



Animal Protection Index (API) 2020

United Kingdom of Great Britain and Northern Ireland: ranking B

Executive summary

The United Kingdom has a long tradition of animal welfare, being the first country in the world to enact animal welfare legislation. Animal welfare today remains a matter of priority for the British public and this is reflected in the fact that UK legislation goes beyond EU requirements in certain areas, for example, sow stalls are banned during the whole of a sow's pregnancy, whereas they are still allowed for the first four weeks of pregnancy at the EU level. The UK also introduced voluntary bans of certain categories of animal experimentation before required to do so by EU regulations. Remarkably, the UK has also outlawed fur farming for all species. The UK should also be applauded for not following the pattern of states in North America and Canada which have introduced so-called 'Ag-gag' laws, which ban undercover filming on farms without the consent of the owner, thus reducing the incidence of whistleblowing. To the contrary in England, CCTV in slaughterhouses has become mandatory, thus increasing, rather than decreasing, visibility of conditions for animals at the most vulnerable time of their lives.

Since the API was first published in 2014, several laws have been passed to improve animal welfare. Notably, secondary legislation has been passed in England and Wales which substantially updates the licensing regime for certain activities using animals, such as the sale of animals as pets, dog breeding and the keeping and training of animals for exhibition and there has been a complete ban on the sale of puppies and kittens under eight weeks of age. Scotland has proposed to introduce new regulations for the licensing of dog, cat and rabbit breeding activities. In England, the Government has also shown a commitment to stamping out illegitimate trade in puppies and kittens bred under poor welfare conditions (so called 'puppy mills' or 'puppy farms') by banning the sale of puppies and kittens by third parties, i.e. anyone other than the breeder or an animal shelter. This is a bold step and the devolved Governments of Scotland and Wales have announced a similar third-party ban on the sale of puppies and kittens.

The Animal Welfare (Service Animals) 2019 has strengthened the capability of the Animal Welfare Act 2006 to deal with offenders causing 'unnecessary suffering' to an animal on duty in public service. The so-called 'Finn's Law' means that anyone injured by an animal on duty cannot rely as a defence upon the fact that they were acting to protect themselves whilst trying to evade the law.

As for international wildlife, the Government should also be applauded for enacting the Ivory Act 2018, which introduced a near-total ban on dealing in items containing elephant ivory, regardless of their age, within the UK, as well as export from or import to the UK. In other respects, with regards to wild animals within the UK, various pieces of legislation at national and EU levels provide a "patchwork" style protective framework which is overly ripe for revision.



There is room for improvement in other domains related to animal welfare. Notably, as the UK has voted to leave the European Union, there is a risk that successive governments will water down the regulatory protection afforded animals across sectors such as research and farming and/or will sign trade deals which permit exports of animal products produced to lower animal welfare standards. There is also a risk that governance systems around animal welfare will be weakened. Article 13 of the Treaty on the Functioning of the European Union is at risk of not being transposed (properly or at all) in UK legislation post-Brexit, so as to retain the current recognition of animal sentience in law and, more importantly, the duty to have regard – in a meaningful way – to the welfare needs of sentient animals when making or implementing public policy. The scope of the Animal Welfare Act 2006 has not been reviewed for some time, and there is concern that it does not reflect scientific evidence that has emerged about the sentience of some invertebrate species, such as cephalopods and decapod crustaceans.

In contrast to farming, where measures have been taken to increase transparency (at the time of slaughter), the regulatory regime in Britain for animals used in research still suffers from a lack of openness and there has been inertia around the repeal of Section 24 of the Animals (Scientific Procedures) Act 1986, which has been acknowledged as out of step with modern society and potentially impeding progress towards reducing the number of animals used in research. The number of live animals used for research purposes in the UK remains significantly high.

In farming, the UK allows the confinement of farm animals in cages. There are also several areas where the law protecting farmed animals could be strengthened, and enforcement should be a priority, particularly around transport. Furthermore, Northern Ireland allows for higher stocking density of broiler chickens than that required at the EU level. The UK also permits the slaughter of non-stunned animals for religious purposes. With regards to animals used in entertainment, the UK still allows the exploitation of greyhounds and horses for races. Additionally, the private keeping of wild animals is permitted though sometimes regulated through a licence scheme.

The UK and devolved Governments are strongly encouraged to enact legislation recognising animal sentience and imposing a duty upon public bodies to have regard to animal welfare when making policy decisions. To make this meaningful, legislation should include the power to establish an Animal Welfare Advisory Commission to provide animal welfare impact assessments to Government on policy and legislation – including individual departments and public bodies – and assistance in discharging its duty to animals, providing independent and transparent advice. Scotland is already leading the way in setting up an Animal Protection Commission to advise the Scottish Government. The Government should also use this opportunity to review the legal protection afforded invertebrates and to recognise the sentience of those species in respect of whom new scientific evidence has emerged. Furthermore, the UK Government is strongly encouraged to expediently enact legislation to increase sentencing for animal cruelty offences from six months to five years. Regarding farm animals, the UK is urged to ban the slaughter of animals who are not stunned, as well as to ban the confinement of farm animals in cages. The UK Government is also strongly encouraged to ban the import of fur products. Other cruel practices which should be banned include the exploitation of animals for entertainment, such as greyhound or horse racing. The UK Government is encouraged to adopt a Positive List of species, specifying which animals can be kept as companion animals, based on clear criteria including animal welfare.



Further policy and legislative recommendations are associated with each indicator and detailed in the relevant sections of this report.



Animal Protection Index Indicators

Goal 1: Recognition of animal sentience and prohibition of animal suffering

1. Animal sentience is formally recognised in legislation

Analysis of the legislation	
Ranking	C
<p>At the European Union (EU) level, based on the 1997 Treaty of Amsterdam, Article 13 forms part of the Lisbon Treaty, signed in 2007, which subsequently became the Treaty on the Functioning of the European Union (TFEU).¹ Article 13 of the TFEU explicitly recognises animal sentience and requires that Member States 'pay full regard to the welfare requirements of animals' in formulating and implementing European Union policies on agriculture, fisheries, transport, research and technological development. The provision was enacted to enable animal welfare to be taken into account as a material policy consideration. Its function was to make it clear that even though animals are 'goods' for the purposes of EU economic law, their sentience means that their welfare needs should also be fully considered.</p> <p>However, since the API was first published in 2014, on 23 June 2016 the UK voted in an advisory referendum to leave the European Union by a majority of 51.9%.² Subsequently, the EU Withdrawal Bill, which was being debated in Parliament but has now fallen due to a general election being called, sought to formally enact Brexit and carry over legal protections from EU law to ensure they were enshrined into UK law before UK departed the European Union (EU). The draft Bill did not include provision to transfer the principle contained in Article 13 of the TFEU into UK law.</p> <p>There were several unsuccessful amendments during the EU (Withdrawal) Bill Committee stage in the House of Commons, aimed at including the principle in the Bill.³ The Government did not support these amendments, instead stating that it would consider how it might explicitly reflect the principle of sentience in wider UK legislation.⁴ Following debate, then Secretary of State for the Department for Environment Food and Rural Affairs (DEFRA), Rt. Hon Michael Gove MP, stated on 23 November 2017 that 'the sentience of animals will continue to be recognised and protections strengthened when we leave the EU'.⁵ The Government announced on 12 December 2017 that it would be introducing legislation to recognise animal sentience and introduce tougher sentencing for animal cruelty offences.⁶ At the same time, the Government published a Draft Animal Welfare (Sentencing and</p>	

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

² https://www.bbc.co.uk/news/politics/eu_referendum/results

³ <https://ukhumanrightsblog.com/wp-content/uploads/2017/11/animal-sentience-and-brexit.pdf>

⁴ <https://ukhumanrightsblog.com/wp-content/uploads/2017/11/animal-sentience-and-brexit.pdf>

⁵ <https://www.gov.uk/government/news/environment-secretary-confirms-sentience-of-animals-will-continue-to-be-recognised-and-protections-strengthened-when-we-leave-the-eu>

⁶ <https://www.gov.uk/government/news/environment-secretary-publishes-bill-to-strengthen-animal-welfare>



Recognition of Sentience) Bill 2017.⁷ Clause 1 of the draft Bill required 'Ministers of the Crown [to] have regard to the welfare needs of animals as sentient beings in formulating and implementing government policy' while also having 'regard to matters affecting the public interest'. This draft Bill was accompanied by explanatory notes and went through a consultation process, which ended on 31 January 2018. Following scrutiny of the draft Bill the Environment, Food and Rural Affairs Committee recommended that the Bill be split to allow 'the 'problematic concepts in the existing Clause 1 [on animal sentience] to be better defined'.⁸

The Government published its response to the public consultation on 7 August 2018, announcing that it would legislate to increase the maximum sentences for animal cruelty offences as soon as Parliamentary time became available.⁹ With regards to animal sentience, the Government stated they would continue to work on the issue with the intention of introducing any necessary legislation before the UK were to leave the EU. The Animal Welfare (Sentencing and Recognition of Sentience) Bill 2017 was eventually abandoned by the Government, and a standalone bill was introduced to address sentencing powers.

World Animal Protection has been leading the 'Better Deal for Animals' campaign, supported by a coalition of over 40 organisations alongside the Royal Society for the Prevention of Cruelty to Animals (RSPCA), Humane Society International UK (HSI UK), Compassion in World Farming (CIWF) and Wildlife and Countryside Link (WCL). The campaign demands immediate enactment of legislation recognising animal sentience and creating a prospective duty, capable of meaningful execution, on ministers of the crown and public bodies, to have all due regard to animal welfare when enacting and implementing policy and legislation.¹⁰ The campaign also advocates for the legislation to include a power to establish an Animal Welfare Advisory Commission to support Government - including individual departments and public bodies - in discharging its duty to animals, providing independent and transparent advice.

The coalition also launched a petition which gathered over 100,000 signatures and an Early Day Motion which gained signatures from 106 Members of Parliament (MPs).^{11,12} On 26 February 2019, former Secretary of State for DEFRA, Michael Gove, publicly supported the coalition and promised to legislate on the issue in February 2019.¹³ In April a Private Member's Bill was introduced by Kelly McCarthy MP to recognise animals as sentient beings. The Bill underwent a first reading in the House of Commons on 3 April 2019 but failed to complete its passage through Parliament before the end of the Parliamentary session.¹⁴

⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/666576/draft-animal-welfare-bill-171212.pdf

⁸ <https://publications.parliament.uk/pa/cm201719/cmselect/cmenvfru/709/709.pdf>

⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/751990/sentience-consult-sum-resp.pdf

¹⁰ <https://www.wcl.org.uk/better-deal-for-animals.asp>

¹¹ <https://petition.parliament.uk/petitions/242239>

¹² <https://edm.parliament.uk/early-day-motion/52570/animal-welfare-standards>

¹³ <https://www.worldanimalprotection.org.uk/news/thanks-you-over-60-mps-attended-our-parliamentary-reception-michael-gove>

¹⁴ <https://services.parliament.uk/bills/2017-19/animalsrecognitionofsentience.html>

On 14 October 2019, the Government announced in the Queen's Speech that it will introduce legislation to recognise animal sentience in UK law.¹⁵ At the time of writing, the legislative agenda announced in the Queen's Speech has now fallen due to a general election being called and parliament being dissolved on 6 November 2019.

Analysis

Article 13 of the TFEU is fundamentally important in providing the EU with competence to take animal welfare into account when enacting new policies and laws and implementing existing ones, notwithstanding an animals' classification as 'goods' under EU law. Its limitations are that it does not apply to all EU policies, but only those listed in Article 13, namely 'agriculture, fisheries, transport, internal market, research and technological development and space policies'. It also permits Member States to balance animal welfare against national customs, including religious rites, cultural traditions and regional heritage. Whilst the UK has no history of relying upon this clause, it does allow other countries such as Spain and France to continue unacceptable practices of bullfighting and foie production, without necessarily infringing Article 13.

The fact that animals have been formally recognised as sentient has become a matter of some symbolic importance, although it does not alter the legal landscape for animals in the UK, as Parliament already has competence to enact animal welfare laws. Nevertheless, if the UK leaves the EU on 31 January 2020 and Government has not brought forward sentience legislation, as well as losing the (arguably) symbolic importance of recognising the sentience of animals, there will be no legal requirement for Government to pay regard to their welfare needs when formulating and implementing policy. The need to pay 'all due regard' is essential as it ensures that animal welfare is given full consideration alongside other public policy needs. The absence of a cross-governmental requirement to consider animal welfare in the context of forthcoming trade deal negotiations is of particular concern.

That effect of recognising sentience explicitly is symbolic rather than practical. The effective part of Article 13 is the duty to give full regard to animal welfare when formulating and implementing policy. The mechanisms for giving effect to this in domestic law is considered further below [see Indicator 9 on Governance]. In particular, Scotland must be highly commended for establishing the first independent Animal Welfare Commission in the UK. The commission will be specifically tasked with considering both scientific and ethical evidence when considering how current policies take account of the welfare needs of sentient animals and what improvements can be made. The UK government must establish a similar independent body in any sentience legislation to ensure the duties enacted for are meaningful. Furthermore, there is persuasive scientific evidence that decapod crustaceans and cephalopods are sentient, and therefore this should be reflected in any definition of 'sentient animals' for the purposes of this legislation, as well as by the Animal Welfare Acts.

Enforcement mechanisms

Article 13 of the TFEU creates the legal basis for the EU to act on animal welfare. It mandates that animal welfare must be considered within a list of EU policies. As a result, all EU laws on animal welfare emanate from one of these areas of EU policies. For instance, farm animal welfare is based

¹⁵ <https://www.worldanimalprotection.org.uk/news/success-animal-sentience-recognised-in-uk-law>



on EU policy on agriculture, and laboratory animal welfare is based on the EU internal market policy. It is a broad duty however and easily satisfied. It can also be balanced against other considerations.

The Animal Welfare Act 2006, Animal Health and Welfare (Scotland) Act 2006 and Animal Welfare (Northern Ireland) Act 2011 all contain enforcement mechanisms (confiscation orders, disqualification orders, fines and/or imprisonment) for the legal provisions that arise out of the recognition that animals can suffer. However, there is no explicit recognition of animal sentience in these Acts.

Key recommendations

• **The UK and devolved Governments are urged to introduce animal sentience legislation as soon as possible, to avoid leaving the EU without sentience being implemented in UK legislation.**

- The legislation should cover all sentient animals, including decapod crustaceans and cephalopods;
- The legislation should set out the process for how Government departments will assess and report on animal sentience, and how they should discharge animal welfare duties;
- The legislation should include a power to establish an Animal Welfare Advisory Commission to support Government - including individual departments and public bodies - in discharging its duty to animals, providing independent and transparent advice.

2. There are animal protection laws that prohibit causing animal suffering either by a deliberate act of cruelty or by a failure to act

Analysis of the legislation

Ranking	B
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The UK was the first country in the world to enact animal protection laws. The first legislation protecting animals was passed in 1822, through the Act to Prevent the Cruel and Improper Treatment of Cattle¹⁶, which made it a crime to cruelly treat several species of domesticated animals, including cattle, oxen, horses or sheep. The Protection of Animals Act 1911 defined offences of cruelty to animals in Section 1, which encompassed deliberate acts of cruelty as well as an owner permitting another person to cruelly use their animals, contrary to the relevant provisions of the Act.

¹⁶ <https://web.archive.org/web/20141030063347/http://www.animalrightshistory.org/animal-rights-law/romantic-legislation/1822-uk-act-ill-treatment-cattle.htm>



In England and Wales, the Animal Welfare Act 2006,¹⁷ which came into force in 2007, consolidated more than 20 pieces of animal protection legislation, including the Protection of Animals Act from 1911.¹⁸ Its purpose is to govern the relationship between individuals and domesticated animals and protect against the mistreatment of animals by those responsible for them. The Animal Welfare Act 2006 currently affords protection to vertebrates only. Furthermore, 'protected' animals for the purposes of the Act are those who are of a kind commonly domesticated in the British Isles or under the control of man or not living in a wild state (Section 2). There is an exemption for animals used in lawful scientific procedures (Section 58(1)) and for anything which occurs in the normal course of fishing (Section 59).

Section 4(1) of this Act prohibits causing unnecessary suffering to a protected animal by an act or failure to act, when the person knows or ought reasonably to know that the act or omission would cause the suffering or be likely to do so. Subsection 2 creates an additional offence where a person is responsible for an animal, another person causes unnecessary suffering by an act or failure to act, and the person responsible permitted said unnecessary suffering to happen or failed to take reasonable steps to prevent it. Subsection 3 provides guidance on understanding whether suffering is 'unnecessary', which includes whether it is proportionate to the purpose and whether the conduct was that of a reasonably competent and humane person.

Section 4 of the Animal Welfare Act 2006 and of the Welfare of Animals Act (Northern Ireland) 2011, and Section 19 of the Animal Health and Welfare (Scotland) Act 2006, prohibit causing animal suffering. Although the word 'cruelty' is not used, the conduct prohibited encompasses cruel acts, and the case law from the previous Protection of Animals Act 1911 (which used that language) is still considered relevant under the current legislation.

Sections 5 to 8 of the Animal Welfare Act 2006 create specific offences for mutilations (Section 5), docking of dogs' tails (Section 6), administering poisons (Section 7) and fighting offences (Section 8). Section 9 imposes a duty of care upon those persons responsible for an animal to ensure their welfare. This section does not apply only to 'protected' animals, but all animals falling within the auspices of the Animal Welfare Act. Section 11 contains provisions for the giving of animals as prizes.

Similar legislation to the Animal Welfare Act 2006 is in place for the rest of the UK with the Animal Health and Welfare (Scotland) Act 2006¹⁹ and the Welfare of Animals Act (Northern Ireland) 2011.²⁰

These Acts are underpinned by secondary legislation, such as the Welfare of Farmed Animals (England) Regulations 2007, which set minimum standards for all farm animals.²¹ There are also Codes of Practice which provide practical guidance as to how to comply with the animal welfare Acts. Although these Codes are not legally binding, they do have evidential value under the primary legislation: Section 14(4) of the Animal Welfare Act 2006, Section 16 of the Welfare of Animals Act

¹⁷ http://www.legislation.gov.uk/ukpga/2006/45/pdfs/ukpga_20060045_en.pdf

¹⁸ <http://www.legislation.gov.uk/ukpga/Geo5/1-2/27>

¹⁹ <http://www.legislation.gov.uk/asp/2006/11/contents>

²⁰ <http://www.legislation.gov.uk/nia/2011/16/contents>

²¹ <http://www.legislation.gov.uk/uksi/2007/2078/contents/made>



(Northern Ireland) 2011 and Section 37 of the Animal Health and Welfare (Scotland) Act 2006 provide that, in proceedings under each of the respective Acts or secondary regulations, failure to comply with a Code may be relied upon as tending to establish liability.

The Animal Welfare (Service Animals) Act 2019 received Royal Assent on 10 April 2019.²² It amends the Animal Welfare Act to prohibit an offender from relying upon the fact that they caused 'unnecessary suffering' to an animal that it was for the purpose of protecting a person, property or other animal.²³ The new law amends a loophole in the law that enabled someone resisting arrest to escape prosecution by relying upon the fact that they injured the animal while trying to protect themselves from injury during a lawful arrest. It follows a highly publicised, vicious attack upon a police dog.²⁴

The Animal Welfare Acts do not protect wild living animals. Section 1 of the Wild Mammals (Protection) Act 1996,²⁵ applicable in England, Scotland and Wales, prohibits carrying out certain specified conducts to mammals who are not domestic or captive, such as mutilating, kicking, burning or drowning to wild mammals with intent to inflict unnecessary suffering. This does not extend to suffering caused by failure to act. Exemptions include the lawful use of poisons and killing in a reasonably swift and humane manner in the course of lawful hunting or pest control. There are also other conservation laws that protect other species from injury and killing in a patchwork of legislation (see further below).

Analysis

Overall, the Animal Welfare Act 2006 (for England and Wales), the Animal Health and Welfare (Scotland) Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011 have similar provisions and establish that causing an animal unnecessary suffering shall be punished by law, both by a deliberate act or a failure to act. However, such Acts do not cover all species and do not include wild animals.

It is positive that the Government has consolidated and updated animal protection legislation and that there was a high level of stakeholder engagement in the various consultations. In 2010, the Department for Environment, Food and Rural Affairs carried out a review of the effectiveness of the Animal Welfare Act 2006 that concluded, 'it is agreed that there is still more to do in terms of achieving higher standards of animal welfare in the UK, but the Act does provide a suitable framework for doing so and has already resulted in an improvement in animal welfare. The Act has ultimately achieved its objectives of harmonising farm and companion animal welfare and consolidating and simplifying animal welfare legislation'.²⁶ Since the API was first published in 2014, the Environment, Food and Rural Affairs Select Committee reviewed the Animal Welfare Act in 2016, but as of 23 January 2019,

²² <http://www.legislation.gov.uk/ukpga/2019/15/section/2>

²³ <https://www.gov.uk/government/news/government-announces-support-for-finns-law-campaign-in-parliament>

²⁴ <https://www.bbc.co.uk/news/uk-england-beds-bucks-herts-47878060>

²⁵ <http://www.legislation.gov.uk/ukpga/1996/3/contents>

²⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/238336/798_2.pdf



the Government announced it had no further plans to review further compliance with the Animal Welfare Act 2006.²⁷

It is positive that the Government supported the amendment to the Animal Welfare Act 2006 through enacting the Animal Welfare (Service Animals) Act.²⁸ The speed with which the Act passed through all stages of Parliamentary approval shows that there is both the political appetite and will to prevent cruelty towards animals in duty.

The Animal Health and Welfare Board of England's latest annual report available at the time of writing, dating back from 2017, acknowledges that some of the statutory welfare codes are 'outdated' and need revision, especially codes relating to farm and companion animals.²⁹ This also demonstrates the Government's willingness to improve animal welfare standards and prevent animal abuse.

Enforcement mechanisms

In England and Wales, an offence under Section 4 of the Animal Welfare Act 2006 (causing unnecessary suffering to animals) is punishable with imprisonment of up to six months³⁰ and/or a fine of up to £20,000 (Section 32). The court also has powers to confiscate animals (Section 33) and to make disqualification orders (Section 34).

Similar provisions exist in the Welfare of Animals Act (Northern Ireland) 2011 (Sections 31 to 33): for a summary conviction, penalties up to six months imprisonment and/or a fine up to the statutory maximum for summary conviction; for indictment, up to two years imprisonment and/or a fine. In the Animal Health and Welfare (Scotland) Act 2006 (Sections 46, 39 and 40), cruelty offences are punished with penalties of up to twelve months imprisonment and/or a fine up to £20,000.

Following many years of campaigning from animal welfare charities, on 26 June 2019, then Secretary of State for DEFRA Michael Gove announced the new Animal Welfare (Sentencing) Bill which, if it had been passed, would have meant that animal abusers in England and Wales could face up to five years in prison, a significant increase from the current maximum sentence of six months.³¹ The increased sentences would have better reflected the severity of cruelty cases seen in England and Wales and brought us in line with Northern Ireland and other European countries, where convicted animal abusers can be jailed for up to five years. However, in September and October 2019, Parliament was suspended before the Animal Welfare (Sentencing) Bill could complete its progress through Parliament and become law. Whilst it was re-announced in the Queen's Speech of 14 October 2019, introduced in the new session and completed the committee stage in the House of

²⁷ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-01-23/211718/>

²⁸ <https://www.gov.uk/government/news/government-announces-support-for-finns-law-campaign-in-parliament>

²⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/701475/ahw-be-annual-report-2017.pdf

³⁰ Section 32(5) of the Animal Welfare Act 2006 states that: In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in each of subsections (1)(a), (2)(a) and (4)(a) to 51 weeks is to be read as a reference to 6 months.

