judgements often need to be made which take into account a range of factors. In this context for example, such factors might include: the impact on the lives and welfare of animals that different uses have; the broader consequences if there were a ban on using animals in specific circumstances; a comparison of

the benefits arising from the different uses of animals; and the number of animals involved [Paragraph 15.3].

Question 2: The draft Bill does not explicitly define a number of terms, such as: sentience, animal and welfare needs of animals. Do you consider definitions are required for these terms and, if you do so, what definitions should be used?

Defining animal

4 We define our use of the term animal as follows:

Strictly speaking, it would be more appropriate to use the terms ‘human animals’ and ‘non-human animals’ to distinguish between humans and other animals. However, for reasons of brevity, the term ‘animals’ is used to refer to ‘non-human animals’ throughout the Report and in this guide. This use should not be taken to imply differences between humans and animals in their ability to suffer or feel pain to an extent that sets humans apart from all other species. Neither should it be taken to imply differences in moral status. [Box 1.1]

Defining sentience

5 An emphasis on sentience is most commonly associated with the utilitarian philosophy of Jeremy Bentham. Sentience, for Bentham, was usually understood as the capacity to feel pleasure and pain. Although the ascription of such states is not always straightforward, it is now uncontested that many animals are capable of feeling pain. Equally, it is uncontested that to cause pain is morally problematic and so needs to be taken into account in moral reasoning. This is the case whether the pain is suffered by a human or by any other sentient being. In our report, we used the following definition for ‘sentient’:

Having the power of perception by the senses, usually taken to mean ‘being conscious’. [Box 4.1].

6 However, having sentience is just one feature that we believe qualifies animals as moral subjects and imposes constraints or limits on how they may be treated. The other features we describe include:

- having *higher cognitive capacities*, such as communication, intelligence and tool use;
- having *the capacity to flourish*, which recognises that things may go well or badly for an animal depending on how specific environmental conditions relate to its usual species-specific development;
- having *sociability*, i.e. being a member of some form of complex community [Chapter 3].

Defining the welfare needs of animals

6 The terms welfare and well-being do not have sharp boundaries. The following statements are indicative of the ways in which they are commonly used:

- Animals experience both positive and negative well-being. In assessing welfare, it is important to examine the animal's physiological and psychological well-being in relation to its cognitive capacity and its life experience.
 - Welfare is an animal's perspective on the net balance between positive (reward, satisfaction) and negative (acute stress) experiences of affective states.
 - The welfare of any animal is dependent on the overall combination of various factors which contribute to both its physical and mental state.
 - Welfare is the state of well-being brought about by meeting the physical, environmental, nutritional, behavioural and social needs of the animal or groups of animals under the care, supervision or influence of individuals [Box 4.1].
- 7 Throughout our report, we use the term animal welfare to describe a concept that relates to the promotion and systematic study of all aspects of animal wellbeing. As a philosophical approach, the promotion of animal welfare is distinct from that of animal rights in the sense that those advocating respect for the welfare of animals do not necessarily wish to use the language of rights. Accordingly, animal-welfare groups emphasise human responsibility towards animals. They consider that some uses of animals may be acceptable (albeit with reluctance) provided they are adequately justified and carried out with full attention to the principle of the Three Rs (Refinement, Reduction, and Replacement), and that the behavioural and physiological needs of the animals concerned are addressed. Proponents of this approach are not necessarily committed to wishing an end to animal research, but most would see this state as desirable. [Box 2.1]
- 8 Our ability to assess pain, suffering and distress in animals is also relevant and important here. Although philosophically it is extremely difficult to determine exactly the subjective experiences of animals, practically it is often straightforward to make meaningful approximations. The evaluation of clinical signs, the study of animal choices, familiarity with ethological and ecological data, and consideration of physiological and neurological features are all important. Consideration of scientific evidence, especially in relation to species-specific needs of animals, can be combined fruitfully with familiarity, empathy and methodological observation [Chapter 4].

Contact

Hugh Whittall

Director

Nuffield Council on Bioethics

hwhittall@nuffieldbioethics.org