³¹ <https://www.gov.uk/government/news/gove-delivers-new-bill-to-punish-animal-abusers>



Commons, the Bill has now fallen as the UK parliament dissolved on 6 November 2019.³² It is anticipated that this Bill will be introduced in the next Parliamentary session and will pass into law, since it has received cross-party support.

On 1 February 2019, the Scottish government launched a consultation on plans to increase the maximum punishment for animal cruelty to 12 months to five years in prison, along with a proposal for an unlimited fine and tougher penalties that could also apply to attacks against service animals, thereby potentially supporting the initiative known as 'Finn's Law'.³³ The results of the consultation have now been processed and published but legislation is yet to be announced.³⁴

Key recommendations

- **The UK and devolved Governments are strongly encouraged to extend the scope of the Animal Welfare Acts in the UK to cephalopods and decapod crustaceans.**

At present, the Animal Welfare Act 2006 (for England and Wales), Animal Health and Welfare (Scotland) Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011 prohibit any action causing unnecessary suffering to vertebrate animals living 'under the control of man', which includes companion and farm animals, as well as wild animals taken out of their natural habitat. The scope of application of the three animal welfare Acts does not extend to wild animals or animals used for scientific experiments. The Acts currently also only provide protection to vertebrates as it was considered by the Government at the time of enactment that there was not enough scientific evidence to include decapod crustaceans and cephalopods. However, the Animal Welfare Act 2006 states that its protection can be extended to invertebrate species if the Minister is satisfied that the species is capable of experiencing pain or suffering. At the time of enactment, this evidence already existed and in more than a decade later, there is an abundance of evidence available to show that cephalopods and decapod crustaceans can experience pain. Therefore, the UK and devolved Governments are encouraged to amend their respective animal welfare Acts to include all types of animals within the scope of application of these Acts and to extend protection of the Acts to cephalopods and decapod crustaceans.

- **The UK Government is strongly encouraged to increase sentencing for animal cruelty offences from six months to five years in the UK.**

The Animal Welfare (Sentencing) Bill³⁵ in England and Wales made good progress through Parliament but disappointingly did not complete all of its stages. We recommend this is quickly reintroduced and made into law. We also urge Scottish Parliament to continue progress from their consultation and introduce legislation as a priority.

³² <https://services.parliament.uk/bills/2017-19/animalwelfare-sentencing.html>

³³ <https://www.gov.scot/news/improvements-to-animal-welfare/>

³⁴ <https://consult.gov.scot/animal-welfare/animal-health-welfare-act-amendment-2019/>

³⁵ <https://services.parliament.uk/Bills/2017-19/animalwelfare-sentencing.html>



Goal 2: Presence of animal welfare legislation

3. There are laws that apply to animals used in farming including rearing, transport and slaughter

Analysis of legislation	
Ranking	D
<p><u>Rearing</u></p> <p>In 1976 the Council of Europe adopted the European Convention for the Protection of Animals kept for Farming Purposes ('the 1976 Convention').³⁶ The 1976 Convention applies to all animals kept for the production of food, wool, skin, fur or for other farming purposes. It sets out general principles to safeguard the welfare of animals kept for farming and, in particular, intensive stock farming systems. A Standing Committee was also established to develop further detailed regulations. All EU Member States are signatories to the 1976 Convention and the EU has approved it by Decision 78/923/EEC.</p> <p>The 1976 Convention was given effect in the EU by Council Directive 98/58/EC concerning the protection of animals kept for farming purposes.³⁷ It applies to all animals bred or kept for farming purposes, excluding invertebrates, animals living in the wild, animals intended for use in competitions, shows, cultural or sporting events or activities and experimental or laboratory animals.</p> <p>Council Directive 98/58/EC, Article 3 requires that Member States shall make provision to ensure that owners or keepers take all reasonable steps to ensure the welfare of animals under their care and to ensure that those animals are not caused any unnecessary pain or suffering. Article 4 requires that Member States shall ensure that the conditions under which animals (other than fish, reptiles or amphibians) are bred or kept comply with conditions set out in the Annex, having regard to an animals' species and to their degree of development, adaptation, domestication and to their physiological and ethological needs. The Annex contains general provisions relating to staffing, inspections, record keeping, husbandry, equipment, breeding procedures, mutilations, freedom of movement of animals and diet and water supply and paragraph 21 of the Annex stipulates that '<i>No animal shall be kept for farming purposes unless it can reasonably be expected on the basis of its genotype or phenotype that it can be kept without detrimental effect on its health and welfare.</i>'</p> <p>There are also species-specific EU Directives setting out welfare requirements for pigs, calves, broiler chickens and laying hens, as below:</p> <ul style="list-style-type: none"> - Directive 1999/74/EC 184 laying down minimum standards for the protection of laying hens; - Directive 2007/43/EC 185 laying down minimum rules for the protection of chickens kept 	

³⁶<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680076da6>

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³⁷<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31998L0058&from=EN>

for meat production;

- Directive 2008/119/EC³⁸ laying down minimum standards for the protection of calves;
- Directive 2008/120/EC³⁹ laying down minimum standards for the protection of pigs.

There are no EU species-specific provisions for other commonly farmed species, such as cattle, ducks, turkeys and farmed fish; the protection of these species relies upon the broad provisions of Council Directive 98/58/EC in the absence of other domestic regulation or Code of Practice. In the UK there are Codes of Practice for ducks, turkeys, rabbits and gamebirds reared for shooting in addition to the species subject to species-specific EU legislation. There are also specific provisions relating to the welfare of rabbits set out in Schedule 9 of the Welfare of Farmed Animals (England) Regulations 2007.

The Council of Europe has also published (non-binding) Recommendations in respect of cattle, domestic ducks, domestic fowl, domestic geese, fish, fur animals, goats, Muscovy ducks, pigs, ratites, sheep and turkeys.

Council Directive 98/58/EC and the species-specific Directives have been transposed into UK law through the Welfare of Farmed Animals (England) Regulations 2007³⁸ and The Welfare of Farmed Animals (England) (Amendment) Regulations 2010 (2010/3033). In the devolved nations, Council Directive 98/58/EC has been transposed into domestic law through, respectively, the Welfare of Farmed Animals (Wales) Regulations 2007/3070,³⁹ the Welfare of Farmed Animals (Scotland) Regulations 2010/388⁴⁰ and the Welfare of Farmed Animals (Northern Ireland) Regulations 2012/156.⁴¹

Section 4(1) of the 2007 Regulation imposes a duty upon a person responsible for a farmed animal to take all reasonable steps to ensure that the conditions under which it is kept or bred comply with Schedule 1, having regard to the species, degree of development, adaptation and domestication and physiological and ethological needs in accordance with good practice and scientific knowledge. Schedule 1 contains specific requirements, for example, in relation to inspections, record keeping, and freedom of movement, buildings and equipment and the feeding and watering of animals.⁴² It requires that animals whose welfare depends on frequent human attention must be inspected at least once a day; this Schedule also forbids the use of electrical immobilisation. Laying hens, calves, cattle, pigs and rabbits are subject to additional provisions, which are set out in Schedules 2-9.⁴³

Section 5 of the 2007 Regulation imposes additional duties on people responsible for poultry, laying hens, calves, cattle, pigs and rabbits to comply with the detailed provisions set out in the accompanying Schedules 2-9. Section 6(1) of the 2007 Regulation requires a person responsible for a farmed animal not to attend to the animal unless he is acquainted with any relevant Code of Practice

³⁸ <http://www.legislation.gov.uk/ukxi/2007/2078/contents/made>

³⁹ <http://www.legislation.gov.uk/wsi/2007/3070/contents/made>

⁴⁰ <http://www.legislation.gov.uk/ssi/2010/388/contents/made>

⁴¹ <http://www.legislation.gov.uk/nisr/2012/156/contents/made>

⁴² <http://www.legislation.gov.uk/ukxi/2007/2078/schedule/1/made>

⁴³ <http://www.legislation.gov.uk/ukxi/2007/2078/contents/made>



(issued under Section 14 of the Animal Welfare Act 2006 or a statutory welfare code issued under Section 3 of the Agriculture (Miscellaneous Provisions) Act 1968). Section 6(2) requires an employer to ensure that anyone employed or engaged to look after a farmed animal (i) is acquainted with any relevant Code of practice, (ii) has access to the Code while attending to the animal; and (iii) has received instruction and guidance on the Code.

In the UK farmed (vertebrate) animals are also protected by the Animal Welfare Act 2006 (for England and Wales), the Animal Health and Welfare Act (Scotland) 2006 and the Welfare of Animals Act (Northern Ireland) 2011. The general anti-cruelty provisions under Section 4 of the Animal Welfare Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011, and Section 19 of the Animal Health and Welfare (Scotland) Act 2006 apply to this category of animals. Section 9 of the Animal Welfare Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011, and Section 24 of the Animal Health and Welfare (Scotland) Act 2006 also create a duty of care, requiring that a person who is responsible for an animal takes such steps as are reasonable in the circumstances (which includes the lawful purpose for which the animal is kept and any lawful activity undertaken in relation to the animal) to ensure that the needs of that animal are met to the extent required by good practice. The list of needs covers the principles of the Five Freedoms.

Section 12 of the Animal Welfare Act 2006, Section 11 of the Welfare of Animals Act (Northern Ireland) 2011, and Section 51 of the Animal Health and Welfare (Scotland) Act 2006 give powers for secondary regulations to be made, which have included, for example, the Welfare of Farmed Animals (England) Regulations 2007.

Additionally, there are Codes of Practice for various species, providing guidance to farmers and industry. At present, England has Codes of Practice for beef cattle and dairy cattle,⁴⁴ meat chickens,⁴⁵ laying hens⁴⁶ and pigs.⁴⁷ Equivalent Codes have been produced for Scotland,⁴⁸ Wales⁴⁹ and Northern Ireland.⁵⁰ Although these Codes are not legally binding, they do have evidential value under the primary legislation: Section 14(4) of the Animal Welfare Act 2006, Section 16 of the Welfare of Animals Act (Northern Ireland) 2011 and Section 37 of the Animal Health and Welfare (Scotland) Act 2006 provide that, in proceedings under each of the respective Acts or secondary regulations, failure to comply with a Code may be relied upon as tending to establish liability.

The Department for Environment, Food and Rural Affairs has led responsibility for animal welfare issues for England and the Welsh Government. In Northern Ireland, the Department for Agriculture,

⁴⁴ <https://www.gov.uk/government/publications/code-of-recommendations-for-the-welfare-of-livestock-cattle>

⁴⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/694013/meat-chicken-code-march2018.pdf

⁴⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/732227/code-of-practice-welfare-of-laying-hens-pullets.pdf

⁴⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/830255/code-practice-welfare-pigs-1.pdf

⁴⁸ <https://www.gov.scot/publications/code-practice-welfare-laying-hens/>

⁴⁹ <https://gov.wales/pig-welfare-code-practice>

⁵⁰ <https://www.daera-ni.gov.uk/publications/codes-practice-farmed-animals>



Environment and Rural Affairs (DAERA) have policy and delivery responsibility for animal welfare issues.

The Animal Welfare Committee (AWC) advises the Department for Environment, Food and Rural Affairs (DEFRA) and the devolved administrations in Scotland and Wales on the welfare of farmed animals.⁵¹ It was named, until recently, the Farm Animal Welfare Committee (FAWC). Its name was changed from 1 October 2019 to reflect its expanded scope from the welfare of farmed animals to the welfare of companion animals and wild animals kept by people. The Animal Welfare Committee sits within DEFRA and thus is not an independent non-governmental organisation, unlike its predecessor, the Farm Animal Welfare Council (FAWC), although it is tasked with giving independent advice to the Department.

FAWC has had influence on the development of animal protection around the world through developing the concept of the Five Freedoms and has published some high-profile scientific evidence-based reports and advice.⁵² FAWC's 2009 report on 'Farm Animal Welfare in Great Britain: Past, Present and Future' explains how the Five Freedoms form a logical and comprehensive framework for analysis of animal welfare and advocates for all animals to have a life worth living.⁵³ The report highlights that 'giving an animal a life worth living requires good husbandry, considerate handling and transport, humane slaughter and, above all else, skilled and conscientious stockmen'.

In 2011, the Farm Animal Welfare Council highlighted the need for strategy and policy to move beyond aiming for an absence of cruelty and suffering and a duty to provide for an animal's needs and positive experiences, to ensure that every farm animal will have had a life worth living with a growing number experiencing a good life.⁵⁴

FAWC also publishes numerous reports to advise the UK Government on welfare issues, which illustrates the Government's willingness to improve its animal welfare policies. For example, in 2015, FAWC recommended that all approved slaughterhouse operators (Food Business Operators, FBOs) should install CCTV in all areas where live animals are kept and where animals are stunned and killed.⁵⁵

Rearing - pigs

Council Directive 2008/120/EC⁵⁶ lays down minimum standards for the protection of pigs. A key provision is Article 3, which prohibits the tethering of sows or gilt (female pig after puberty and before farrowing) and the use of sow stalls. The ban of individual sow stalls was decided in 2001 and a phase-out period of 12 years was allowed, to permit farmers to adapt to the new systems. From 1

⁵¹ <https://www.gov.uk/government/groups/farm-animal-welfare-committee-fawc>

⁵² <https://www.gov.uk/government/groups/farm-animal-welfare-committee-fawc>

⁵³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/319292/Farm_Animal_Welfare_in_Great_Britain_-_Past_Present_and_Future.pdf

⁵⁴ <https://webarchive.nationalarchives.gov.uk/20110405232048/http://www.fawc.org.uk/pdf/fawc-final-report-2011-110324.pdf>

⁵⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/400796/Opinion_on_CCTV_in_slaughterhouses.pdf

⁵⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0120&from=EN>

January 2013, sows have had to be kept in groups rather than in individual stalls. However, stalls may still be used for the first 28 days of gestation, and one week before the expected time of birth (Article 3.4).

Other key provisions include stipulations that:

- Pigs must be given a sufficient quantity of bulky or high fibre food as well as high-energy food, in order to satisfy their hunger and need to chew (Article 3.7)
- Pigs must have permanent access to manipulable material (Article 3.5) and 'sufficient material to enable proper investigation and manipulation activities, such as straw, hay, wood, sawdust, mushroom compost, peat or a mixture of such', (i.e. enrichment materials) so that they may have the opportunity to express natural rooting, chewing and investigating behaviour (Annex I, Chapter 1, paragraph 4).
- Pregnant sows must have at least 1.3 square metres per sow of continuous solid floor; the use of completely slatted floors for pregnant sows is not permitted (Article 3.2(a)). Article 3.2 includes makes further provisions relating to the provision of slatted flooring.
- Pigs must be reared in conditions that comply with the provisions set out in the Annex to the Directive (Article 4), which sets out further detailed provisions.
- Tail-docking and reduction of corner teeth must not be carried out routinely 'but only where there is evidence that injuries to sows' teats or to other pigs' ears or tails have occurred'. The Pigs Directive further stipulates that before carrying out these procedures, 'other measures shall be taken to prevent tail-biting and other vices, taking into account environment and stocking densities.' This is an important provision to address inadequate environmental conditions, including lack of enrichment materials, which may lead to behaviours such as biting which occur when normal behaviour patterns are frustrated (Annex I, Chapter 1, paragraph 8).
- No piglets shall be weaned from the sow at less than 28 days of age, though piglets may be weaned up to seven days earlier if they are moved into 'specialised housings' (Annex I, Chapter 2, paragraph C3).
- 'All procedures intended as an intervention carried out for other than therapeutic or diagnostic purposes or for the identification of the pigs in accordance with relevant legislation and resulting in damage to or the loss of a sensitive part of the body, or the alteration of bone structure, shall be prohibited'. However, there are exemptions to this general prohibitions for teeth grinding or clipping (before seven days old), tail-docking (as above), castration of male pigs by other means than tearing of tissues (which is prohibited) and nose-ripping only when the animals are kept in outdoor husbandry systems and in compliance with national legislation (Annex I, Chapter 1). In relation to castration of pigs, there is a requirement to use anaesthetic for castration, if the procedure is carried out after the 7th day of life. Otherwise, no analgesia is required by the Pigs Directive. In the UK and Ireland, pigs are not routinely castrated without anaesthesia or pain relief, but this does occur in other EU Member States where pigs are surgically castrated without anaesthesia, which invariably involves tearing of the tissues.



Consequently, the European Commission drew up the European Declaration on Alternatives to Surgical Castration of Pigs,⁵⁷ which requires signatory stakeholders to only perform surgical castration with prolonged analgesia and/or anaesthetic and that surgical castration should be abandoned by 1 January 2018.

Article 12 of the Pigs Directive provides that Member States may apply, within their territories, stricter provisions for the protection of pigs than the ones laid down in the Directive. The Welfare of Farmed Animals (England) Regulations 2007 prohibits the use of sow stalls throughout the sow's pregnancy and when the weaning of her piglets is complete and requires that pigs should be free to turn around without difficulty at all times (Schedule 8, paragraph 5 and 6). Similar legislation exists in the Welfare of Farmed Animals (Wales) Regulations 2007/3070 (Schedule 8, paragraphs 5 and 6) the Welfare of Farmed Animals (Scotland) Regulations 2010/388 (Schedule 6, paragraphs 5 and 6) and the Welfare of Farmed Animals (Northern Ireland) Regulations 2012/156 (Schedule 8, paragraphs 5 and 6).

The Welfare of Farmed Animals (England) (Amendment) Regulations 2003 (S.I. 2003 No. 299)⁵⁸ requires that tail-docking shall not be carried out routinely, but where there is evidence that injuries to sows' teats or to other pigs' ears or tails have occurred. No tail-docking may be carried out unless other measures to improve environmental conditions or management systems have been taken in order to prevent tail biting. Furthermore, if tail-docking is done after the seventh day of life, it shall only be performed under anaesthetic and additional prolonged analgesia by a veterinary surgeon (Schedule 6, Part II, paragraph 21 to 23).

On 9 September 2019, DEFRA published a new Code of Practice for the Welfare of Pigs.⁵⁹ The standards include enhanced guidance about practices to prevent tail biting (avoiding the need to routinely dock tails), detailed advice to pig producers on biosecurity, contingency planning and antibiotic use; guidance on how to assess the health and welfare of pigs and advice on farrowing, to protect the welfare of sows and piglets. The Code emphasises that routine tail docking is not permitted and should only be used 'as a last resort, after improvements to the pigs' environment and management have proved ineffectual' (Article 85). When it is considered necessary to tail dock a pig, it should be carried out before the seventh day of life of the pig. The use of anaesthetic is not mandatory for pigs who are younger than seven days.

Section 2 of the Code of Practice also includes a requirement for the provision of nesting materials (wherever possible) for sows, particularly in the 24 hours prior to farrowing to satisfy the sow's need to nest build and therefore minimise stress.

[Rearing - broiler chickens](#)

⁵⁷ http://ec.europa.eu/food/animal/welfare/farm/docs/castration_pigs_signatories_en.pdf

⁵⁸ <http://www.legislation.gov.uk/uksi/2003/299/made>

⁵⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69369/pb7950-pig-code-030228.pdf

Council Directive 2007/43/EC⁶⁰ lays down minimum standards for the rearing of chickens for meat (commonly referred to as 'broilers'). The Broilers Directive sets out maximum stocking densities. Article 3.2 requires that the maximum stocking density is 33kg/m². However, Article 3.3, by way of derogation, permits Member States to allow a broiler stocking density maximum of 39kg/m², if additional documented details for each house are kept, and the house achieves certain climatic parameters. In addition, the documentation accompanying the flock at the slaughterhouse shall include the daily mortality rate and the cumulative daily mortality rate. A further increase above 39kg/m² up to 42kg/m² is allowed where, in addition to the conditions mentioned in the previous point being met, monitoring by the authorities confirms records of low mortality rates and good management practices.

Other key provisions include stipulations that:

- Keepers of chickens reared for meat shall have appropriate training and access to training courses, including about welfare aspects (Article 4).
- Chickens should have permanent access to litter which is dry and friable on the surface (Annex I, paragraph 3) and inspection twice daily for signs indicating a reduced level of animal welfare and/or health (Annex I, paragraph 12). Annex I contains other detailed conditions with regards to the drinkers, feeding, litter, ventilation, heating, noise and light requirements.
- Similar to the wording of the Council Directive 2008/120/EC for pigs, Annex I of the Broilers Directive all surgical interventions 'carried out for reasons other than therapeutic or diagnostic purposes which result in damage to or the loss of a sensitive part of the body or the alteration of bone structure shall be prohibited' (paragraph 12). However, two exemptions exist to this prohibition:
 - beak trimming, which may be carried out when other measures to prevent feather pecking and cannibalism are exhausted and only after consultation and on the advice of a vet, beak trimming may be carried out by qualified staff on chickens that are less than 10-days-old.
 - castration of chickens, which shall only be carried out under veterinary supervision by personnel who have received specific training.

Regulation 5(1)(a) and Part 2, Schedule 5A of the Welfare of Farmed Animals (England) Regulations 2007, as amended by the Welfare of Farmed Animals (England) (Amendment) Regulations 2010 (SI 2010/3033), limit the stocking density of broiler chickens to 33 kilograms per m² of usable area or 39kg/m² 39 kilograms per m² of usable area may be used if certain welfare and husbandry conditions specified in paragraph 5 are complied with. This is the same in Wales (the Welfare of Farmed Animals (Wales) Regulations 2007/3070 as amended by the Welfare of Farmed Animals (Wales) (Amendment) Regulations 2010 which inserted a new Schedule 5A into the 2007 regulations) and Scotland (Schedule 2 of the Welfare of Farmed Animals (Scotland) Regulations 2010/388). However, Northern Ireland permits the stocking density of broiler chickens to reach 42

⁶⁰ Council Directive 2007/43/EC is commonly referred to as the 'Broilers Directive' and this term will be used throughout this section - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007L0043>



kg/m² if further additional conditions are met, as specified in the Schedule (Schedule 5, paragraph 12 of the Welfare of Farmed Animals Regulations (Northern Ireland) 2012).

Additionally, DEFRA published on 26 March 2018 a new Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens.⁶¹ The new Code incorporates guidance to reflect new regulations in force since publication of the previous Code, including specific provisions on staff training, stocking density and follow up at slaughterhouses. It also provides updated guidance on biosecurity, leg health and enriching the environment for chickens.

Rearing - egg-laying hens

Council Directive 1999/74/EC⁶² lays down minimum standards for the rearing of egg-laying hens, excluding establishments with fewer than 350 laying hens and those breeding laying hens (Article 1).

Non-enriched cage systems have been prohibited since 1 January 2012 (Article 5.2). Two cage systems are now in use:

- enriched cages where laying hens have at least 750 cm² of cage area per hen (Article 6)
- alternative systems (where the stocking density does not exceed nine egg-laying hens per m² usable area, with at least one nest for every seven hens and adequate perches (Articles 4 and 5))

In both systems, all hens must have a nest, perching space, litter to allow pecking and scratching and unrestricted access to a feed trough (Article 4 for alternative systems and Article 6 for enriched cages).

The Annex to the Directive specifies that hens must be inspected by the owner or the person responsible for the hens at least once a day (Annex 1, paragraph 1). Sound level must be minimised (Annex 1, paragraph 2) and light levels shall allow hens to show 'normal levels of activity' (Annex 1, paragraph 3).

Annex 1, paragraph 8 prohibits all mutilations except beak trimming, provided it is carried out by qualified staff on egg-laying hens less than 10 days old.

The Welfare of Farmed Animals (England) Regulations 2007 transpose EU legislation into UK law in Schedules 2 to 5. Similar legislation exists in the Welfare of Farmed Animals (Wales) Regulations 2007/3070 (Schedules 2 to 5), the Welfare of Farmed Animals (Scotland) Regulations 2010/388 (Schedule 3) and the Welfare of Farmed Animals (Northern Ireland) Regulations 2012/156 (Schedule 3).

Rearing - dairy cattle and calves

There is no EU legislation dedicated to dairy cattle.

⁶¹ <https://www.gov.uk/government/publications/poultry-on-farm-welfare>

⁶² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31999L0074&from=EN>



Council Directive 2009/119/EC⁶³ lays down the minimum standards for the protection of calves. Article 3 prohibits the use of confined individual pens after the age of eight weeks, except if required by a veterinarian. Individual pens must have perforated walls, allowing the calves to have direct visual and tactile contact. Article 3 further sets out minimum dimensions for individual pens and for calves kept in group. Inspections of facilities should be carried out (Article 7). Annex I of the Directive lays down specific conditions for the rearing of calves. Notably, calves must not be permanently kept in darkness with Member States making provisions for 'appropriate natural or artificial lighting'. Moreover, all housed calves must be inspected by the owner or the person responsible for the animals at least twice daily, and calves kept outside must be inspected at least once daily. The accommodation for calves must allow them to lie down, rest, stand up and groom for themselves without difficulty. Importantly, calves must not be tethered, with the exception of group-housed calves, which may be tethered for periods of not more than one hour at the time of feeding milk or milk substitute.

The Welfare of Farmed Animals (England) Regulations 2007 transpose EU legislation with regards to calves in Schedule 6. These Regulations require that all calves must be provided with 'appropriate bedding' (Schedule 6, paragraph 8). Similar legislation exists in the Welfare of Farmed Animals (Wales) Regulations 2007/3070 (Schedule 6), the Welfare of Farmed Animals (Scotland) Regulations 2010/388 (Schedule 4) and the Welfare of Farmed Animals (Northern Ireland) Regulations 2012/156 (Schedule 6).

DEFRA's Code of Recommendation for the Welfare of Livestock: Cattle⁶⁴ dates from 2003. This Code looks at both beef and dairy cattle. With regards to dairy cattle, provisions focus on milk productivity. There is no ban on tethering.

Transport

At the EU level, welfare provisions for animal transport are laid out in Council Regulation EC 1/2005.⁶⁵ This Directive defines the responsibilities of all actors involved in the transport of live vertebrate animals within the EU where that transport takes place 'in connection with an economic activity' (Article 1(5)). Article 3 stipulates that 'no person shall transport animals or cause animals to be transported in a way likely to cause injury or undue suffering to them'. A number of general conditions are provided for, including that journey lengths should be minimised (Article 3(a)), animals should be fit to travel (Article 3(b)), personnel handling animals should be trained or competent to do so (Article 3(d)), sufficient space should be provided (Article 3(g)), and water, feed and rest should be provided at suitable intervals (Article 3(h)).

The Regulation stipulates requirements that organisers of journeys involving live animals must comply with. According to Article 5(3)(a), organisers are obliged to ensure that animal welfare is not compromised by 'insufficient coordination' and that weather conditions are taken into account.

⁶³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0119&from=EN>

⁶⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69368/pb7949-cattle-code-030407.pdf

⁶⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&from=en>



Any natural or legal person involved in the transportation of live animals on journeys over 65km should be authorised by the relevant competent authority (Article 6(1)), and any person involved in driving or attending to domestic horses, cows, sheep, pigs, goats or poultry during road journeys over 65km must hold the relevant certificate of competence to do so (Article 6(5)). Article 7(1) prohibits long road journeys (i.e. those exceeding 8 hours) unless the means of transport has been inspected and approved under Article 18(1).

Where non-compliance with the Regulation has been identified, the relevant competent authority or the person responsible for the animals, shall be required to take 'any necessary action to safeguard the welfare of the animals' (Article 23(1)). If it is not possible to safeguard the welfare of the animals 'they shall be humanely killed or euthanised' (Article 23(2)). Article 25 allows Member States to determine their own penalties for non-compliance with the Regulation. Such penalties must be 'effective, proportionate and dissuasive'.

Member States are expected to carry out - via the competent authority - non-discriminatory inspections to ensure that the Regulation is being complied with (Article 27(1)) and are required to submit by 30 June each year an annual report which outlines any major deficiencies that have been detected and the Member State's action plan to address these. The UK's most recent annual report⁶⁶, which relates to 2017, shows that fitness to travel was the category of non-compliance that had the most identified incidences. In total, 128,060 non-discriminatory checks were carried out, and 1,032 (0.81%) infringements were found.

Annex I of the Regulation stipulates the technical rules that transporters must comply with when transporting live animals. They include specific requirements relating to: fitness for transport; means of transport; transport practices (such as loading, unloading and handling); feeding, watering and resting; space allowances; specific requirements in relation to long journeys; and, specific requirements in relation to vessels. Notably, animals are not deemed fit to travel if they are severely injured or immobile, heavily pregnant, or very young. Animals who fall ill or become injured during transport should receive first-aid treatment 'as soon as possible' (Chapter 1, point 4).

A 2011 report⁶⁷ by the European Commission on the impact of the Regulation on the protection of animals during transport concluded that it had had 'beneficial impacts' on animal welfare. However, enforcement remained a 'major challenge'.

The Welfare of Animals (Transport) (England) Order 2006,⁶⁸ Welfare of Animals (Transport) (Wales) Order 2007,⁶⁹ Welfare of Animals (Transport) (Scotland) Regulations 2006,⁷⁰ and Welfare of Animals (Transport) Regulations (Northern Ireland) 2006⁷¹ transpose provisions of Regulation EC 1/2005 into national law and allow for certain derogations. For example, Article 14(a) of The Welfare of Animals (Transport) (England) Order 2006 allows England to derogate from the

⁶⁶ See https://ec.europa.eu/food/sites/food/files/animals/docs/aw_transportinspection_2017_report_uk_en.pdf and https://ec.europa.eu/food/sites/food/files/animals/docs/aw_transportinspection_2017_analysis_uk_en.pdf

⁶⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0700&from=EN>

⁶⁸ <http://www.legislation.gov.uk/uksi/2006/3260/contents/made>

⁶⁹ <http://www.legislation.gov.uk/wsi/2007/1047/contents/made>

⁷⁰ <http://www.legislation.gov.uk/ssi/2006/606/contents/made>

⁷¹ <http://www.legislation.gov.uk/nisr/2006/538/contents/made>



requirement that pigs should have continuous access to water during journeys by road. With the exception of the Scottish Regulations, Article 4 of each of these Statutory Instruments also stipulate general provisions around the protection of animals (including invertebrates, such as crustaceans) during transport.

DEFRA is the competent authority in the UK on matters of animal health and welfare. DEFRA's executive agency, APHA (and DAERA in Northern Ireland), has responsibility for approving control posts, authorising transporters and controlling journey logs. Animal Health Officers and Veterinary Officers (APHA) and Animal Health and Welfare Inspectors (DAERA) are responsible for vehicle checks at departure points, ports and collection centres. Local Authorities also have some responsibility (although this can be in conjunction with APHA and the police) for checks during transport and at markets. Official Veterinarians are responsible for reporting welfare concerns that originate during transport at approved slaughterhouses (such as high numbers of animals dead on arrival) to APHA and the Local Authority.

Since the API was first published, DEFRA has issued in April 2018 a call for evidence on controlling live exports for slaughter and to improve animal welfare during transport after the UK leaves the EU.⁷² One of the purposes of this call for evidence was to help inform the Farm Animal Welfare Committee's (FAWC) - known as the Animal Welfare Committee (AWC) as of October 2019 - review of the existing animal welfare standards during transport. Live farm animals can be transported for several purposes, including breeding, production, and slaughter.

On 1 October 2019, DEFRA proposed it would accept FAWC's recommendations that live animal transport should be minimised and that animals should not be transported for long journeys to slaughter.⁷³ DEFRA announced that FAWC's report would inform a public consultation on the issue of live animal transport. At the time of writing, neither FAWC's report nor the public consultation has been published.

If no deal has been agreed by the time the UK is required to formally leave the EU, live imports of animals from the EU to the UK will still be possible, provided that the Animal and Plant Health Agency (APHA) or that the Department of Agriculture, Environment and Rural Affairs (DAERA) in Northern Ireland are notified.⁷⁴

Slaughter

At the EU level, welfare provisions for animals at the time of killing are laid out in Council Regulation EC No 1099/2009 (the 2009 Regulation), which makes detailed provisions about the killing of

⁷² https://consult.defra.gov.uk/animal-health-and-welfare/live-exports-and-improving-welfare-in-transport/supporting_documents/A%20call%20for%20evidence%20on%20controlling%20live%20exports%20for%20slaughter%20and%20to%20improve%20animal%20welfare%20during%20transport%20after%20the%20UK%20leaves%20the%20EU.%20.pdf

⁷³ <https://www.gov.uk/government/news/new-measures-protect-animal-welfare-and-increase-woodland-cover>

⁷⁴ <https://www.gov.uk/guidance/importing-animals-animal-products-and-high-risk-food-and-feed-not-of-animal-origin-if-the-UK-leaves-the-EU-with-no-deal>



animals bred or kept for the production of food, wool, skin, fur or other products as well as the killing of animals for the purpose of depopulation and for related operations (Article 1).⁷⁵

The 2009 EU Regulation came into force on 1 January 2013, replacing Council Directive 93/119/EC on the protection of animals at the time of slaughter or killing. The 1993 Directive did not have direct effect in member states and relied upon individual member states to make national provisions to give effect to the regulations. In the United Kingdom, the Directive was given effect by the Welfare of Animals (Slaughter or killing) Regulations 1995 ('the WASK Regulations')⁷⁶.

The 2009 EU Regulation reflects advances in scientific knowledge about animal welfare at the time of killing, derived from two opinions on the welfare aspects of stunning and killing certain species of animals published by the European Food Safety Authority (EFSA), but also concern that there were large discrepancies between member states in how they implemented the Directive (the 2009 Regulation has direct effect).

The 2009 EU Regulation applies to all animals killed for the production of meat or other products in a slaughterhouse or on farm, and to depopulation operations such as disease control. Article 3 sets out a general provision that animals shall be spared any 'avoidable pain, distress or suffering during their killing and related operations' and Article 5 specifies that workers should check whether animals do not present any signs of consciousness in the period between the end of the stunning process and death.

Article 4(1) requires animals to be stunned prior to being slaughtered, and that loss of consciousness and sensibility shall be maintained until the death of the animal. However, Article 4(4) provides an exception where a particular method of slaughter is prescribed by religious rites.

The 2009 Regulation also contains directly applicable operational requirements set out in Annexes to the Regulation. Annex I to this Directive deals with stunning methods. Annex II sets out the requirements regarding the layout, construction and equipment of slaughterhouses.

There are other positive welfare provisions in the 2009 Regulation, including the requirement for large abattoirs to have a designated animal welfare officer, the introduction of Certificates of Competence for personnel working in the killing process with requirements that they are appropriately trained and directions for manufacturers and/or retailers of retraining and stunning equipment to provide operating and maintenance instructions with all equipment sold.

Article 26 permits Member States to maintain existing national rules that were in force at the time the EU Regulation came into force, where they provide greater protection than those contained in the EU Regulation and also allows Member States to adopt national rules ensuring more extensive protection in relation to (a) animals killed outside of a slaughterhouse, (b) farmed game and (c) to allow religious slaughter without prior stunning.

⁷⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R1099&from=EN>

⁷⁶ <http://www.legislation.gov.uk/ukxi/1995/731/contents/made>



The 2009 EU Regulation did not follow the recommendations of the EFSA to phase out the use of carbon dioxide for pigs and the use of electric water bath stunners for poultry, as the impact assessment suggested that such recommendations were not economically viable across the EU at that time.⁷⁷

In 2018, following a favourable opinion of the European Food Safety Authority on low atmospheric pressure system for the stunning of broiler chickens, Annexes I and II to Council Regulation (EC) No 1099/2009 have been amended by Commission Implementing Regulation (EU) 2018/723⁷⁸ to approve the stunning of broiler chickens through asphyxia due to low atmospheric pressure.⁷⁹

The general provision that animals should be spared avoidable pain, suffering and distress at the time of killing applies to fish, but the detailed provisions as to killing methods do not apply. The preamble to the 2009 Regulation explains that further scientific opinion and economic evaluation is required in relation to fish and that separate standards should be established on the protection of fish at killing.⁸⁰ Invertebrates, including crustaceans, are outside the scope of 2009 Regulation.⁸¹

The Welfare of Animals at the Time of Killing (Scotland) Regulations 2012,⁸² The Welfare of Animals at the Time of Killing Regulations (Northern Ireland) 2014⁸³ and The Welfare of Animals at the Time of Killing (Wales) Regulations 2014⁸⁴ respectively give effect in the devolved administrations to the provisions of the 2009 Regulation, including the prescriptive methods and parameters for killing laid out in the Annexes to the Regulation.

In England, regulations⁸⁵ implementing the 2009 Regulation were laid before Parliament, but subsequently revoked before they came into force due to concern that the prescribed levels of current and frequency for inducing unconsciousness, set out in Annex 1 of the 2009 EU Regulation, might not result in a recoverable stun and therefore would be inconsistent with halal slaughter, which could potentially result in the Halal industry moving to non-stun slaughter methods if it had to otherwise follow the parameters set out in Annex 1 of the 2009 Regulation.

The Welfare of Animals at the Time of Killing (England) Regulations 2015 (WATOK 2015)⁸⁶ were thus introduced omitting the reference to the stunning parameter contained within Annex 1 of the 2009 EU Regulation for poultry killed 'in accordance with religious rites.'

The WATOK 2015 regulations retain national rules that were in force on 8 December 2009 where they afford greater welfare protection to animals at the time of killing than does the 2009 Regulation (Explanatory Memorandum). Regulation 28 and Schedule 4 of WATOK 2015 apply to animals other

⁷⁷ preamble, para. 6 - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32009R1099>

⁷⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R0723&from=EN>

⁷⁹ <https://www.efsa.europa.eu/en/efsajournal/pub/5056>

⁸⁰ Preamble, paragraph 11 - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32009R1099>

⁸¹ Preamble, paragraph 19 - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32009R1099>

⁸² <http://www.legislation.gov.uk/ssi/2012/321/contents/made>

⁸³ <http://www.legislation.gov.uk/nisr/2014/107/contents>

⁸⁴ <http://www.legislation.gov.uk/wsi/2014/951/contents/made>

⁸⁵ The Welfare of Animals at the Time of Killing Regulations 2014

⁸⁶ <http://www.legislation.gov.uk/uksi/2015/1782/contents>

than those to which the 2009 Regulation applies. For the purpose of Schedule 4, 'animals' includes (i) reptiles and amphibians, (ii) invertebrate animals and (iii) poultry, rabbits or hares killed elsewhere than in a slaughterhouse by their owner for the owner's private domestic consumption. Schedule 4 includes a general prohibition against causing avoidable pain, distress or suffering to an animal at the time of restraining, stunning or killing. It also provides that no person may engage in the restraint, stunning or killing of an animal unless that person has the knowledge or skill necessary to perform those operations humanely and efficiently. In Wales and Northern Ireland there are equivalent or similar provisions within Schedule 4 of the respective WATOK regulations. In Scotland, Schedule 1 sets down requirements additional to the 2009 Regulation in relation to slaughterhouses and the killing of poultry, rabbits and hares for direct supply. However, there are no equivalent provisions in relation to invertebrates and amphibians.

The significance of Schedule 4 is that it prohibits causing avoidable suffering to amphibians and invertebrates at the time of killing, thus going beyond the EU protection. However, there are no accompanying guidelines or Codes of Practice, which detracts from the usefulness of this general clause.

In line with the 2009 Regulation, WATOK regulations require that animals must be stunned before slaughter, unless an animal is being religiously slaughtered for halal or kosher meat.⁸⁷ Animals may only be killed in accordance with religious rites in a slaughterhouse approved by the Food Standards Agency (FSA) and by someone with a Certificate of Competence. The UK Government's website specifies that the back-up stunning equipment must be kept close to the restraining equipment, so that it can be used immediately when an animal experiences avoidable pain, suffering or agitation or has been injured.⁸⁸

On 4 May 2018, the use of CCTV became mandatory in all abattoirs in England.⁸⁹

Other relevant legislative or policy initiatives

On 27 June 2019, then DEFRA's Secretary of State commissioned Henry Dimbleby, co-founder of the Sustainable Restaurant Association, to conduct an independent review in order to inform the Government in creating its first National Food Strategy in 75 years.⁹⁰ One of the objectives of the Strategy is that the UK's food system is built upon a 'resilient, sustainable and humane agriculture sector'.⁹¹ The call for evidence opened on 17 August 2019 and closed on 25 October 2019. At the time of writing, conclusions from this call for evidence have not been published. Furthermore, the UK Government has committed to publish a White Paper six months after the review is published. At the time of writing, this White Paper has not yet been published.

⁸⁷ <https://www.gov.uk/guidance/halal-and-kosher-slaughter>

⁸⁸ <https://www.gov.uk/guidance/halal-and-kosher-slaughter>

⁸⁹ Mandatory Use of Closed Circuit Television in Slaughterhouses (England) Regulations 2018

<https://www.gov.uk/government/news/cctv-becomes-mandatory-in-all-abattoirs-in-england>

⁹⁰ <https://consult.defra.gov.uk/agri-food-chain-directorate/national-food-strategy-call-for-evidence/>

⁹¹ <https://www.gov.uk/government/publications/developing-a-national-food-strategy-independent-review-2019/developing-a-national-food-strategy-independent-review-2019-terms-of-reference>



In Scotland, World Animal Protection is a part of the Scottish Food Coalition and has campaigned for the Good Food Nation Bill that is intended to create a 'food system that contributes to everyone's health and wellbeing, values the work to put food on our plates, supports high animal welfare, sustains our wildlife, natural resources and environment for generations to come'.⁹² The Scottish Government has committed to bring forward the Good Food Nation Bill in the Programme for Government in 2019/2020.⁹³

In Wales, the Well-being of Future Generations Act (Wales) 2015⁹⁴ requires public bodies to think about the long-term impact of their decisions, in order to improve the social, economic, environmental and cultural well-being of Wales, as part of sustainable development (Section 2).⁹⁵ Each public body is required to carry out sustainable development (Section 3).

Analysis

Farm animal welfare has been an issue of importance for the UK Government even prior to the UK joining the EU. Notably, in 1965, Professor Roger Brambell led an investigation, commissioned by the UK Government, into the welfare of intensively farmed animals, also known as the Brambell Report.⁹⁶ This report prompted various reforms for farm animal welfare, among which was the Agriculture Act 1967.⁹⁷ The UK Government has made significant progress in improving the welfare of farm animals and has acted on emerging scientific evidence about the needs of farm animals, leading the way internationally by banning the veal crate in 1990 and the dry sow stall in 1999, ahead of the 2007 and 2013 EU-wide bans.⁹⁸

In September 2018, a European Citizen Initiative (ECI) entitled 'End the Cage Age' was launched, supported by a coalition of animal welfare NGOs, among which World Animal Protection.⁹⁹ The ECI invites the European Commission to propose legislation to prohibit the use of:

- cages for laying hens, rabbits, pullets, broiler breeders, layer breeders, quail, ducks and geese;
- farrowing crates for sows;
- sow stalls, where not already prohibited
- individual calf pens, where not already prohibited

As of September 2019, since over 1 million verified signatures have been collected from EU citizens, the European Commission will be invited to propose the above-mentioned legislation.¹⁰⁰ There was a corresponding petition at the national level, aiming to introduce such bans within UK law.¹⁰¹

⁹² <http://www.foodcoalition.scot/>

⁹³ <http://www.nourishscotland.org/campaigns/good-food-nation-bill/>

⁹⁴ <https://futuregenerations.wales/wp-content/uploads/2017/01/WFGAct-English.pdf>

⁹⁵ <https://futuregenerations.wales/wp-content/uploads/2017/02/150623-guide-to-the-fg-act-en.pdf>

⁹⁶ <http://edepot.wur.nl/134379>

⁹⁷ <https://www.legislation.gov.uk/ukpga/1967/22/contents>

⁹⁸ <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmenvfru/96/96.pdf>

⁹⁹ <https://www.eurogroupforanimals.org/compassion-in-world-farming-european-citizens-initiative-end-the-cage-age-successfully-launched-in-the-european-parliament>

¹⁰⁰ <https://eci.endthecageage.eu/>

¹⁰¹ <https://petition.parliament.uk/petitions/243448>

Rearing – pigs

With regards to pigs, it is positive that the ban on sow stalls has entered into force since 2013. However, this ban is limited as stalls are still allowed to be used for the first 28 days of gestations, and shortly before giving birth. UK legislation goes further than EU legislation in that regard, since it forbids the use of sow stalls during the whole sow's pregnancy. The use of farrowing crates is still allowed throughout the UK. Welfare issues are more-or-less identical between stalls and crates, since the animal is unable to move freely or even just turn around. Farrowing crates are still used for most sows in the UK; 74% in 2008, according to figures given by the Agriculture and Horticulture Development Board (BPEX).¹⁰²

The many exemptions provided in Chapter I of the Annex of Council Directive 2008/120/EC allows for piglet mutilations to be performed without anaesthetics. The use of anaesthetic is only mandated for castration, occurring on a piglet at least 7-days-old. Piglet mutilations are extremely cruel, and these exemptions represent a legal loophole allowing for the inhumane treatment of farm animals.

Though tail-docking is banned in the Code of Welfare for pigs, it still contains some exemptions which allow for agri-businesses to use that loophole to carry out tail-docking en masse. The legislation on tail-docking is failing, seeing that 2018 research by the Federation of Veterinarians of Europe (FVE), the European Association of Porcine Health Management (EAPHM) and the European Commission found that 84% of pigs are routinely tail docked in the UK,¹⁰³ By contrast, Sweden has banned tail docking and has been more successful at enforcing the ban, seeing that the country has lower levels of tail docked pigs than in the UK.¹⁰⁴

Piglet castration is practiced to circumvent the development of undesirable sexual or aggressive behaviour, and to avoid the development of 'boar taint, which gives pork meat a distinctive taste and odour. The European Commission acknowledges on its website that castration has become 'a significant animal welfare concern in recent years', inflicting pain 'even on very young pigs'.¹⁰⁵ A working group, made of representatives of European farmers, meat industry, retailers, scientists, veterinarians and animal welfare NGOs, met in 2010 and developed the European Declaration on Alternatives to Surgical Castration of Pigs.¹⁰⁶ Two key decisions were taken through this Declaration: the surgical castration of pigs, if carried out, shall be performed with prolonged analgesia and/or anaesthesia with methods mutually recognised. Secondly, the surgical castration of pigs should be abandoned by 1 January 2018. Over 30 stakeholders (animal welfare NGOs, industry practitioners etc.) signed this voluntary agreement. Although only 2% of pigs in the UK are castrated, this is a wider

¹⁰² <https://www.viva.org.uk/pigs/farrowing-crate-fact-sheet>

¹⁰³ <https://www.fwi.co.uk/livestock/majority-of-pigs-still-tail-docked-in-eu-countries-study-finds>

¹⁰⁴ <https://porcinehealthmanagement.biomedcentral.com/articles/10.1186/s40813-018-0103-8>

¹⁰⁵ https://ec.europa.eu/food/animals/welfare/practice/farm/pigs/castration_alternatives_en

¹⁰⁶ https://ec.europa.eu/food/sites/food/files/animals/docs/aw_prac_farm_pigs_cast-alt_declaration_en.pdf



issue that needs to be addressed at a European level due to imports of pork products. For example, 95% of pigs are castrated in Denmark and 80% in Germany.¹⁰⁷

Rearing - broiler chickens

With regards to broiler chickens, Council Directive 2007/43/EC represents the first legal instrument in which 'welfare indicators' were included as a means of scientific assessment. It is positive that the Directive goes into details about the environment of rearing of chickens (i.e. drinkers, feeding, litter, ventilation and heating, noise, light requirements). The Directive also provides a maximum stocking density. However, by allowing derogations to be made, the Directive enables large-scale, industrial farming practices to be developed in the EU. In such crowded conditions, the Five Freedoms of broiler chickens cannot be fulfilled. In addition, the exemptions for beak trimming enables this practice to be carried out without anaesthetics. It is regrettable that Northern Ireland allows for a stocking density up to 42 kg/m², which is higher than the maximum authorised by EU legislation.

Rearing - egg-laying hens

With regards to egg-laying hens, the 2012 ban on the use of battery cage systems was an important step to improve the welfare of egg-laying hens. By comparison to battery cages, enriched cages provide 20% more space to each hen (the equivalent of an A4 paper with a postcard). Enriched cages have nest boxes, litter, perch space and some scratching materials, and house up to 10 hens. Though the current two systems in use (enriched cages and alternative systems) represent incremental improvements to the life of hens, the EU still allows for hens to be raised in cages. When reared in cages, the Five Freedoms of egg-laying hens are necessarily compromised.

The UK leaving the European Union also presents risks to lower animal welfare standards. For instance, in the event of a no-deal Brexit, there is a risk that eggs produced by hens kept in battery cages may be allowed back on the UK market. Even though such battery cages have been banned in the UK in 2012, the UK government has so far refused to confirm that tariffs will be put in place on foreign eggs and egg products, potentially opening the door to the import of eggs produced in cages. The British Egg Industry Council (BEIC) and the welfare group Compassion in World Farming (CIWF) have joined forces to seek assurances from ministers that consumers will not be exposed to eggs or egg products from non-EU countries where animal welfare standards are significantly lower.¹⁰⁸

Rearing - dairy cattle and calves

With regards to dairy cattle and calves, it is regrettable that there is no EU legislation protecting the welfare-specific needs of dairy cattle. It is positive that calves must not be tethered, though this should be a full ban. Moreover, EU legislation allows for the isolation of calves under eight weeks old. The isolation of calves is detrimental to their welfare and the provision that calves in isolation need to be able to see other calves is not sufficient to satisfy their need for social interactions.

¹⁰⁷ <http://www.pig-world.co.uk/news/highlighting-the-differences-how-uk-welfare-standards-compare-with-our-competitors.html>

¹⁰⁸ <https://www.theguardian.com/food/2019/mar/10/brexit-egg-imports-return-welfare-farming-industry>



UK legislation mandates that calves must be provided bedding at all times, whereas EU legislation only requires bedding to be provided for the first two weeks of a calf's life. However, DEFRA's Code of Recommendation for the Welfare of Livestock: Cattle appears outdated as it has not been renewed since 2003. The Code largely focuses on animal health and productivity, rather than on protecting the welfare of dairy cows.

Scientific evidence has identified welfare and health benefits for dairy cows through the provision of access to pasture. This includes lower rates of mastitis and lameness. In Sweden and Finland, permanent housing of cows is illegal. The Swedish Animal Welfare Ordinance (SFS 1988:539)¹⁰⁹ requires access to pasture for all cows during the Summer. The RSPCA's welfare standards for dairy cattle expect most UK farms to provide their cattle with access to pasture for at least 110 days a year.

There is also an opportunity to address the issue of the shooting of male dairy calves shortly after being born. The RSPCA aspires to eliminate the practice of on-farm killing of dairy bull calves (other than for health reasons). This could mean the on-farm killing of healthy calves may be prohibited under its standards in the future. The UK Government should also develop policies that would provide alternatives to this practice. Several UK food retailers, including Morrisons and Waitrose, have already introduced initiatives to address this issue.

Transport

With regards to animal transport, it is positive that the Council Directive EC 1/2005 recognises in its preamble that, 'for reasons of animal welfare the transport of animals over long journeys, including animals for slaughter, should be limited as far as possible'. However, the exception of Article 7, allowing the transport of animals for over 8 hours, is detrimental to animal welfare. In fact, long live animal transport is known to cause stress. Moreover, many breaches of Council Directive EC 1/2005 have been reported, including the transport of unfit animals, exceeding stocking densities, requirements on feed, water and rest not respected, insufficient headroom and bedding, too high temperature.¹¹⁰ In 2011, the EU commission found that overall, EU regulation had a positive effect on animal welfare, though serious welfare problems during transport may exist.¹¹¹

In 2015, the European Commission launched a three-year Pilot Project aiming at improving animal welfare during transport by developing and disseminating Guides to Good and Best Practice for the transport of the main livestock species.¹¹² In September 2017, the contractor of the project published five extensive guides to good practices, as well as 17 technical fact sheets on good animal transport practices.¹¹³ This is a positive development, however, a total ban on long live animal transport would grant stronger protection to animals.

With regards to live animal transport, it is positive that the government has called for further evidence

¹⁰⁹ <http://extwprlegs1.fao.org/docs/pdf/swe19545E.pdf>

¹¹⁰ <https://www.ciwf.org.uk/media/7434627/report-on-implementation-of-eu-regulation-on-welfare-of-animals-during-transport-compassion-in-world-farming-october-2018.pdf>

¹¹¹ https://ec.europa.eu/food/sites/food/files/animals/docs/aw_practice_trans_10112011_report_en.pdf

¹¹² https://ec.europa.eu/food/sites/food/files/animals/docs/aw_prac_transport_pilot-report.pdf

¹¹³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&from=en>



in order to consider a ban on the practice, or at least to improve the welfare conditions of animals currently being transported alive. Numerous animal welfare organisations now call for a total ban on live animal exports from the UK, following investigations showing animal cruelty during long journeys.¹¹⁴ International trade obligations and pressures may also present some degree of barrier to improvement in the context of the export of live animals from the UK to the European continent and beyond.¹¹⁵ Seeing that the UK Government 'would like the welfare in transport regulatory regime to reflect fully the latest scientific and veterinary knowledge after the UK has left the EU', it is hoped that progress will be made on this legislative area.¹¹⁶

The Codes of Practice produced under primary and secondary legislation have been valuable in providing guidance to those involved in the farming industry and have assisted the promotion of animal welfare legislation and promoted good practice. There have been updated Codes published for pigs¹¹⁷ and chickens reared for meat ('broilers').¹¹⁸

Despite the UK Government announcing its intention to replace the 10 Codes of Practice in England with guidance produced in partnership with industry, since the API was first published in 2014, only the Pigs and Broiler Chickens Codes of Practice have been updated.¹¹⁹ It is hoped that the Government will keep the levels of detail in such Codes and will not lower animal welfare standards to satisfy industry's wishes.

It is positive to see initiatives promoting sustainable development and a sustainable food system, such as the Good Food Nation Bill in Scotland, the Well-being of Future Generations Act (Wales) 2015 and the commitment from the UK Government to adopt a National Food Strategy. World Animal Protection is part of the Scottish Food Coalition. It is promising that sustainable development legislation and systemic changes to food systems will pay attention to animal welfare standards.

Slaughter

With regards to slaughter, it is positive that the 2009 Regulation requires stunning prior to slaughter and in 2018, the European Commission developed a series of fact sheets outlining how various species should be stunned,¹²⁰ thereby demonstrating a willingness to disseminate knowledge and improve animal welfare.

¹¹⁴ <https://www.ciwf.org.uk/our-campaigns/live-animal-transport/uk-live-exports/>

¹¹⁵ <http://www.defra.gov.uk/animal-trade/>

¹¹⁶ https://consult.defra.gov.uk/animalhealth-and-welfare/live-exports-and-improving-welfare-in-transport/supporting_documents/A%20call%20for%20evidence%20on%20controlling%20live%20exports%20for%20slaughter%20and%20to%20improve%20animal%20welfare%20during%20transport%20after%20the%20UK%20leaves%20the%20EU.%20.pdf

¹¹⁷ <https://deframedia.blog.gov.uk/2019/09/10/updated-pig-welfare-code-published/>

¹¹⁸ <https://www.gov.uk/government/news/animal-welfare-enhanced-by-new-code-for-meat-chickens>

¹¹⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/275742/red-tape-challenge-agriculture-proposals.pdf

¹²⁰ https://ec.europa.eu/food/animals/welfare/practice/slaughter/2018-factsheets_en

The 2009 Regulation allows EU Member States to derogate from the requirement for stunning prior to slaughter by religious rites to provide food for the community of Jews and Muslims. However although arguably only intended to apply for UK domestic consumption, the Food Standards Agency 2018 slaughterhouse survey revealed that 94 million cattle, sheep and poultry were slaughtered in England and Wales in 2018 without being stunned first, among which 24% of sheep meat was exported from the UK.¹²¹ Such figures also unveil a lack of transparency in the food industry, since 19% of sheep meat was recorded as destined for “unknown” locations, as well as a lack of resources to ensure that food operators abide by the legislation and do not export meat from non-stunned animals.

The scope of the legislation around welfare of animals at the time of killing for food is also ripe for review. The 2009 Regulation does not extend its protection to invertebrates as at the time there was insufficient evidence as to their sentience.¹²² This fails to reflect the latest scientific evidence in relation to the sentience of crustacean species, including the findings of a report published by the Panel on Animal Health and Welfare of the European Food Safety Authority on the biology and welfare of laboratory animals.¹²³

The other disappointing aspect of the 2009 Regulation is that it fails to reflect the scientific advice given by the EFSA to phase out carbon dioxide as a slaughter method for pigs and the use of electric water bath stunners for poultry.

Enforcement mechanisms

The 1976 European Convention for the Protection of Animals kept for Farming Purposes does not contain any enforcement mechanism. At the EU level, a Directive requires Member States to achieve a particular result, but it does not devise laws on how to reach these goals. As such, Member States have some leeway to decide on their own legislations which will achieve the intended results. By contrast, a Regulation is a binding legislative act, directly applicable to the entirety of the EU.

In England and Wales, a cruelty offence under Section 4 of the Animal Welfare Act 2006 is punishable with imprisonment of up to 51 weeks (to be read as six months) and/or a fine of up to £20,000 (Section 32(1)). A duty of care offence under Section 9 is punishable with imprisonment of up to 51 weeks and/or a fine of up to level 5 on the standard scale (currently £5,000 under section 37 of the Criminal Justice Act 1982) (Section 32(2)). The court also has powers to confiscate animals (Section 33) and to make disqualification orders (Section 34). Inspectors can serve improvement notices stating which steps are required to be taken to comply with the duty of care provisions of Section 9 (Section 10).

Similar provisions exist in the Welfare of Animals Act (Northern Ireland) 2011, with penalties for cruelty offences and duty of care offences of up to six months imprisonment and/or fines up to the

¹²¹ <https://www.vettimes.co.uk/news/survey-94m-cattle-sheep-and-poultry-slaughtered-without-stunning/>

¹²² Preamble to the 2009 Regulations, paragraph 19 - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32009R1099>

¹²³ Scientific Panel on Animal Health and Welfare, The EFSA Journal {2005} 292, 1-46 - Opinion on the “Aspects of the biology and welfare of animals used for experimental and other scientific purposes.



statutory maximum for summary conviction and up to two years imprisonment and/or fines for conviction on indictment (Section 31). The court has confiscation powers (Section 32) and disqualification powers (Section 33). Inspectors can serve improvement notices stating which steps are required to be taken to comply with the duty of care provisions of Section 9 (Section 10).

Likewise in the Animal Health and Welfare (Scotland) Act 2006, there are penalties for cruelty offences of up to 12 months' imprisonment and/or fines up to £20,000 and for duty of care offences of up to six months imprisonment and/or fines up to level 5 on the standard scale (currently £5,000 under Section 37 of the Criminal Justice Act 1982) (Section 46). The court has confiscation powers (Section 39) and disqualification powers (Section 40). Inspectors can serve care notices stating which steps are required to be taken to comply with the duty of care provisions of Section 24 (Section 25).

Secondary regulations also contain enforcement mechanisms; for example, breach of provisions of the Welfare of Farmed Animals (England) Regulations 2007 is punishable with imprisonment of up to 51 weeks and/or a fine of up to level 4 on the standard scale (currently £2,500 under section 37 of the Criminal Justice Act 1982) (paragraph 9). There are equivalent enforcement mechanisms in The Welfare of Farmed Animals (Wales) Regulations 2007. The Welfare of Farmed Animals (Scotland) Regulations 2010 provide that anyone breaching these Regulations will be liable on summary conviction to a fine not exceeding level 4 on the standard scale, or to imprisonment for a term not exceeding three months (Section 11). A person guilty of an offence under The Welfare of Farmed Animals Regulations (Northern Ireland) 2012 is liable on summary conviction of imprisonment for a term not exceeding six months and a fine not exceeding level 5 on the standard scale.

Key recommendations

- **The UK Government is urged to enact a ban on the slaughter of animals without prior stunning.** Animals should be instantaneously rendered unconscious and insensible to pain and distress prior to slaughter. Animals should be unconscious before being bled, and no further processing should occur until irreversible loss of consciousness is confirmed. No animal should be forced to witness other animals being slaughtered as this is inherently distressing.
- **The UK Government is urged to immediately pass in legislation that farm animal welfare standards will be protected and not lowered in any future free trade agreements.**
- **The devolved Governments of Wales, Scotland and Northern Ireland are strongly encouraged to mandate the use of CCTV in all abattoirs.** This has been implemented in England since 2018.
- **The UK Government is urged to ban the confinement of farm animals in cages.** The UK should be applauded for having banned veal crates and sow stalls during the whole sow's pregnancy. However, other types of cages such as farrowing crates for sows, individual calf pens and enriched cages for various species, including egg-laying hens, are still allowed in the UK. In order to assert its position as a leader in animal welfare internationally, the UK is

urged to consider a ban on all these types of confinement. As such, the UK would go beyond the European Union requirements.

- **The UK Government is strongly encouraged to enact a ban on live animal exports.** At present, live exports are inherently cruel, causing chronic stress for all animals, and for some species and modes of transport, live exports may involve overcrowding, exposure to excess heat or cold, inadequate ventilation and/or insufficient access to food and water, leading to pain, injury or death.
- **The UK Government should urgently review, update and strengthen the Defra Code of Recommendations for the Welfare of Livestock: Cattle in relation to dairy cattle.** This could include setting requirements for minimum periods for access to pasture, and policies to discourage the shooting of male dairy calves shortly after birth by introducing initiatives that would provide alternative uses for male calves.
- **In order to ensure tail-docking is banned, the UK Government needs to urgently review failing legislation on the tail-docking of pigs.** Accurate, publicly available data on the extent of tail docking is needed, but estimates indicate around 70-80% of pigs in the UK are tail docked. Clearly legislation is failing due to the lack of enforcement and over-use of exemptions.
- **The UK Government should introduce legislation to improve the welfare of broiler chickens that requires the provision of enrichment and natural light; the stocking density of chickens should also be reduced to a maximum of 30 kg/m² or lower.** This should match, as a minimum, the standards required by the Red Tractor scheme. It is estimated that around 95% of broiler chickens are reared to Red Tractor standards. It seems incongruous that legislative requirements have fallen below industry standards that are being applied to the majority of broiler meat production in the UK.

4. There are laws that apply to animals in captivity

Analysis of the legislation	
Ranking	B
<p><u>Zoos</u></p> <p>At the EU level, welfare provisions for wild animals kept in zoos are laid out in Council Directive 1999/22/EC.¹²⁴ ‘Zoos’ are defined as ‘all permanent establishments where animals of wild species are kept for exhibition to the public for seven or more days a year’, with the exceptions of circuses, pet shops and any other establishments that Member States deem not to host sufficient animals. Article</p>	

¹²⁴ <https://www.eaza.net/assets/Uploads/Governing-documents/EU-Zoo-Directive-1999.pdf>



3 provides that zoos shall implement conservation measures. Among them, one measure is welfare-oriented since zoos have to accommodate their animals 'under conditions which aim to satisfy the biological and conservation requirements of the individual species, inter alia, by providing species specific enrichment of the enclosures; and maintaining a high standard of animal husbandry with a developed programme of preventive and curative veterinary care and nutrition.' Article 4 mandates the licencing and inspections of existing and new zoos. Article 8 lays out that Member States shall determine penalties for a breach of this Directive: such penalties shall be effective, proportionate and dissuasive.

Council Regulation (EC) 1/2005¹²⁵ on the transport of animals is also applicable to wild animals, both those living in captivity as well as wild animals living in the wild but susceptible of being transported (e.g. for rehabilitation or reintroduction purposes). Article 3 (General Conditions) provides that 'no person shall transport animals or cause animals to be transported in a way likely to cause injury or undue suffering to them'. Chapter II, Article 1.3 provides that a notice shall be given explaining that the animals are wild, timid and dangerous and containing written instructions about feeding, watering and any special care required. Furthermore, Chapter III Article 1.1 mandates that wild animals shall become acclimatised to the mode of transport prior to the proposed journeys.

The protection of the Animal Welfare Act 2006 (for England and Wales), the Animal Health and Welfare Act (Scotland) 2006 and the Welfare of Animals Act (Northern Ireland) 2011 applies to animals in captivity. The general anti-cruelty provisions under Section 4 of the Animal Welfare Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011, and Section 19 of the Animal Health and Welfare (Scotland) Act 2006 apply to animals kept in zoos. Section 9 of the Animal Welfare Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011, and Section 24 of the Animal Health and Welfare (Scotland) Act 2006 also create a duty of care, requiring that a person who is responsible for an animal takes such steps as are reasonable in the circumstances (which includes the lawful purpose for which the animal is kept and any lawful activity undertaken in relation to the animal) to ensure that the needs of that animal are met to the extent required by 'good practice'. The list of needs covers the principles of the Five Freedoms, as it refers to the animal's '(a) need for a suitable environment, (b) its need for a suitable diet, (c) its need to be able to exhibit normal behaviour patterns, (d) any need it has to be housed with, or apart from, other animals, and (e) its need to be protected from pain, suffering, injury and disease' (section 9(2)).

Section 12 of the Animal Welfare Act 2006, Section 11 of the Welfare of Animals Act (Northern Ireland) 2011, and Section 51 of the Animal Health and Welfare (Scotland) Act 2006 give powers for secondary regulations to be made.

In England, Wales and Scotland, the Zoo Licensing Act 1981¹²⁶ applies to zoos, defined as 'establishment where wild animals are kept for exhibition to the public otherwise than for purposes of a circus (as so defined) and otherwise than in a pet shop' (Section 1(1)). 'Wild animals' are defined as 'animals not domesticated in Great Britain'. The Act requires various conservation measures to be implemented in zoos, to obtain a licence to operate (Section 6(3)); the licence is delivered by the local authority under the Act. If the licence is not obtained, the authority has the power to close the

¹²⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&from=en>

¹²⁶ <http://www.legislation.gov.uk/ukpga/1981/37>



zoo. Each zoo shall be inspected before being granted a licence (Section 4(1A)). Once the licence has been granted, the zoo shall be inspected periodically (Section 10).

Zoos are also required to accommodate their animals under conditions which aim to satisfy the biological and conservation requirements of the species to which they belong (section 1A(c)).

Zoos must comply with all the below conservation requirements:

- keep animals in an environment suitable for their species
- do as much as possible to stop any animals escaping
- stop pests and vermin getting into the zoo
- keep records of the zoo's collection
- help educate people about biodiversity.

Furthermore, zoo operators also need to do at least one of the following:

- conservation research or training
- sharing conservation information
- breeding wild animals in captivity
- repopulate an area or reintroduce species into the wild.

Welfare-related provisions were added in 2003 to give effect to European Union Directive 1999/22, including a requirement that animals are provided with an environment well adapted to meet the physical, physiological and social needs of their species (Section 1A(c)(i)).

The Zoos Licensing Regulations (Northern Ireland) 2003¹²⁷ require that animals are accommodated under conditions which aim to satisfy the biological and conservation requirements of the individual species, including by providing species-specific enclosure enrichment (paragraph 3(7)(c)). This legislation applies to all non-plant and non-fungus organisms and so extends to all animals including fish and invertebrates (paragraph 2(1)).

Private keeping of wild animals

In this section, we refer to 'wild animals' as defined in the Zoo Licensing Act 1981, which applies to non-domesticated animals whether or not they were wild-caught or bred in captivity. The vast majority of privately kept wild animals in the UK do not require any form of license to be legally owned, bred as a hobby or sold as 'surplus' animals on a non-commercial basis. Selling wild animals as pets as part of the exotic pet trade is regulated under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, or Pet Animals Act 1951 in Wales and Scotland. In Northern Ireland, the Pets Shops Regulations 2000 require that pet shops are licensed under Section 8(1) of the Welfare of Animal Act (Northern Ireland) 2011. Neither 'Wild animals' nor 'exotic pets' are defined for the purposes of these legislations or have any special status. In England, the Guidance notes for conditions for selling animals as pets¹²⁸ includes specific welfare standards for non-domestic

¹²⁷ <http://www.legislation.gov.uk/nisr/2003/115/contents/made>

¹²⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/762433/animal-welfare-licensing-selling-animals-as-pets-guidance.pdf



mammals, birds (including non-domestic species), reptiles and amphibians, and Fish.

Various legislations require licensing for the keeping of certain wild animals or otherwise impose restrictions. International trade in wild animals is regulated by the Convention on International Trade In Endangered Species Of Wild Fauna And Flora (Cites), implemented in the EU by the Wildlife Trade Regulations (EC) 338/97 and in the UK by the Control Of Trade In Endangered Species Regulations¹²⁹ (COTES). To legally buy or sell an animal listed on Annex A of The Regulations, an Article 10 sales certificate must be issued.

Regulation (EU) 1143/2014 on invasive alien species¹³⁰ imposes strict restrictions to a list of 49 invasive non-native species of most concern in Europe so they cannot be imported, kept, bred, transported, sold, used or exchanged, allowed to reproduce, grown or cultivated, or released into the environment. This includes a number of animal species that are kept as 'exotic' pets. The EU Birds Directive 2009/147/EC and Habitats Directive 92/43/EEC, among other things, prohibit the trade in and keeping in captivity of wild-caught bird species and European Protected Species.

The Destructive Imported Animals Act 1932¹³¹ prohibits the importation into and the keeping within Great Britain of the musk rat (Section 1); similarly, the Grey Squirrels (Prohibition of Importation and Keeping) Order 1937¹³² prohibits the importation and keeping of grey squirrels (Section 1).

The Dangerous Wild Animals Act 1976 requires that no person shall keep any dangerous wild animal except under the authority of a licence granted in accordance with the provisions of this Act by a local authority (Section 1). Order 2007¹³³ of the Dangerous Wild Animals Act 1976 provides a full list of wild animals who are allowed to be kept in private homes, as long as the owner possesses a licence to do so. Among other species, this list includes primates, wild dogs (e.g. wolves), certain pigs (e.g. wild boars) and marsupials.

In 2010, the DEFRA issued a Code of Practice for the Welfare of Privately Kept Non-Human Primates.¹³⁴ However, on 5 February 2014, as part of its inquiry into the keeping of primates as pets the Environment, Food and Rural Affairs Committee of the House of Commons heard evidence that the Code of Practice has failed to stop an increase in the keeping primates as pets.¹³⁵

On 25 October 2019, the Government announced a call for evidence on the keeping of primates as pets, with a view to potentially banning the practice due to their highly complex social and welfare needs. Evidence is being sought on various areas, related to the extent and general welfare of privately kept primates in England, whether any restrictions should be applied, and the effect that those

¹²⁹ <http://www.legislation.gov.uk/ukSI/2018/703/contents/made>

¹³⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1417443504720&uri=CELEX:32014R1143>

¹³¹ <http://www.legislation.gov.uk/ukpga/Geo5/22-23/12/section/1>

¹³² http://www.legislation.gov.uk/ukSI/1937/478/pdfs/ukSI_19370478_en.pdf

¹³³ <http://www.legislation.gov.uk/ukSI/2007/2465/schedule/made>

¹³⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/183319/prim-ate-cop.pdf

¹³⁵ Televised proceedings of the House of Commons Environment, Food and Rural Affairs Committee on 5 February 2014 accessed on 16 February 2014 at <http://www.parliamentlive.tv/Main/Player.aspx?meetingId=14846>

restrictions may have.¹³⁶

Fur farming

At the EU level, a ban on cat and dog fur was introduced by Regulation No 1523/2007,¹³⁷ and has entered into force on 31 December 2008. The Regulation bans the placing on the market and the import to or export from the Union of cat and dog fur and products containing such fur.

The UK has banned the farming of animals for their fur on welfare grounds: in 2000, England and Wales banned fur farming under the Fur Farming (Prohibition) Act of 2000¹³⁸ and, although they had no fur farms, Northern Ireland and Scotland took similar action shortly afterwards, in 2002.^{139,140}

Analysis

Council Directive 1999/22/EC provides general provisions for animals kept in zoos. Following the wording of Article 3, zoos are primarily intended to achieve conservation objectives, taking into account animal welfare. It is positive that zoos must be licenced to operate, and that such a licence can only be obtained if Article 3 criteria are met, which includes welfare provisions relating to enrichment, husbandry, veterinary care and nutrition. Enrichment must be species-specific, but there is no mention of the psychological distress that is induced by constraining animals to enclosures. This Directive could be improved by focusing on the mental wellbeing of animals, rather than on satisfying their basic needs (e.g. nutrition requirements). In particular, a provision could be made to ensure that the size of enclosure is large enough to enable individuals to express normal behaviours, as well as allowing social interactions. Moreover, the frequency of inspections is not mandated in this Directive.

It is positive that Council Directive (EC) 1/2005 is not limited to livestock, but also covers the transport of wild animals. However, the welfare provisions in this Directive are quite general. For instance, Chapter III, Article 1.1 does not specify how wild animals shall become 'acclimatised' to the mode of transport of the proposed journey.

It is positive that the three animal welfare Acts, respectively applicable to England and Wales, Scotland, and Northern Ireland, set forth that animal owners have a duty of care towards the animals they are responsible for, following the Five Freedoms.

It is positive that the Zoo Licensing Act 1981 grants the authorisation for a zoo to operate provided it meets some conservation and welfare-related criteria that were added in 2003. The current zoo licensing legislation includes welfare considerations and issues such as psychological needs and enclosure enrichment. Furthermore, by mandating periodical zoo inspections by government-appointed officers, the Zoo Licensing Act 1981 helps maintain high welfare and safety standards.

In the UK, the private keeping of wild animals is largely unregulated, except under the general

¹³⁶ <https://www.gov.uk/government/consultations/welfare-of-primates-as-pets-in-england-call-for-evidence/the-welfare-of-primates-as-pets-in-england-call-for-evidence>

¹³⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R1523&from=EN>

¹³⁸ <http://www.legislation.gov.uk/ukpga/2000/33/contents>

¹³⁹ <http://www.legislation.gov.uk/nisi/2002/3151/contents>

¹⁴⁰ <http://www.legislation.gov.uk/asp/2002/10/contents>



framework of the Animal Welfare Act 2006, Section 19 of the Animal Health and Welfare (Scotland) and the Welfare of Animals Act (Northern Ireland) 2011, despite the often complex social, environmental and behavioural needs of 'exotic pets' and the high levels of knowledge and skill required to provide good husbandry. Licenses are required to keep certain wild animals, and other restrictions on ownership may apply. However, this is not based on animal welfare criteria, but on grounds of public health and safety or conservation.

The sale of wild animals as exotic pets is similarly regulated under the general licensing frameworks governing selling animals as pets. It is positive that in England the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 has introduced minimum standards for operators selling animals as pets, with specific guidance for non-domestic species. We would expect this to improve the welfare of wild animals being sold as exotic pets. However, these frameworks do not recognise that non-domesticated animals may have needs that cannot be met in domestic environments by typical responsible owners, for example non-human primates. As a result, the existence of wild animals in the exotic pet trade puts their physiological and psychological wellbeing at risk.

Regarding fur farming, the UK has gone beyond EU requirements through fully banning fur farming. However, the sale of fur products is still allowed in the UK.

Enforcement mechanisms

Under the various animal welfare Acts, it is an offence to fail to meet the needs of animals in captivity. In England and Wales, a cruelty offence under Section 4 of the Animal Welfare Act 2006 is punishable with imprisonment of up to 51 weeks (to be read as six months) and/or a fine of up to £20,000 (Section 32(1)). A duty of care offence under Section 9 is punishable with imprisonment of up to 51 weeks and/or a fine of up to level 5 on the standard scale (currently £5,000 under section 37 of the Criminal Justice Act 1982) (Section 32(2)). The court also has powers to confiscate animals (Section 33) and to make disqualification orders (Section 34). Inspectors can serve improvement notices stating which steps are required to be taken to comply with the duty of care provisions of Section 9 (Section 10).

Similar provisions exist in the Welfare of Animals Act (Northern Ireland) 2011, with penalties for cruelty offences and duty of care offences of up to six months imprisonment and/or fines up to the statutory maximum for summary conviction and up to two years imprisonment and/or fines for conviction on indictment (Section 31). The court has confiscation powers (Section 32) and disqualification powers (Section 33). Inspectors can serve improvement notices stating which steps are required to be taken to comply with the duty of care provisions of Section 9 (Section 10).

Likewise in the Animal Health and Welfare (Scotland) Act 2006, there are penalties for cruelty offences of up to 12 months' imprisonment and/or fines up to £20,000 and for duty of care offences of up to six months imprisonment and/or fines up to level five on the standard scale (currently £5,000 under section 37 of the Criminal Justice Act 1982) (section 46). The court has confiscation powers (section 39) and disqualification powers (Section 40). Inspectors can serve care notices stating which steps are required to be taken to comply with the duty of care provisions of section 24 (Section 25).

Regarding animals kept in zoos, local authorities are responsible for licensing and enforcement under the Zoo Licensing Act 1981 and other relevant legislation. Local authorities have the power to close zoos if the facilities fail to meet their standards to obtain a licence. The Zoo Licensing Act 1981 lays out that it is a criminal offence to run a zoo without a licence and, on conviction in the Magistrates Court, a fine of up to £2,500 may be imposed.

Regarding the private keeping of wild animals, local authorities are entrusted with the power to seize the animals and to dispose of the animal without compensation, when a regulated wild animal is kept without a licence or when the conditions of the licence are contravened. Any person guilty of an offence under the Dangerous Wild Animals Act 1976 shall be liable on summary conviction of a fine not exceeding level 5 on the standard scale.

Key recommendations

- **The UK Government is strongly encouraged to enact further regulations for the welfare of zoo animals, outlining more detailed provisions with regards to housing, enrichment and feeding conditions provided to animals kept in zoos.** At present, it is positive that the three Animal Welfare Acts include a duty of care, requiring animal owners to meet the needs of the animals to the extent required by good practice, which refers to the Five Freedoms. In addition, the Zoo Licensing Act 1981 requires zoos to provide an environment well adapted to meet the physical, physiological and social needs of the species. Similar welfare provisions exist in the Zoos Licensing Regulations 2003 applicable to Northern Ireland. However, the phrasing of such provisions remains general.
- **The UK Government is encouraged to make the results of zoo inspections publicly available.** It should be highlighted as positive for animal welfare that a zoo cannot operate without a licence, and that periodical inspections by government-appointed inspectors are mandated in legislation.
- **The UK Government is strongly encouraged to undertake a review of the exotic pet trade, including the welfare of wild animals kept as exotic pets in domestic environments and in their supply chains from source to marketplace.** This review should consider the implementation of a Positive List, allowing the keeping of species which are deemed suitable to be kept as pets, based on clear criteria including animal welfare and sustainability of trade, with the precautionary principle applied in favour of the animal where insufficient evidence exists.
- **The UK is urged to ban the imports of fur products.** It should be commended that fur farming is banned throughout the UK territory. However, by authorising the import and trade within UK borders of fur products, the UK is still encouraging the cruel exploitation of animals for their fur.

5. There are laws that apply to companion animals

Analysis of the legislation

Ranking	B
<p><u>Care of companion animals</u></p> <p>The general anti-cruelty provisions under Section 4 of the Animal Welfare Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011, and Section 19 of the Animal Health and Welfare (Scotland) Act 2006 apply to this companion animals. Section 9 of the Animal Welfare Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011, and Section 24 of the Animal Health and Welfare (Scotland) Act 2006 also create a duty of care, requiring that a person who is responsible for an animal takes such steps as are reasonable in the circumstances (which includes the lawful purpose for which the animal is kept and any lawful activity undertaken in relation to the animal) to ensure that the needs of that animal are met to the extent required by good practice. The list of needs covers the principles of the Five Freedoms.</p> <p>Section 6 of the Animal Welfare Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011 prohibits docking dogs' tails other than for medical purposes, or if the dog is a certified working dog who is not more than five days old. Section 20 of the Animal Health and Welfare (Scotland) Act 2006 enacts the same ban with a similar exemption only for medical purposes. Section 11 of the Animal Welfare Act 2006, Section 15 of the Welfare of Animals Act (Northern Ireland) 2011 and Section 30 of the Animal Health and Welfare (Scotland) Act 2006 prohibit the sale of animals to anyone aged under 16. Section 12 of the Animal Welfare Act 2006, Section 11 of the Welfare of Animals Act (Northern Ireland) 2011, and Section 51 of the Animal Health and Welfare (Scotland) Act 2006 give powers for secondary regulations to be made.</p> <p>The Pet Animals Act 1951,¹⁴¹ amended in 1983, requires any person keeping a pet shop to be licenced by the local council. Before granting a licence, the council must be satisfied that: the animals are kept in accommodation that is both suitable and clean; that they are supplied with appropriate food and drink; and that they are adequately protected from disease and fire.</p> <p>The local council may attach any conditions to the licence, may inspect the licenced premises at all reasonable times and may refuse a licence if the conditions at the premises are unsatisfactory or if the terms of the licence are not being complied with. Pets cannot be sold in the street, including on barrows and markets (Section 2), nor can they be sold to children under 12 (Section 3).</p> <p>The Animal Boarding Establishments Act 1963¹⁴² also requires boarding establishments to be licenced by the local council. The licence is granted at the discretion of the local council, which may take into account the suitability of the accommodation and whether the animals are well fed, exercised and protected from disease and fire.</p> <p>With regards to dog ownership, the Dangerous Dogs Act 1991,¹⁴³ applicable to England, Scotland</p>	

¹⁴¹ <http://www.legislation.gov.uk/ukpga/Geo6/14-15/35>

¹⁴² <http://www.legislation.gov.uk/ukpga/1963/43/section/1>

¹⁴³ <http://www.legislation.gov.uk/ukpga/1991/65/contents>

and Wales, prohibits the ownership, breeding, sale or exchange of Pit Bull Terriers, Japanese Tosas and any other dog as decided by the Secretary of State, if the dog appears to have been bred for fighting (Section 1(1)). The Dangerous Dogs (Designated Types) Order 1991¹⁴⁴ added the Dogo Argentino and the Fila Brasileiro to this list. Owners of such dogs cannot bring the dog in a public place without the animal being muzzled and kept on a lead (Section 1(2)(d)). The Act was supplemented by the Dogs (Amendment) Act (Northern Ireland) 2001,¹⁴⁵ which also prohibits the same four breeds of dogs and gives power to courts and magistrates to order the destruction of the dogs. In Scotland, the Control of Dogs (Scotland) Act 2010 makes Section 3 of the Dangerous Dogs Act 1991 – which mandates to keep a dog under control – applicable to all dogs regardless of breed or type.

On 6 February 2013, the Government announced a package of measures to tackle irresponsible dog owners, including the introduction of compulsory microchipping of all dogs from April 2016 and to extend dangerous dogs' legislation to private property.¹⁴⁶ This became part of the Antisocial Behaviour, Crime and Policing Act 2014,¹⁴⁷ together with increased powers relating to dogs and antisocial behaviour. There is also legislation in Scotland, the Control of Dogs (Scotland) Act 2010,¹⁴⁸ which requires all owners to keep control of their dogs in private and public places, regardless of their breed. Dog microchipping has been compulsory in Northern Ireland since 2011 and in Wales since March 2015.

The Breeding and Sale of Dogs (Welfare) Act 1999,¹⁴⁹ which amended and extended the provisions of the Breeding of Dogs Act 1973 and the Breeding of Dogs Act 1991, provides some protection for dogs used in breeding establishments. Under this Act, any person who keeps a breeding establishment for dogs at any premises and carries on at those premises a business of breeding dogs for sale, must obtain a licence from the local council. Those people who are not in the business of breeding dogs for sale, 'hobby breeders', and produce less than five litters in any period of 12 months do not need a licence.

The local council has the discretion whether to grant a licence and, before doing so, must satisfy itself that:

- the animals are provided with suitable accommodation, food, water and bedding material;
- are adequately exercised and visited at suitable intervals;
- that all reasonable precautions are taken to prevent and control the spread of diseases amongst dogs.

In addition to ensuring that dogs are kept in suitable accommodation, the law also places limits on the frequency and timing of breeding from a bitch. Bitches cannot be mated before they are a year old; they must have no more than six litters in a lifetime and can only have one litter every 12 months.

¹⁴⁴ <http://www.legislation.gov.uk/ukxi/1991/1743/article/2/made>

¹⁴⁵ <https://www.legislation.gov.uk/nia/2001/1/section/2>

¹⁴⁶ <https://publications.parliament.uk/pa/cm201213/cmhansrd/cm130206/wmstext/130206m0001.htm#13020666000007>

¹⁴⁷ <http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted/data.htm>

¹⁴⁸ <http://www.legislation.gov.uk/asp/2010/9/contents>

¹⁴⁹ <http://www.legislation.gov.uk/ukpga/1999/11/contents>



Breeding records must be kept to ensure that these requirements are adhered to. Puppies produced at licenced breeding establishments can only be sold at those premises or a licensed pet shop.

In February 2017 the Government announced new plans to change the licensing system for animal establishments in England and introduce licencing regulations under the Animal Welfare Act (2006).¹⁵⁰ In October 2018 the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force and repealed the Breeding and Sale of Dogs (Welfare) Act 1999. This secondary legislation, underpinned by the Animal Welfare Act, sets out the duties of local authorities in England to license activities involving animals and the relevant establishments relating to this.

The five licensable activities covered by the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 include:

- Selling animals as pets;
- Providing for or arranging for the provision of boarding for cats and dogs (includes boarding in kennels or catteries, home boarding for dogs and day care for dogs);
- Hiring out horses (for riding or instruction in riding);
- Dog breeding (A breeding licence is now required for anyone breeding three or more litters and selling at least one puppy in a 12-month period, and , and for anyone that places an advertisement for a puppy if they meet the business test of an income of over £1,000 within a year and fail to provide documented evidence that no profit has been made); and
- Keeping or training animals for exhibition (for people attending in person or recording of images for display. Military, police and sporting animals are not included.

In Wales, the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 mandate for dog breeding establishments to be licensed. A licence can only be granted if dogs are provided with appropriate facilities, suitable food and drinks, and are able to express normal behaviour (Section 9). The Animal Welfare (Licensing of Animal Exhibits) (Wales) Regulations 2020¹⁵¹ will require animal exhibits to be licenced, when animals are kept or trained for exhibition for educational and entertainment purposes. These Regulations do not cover pet shops (Section 3(4)(f)).

Scotland proposed to introduce new regulations for the licensing of dog, cat and rabbit breeding activities. A public consultation on the proposed regulations ran from 7 September to 30 November 2018.¹⁵² The Scottish Government confirmed that Regulations will be drafted though, at the time of writing, these Regulations have not been completed.¹⁵³ Scotland also launched public consultations for new legislation to regulate the breeding of dogs, cats and rabbits that run from 7th to 30th

¹⁵⁰ <https://www.gov.uk/government/news/new-plans-to-crack-down-on-backstreet-puppy-breeders>

¹⁵¹ <https://gov.wales/sites/default/files/consultations/2019-08/the-animal-welfare-licensing-of-animal-exhibits-wales-regulations-2020.pdf>

¹⁵² <https://www.gov.scot/publications/licensing-dog-cat-rabbit-breeding-activities-scotland-summary/pages/1/>

¹⁵³ <https://www.gov.scot/publications/licensing-dog-cat-rabbit-breeding-activities-scotland-summary/pages/5/>



November 2018.¹⁵⁴ At the time of writing, the new legislation has not been published.

In Northern Ireland, the Pets Shops Regulations 2000¹⁵⁵ demand that pet shops are licensed under Section 8(1) of the Welfare of Animal Act (Northern Ireland) 2011.

In 13 May 2019, former Secretary of State for DEFRA, Michael Gove, announced legislation to ban the third-party sale of puppies and kittens under six months old. To achieve this, the Animal Welfare (Licensing of Activities Involving Animals) (England) (Amendment) Regulations 2019 were laid before parliament to amend the same Regulations of 2018 and were passed in July.¹⁵⁶ The secondary legislation is also known as 'Lucy's Law', named after the Cavalier King Charles Spaniel called Lucy who died in 2016 after being poorly treated on a puppy farm. Upon coming into force in April 2020, puppies and kittens will no longer be sold by a third-party seller – such as a pet shop or commercial dealer – unless they have bred the animal themselves. Instead, anyone looking to buy or adopt a puppy or kitten under six months will have to either deal directly with the breeder or an animal rehoming centre. The new law requires animals to be born and reared in a safe environment, with their mother, and to be sold from their place of birth.¹⁵⁷ On 18 July 2019 Wales announced that Lucy's law will be implemented, following a consultation in February 2019 which showed overwhelming public support. In September 2019, the Scottish Government's Programme for Scotland 2019-20 announced that Lucy's law will be introduced in Scotland too.¹⁵⁸

Additionally, since 2010 there are Codes of Practice, applicable in England, for the welfare of dogs,¹⁵⁹ cats,¹⁶⁰ horses (including other equids)¹⁶¹, which provide owners and keepers with information on how to meet the welfare needs of their animals, as required under the animal welfare Acts. Wales,¹⁶² Scotland¹⁶³ and Northern Ireland¹⁶⁴ have their own equivalent Codes that were published respectively in 2008, 2010 and 2012. In Wales, a public consultation was run in 2018, and new Codes of Practices were released for horses¹⁶⁵ in 2017, dogs¹⁶⁶ and cats¹⁶⁷ in 2019.

On 1 October 2019, the UK Government announced it will issue a call for evidence on the

¹⁵⁴ <https://consult.gov.scot/animal-welfare/pet-breeding-activities/>

¹⁵⁵ <http://www.legislation.gov.uk/nisr/2000/405/regulation/2/made>

¹⁵⁶ <https://www.gov.uk/government/news/gove-delivers-lucys-law-to-protect-puppies-and-kittens>

¹⁵⁷ <https://www.bbc.co.uk/news/uk-48249333>

¹⁵⁸ <https://www.gov.scot/binaries/content/documents/govscot/publications/publication/2019/09/protecting-scotlands-future-governments-programme-scotland-2019-20/documents/governments-programme-scotland-2019-20/governments-programme-scotland-2019-20/govscot%3Adocument/governments-programme-scotland-2019-20.pdf>

¹⁵⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697953/pb13333-cop-dogs-091204.pdf

¹⁶⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697941/pb13332-cop-cats-091204.pdf

¹⁶¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/700200/horses-welfare-codes-of-practice-april2018.pdf

¹⁶² <https://gov.wales/sites/default/files/publications/2017-12/dog-welfare-code-of-practice.pdf>

¹⁶³ <https://www.gov.scot/publications/code-practice-welfare-dogs/>

¹⁶⁴ <https://www.daera-ni.gov.uk/publications/codes-practice-non-farmed-animals>

¹⁶⁵ <https://gov.wales/code-practice-welfare-horses>

¹⁶⁶ <https://gov.wales/sites/default/files/publications/2019-01/code-of-practice-for-the-welfare-of-dogs.pdf>

¹⁶⁷ <https://gov.wales/code-practice-welfare-cats>



compulsory micro-chipping of pet cats.¹⁶⁸ At the time of writing, this call for evidence has not yet been published.

Stray animals

Under Section 149 of the Environmental Protection Act 1990,¹⁶⁹ applicable to the UK, local councils are required to treat all unaccompanied dogs on public land as strays, regardless of whether they are wearing a collar or have been microchipped. The council must seize such dogs, and if they cannot be returned immediately to their owner, dogs must be taken to the council stray pounds where they are held for a mandatory period of seven days. After the 7-day period, the dog legally becomes the property of the kennels and the kennels can either rehome the dog to a new owner, keep the dog at the kennels or, following veterinary advice, euthanise the dog.

Analysis

It is positive that beyond the anti-cruelty provisions laid out in the animal welfare Acts, there is secondary legislation regulating the breeding and commercial activities associated with pets. Furthermore, it is positive that the Government has laid out species-specific welfare requirements for the most common species of companion animals in Codes of Practice. These Codes of Practice are underpinned by the Five Freedoms, which provide a universal framework of welfare standards. Such Codes of Practice pay attention to both the physical and mental well-being of animals, by pointing out that animals 'experience a range of emotions including happiness, anxiety, and fear'.¹⁷⁰

Since the API was first published in 2014, the enactment of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 means that facilities selling animals must now be inspected and licenced. These new Regulations demand smaller establishments – sometimes called 'backstreet breeders' – which supply thousands of dogs to families each year, as well as larger commercial breeders, must meet strict welfare criteria to get a licence. The Government's concern for animal welfare is also shown through the Government's response to the DEFRA 2017 report on 'Animal Welfare in England: domestic pets'.¹⁷¹ The Government affirmed that the UK is 'a nation of animal lovers' and responded to various recommendations from DEFRA. It is positive that the government invests time and resources in producing comprehensive reports on the welfare of companion animals.

Moreover, the decision through the Animal Welfare (Licensing of Activities Involving Animals) (England) (Amendment) Regulations 2019 to fully ban the third-party sale of kittens and puppies is a crucial positive step towards prohibiting the inhumane commercial breeding of dogs in large puppy mills. It is commendable that this third-party ban has been announced in England, Wales and Scotland.

The Dangerous Dogs Act 1991 prohibits the ownership of four breeds of dogs; however, this legislation is not based on scientific evidence proving that these specific breeds tend to be more

¹⁶⁸ <https://www.gov.uk/government/news/new-measures-protect-animal-welfare-and-increase-woodland-cover>

¹⁶⁹ <http://www.legislation.gov.uk/ukpga/1990/43/section/149>

¹⁷⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697941/pb13332-cop-cats-091204.pdf

¹⁷¹ <https://publications.parliament.uk/pa/cm201617/cmselect/cmenvfru/1003/1003.pdf>



aggressive than others. There have been calls by animal welfare charities, including the RSPCA and Battersea Dogs and Cats Home, to repeal Section 1 of the Act, prohibiting the ownership of these four breeds of dogs. On 28 January 2019, the Government announced that it will not commit to reviewing the current Act.¹⁷² Furthermore, it is regrettable that courts can order the destruction of dogs considered dangerous.

With regards to stray animals, the 7-day period after which the dog officially becomes the property of the kennel is quite short. Kennels may decide to euthanise dogs, following veterinary advice. Therefore, even though the culling of stray animals is not directly allowed by law, numerous dogs considered strays may be euthanised in shelters.

Enforcement mechanisms

In England and Wales, a cruelty offence under Section 4 of the Animal Welfare Act 2006, or an offence of tail docking under Section 6, is punishable with imprisonment of up to 51 weeks (to be read as six months) and/or a fine of up to £20,000 (Section 32(1)). A duty of care offence under Section 9 is punishable with imprisonment of up to 51 weeks and/or a fine of up to level 5 on the standard scale (currently £5,000 under section 37 of the Criminal Justice Act 1982) (Section 32(2)). The court also has powers to confiscate animals (Section 33) and to make disqualification orders (Section 34). Inspectors can serve improvement notices stating which steps are required to be taken to comply with the duty of care provisions of Section 9 (Section 10).

Similar provisions exist in the Welfare of Animals Act (Northern Ireland) 2011, with penalties for cruelty offences, duty of care offences and tail docking offences of up to six months imprisonment and/or fines up to the statutory maximum for summary conviction and up to two years imprisonment and/or fines for conviction on indictment (Section 31). The court has confiscation powers (Section 32) and disqualification powers (Section 33). Inspectors can serve improvement notices stating which steps are required to be taken to comply with the duty of care provisions of Section 9 (Section 10).

Likewise in the Animal Health and Welfare (Scotland) Act 2006, there are penalties for cruelty offences of up to 12 months' imprisonment and/or fines up to £20,000, and for duty of care offences, tail docking offences of up to six months imprisonment and/or fines up to level 5 on the standard scale (currently £5,000 under Section 37 of the Criminal Justice Act 1982) (Section 46). The court has confiscation powers (Section 39) and disqualification powers (Section 40). Inspectors can serve care notices stating which steps are required to be taken to comply with the duty of care provisions of Section 24 (Section 25).

Under the Control of Dogs (Scotland) Act 2010, a 'Dog Control Notice' can now be imposed on dog owners, or the person in charge of a dog if that person has failed to keep the dog under control. A failure to comply may lead to a fine and/or the destruction of the dog, if this is ordered by the court.

Under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, it is an offence for a person to breach a licence condition, not to assist or intentionally obstruct an inspection. Any person committing an offence is liable to a fine. The Animal Welfare (Licensing of

¹⁷² https://www.rspca.org.uk/whatwedo/latest/details/-/articleName/28_01_19_breed_specific_legislation



Activities Involving Animals) (England) (Amendment) Regulations 2019, which bans the third-party sale of puppies and kittens, is limited since local authorities have not been allocated extra resources, either financial or personnel, to enforce such regulations.

Under the Pet Animals Act 1951, local councils are responsible for enforcing the law in this area and anyone who has reason to believe that a pet shop is keeping animals in inadequate conditions should raise the matter with the council who will decide what action to take within the range of its powers.

Although the Codes of Practice are not legally binding, they do have evidential value under the primary legislation: if proceedings are brought against someone for an offence under the sections of the animal welfare Acts creating a duty of care for animal owners (Section 9 of the Animal Welfare Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011, and Section 24 of the Animal Health and Welfare (Scotland) Act 2006), the Court will examine whether the person has complied with the Code in deciding whether the person has committed an offence. Section 14(4) of the Animal Welfare Act 2006, Section 16 of the Welfare of Animals Act (Northern Ireland) 2011 and Section 37 of the Animal Health and Welfare (Scotland) Act 2006 provide that, in proceedings under each of the respective Acts or secondary regulations, failure to comply with a Code of Practice may be relied upon as tending to establish liability.

Key recommendations

- **The Government of Northern Ireland is strongly encouraged to enact a ban on the third-party sale of puppies and kittens under eight weeks.** Since the API was first published in 2014, the Government updated the licencing scheme in place for facilities breeding, exhibiting and selling animals through the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and the Animal Welfare (Licensing of Activities Involving Animals) (England) (Amendment) Regulations 2019. Such Regulations should be commended as they tighten rules surrounding the sale of puppies, including a ban on the sale of puppies and kittens under eight weeks. The devolved Governments of Scotland and Wales have announced a similar third-party ban on the sale of puppies and kittens.
- **The UK Government is encouraged to continue allocating financial and personnel resources to local authorities, to ensure that regular inspections of animal establishments are conducted and that any animal abuse is reported.** Further financial and human resources should be allocated to ensure that the third-party ban on the sale of puppies and kittens is duly enforced.
- **The UK Government is strongly encouraged to repeal Section 1 of the Dangerous Dogs Act 1991, amended in 2013, which bans the ownership, breeding and exchange of four breeds of dogs allegedly considered dangerous, despite not being supported by scientific evidence.** The EFRA Select Committee held an inquiry into this issue and the recommendations in their report¹⁷³ were very positive, including a review and consolidation of current legislation

¹⁷³ <https://publications.parliament.uk/pa/cm201719/cmselect/cmenvfru/1040/104002.htm>

with a view to moving away from the current breed specific approach and the ability for reputable animal charities being able to rehome such dogs. As advocated by the RSPCA, the UK Government takes these recommendations forward through a comprehensive Dog Control Consolidation Bill.

- **The UK Government is encouraged to promote responsible pet ownership, including the adoption of companion animals over the purchase of commercially bred animals.**

6. There are laws that apply to animals used for draught or recreational purposes

Analysis of the legislation	
Ranking	D
<p><u>Animals used for entertainment</u></p> <p>The training and exhibition of performing animals in England, Scotland and Wales is regulated by the Performing Animals (Regulation) Act 1925¹⁷⁴ that requires trainers and exhibitors to be registered with the relevant local authority.</p> <p>In 1985, after concerns raised about the care of cetaceans in UK dolphinarium by various animal welfare groups, the then Department of the Environment, now part of DEFRA, commissioned biologists Dr Margaret Klinowska and Dr Susan Brown to research and review the keeping of these animals in UK zoos and aquaria.¹⁷⁵ Klinowska and Brown's report 'A Review of Dolphinarium' was published in 1986 with various recommendations to be implemented by those holding captive cetaceans by no later than 1993. Such criteria were enacted in legislation, and as none of the four remaining dolphinarium met such minimum criteria, the facilities closed. Since then, no dolphinarium has been built in the UK, and no cetaceans are held in captivity in the UK.</p> <p>The protection of the Animal Welfare Act 2006 (for England and Wales), the Animal Health and Welfare Act (Scotland) 2006 and the Welfare of Animals Act (Northern Ireland) 2011 applies to animals used for recreational purposes. The general anti-cruelty provisions under Section 4 of the Animal Welfare Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011, and Section 19 of the Animal Health and Welfare (Scotland) Act 2006 apply to animals used for recreational purposes. Section 9 of the Animal Welfare Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011, and Section 24 of the Animal Health and Welfare (Scotland) Act 2006 also create a duty of care, requiring that a person who is responsible for an animal takes such steps as are reasonable in the circumstances (which includes the lawful purpose for which the animal is kept and any lawful activity undertaken in relation to the animal) to ensure that the needs of that animal are met</p>	

¹⁷⁴ <http://www.legislation.gov.uk/ukpga/Geo5/15-16/38>

¹⁷⁵ <https://captivecetaceans-tragicallysad.blogspot.com/2014/09/sometimes-history-should-repeat-itself.html>



to the extent required by good practice. The list of needs covers the principles of the Five Freedoms.

Section 8 of the Animal Welfare Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011, and Section 23 of the Animal Health and Welfare (Scotland) Act 2006 create offences associated with animal fighting, including attempting to cause an animal to fight, receiving money for admission to a fight, making bets on a fight, keeping animals or premises for fighting and showing or possessing videos of fights. Section 12 of the Animal Welfare Act 2006, Section 11 of the Welfare of Animals Act (Northern Ireland) 2011, and Section 51 of the Animal Health and Welfare (Scotland) Act 2006 give powers for secondary regulations to be made.

The British Horseracing Authority (BHA) is the independent body responsible for the regulation of horse racing.¹⁷⁶ Together with the RSPCA, World Horse Welfare alongside 10 other organisations, the BHA is a signatory of the 2008 National Equine Welfare Protocol which was developed by representatives from local and national government, the police, welfare organisations and others with an interest in equine welfare.¹⁷⁷ The BHA includes racecourse inspectors.

Furthermore, the UK is among the eight countries in the world which still allows greyhound racing, alongside Ireland, New Zealand, Australia, the United States, Vietnam, China and Mexico.¹⁷⁸ In 2006, an investigation by The Times revealed that once greyhounds were no longer able to make money for their owners, they were killed and left in a mass grave.¹⁷⁹ Subsequently, the Government ordered a report into the welfare issues associated with greyhound racing. In 2010, the Welfare of Racing Greyhound Regulations 2010¹⁸⁰ were enacted. These Regulations establish minimum welfare standards for all racing tracks in England and aim to improve the traceability of greyhounds during and after their use in races. The Regulations introduced a licencing scheme for racetrack operators; a local authority may suspend or revoke such a licence at any time, should the licence conditions have not been complied with.

In 2017, the business standard company (BSI) published a new Specification for greyhound trainers' residential kennels' (PAS: 251:2017).^{181,182} The development of these new standards were sponsored by the Greyhound Board of Great Britain (GBGB), in partnership with various animal welfare charities including the Dogs Trust and the RSPCA. As agreed with DEFRA, GBGB are, at the time of writing, in the process of obtaining accreditation from the United Kingdom Accreditation Service (UKAS) accreditation. Such accreditation would then enable UKAS to check whether the standards are upheld at all GBGB licensed trainers' kennels. These PAS 251:2017 Standards contain requirements for constructing the kennels, bedding, diet, and the appropriate veterinary healthcare of greyhounds. Moreover, enrichment programmes are mandated.

In December 2017, Scotland became the first devolved Government in the UK to ban the use of wild

¹⁷⁶ <https://www.britishhorseracing.com/regulation/horse-welfare-british-racing/>

¹⁷⁷ https://www.britishhorseracing.com/wp-content/uploads/2014/03/National_Equine_Welfare_Protocol-1.pdf

¹⁷⁸ <https://www.telegraph.co.uk/pets/news/features/greyhound-racing-an-industry-intermittent-decline/>

¹⁷⁹ <https://www.thetimes.co.uk/article/revealed-the-man-who-killed-10000-dogs-h7tkzjj8ghs>

¹⁸⁰ <https://www.legislation.gov.uk/uksi/2010/543/introduction>

¹⁸¹ <https://shop.bsigroup.com/ProductDetail?pid=000000000030351513>

¹⁸² <https://www.bsigroup.com/en-GB/aboutbsi/media-centre/press-releases/2018/january/New-specification-for-care-of-racing-greyhounds-launched/>



animals in travelling circuses,¹⁸³ through the enactment of the Wild Animals in Travelling Circuses (Scotland) Act 2018.¹⁸⁴ In November 2017, the Republic of Ireland announced that it would be introducing a ban on the use of wild animals in circuses in January 2018. However, Northern Ireland has not yet made any firm commitment on banning the use of wild animals in circuses.¹⁸⁵ On 1 May 2019, then Environment Secretary Michael Gove has introduced the new Wild Animals in Circuses Bill to ban the use of wild animals in travelling circuses in England.¹⁸⁶ The Bill was passed on 24 July 2019 – thus becoming the Wild Animals in Circuses Act 2019¹⁸⁷ – and will enter into force in January 2020 when current licenses expire.¹⁸⁸ In July 2019, the Wild Animals and Circuses (Wales) Bill was introduced in the Welsh National Assembly, with the objective to ban the use of wild animals in travelling circuses.¹⁸⁹ At the time of writing, the Bill has not yet reached the stage of being debated in Plenary, but is expected to come into force in late 2020.¹⁹⁰

In England, the five licensable activities covered by the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 cover the keeping or training animals for exhibition for people attending in person or recording of images for display. Military, service and sporting animals are not included. DEFRA has published Guidance notes for the conditions for keeping or training animals for exhibition in October 2018.¹⁹¹

In Scotland, a public consultation ran on the introducing new regulations for the licensing of dog cat and rabbit breeding activities, however, the scope of review does not extend to animals kept and trained for exhibition, education and entertainment purposes.

In Wales, the Animal Welfare (Licensing of Animal Exhibits) (Wales) Regulations 2020¹⁹² will require animal exhibits to be licenced, when animals are kept or trained for exhibition for educational and entertainment purposes. These Regulations mandate conditions to which these exhibits must abide by for animal welfare and public safety. These Regulations also require that animals are exhibited in a way that encourages respectful and responsible attitudes towards all species. At the time of writing, these Regulations are undergoing a public consultation, which ends on 21 November 2019.¹⁹³ In addition, a Guidance document is intended to help local authority inspectors in Wales.¹⁹⁴

¹⁸³ <https://www.theguardian.com/world/2017/dec/20/scotland-bans-use-of-wild-animals-in-travelling-circuses>

¹⁸⁴ <http://www.legislation.gov.uk/asp/2018/3/contents>

¹⁸⁵ <https://www.bornfree.org.uk/northern-ireland-circuses>

¹⁸⁶ <https://www.gov.uk/government/news/gove-delivers-legislation-to-ban-wild-animals-in-circuses>

¹⁸⁷ <http://www.legislation.gov.uk/ukpga/2019/24/section/1>

¹⁸⁸ <https://www.thestage.co.uk/news/2019/wild-animals-in-circuses-banned-in-england-following-13-years-of-political-wrangling/>

¹⁸⁹ <http://senedd.assembly.wales/mgIssueHistoryHome.aspx?Id=25643>

¹⁹⁰ <https://www.rspca.org.uk/getinvolved/campaign/circuses>

¹⁹¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/762428/animal-welfare-licensing-keeping-training-animals-for-exhibition.pdf

¹⁹² <https://gov.wales/sites/default/files/consultations/2019-08/the-animal-welfare-licensing-of-animal-exhibits-wales-regulations-2020.pdf>

¹⁹³ <https://gov.wales/animal-exhibits>

¹⁹⁴ <https://gov.wales/sites/default/files/consultations/2019-08/animal-welfare-licensing-of-animal-exhibits-wales-regulations-2020-guidance.pdf>

Draught animals

There is limited legislation which applies specifically to animals used for draught and regulates their welfare standards. In 2009, DEFRA issued a Code of Practice for the Welfare of Horses, Donkeys, Ponies and their Hybrids, which was updated in December 2017.¹⁹⁵ The Code lays out specific requirements relating to the need for a suitable environment, enshrined in Section 9(2)(a) of the Animal Welfare Act 2006, with regards to shelter, pasture, stable housing, tethering, rugs and supervision. Other welfare requirements relate to diets, behavioural needs, companionship and protect them from pain, suffering injury and disease. Wales,¹⁹⁶ Scotland¹⁹⁷ and Northern Ireland¹⁹⁸ also have equivalent Codes.

The Control of Horses (Wales) Act 2014¹⁹⁹ outlines what local authorities can do when equines are in public places or other land without the consent of the occupier. A local authority has the power to 'seize, impound and dispose of a horse' which is on the highway or any other public place the local authority has responsibility for (Section 1). Disposing of the horse signifies selling the horse or arranging for his/her destruction (Section 5(3)).

Analysis

The Performing Animals (Regulations) Act 1925 does not lay out on what basis a registration might be accepted or refused. In particular, there are no welfare criteria to be respected in order to be registered as a trainer or exhibitor.

The anti-cruelty provisions outlined in the three animal welfare Acts apply to animals used for draught or entertainment purposes, yet these provisions remain general. As such, the Codes of Practice and government advice to animal owners and keepers assist in promoting good animal welfare.

Since the API was first published in 2014, Scotland has enacted a ban on the use of wild animals in travelling circuses, prompting similar decisions in Wales and England. It is also positive that the Government acknowledges on its website that 'the use of wild animals in travelling circuses has no place in modern society and does nothing to further the conservation or our understanding of wild animals'.²⁰⁰ It is hoped that these bans will pave the way for Northern Ireland to enact similar legislation. However, a limitation of these bans is that they are restricted to 'travelling' circuses; a circus not operating at a fixed location could therefore still use wild animals. Moreover, these bans are currently limited in that they only apply to the use of wild animals in circuses, and not all animals.

With regards to dolphinariums, it is positive that the UK has not built any more dolphinariums over the past few decades. However, the country could benefit from a policy statement and legislation formally

¹⁹⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/700200/horses-welfare-codes-of-practice-april2018.pdf

¹⁹⁶ <https://gov.wales/sites/default/files/publications/2018-11/code-of-practice-for-the-welfare-of-horses.pdf>

¹⁹⁷ <http://www.nationalequinewelfarecouncil.co.uk/www/newc/wp-content/uploads/2011/10/Scottish-code-equines.pdf>

¹⁹⁸ <https://www.daera-ni.gov.uk/sites/default/files/publications/dard/code-of-practice-for-the-welfare-of-horses-revised-111114.pdf>

¹⁹⁹ <http://extwprlegs1.fao.org/docs/pdf/uk138589.pdf>

²⁰⁰ <https://www.gov.uk/government/news/gove-delivers-legislation-to-ban-wild-animals-in-circuses>



acknowledging that marine mammals cannot thrive in captivity, thus outlawing the possible future construction of any dolphinarium.

With regards to greyhound racing, the 2010 Regulations, which introduced a licensing scheme for operators and were due to be reviewed in 2015, do not contain any detailed welfare provisions with regards to the housing, training and feeding conditions of greyhounds. The Greyhound Board of Great Britain (GBGB) works with animal welfare organisations via the Greyhound Forum, which includes representatives from the RSPCA, Blue Cross and Dogs Trust, the latest figures released,²⁰¹

In September 2015, the Environment, Food and Rural Affairs (EFRA) Committee established a sub-committee to conduct an inquiry into the welfare of racing greyhounds. On 25 February 2016, they published a report critiquing the 2010 Regulations and noting the greyhound racing industry's reluctance to self-regulate adequately.²⁰² Two main critiques emerged from this report: the Committee is concerned about the industry not publishing data on injury and retirement, and the fact that the 2010 Regulations are limited to welfare on tracks, omitting trainers' kennels.

In the Post Implementation Review (PIR) of the 2010 Regulations, DEFRA comments that the main impacts of the 2010 Regulations were 'broadly as anticipated'.²⁰³ However, DEFRA notes the same two critiques as listed in the February 2016 report. The requirements for greyhounds to be microchipped has improved the traceability of dogs while they are used for racing, but the impact of the mandatory microchipping is less evident once the dog is no longer used for sport. Furthermore, DEFRA notes that the Regulations have quite a narrow scope, since they focus on conditions on tracks but do not tackle welfare during training, or the lack of transparency surrounding injury and retirement rates.

On 30 January 2019, David Rutley, then Parliamentary Under Secretary of State for Food and Animal Welfare, replied to various questions on greyhound racing, addressing his responses to Neil Parish MP, then Chairman of the EFRA Committee. Responding to a question about the lack of transparency of injury data and retirement rates, Rutley highlighted that the GBGB will publish both final injury and final retirement statistics for the preceding year, as agreed with DEFRA. Furthermore, Rutley stated that 'the Government has not ruled out further legislation', in addition to the 2010 Regulations.

The PAS 251:2017 standards for trainers' kennels are basic, and their implementation is only voluntary. Given that the greyhound racing industry is a profit-driven industry, reliant on the income of bets, this means that the cruelty and unsafe conditions are inherent to this practice. Despite these standards, the injury rate remains high: in 2018, 932 racing greyhounds died or were destroyed and 4,963 injuries were sustained, according to the GBGB data.²⁰⁴ Various animal welfare charities, such as the League Against Cruel Sports and the Greyt Exploitation, demand the end of this cruel industry.

²⁰¹ <https://www.gbgb.org.uk/welfare-care/>

²⁰² <https://www.parliament.uk/documents/commons-committees/environment-food-rural-affairs/2nd-report-greyhound-welfare.pdf>

²⁰³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/553016/greyhound-racing-postimplementation-review.pdf

²⁰⁴ <https://s3-eu-west-1.amazonaws.com/gbgb-prod-assets/wp-content/uploads/2019/06/12085443/Final2018-Stats.pdf>



With regards to draught animals, the Control of Horses (Wales) Act 2014 does not contain any welfare provision with regards to the housing, training or feeding conditions of the animals.

Enforcement mechanisms

Under the Performing Animals (Regulations) Act 1925, courts of summary jurisdiction have the power to prohibit or restrain the training or exhibition of animals 'on a complaint made by a constable or an officer of a local authority that the training or exhibition of any performing animal has been accompanied by cruelty and should be prohibited or allowed only subject to condition' (Section 2(1)).

In England and Wales, a cruelty offence under Section 4 or an animal fighting offence under Section 8 of the Animal Welfare Act 2006 is punishable with imprisonment of up to 51 weeks (to be read as six months) and/or a fine of up to £20,000 (Section 32(1)). A duty of care offence under Section 9 is punishable with imprisonment of up to 51 weeks and/or a fine of up to level 5 on the standard scale (currently £5,000 under section 37 of the Criminal Justice Act 1982) (section 32(2)). The court also has powers to confiscate animals (Section 33) and to make disqualification orders (Section 34). Inspectors can serve improvement notices stating which steps are required to be taken to comply with the duty of care provisions of Section 9 (Section 10).

Similar provisions exist in the Welfare of Animals Act (Northern Ireland) 2011, with penalties for cruelty offences, duty of care offences and animal fighting offences of up to six months imprisonment and/or fines up to the statutory maximum for summary conviction and up to two years imprisonment and/or fines for conviction on indictment (section 31). The court has confiscation powers (section 32) and disqualification powers (section 33). Inspectors can serve improvement notices stating which steps are required to be taken to comply with the duty of care provisions of section 9 (section 10).

Likewise in the Animal Health and Welfare (Scotland) Act 2006, there are penalties for cruelty offences and animal fighting offences of up to 12 months' imprisonment and/or fines up to £20,000 and for duty of care offences of up to six months imprisonment and/or fines up to level 5 on the standard scale (currently £5,000 under section 37 of the Criminal Justice Act 1982) (Section 46). The court has confiscation powers (Section 39) and disqualification powers (Section 40). Inspectors can serve care notices stating which steps are required to be taken to comply with the duty of care provisions of Section 24 (Section 25).

With regards to greyhound racing, the Welfare of Racing Greyhound Regulations 2010 outline that a local authority may suspend a licence at any time, should the licensing conditions be contravened (Section 8). When a licence has been suspended for over 28 days, the local authority may revoke the licence altogether (Section 12). The PAS 251:2017 welfare standards for the trainers' kennels are voluntary and therefore do not contain any enforcement mechanisms.

The Wild Animals in Travelling Circuses (Scotland) Act 2018 provides that it is an offence to use, or permit another person to use, a wild animal in a travelling circus (Section 1(1)). A person committing an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale

(Section 14), which amounts to £5,000.²⁰⁵ Moreover, under the Wild Animals in Circuses Act 2019, any travelling circus operator in England using a wild animal is liable on summary conviction to a fine (Section 1(3)).

The Codes of Practice provide practical guidance in complying with the animal welfare Acts. Whilst it is not an offence to fail to comply with these Codes, evidence of failing to comply may be relied upon in establishing liability, or alternatively in negating liability, under the Acts. Breach of a provision of the Code is not an offence in itself, but if proceedings are brought against someone for a welfare offence, the Court will investigate whether the person convicted has complied with the Code in deciding whether the person has committed an offence.

Key recommendations

- **The UK and devolved Governments are strongly encouraged to enact legally binding legislation which would enforce the standards laid out in the Codes of Practice for equines and additionally extend this enforced protection to all animals used for draught.** At present, there is limited legislation applicable to draught animals, despite various Codes of Practice for the Welfare of equines having been published in all the UK's devolved nations, as well as a lack of direct enforceability.
- **The UK and devolved Governments are urged to ban the use of all animals in circuses, whether travelling or in permanent facilities. At minimum, the Government of Northern Ireland is urged to enact a ban on the use of wild animals in travelling circuses.** England and Scotland have enacted bans on the use of wild animals in travelling circuses; and a similar ban has been introduced and is progressing in Wales. No animal should be used for entertainment purposes when this causes animal suffering. Outlawing the use of wild animals in circuses is a first step towards phasing out the use of all animals in circuses.
- **The UK and devolved Governments are urged to ban and phase out horse and greyhound racing.** Horse and greyhound racing cause serious animal welfare concerns and necessarily compromise on the animals' Five Freedoms. Grave welfare concerns include housing, diet, transport, management, training, the use of the whip and risk of injury and death. Acknowledging these serious welfare concerns and given that animals should not be used for entertainment, the UK Government is strongly encouraged to ban the breeding, training and racing of horses and greyhounds for races or other forms of entertainment.
- **The UK and devolved Governments are strongly encouraged to enact legislation banning the keeping, display and breeding of marine mammals in captivity.** Even though there are no dolphinariums in the UK at present, enacting such a legislation will ensure that none will be built in the future, given that wild animals should not be used for entertainment and cannot thrive in captivity.

²⁰⁵ <https://www.legislation.gov.uk/ukpga/1995/46/section/225>

7. There are laws that apply to animals used for scientific research

Analysis of the legislation	
Ranking	C
<p>In the UK the Animals (Scientific Procedures) Act 1986 (ASPA) regulates procedures carried out on protected animals for scientific or educational purposes which have the potential to cause pain, suffering, distress or lasting harm.²⁰⁶ In contrast to other areas of animal welfare, the welfare of animals used for research is not a devolved issue except in Northern Ireland. The protection of the Animal Welfare Act 2006, of the Welfare of Animals Act (Northern Ireland) 2011 and of the Animal Health and Welfare Act 2006 does not apply to anything done lawfully under the Animals (Scientific Procedures) Act 1986 (Sections 58(1), 52(1) and 47 respectively).</p> <p>The UK's law on animal experimentation derives from the European Union which imposes duties on Member States through Directive 2010/63/EU,²⁰⁷ which updated and replaced the 1986 Directive 86/609/EEC²⁰⁸ on the protection of animals used for scientific purposes. The 2010 Directive required Member States to transpose the directive into their law by November 2012. In the UK, the 2010 Directive was transposed into domestic law by the Animals (Scientific Procedures) Act 1986 Amendment Regulations 2012 (SI 2012/3039)²⁰⁹ which amended ASPA.</p> <p>The 2010 Directive extends the scope of regulated procedures to live vertebrates and cephalopods (Article 1.4). Other key features are that: Article 4 enshrines the Three Rs principles in legislation – Replacement, Reduction, Refinement. Article 6 mandates that animals are killed with minimum 'pain, suffering, distress'. Articles 7 and 8 provide exemptions for the use of endangered species and non-human primates in experiments, respectively. It is forbidden to take animals from the wild to carry out experiments, except when the procedure cannot be achieved with an animal who has been bred for the purpose of being used in experiments. It is furthermore partially prohibited to use stray and feral animals of domestic species in experiments, subject to exemptions (Article 11). Article 14 states that 'Member States shall ensure that, unless it is inappropriate, procedures are carried out under general or local anaesthesia, and that analgesia or another appropriate method is used to ensure that pain, suffering and distress are kept to a minimum'.²¹⁰</p> <p>In line with the EU Directive 2010/63/EU, the Animals (Scientific Procedures) Act 1986 (as amended) prohibits carrying out regulated procedures on living vertebrates or living cephalopods without a licence (Section 1(1) of the ASPA, as amended). This represents an extension to the scope</p>	

²⁰⁶ <https://www.legislation.gov.uk/ukpga/1986/14/contents>

²⁰⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010L0063&from=EN>

²⁰⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31986L0609&from=EN>

²⁰⁹ <https://www.legislation.gov.uk/uksi/2012/3039/contents/made>

²¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31986L0609&from=EN>



of the legislation, since prior to the 2010 Directive, ASPA Section 1(1) only protected living vertebrates and a single species of cephalopod, *Octopus vulgaris*.²¹¹

A regulated procedure is one that may cause that animal a level of pain, suffering, distress or lasting harm equivalent to, or higher than, that caused by the introduction of a needle in accordance with good veterinary practice (Section 2, ASPA). Licences may only be granted for specified medical purposes or for education or training other than in primary or secondary schools, if the research cannot be done using a non-animal method that is validated and 'recognised' in the EU.

Three licences are required by the Act before testing on animals is permitted:

- personal licence for each person carrying out procedures on animals
- project licence for the programme of work
- establishment licence for the place at which the work is carried out.

The 2010 Directive and the amended ASPA give statutory effect to two important principles which are incorporated into the assessment process: a 'harm-benefit' analysis and the Three Rs (Replacement, Reduction, Refinement). When deciding whether to grant a licence, Section 5B(3)(d) of ASPA²¹² requires the Secretary of State to carry out a harm-benefit analysis of the programme of work 'to assess whether the harm that would be caused to protected animals in terms of suffering, pain and distress is justified by the expected outcome, taking into account ethical considerations and the expected benefit to human beings, animals or the environment.' Section 5(5) of the ASPA 1986 as enacted required that a project licence should not be granted unless 'the applicant has given adequate consideration to the feasibility of achieving the purpose of the programme to be specified in the licence by means not involving the use of animals'. The Act as amended now contains similar provisions at Section 2A which requires that 'the Secretary of State must exercise his or her functions under this Act with a view to ensuring compliance with the principles of Replacement, Reduction and Refinement'.²¹³

Animal research must also use the minimum number of animals, use animals with the lowest degree of neurophysiological sensitivity, cause the least pain, suffering, distress or lasting harm, and be most likely to produce satisfactory results. A licence will not be granted for the use of cats, dogs, primates or equids unless the programme of work can only be achieved with these species or other animals which it is not practicable to obtain (see Schedule 2B, Para 4 and Section 5C(4) of the amended ASPA). Schedule 2B also contains additional conditions relating to the use of primates and endangered animals.

²¹¹ See further page 5 of the Summary report and Government response to the Consultation on options for transposition of European Directive 2010/63/EU on the protection of animals used for scientific purposes - May 2012 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/116859/gvt_response.pdf

²¹² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/619140/ConsolidatedASPA1Jan2013.pdf

²¹³ Consolidated version of ASPA, as amended -

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/619140/ConsolidatedASPA1Jan2013.pdf



The Home Office has responsibility for the regulation of the welfare of the use of animals in science, a non-devolved issue, except in Northern Ireland, and control of dangerous dogs. The Home Office has an Animals in Science Regulation Unit for which there is ministerial responsibility.²¹⁴ The Unit includes a licensing team, an inspectorate and a business support unit. Its mission is to 'regulate the use of animals in scientific research for the benefit of people, animals and the environment through the provision of impartial licensing procedures and evidence-based advice, and by encouraging the development and use of the Three Rs principles – Replacement, Reduction and Refinement'.²¹⁵ The 2017 Annual Report advised that there were 22 individuals involved in the Inspectorate, all veterinary or medical practitioners, and a licensing team of seven.²¹⁶

The establishment of an independent advisory committee, the Animal Procedures Committee, has secured involvement of civil society in the implementation of the legislation. This was established to provide the Home Secretary and the Northern Ireland Minister of Health, Social Services and Public Safety with independent advice about the operation of the Act and their functions under it. The legislation required the interests of animal protection stakeholders to be represented on the Committee. In 2013, the Animals in Science Committee replaced the Animal Procedures Committee. The Animals in Science Committee's role includes advising animal protection organisations on sharing best practice within the UK and coordinating best practice by exchanging information within the European Union.²¹⁷ The Committee publishes an annual report including statistics on the number of animals used for scientific experiments.²¹⁸

All establishments breeding, supplying or using animals for research are required to set up an Animal Welfare and Ethical Review Body (AWERB). The local ethical review process was established in the UK by the Home Office in 1998 and replaced by AWERBs in 2013 to ensure compliance with provisions in the European Directive 2010/63/EU. These provisions were given effect in UK law by Paragraph 6 of Schedule 2C, of the Animals (Scientific Procedures) Act 1986 (as amended). There is also Home Office Guidance on the Operation of the ASPA, Appendix A, standard condition 6 for Establishment Licences.²¹⁹ This local framework aims to promote awareness of animal welfare and the 3Rs, provide a forum for the provision of ethical advice to the establishment. Section 21 of the Animals (Scientific Procedures) Act 1986 mandates that the Secretary of State shall provide guidance with regards to how it grants licences, as well as Codes of Practice about the care of protected animals and their use for regulated procedures.

In December 2014, a Code of Practice was released, applicable throughout the UK and containing standards for the care and accommodation of animals at licensed breeders, suppliers and user

²¹⁴ <https://www.gov.uk/government/publications/animals-in-science-regulation-unit-newsletters>

²¹⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/761083/Animals_in_Science_annual_report.pdf

²¹⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212449/asru-annual-report-2012.pdf

²¹⁷ <https://www.gov.uk/government/organisations/animals-in-science-committee/about>

²¹⁸ <https://www.gov.uk/government/collections/animals-in-science-regulation-unit-annual-reports>

²¹⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/662364/Guidance_on_the_Operation_of_ASPA.pdf



establishments in accordance with Section 21 of the Animals (Scientific Procedures) Act 1986.²²⁰ The Code suggests standards applicable to all animals with regards to the design of facilities, environmental conditions (lighting, noise, temperature etc.) and the standard of care of animals.

In particular, the Code outlines that 'establishments shall have a strategy in place to ensure that a health status of the animals is maintained that safeguards animal welfare and meets scientific requirements' (Section 1(3)). Animals shall be checked at least daily by a 'competent person', defined as a person who has been trained and assessed as competent to perform daily routine checks. The Code outlines that animals should be housed in 'stable groups of individuals', except if the animals are 'naturally solitary'; animals should be provided with 'sufficient complexity to allow expression of a wide range of normal behaviour'. Enrichment is adapted to the species and individual needs of the animals. Furthermore, it is suggested that animals are 'given a degree of control and choice over their environment to reduce stress-induced behaviour'. The Code of Practice also contains accommodation specifications for mice, rats, gerbils, hamsters and guinea pigs; as well as species-specific standards for cats, dogs, ferrets, non-human primates, farm animals (including equines), birds and fish.

In 1995, the Code of Practice for the Housing and Care of Animals in Designated Breeding and Supplying Establishments outlawed research on wild-caught non-human primates, except 'in exceptional circumstances where there is strong scientific justification' (Section 9.2).²²¹ Since 1997, the Home Office not issued licenses for the use of great apes (including chimpanzees, gorillas and orangutans); great apes have not been used for research in the UK since 1986.²²²

With regards to animal testing on cosmetic products, Chapter V, Article 18 of Regulations EC No 1223/2009²²³ of the European Parliament and of the Council of 2009 on cosmetic products prohibits testing finished cosmetic products and cosmetic ingredients on animals, which is known as the 'testing ban'. The same article also prohibits marketing finished cosmetic products and ingredients in the EU which were tested on animals, also known as the 'marketing ban'.

Prior to the implementation of EU Regulation EC No 1223/2009, there had been an incremental move towards phasing out the use of animals for testing cosmetic ingredients. The EU introduced legislation towards a ban on animal testing of finished cosmetic products, the testing of animal ingredients and import, selling and marketing of cosmetic products subject to animal testing outside the EU by Directive 93/35/EEC of 14 June 1993 with an application date of 1 January 1998.²²⁴ The ban was postponed by Commission Directive 97/18/EC to June 2000 as it was said that alternative methods were not available. Directive 2003/15/EC 2003 introduced a timetable to phase in a ban on testing finished cosmetic products, cosmetic ingredients and for marketing. A testing ban on finished cosmetic products has been in place since 11 September 2004, while the testing ban on ingredients or combination of ingredients has been in force since 11 March 2009.

²²⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/388535/CoP_animalsWeb.pdf

²²¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228954/012_5.pdf

²²² <https://mrc.ukri.org/documents/pdf/the-use-of-non-human-primates-in-research/>

²²³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R1223&from=EN>

²²⁴ Directive 93/35/EEC, OJ L 151, 23.06.1993, p. 0032-0037

In 1998, ahead of the EU regulations, the UK implemented a ban on animal tested cosmetic products for finished cosmetic products and ‘ingredients intended primarily for ‘vanity’ products’.^{225,226} The UK Government implemented this ‘ban’ ahead of EU regulation by way of a policy announcement that it would not issue licences for testing finished cosmetic products and substances intended for use as cosmetic ingredients when issuing licences. In July 2013, the Cosmetic Products Enforcement Regulations 2013/1478²²⁷ entered into force in all parts of the UK, implementing EU Regulations EC No 1223/2009. The UK is therefore now bound by the more extensive testing and marketing ban, although potentially the Government may choose to amend domestic law after leaving the EU in order to secure trade deals with companies outside the EU which test or market cosmetics tested on animals.

The UK Government has introduced other ‘policy’ bans. For example, in relation to the development or testing of tobacco or alcohol products, the use of great apes²²⁸, the use of ascites method of monoclonal antibody production (except in exceptional cases) and the use of the acute oral Lethal Dose 50% (LD50) test, except on ‘exceptional scientific grounds’.²²⁹

In relation to chemicals testing, a concern is that the UK leaves the EU without a deal or with a deal that does not guarantee continued UK participation in REACH (originally the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation, No. 1907/2006)²³⁰, which regulates the manufacture, import and trade in chemicals within European Economic Area Member States. REACH is administered through the European Chemicals Agency (ECHA) which manages a database of chemicals and enables chemicals to be traded across a single market. A key aim of REACH is to avoid duplicate testing of chemicals and thereby reduce animal testing and it has been claimed that the scheme has ‘drastically minimised’ the amount of animal testing that must be carried out. If the UK leaves the Customs Union and the European Economic Area, or if a deal reached with the EU does not include participation in REACH, the UK would become a third party to REACH and would require a separate database of chemicals. Secondary legislation has already been drafted to meet this eventuality.²³¹ The potential for divergence of regulatory regimes has caused concern about the significant risk of unnecessary duplicate animal testing.²³²

Analysis

At the EU level, it is positive that Directive 2010/63/EU enshrines the Three Rs principles in legislation. These principles respectively aim to replace the use of animals in testing with non-animal methods as much as possible, reducing the number of animals used in experiments to the lowest level, and refining

²²⁵ <https://www.theguardian.com/uk/2002/nov/08/animalwelfare.eu>

²²⁶ <http://www.understandinganimalresearch.org.uk/openness/cosmetics/#>

²²⁷ <http://www.legislation.gov.uk/ukxi/2013/1478/made>

²²⁸ Now on statutory footing in Section 5C (5) of the amended ASPA 1986 -

http://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/619140/ConsolidatedASPA1Jan2013.pdf

²²⁹ Animals in Scientific Procedures Report: House of Lords Select Committee on Animals in Scientific Procedures (2002) chapter 1.5: <https://publications.parliament.uk/pa/ld200102/ldselect/ldanimal/150/15004.htm>

²³⁰ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:136:0003:0280:en:PDF>

²³¹ the REACH etc. (Amendment etc.) (EU Exit) Regulations 2019 -

<http://www.legislation.gov.uk/ukxi/2019/758/contents/made>

²³² House of Lords, Select Committee on the European Union, Energy and Environment Sub-Committee, Oral evidence: The future of REACH regulations post-Brexit, 27 June 2018, Q8 [Libby Peak]



experimentation methods in order to cause the least amount of suffering possible. Numerous references are made throughout the Directive to the duty for Member States to reduce animal suffering to the best of their capability. However, the requirement that this alternative method needs to be recognised by the EU means that a validated alternative may exist (i.e. recognised by the scientific community) but does not have to be used until it is formally recognised in EU legislation.

With regards to animal testing for cosmetic products, it is positive that the EU has banned testing on finished cosmetic products and their ingredients through Regulations EC No 1223/2009. However, the testing and marketing bans remain limited. Notably, these bans only apply to cosmetic products and ingredients which are only used in cosmetics – though a cosmetic would not be able to rely on any data taken from an animal test, even if the same ingredient is used in a non-cosmetic product. Furthermore, the bans only apply to tests specifically aimed at consumer safety, but do not apply to worker safety tests, despite those tests being the same. The bans also do not apply if the testing is intended to determine whether the product poses a risk to the environment. The ban on testing and marketing bans are important achievements, both nationally and within the EU. It would be highly concerning if the testing and marketing of cosmetic products or ingredients tested on animals were permitted after Britain leaves the EU.

It is also worth noting that the cosmetic ban is being interpreted by the commission and ECHA in an unfavourable way that allows for testing for worker safety under REACH.²³³ Furthermore, cosmetic products, such as botox, do not fall within the ban, since injectable products do not meet the definition. Animal testing for such products should technically be banned under the harm benefit test but testing of cosmetic botox is still carried out across Europe.

A difficulty in scrutinising the effectiveness of the regulatory regime of animal testing in the UK is that successive Governments have used Section 24 of the ASPA²³⁴ to operate a ban on the release of information about the licensing of animal experiments. This lack of scrutiny may also impede the robustness of the regulatory process itself. Section 24 ASPA makes it an offence for a person to disclose information which has been obtained by him in the exercise of his functions, which he knows or has reasonable grounds to believe has been given in confidence, save for the purpose of discharging his functions. Although originally intended to protect intellectual property rights and keep confidential the personal details of licensees, it has been applied so that everything on Project Licence Applications is treated as confidential. The operation of Section 24 has been widely criticised. The House of Lords Select Committee report on Animals in Scientific Procedures (2002) recommended repeal of Section 24 stating that 'We consider the current levels of secrecy surrounding animal experiments to be excessive.' (paragraph 9.13)²³⁵ A Ministerial Statement by Lord Taylor on 16.07.2013 acknowledged that 'The requirements of Section 24 are now out of step with our policy

²³³ https://echa.europa.eu/view-article/-/journal_content/title/clarity-on-interface-between-reach-and-the-cosmetics-regulation

²³⁴ Consolidated version of ASPA - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/619140/ConsolidatedASPA1Jan2013.pdf

²³⁵ Sections 9.11 - 9.18 of the House of Lords Select Committee report on Animals in Scientific Procedures, 2002: HYPERLINK <https://publications.parliament.uk/pa/ld200102/ldselect/ldanimal/150/15012.htm#a31>

on openness and transparency and with the approach taken in other legislation, such as the Freedom of Information Act 2000. The solution we develop must improve the overall transparency surrounding research using animals, to create an environment which fosters informed debate leading to greater public trust, and also must protect personal identities and intellectual property.²³⁶ In addition, this application of Section 24 of the ASPA is potentially unlawful, following the development of case law at the EU level. In fact, on 8 November 2016, the European Court of Human Rights (ECtHR) ruled in *Magyar Helsinki Bizottsag v. Hungary* that while Article 10 of the European Convention on Human Rights²³⁷ does not confer an individual a general right of access to information held by public authority, such a right may arise in certain circumstances.²³⁸

Article 43 of the EU Directive 2010/63 does require the publication of Non-Technical Summaries of Product Licence Applications submitted to the Home Office and this is a source of information, but it is an abstract and only released after a Project Licence has been granted, so there is no opportunity for scrutiny before the licence is considered.

In the UK, the Code of Practice aims to ensure suitable welfare standards for animals used for research. It is positive for animal welfare that there are standards with regards to housing, enrichment, feeding and watering. It should be highlighted that attention is paid to the physical and mental well-being of animals, since their environment shall be tailored to 'reduce stress-induced behaviours'. There are further detailed standards specific to species commonly used in animal research. However, these Codes of Practice are not legally binding.

There has been praise for the National Centre for the Replacement, Refinement and Reduction of Animals in Research (NC3Rs),²³⁹ a UK based scientific organisation dedicated to replacing, refining and reducing the use of animals in research. Funded by the Medical Research Council and the Biotechnology and Biological Sciences Research Council (BBSRC), it has launched the CrackIt programme 'to support researchers in accessing the facilities, expertise and technologies required to realise the scientific, commercial and animal welfare benefits of 3Rs technologies.' In their evidence to the House of Lords Science and Technology Committee inquiry into the future of UK Life Sciences the RSPCA described The National Centre for the Three Rs CrackIT and the Innovate UK non-animal technologies programmes as '...both excellent examples of how industrial/academic collaboration can be facilitated' and encouraged 'further government support for such initiatives.' [Question 1]²⁴⁰ The NC3Rs is comprised of experts in animal research and publishes annual reports.²⁴¹ In their latest report, dating from 2016, the NC3Rs highlights its programme of evidence-based refinements to

²³⁶ Hansard, 16.7.2013, column 4 - <http://www.publications.parliament.uk/pa/ld201314/ldhansard/text/130716-wms0001.htm>

²³⁷ https://www.echr.coe.int/Documents/Convention_ENG.pdf

²³⁸ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-167828%22%5D%7D>

²³⁹ <https://www.nc3rs.org.uk/the-3rs>

²⁴⁰ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/science-and-technology-committee-lords/life-sciences-and-the-industrial-strategy/written/69973.html>]

²⁴¹ <https://www.nc3rs.org.uk/about-us/corporate-publications>



improve laboratory animal welfare for non-human primates, rodents and fish.²⁴²

Innovate UK has also published 'A non-animal technologies roadmap for the UK' setting out a roadmap, vision and strategy for non-animal technologies supported by British scientific industry organisations including NC3Rs and others.

The 2011 Life Sciences Strategy acknowledged the national commitment to reduce the use of animals in scientific research and stated that they are 'supportive of all work directed at developing alternatives and improving standards'.²⁴³ However, it did not set out plans or strategies for achieving this and no performance indicators or milestone were set.

In 2014, the coalition Government made a commitment to reducing animals in research and a Delivery Plan was published, setting out how government will meet that commitment.' However, the RSPCA reports that 'it is deeply disappointing that this plan appears to have been forgotten', and 'urges the current government to continue to develop and implement this.' [RSPCA written evidence (LS10014) to the House of Lords Science and Technology Committee inquiry into the future of UK Life Sciences.²⁴⁴ Neither a timetable, nor numerical targets were set when the Government committed to reduce the number of animals used in research. The UK has failed to reduce the use of animals in scientific research overall and it is reported that the UK is one of the highest users of animals for research in the EU with nearly four million experiments on animals taking place in the UK every year.²⁴⁵ In 2017, 3.79 million procedures were carried out using live animals.²⁴⁶ The latest figures available at the time of writing, published by the Home Office in July 2019, show that 3.52 million procedures were carried out on live animals, which is a decrease of 7% since 2017, and the lowest number since 2007.²⁴⁷ However, the Home Office acknowledges that between 2007 and 2016, the total number of procedures carried out on live animal has increased by 23%, mostly due to the rise in genetically bred animals.²⁴⁸

There is no specific mention of non-animal technologies reducing and replacing animal tests, nor the role of the NC3Rs in the Government's Green Paper 'Building our Industrial Strategy (January 2017)' or the 'Life Sciences Strategy Industrial Strategy report from the Life Sciences sector, by Sir John Bell (August 2017)'. The 2017 Strategy does not acknowledge the Government's commitment to reducing the use of animals in research, as the 2011 Strategy did, and does not contain recommendations for reducing or replacing the use of animals in research.

²⁴² Strategy for Life Sciences (2011) page 27 -

https://www.nc3rs.org.uk/sites/default/files/documents/Corporate_publications/Annual_Reports/Annual%20report%202016.pdf

²⁴³ Strategy for Life Sciences (2011) page 27

²⁴⁴ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/science-and-technology-committee/lords/life-sciences-and-the-industrial-strategy/written/69973.html>

²⁴⁵ <https://www.crueltyfreeinternational.org/why-we-do-it/facts-and-figures-animal-testing>

²⁴⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/724611/annual-statistics-scientific-procedures-living-animals-2017.pdf

²⁴⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/724611/annual-statistics-scientific-procedures-living-animals-2017.pdf

²⁴⁸ Between 2007 and 2016, the total number of procedures increased by 23%

Overall, it is not apparent that there has been success in this approach having regard to the number of animals used despite the Three Rs principles being enshrined in EU legislation. Furthermore, in the UK there has been political inertia around the transparency of information for the licensing system for animal experiments in the United Kingdom. Despite widespread criticism of section 24 of the ASPA, the Government has failed to repeal or amend it and there is concern that this is hampering the scrutiny of licence applications in order to ensure real practical demonstration of commitment to the 3Rs. This is concerning, not least because the actual number of experiments performed in the UK remains high.

Enforcement mechanisms

Carrying out a procedure in breach of Section 3 of the Animals (Scientific Procedures) Act 1986 is an offence punishable with a fine and/or imprisonment of up to two years (on conviction on indictment) or a fine and/or imprisonment of up to six months (on summary conviction). As far as we are aware however there have not been any prosecutions under ASPA, despite the annual reports published revealing many breaches of this legislation.

Specified offences under European Union Regulation 1223/2009 are punishable with fines and/or imprisonment under paragraph 13 of the Cosmetic Products Enforcement Regulations 2013.

Where a procedure is not lawfully approved under the Animals (Scientific Procedures) Act 1986, the offences and enforcement mechanisms under the Animal Welfare Act 2006, the Welfare of Animals Act (Northern Ireland) 2011 and the Animal Health and Welfare (Scotland) Act 2006 would also apply.

A breach of Sections 1 and 2 of the Code of Practice will be presented as evidence in any relevant criminal or civil case, or action for breach of licence conditions taken by the Secretary of State or others. The Code outlines that 'failure to meet the legal minimum standards set out in Sections 1 and 2 is likely to result in noncompliance action'. Section 3 is, however, non-mandatory. The Code is administered by the Home Office in Great Britain and by the Department of Health and Social Services in Northern Ireland.

Key recommendations

- **The UK Government is strongly encouraged to create a multi-stakeholder committee dedicated to developing alternatives to animal experimentation.** The UK has extensive legislation with regards to the use of animals in scientific research. The Animals (Scientific Procedures) Act 1986 mandates that anyone or any facility carrying out experiments on animals needs to be licensed and shall respect the Three Rs principles. Further welfare provisions are outlined in the Code of Practice containing standards for the care and accommodation of animals at licensed breeder, supplier and user establishments. As the UK Government promotes the Three Rs principles on its website, the UK Government is strongly encouraged to create a multi-stakeholder committee dedicated to developing alternatives to animal experimentation, following the model set out by Nordic countries such as Denmark.²⁴⁹ At present, the National

²⁴⁹ https://www.foedevarestyrelsen.dk/Dyr/dyrevelfaerd/Danmarks_3R_Center/Sider/Danmarks-3R-Center.aspx

Centre for the Replacement, Refinement and Reduction of Animals in Research (NC3Rs) is the country's national organisation dedicated to advance the Three Rs principles. However, the NC3Rs is comprised of experts and would benefit from including a wider range of stakeholders' perspectives. Representatives from animal welfare organisations should be included in the NC3Rs.

- **The UK Government is strongly encouraged to repeal Section 24 of the Animals (Scientific Procedures) Act 1986, which has been used to operate a ban on the release of information about the licensing of animal experiments**

8. There are laws that apply to wild animals

Analysis of the legislation	
Ranking	C
<u>Statutory Protection</u>	
<u>Protection of UK Wildlife</u>	
<u>EU Legislation</u>	
Wild animals receive some protection from various EU Directives and Regulations, which have been carried across into UK law in preparation for the country's departure from the European Union.	
<u>The Habitats Directive</u>	
The Convention on the Conservation of European Wildlife 1982 is a binding international agreement aimed to ensure the conservation and protection of wild plant and animal species in their natural habitats. ²⁵⁰	
Council Directive 92/43/EEC ²⁵¹ on the conservation of natural habitats and of wild fauna and flora (the 'Habitats Directive'), requires Member States to prohibit all capture, killing, deliberate disturbance, destruction or taking of the eggs, deterioration or destruction of breeding sites or resting places of a list of wild vertebrates listed in Annex IV(a) (Article 12). The Habitats Directive also obliges Member States to outlaw the keeping, transport, sale and exchange of these same species (Article 12(2)). Annex IV(a) lists over 400 species. For over 90 species listed in Annex V, Member States must also ensure that any exploitation and taking from the wild of any specimens is compatible with maintaining them in a favourable conservation status (Article 14(1)).	

²⁵⁰ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/104>

²⁵¹ <https://eur-lex.europa.eu/eli/dir/1992/43/oj>

The EU legislation as to the protection of habitats is in part implemented by the Conservation of Habitats and Species Regulations 2010 (the 'CHSR'). CHSR makes it a criminal offence for a person to deliberately, capture, injure, kill, disturb any wild animal of an 'European Protected Species' ('EPS') (Regulation 41). The species which constitute the EPS are set out in Schedule 2 to the CHSR and Annex IV(a) of the Habitats Directive. The CHSR also provides protection for habitats of EPS, making it an offence to damage or destroy any breeding site or resting place of any EPS animal.

For species listed in Schedule 4 of the CHSR, a long list of means of capture and/or killing are specifically prohibited. This list includes, but is not limited to: use of live decoys, tape recorders, sighting devices for night shooting, explosives, non-selective nets and traps, crossbows, poisons, gasses, semi-automatic and automatic weapons and motor vehicles (Regulation 43).

The protections afforded to EPS by the CHSR is however limited by certain exceptions for reasons including mercy killings or for sampling (Regulation 42).

The Birds Directive

Council Directive 2009/147/EC²⁵² of the European Parliament and of the Council on the conservation of wild birds (the 'Birds Directive'), provides various regimes for different bird species. The Birds Directive is implemented in the UK through various pieces of statutory legislation, primarily the WCA and the CHSR (as defined and discussed above).

Overall, the Birds Directive aims to prohibit activities that directly threaten birds, such as their deliberate killing, capture or trade, or the destruction of their nests (Articles 1 and 5). Member States must also outlaw all forms of non-selective and large scale killing of birds, especially the methods listed in Annex IV(a) (including snares, hooks, artificial light sources, sighting devices, nets, poisoned bait, explosives, semi-automatic and automatic weapons) (Article 8).

The protections afforded by the Birds Directive are subject to certain derogations; however, 82 bird species listed in Annex II to the Birds Directive can be hunted under certain conditions (Article 7). These permitted hunting periods are limited, however, and hunting is forbidden when birds are at their most vulnerable (i.e. during their return migration to nesting areas, reproduction and the raising of their chicks) (Article 7(4)). With certain restrictions, Member States may permit some activities that would otherwise be prohibited under the Birds Directive, albeit only for the more restricted list of 26 species listed in Annex III (Article 6(3)).

Transport and Trade of Wild Animals

Council Regulation (EC) 1/2005²⁵³ on the transport of animals (the 'Transport Regulations') explicitly includes wild animals within its scope (Paragraph 1.3 Chapter II and Paragraph 1.1 Chapter III of Annex I), both those living in captivity as well as wild animals having only just been removed from the wild but being susceptible of being transported (e.g. for rehabilitation or reintroduction purposes). The

²⁵² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009L0147>

²⁵³ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32005R0001>



General Conditions (Article 3(b)) provide that 'no person shall transport animals or cause animals to be transported in a way likely to cause injury or undue suffering to them'.

The standards above are supplemented by an unexhaustive list, including that the transporter confirms that the wild specimens being transported are 'fit for travel', the means, method and execution of transport meet minimum prescribed standards and that the animals being transported are properly watered and fed during the transportation (Articles 3(b), (c) and Article 2.7 of Chapter III of Annex I respectively, with Chapters II-V providing further technical detail). Furthermore, wild animals shall become acclimatised to the mode of transport prior to the proposed journeys under the regulation (Chapter III Article 1.1).

Council Regulation (EC) No 338/97²⁵⁴ on the protection of species of wild fauna and flora by regulating trade therein (the 'Wild Trade Regulation') is the EU's principal implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES is an international agreement whose aim is to 'ensure that international trade in specimens of wild animals and plants does not threaten their survival'. Species are classified in three Appendices according to their degree of protection. The CITES website²⁵⁵ explains:

- Appendix I includes species threatened with extinction. Trade in specimens of these species is permitted only in exceptional circumstances.
- Appendix II includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilisation incompatible with their survival.
- Appendix III contains species that are at least protected in one country, which has asked for the trade in these species to be more tightly controlled.

Species listed on CITES Appendices can be still imported or exported to other countries with an appropriate permit. CITES provides a framework to be respected by each of its 183 signatories, which has to adopt its own domestic legislation to ensure that CITES is implemented at the national level.

CITES inherently includes wild animals within its scope. When an endangered species is introduced into a Member State, the Wild Trade Regulation requires that relevant competent scientific authority must be satisfied that the intended accommodation for a live specimen at the place of destination is adequately equipped to conserve and care for it proper (Article 4.1(c)). In the same vein there must be a written proof that the intended accommodation for a live specimen is 'adequately equipped to conserve and care for it properly' (Article 4.2(b)). Moreover, the introduction of species into a Member State may be restricted if the relevant species have a high mortality rate during shipment or for which it has been established that they are unlikely to survive in captivity (Article 4.6.(c)).

[UK Legislation](#)

²⁵⁴ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31997R0338>

²⁵⁵ <https://www.cites.org/eng/disc/how.php>



Animal Welfare Acts

A defining part of the welfare regime for UK wildlife is that the protections already discussed in depth above offered by the Animal Welfare Act 2006 (for England and Wales), the Animal Health and Welfare Act (Scotland) 2006 and the Welfare of Animals Act (Northern Ireland) 2011 *only* apply to wild animals when they are under the control of man (whether temporarily or permanently) or not living in a wild state (Sections 2, 2 and 17 respectively). The protections offered by this legislation would therefore be limited to wild animals that have been captured or trapped, or injured and picked up but crucially do not extend to wild animals living in their natural environment undisturbed.

Protection of Wild Mammals

The lacuna provided by the limitation in scope of the Animal Welfare acts is partly covered by the Wild Mammals (Protection) Act 1996 (WMPA). WMPA criminalises activity where a person attacks (including by way of a range of actions, including beating, burning, crushing, stoning or stabbing) a wild animal with the intent to inflict unnecessary suffering (Section 1).

The protection offered by WMPA is limited; however, WMPA permits mercy killings, lawful pest control and does not prohibit any act which is otherwise done lawfully by way of snare, trap, dog or bird of prey (cf. below *Wildlife and Countryside Legislation and Hunting*) (Section 2). Furthermore, an inherent restriction of the WMPA is that it only applies to mammals and would therefore not apply to birds or cetaceans in British waters.

Wildlife and Countryside Legislation

The Bern Convention²⁵⁶ is an international treaty, signed in 1979, which aims to conserve wild flora and fauna and their habitats. The Convention covers 'most of the natural heritage of the European continent' and extends to some states in Africa.²⁵⁷

In order to implement the Bern Convention, as well as the Council Directives 92/43/EEC and 2009/147/EC (as discussed below in greater detail), the Wildlife and Countryside Act (WCA) 1981²⁵⁸ was enacted and later amended in 1991. The WCA is applicable to England and Wales and constitutes a principal piece of the protective framework for a variety of wildlife in these jurisdictions.

Birds

Part I of the WCA offers a layer of protection for wild birds generally and prohibits the intentional or reckless killing, injuring or taking any wild bird along with any taking or damaging of nests or eggs (Section 1). The protection offered to wild birds is subject to the derogation that any killing or taking of a bird which is listed in Schedule 2 (which includes species such as capercaillie, partridge, pheasant, woodcock and the common snipe) shall not constitute an offence under the WCA when

²⁵⁶ <https://www.coe.int/en/web/conventions/fulllist/-/conventions/rms/0900001680078aff>

²⁵⁷ <https://www.coe.int/en/web/bern-convention/presentation>

²⁵⁸ <http://www.legislation.gov.uk/ukpga/1981/69>



this occurs outside of the bird's defined "close season" (Section 2). The WCA also expressly prohibits certain methods of killing/taking wild birds including (but not limited to) traps, snares, bows or crossbows and explosives other than non-automatic firearms (Section 5(2)).

Wildlife generally

Similar to the prohibition on certain methods of taking or killing wild birds, the WCA also provides prohibition for certain methods of taking or killing wildlife generally (such as self-locking snares, cross bows and explosive which are not firearms) (Section 11). Additional protections are provided to species listed in Schedule 6 to the WCA (including, but not limited to, wild cats, pine martens, common otters and red squirrels) as the use of devices including any trap or snare (not just self-locking snares) electrical stuns, nets or poison, is strictly prohibited (Section 9(2)).

The WCA also provides significant additional layers of protection for species which are specifically designated in Schedules 5 of the WCA, as the WCA makes it an offence to intentionally or recklessly kill, injure or take any wild animal listed in Schedule 5 (Section 9(1)). Section 9 also goes beyond taking or killing animals and also criminalises the intentional or reckless destruction or disruption any structure or place a wild animal is using for shelter or disturbs a wild animal whilst in a place of shelter or protection (Section 9(4)).

This general protection is again subject to certain derogations, such as killing or taking being permitted under certain licences which may be issued by the Government to allow actions that would otherwise be illegal under the Act (Section 10).

Hunting

The Hunting Act 2004²⁵⁹ (the 'Hunting Act') is applicable in England and Wales and aims to criminalise hunting wild mammals with dogs (Section 1). Despite this blanket prohibition, the Hunting Act goes on to provide various major exemptions. These include:

1. Flushing from cover above ground: up to two dogs may be used to stalk or flush a wild mammal from cover (above ground) for defined purposes which include preventing or reducing serious damage being caused by the relevant wild animal to livestock, crops and other property;
2. Flushing out from below ground: one dog at a time only, may be used below ground to stalk or flush a wild mammal for the sole purpose of preventing or reducing serious damage to game birds or wild birds being kept or preserved for shooting;
3. Rats and Hares: the hunting of rats and rabbits on land belonging to the hunter(s) or land for which they have express permission to hunt on;
4. Falconry: flushing a wild animal from cover when a bird of prey is used to hunt the wild animal; and
5. Recapturing a wild animal: hunting and recapturing and/or killing a wild animal that has escaped (albeit not one that was released for the purposes of hunting), (Schedule 1 Paragraphs 1-7 inclusive).

²⁵⁹ <http://www.legislation.gov.uk/ukpga/2004/37/contents>



Thus, the use of dogs to hunt foxes above and underground continues to be effectively permitted in the UK.

The Hunting Act also criminalises various activities in regarding to hare coursing (the hunting of live hares by dogs, most commonly greyhounds in the UK). The outlawed activities include participating in, attending and facilitating any hare coursing event (Section 5(1)).

Moreover, anyone hunting any animal without dogs in the UK must get a certificate to use a shotgun, rifle or other firearm. The use of bows or explosives is forbidden.²⁶⁰

Protection of Dangerous Wild Mammals

The keeping by humans of animals considered to be 'dangerous' is regulated in England, Wales and Scotland by the Dangerous Wild Animals Act 1976 (DWA) (the dangerous wild animals regulated by the DWA are set out in the Schedule to the DWA). The thrust of the DWA is that dangerous wild animals can only be kept under a license procured from the relevant local authority (Section 1(1)).

The DWA prevents the relevant local authority from issuing the license unless certain welfare conditions are satisfied, including as to the state of the accommodation and ability to exercise, sustenance and disease precautions (Section 1(3)).

Scotland and Northern Ireland

In Scotland, the Wildlife and Natural Environment (Scotland) Act 2011²⁶¹ implement equivalent provisions to the WCA in England and Wales. The Act covers a wide range of areas including introducing compulsory training for snare operators, tagging of snares and new close seasons for hares.²⁶²

The Protection of Wild Mammals (Scotland) Act 2002²⁶³ prohibits hunting wild mammals with dogs, as well as hare coursing.

The Wildlife and Natural Environment Act (Northern Ireland) 2011²⁶⁴ is aimed at protecting, conserving and enhancing wildlife and natural habitats. This Act covers birds, deer, game and prevents, for example, interference with nests, the use of certain pesticides and the use of certain traps.

International Wildlife and Wildlife Trade

Ivory

Following the first publication of the API in 2014, then Secretary of State for Environment, Michael Gove, announced in April 2018 that the UK will introduce a ban on ivory sales, following a public

²⁶⁰ <https://www.gov.uk/guidance/firearmslicensingpoliceguidance>

²⁶¹ <http://www.legislation.gov.uk/asp/2011/6/contents/enacted>

²⁶² <https://www.gov.scot/policies/wildlife-management/>

²⁶³ <http://www.legislation.gov.uk/asp/2002/6/contents>

²⁶⁴ <http://www.legislation.gov.uk/nia/2011/15/contents>



consultation on the matter.²⁶⁵ The consultation, which ran from October to December 2017, gathered over 70,000 responses, with over 88 % of responses in favour of the ban.²⁶⁶ A petition to shut down the ivory trade also gathered over 100,000 signatures.²⁶⁷

On 20 December 2018, the Ivory Act received the royal assent and became law (the Ivory Act). The Ivory Act has not at the time of writing come into force but is expected to do so in late 2019.²⁶⁸ The Ivory Act introduces a near-total ban on dealing in items containing elephant ivory, regardless of their age, within the UK, as well as export from or import to the UK (Section 1).

The Act also sets out a list of limited exemptions to this general prohibition:

1. pre-1918 items of 'outstanding artistic value and importance'. The determination of items falling within this exemption will be subject to the advice of specialists at institutions such as the UK's most prestigious museums (Section 2);
2. pre-1918 portrait miniatures (Section 6);
3. pre-1947 items with low ivory content (less than 10% of their volume) (Section 7);
4. pre-1975 musical instrument with an ivory content of less than 20% (Section 8); and
5. Sales to and between accredited museums (Section 9).

In July 2019, the High Court allowed for a company of dealers and collectors called the Friends of Antique Cultural Treasures Ltd (FACT) to challenge the 2018 Ivory Act. FACT argued that the Ivory Act is incompatible with EU law - which already regulates pre-1947 worked ivory - and infringes upon their human rights to buy and sell ivory.²⁶⁹ On 16 October 2019, the High Court rejected the antique's lobby attempt to overturn the ban.²⁷⁰

Another development is that activists have been campaigning for a new bill to extend the ban to other species, such as hippos, warthogs, whales and narwhals. As a result, DEFRA launched a public consultation on the Non-Elephant Ivory Trade from 30 May to 22 August 2019.²⁷¹ This consultation constituted a 'call for evidence' to decide whether action needs to be done with regards to the trade in non-elephant ivory. At the time of writing, the Government has not yet published its response to the consultation.

Trophy Hunting

In September 2019, the then Minister for International Wildlife Zac Goldsmith announced that the Government will present a ban on trophy hunting, described as a 'morally indefensible' act.²⁷² On 14 October 2019, the Queen's speech mentioned 'proposals will also be brought forward to promote

²⁶⁵ <https://www.gov.uk/government/news/government-confirms-uk-ban-on-ivory-sales>

²⁶⁶ <https://www.gov.uk/government/news/government-confirms-uk-ban-on-ivory-sales>

²⁶⁷ <https://petition.parliament.uk/archived/petitions/165905>

²⁶⁸ <https://www.gov.uk/government/news/world-leading-uk-ivory-bill-becomes-law-2>

²⁶⁹ <https://www.theguardian.com/environment/2019/oct/13/uk-high-court-to-hear-challenge-to-total-ban-on-ivory-trading>

²⁷⁰ <https://www.theguardian.com/environment/2019/nov/05/fantastic-day-for-elephants-court-rejects-ivory-ban-challenge>

²⁷¹ <https://consult.defra.gov.uk/communications/non-elephant-ivory-trade/>

²⁷² <https://www.telegraph.co.uk/news/2019/09/27/britain-will-have-toughest-trophy-hunting-rules-world-government/>



and protect the welfare of animals, including banning imports from trophy hunting'.²⁷³ On 2 November 2019, DEFRA launched a public consultation accompanying a call for evidence on banning the import and export of trophies from the hunting on endangered species, closing on 25 January 2020. DEFRA acknowledges 'concerns around the practice of trophy hunting' and intends to review our 'current controls on the import and export of hunting trophies to understand whether further action is required to address these concerns'.

Analysis

EU Level Protection

The Directives and Regulations applicable to wild animals discussed above focus primarily on the conservation of wild species, rather than on protecting the welfare of individual animals and specimens of species. In particular, it would be beneficial for animal protection legislation to forbid the use of the cruellest forms of hunting (i.e. dog hunting, live baiting, poisoning, trapping, falconry and bow hunting) in respect of all wildlife.

It is positive that Transport Regulations are not limited to livestock, but also cover the transport of wild animals. However, some the welfare provisions in the Regulations could be criticised as being quite general. For instance, Chapter III Article 1(1) does not specify how wild animals shall become 'acclimatised' to the mode of transport of the proposed journey. It is also questionable as to whether the punishments for breaching the provisions of the Transport Regulations have such deterrent effect, as the maximum punishment pursuant to the Animal Health Act 1981 (AHA) is six months imprisonment (Section 73 AHA).

One of the key risks faced by UK wildlife is that the UK leaving the European Union may result in gaps in the current regime of wildlife protection laws due to the subsequent absence of EU legislation.²⁷⁴ As of May 2019, only the short Wildlife and Countryside Act 1981 (EU Exit) (Scotland) (Amendment) 2019 has been published, which amends the definition of 'wild bird' in Section 27(1) of the Wildlife and Countryside Act 1981 to address a deficiency arising from the withdrawal of the United Kingdom from the European Union.²⁷⁵

UK Level Protection

The UK Wildlife "Regime"

Certain wildlife laws in the UK may be liable to the same criticism as the EU level protection, in that the focus on conservation of a species as a whole does not also extend to the welfare of individual animals. The most notable illustration of this paradigm is the fact that the three animal welfare acts which provide the "first line of defence" in terms of protection of domesticated animals do not apply to wild animals living in their natural environment. Some commentators provide compelling arguments

²⁷³ <https://www.nava.org.uk/news/october-2019/banning-imports-from-trophy-hunting.aspx>

²⁷⁴ <https://friendsoftheearth.uk/brexit/brexit-news-beaches-and-wildlife-risk-nodeal>

²⁷⁵ <http://www.legislation.gov.uk/ssi/2019/84/contents/made>



that the offence of cruelty contained within the animal acts should also apply to wild animals (as is the case in Northern Ireland).²⁷⁶

Whilst a mosaic of domestic legislation aims to fill the gap left by the hole in the three animal welfare acts the result of piecing together different pieces of legislation (the scope of some of which is limited by their focus on particular species or activities) is an inconsistent regime with some species of wild animals (potentially unjustifiably) receiving greater protection than others.

Moreover, some of the gaps in certain laws aimed at specific issues are regrettably not resolved through their mere combination with other laws intended to resolve different issues.

Even if the UK's regime of increased levels of legal protection for certain vulnerable species of wildlife is to prevail, many of the protections offered by the principal pieces of legislation (such as the WCA and the CHSR) require the relevant technical schedules to be regularly updated based on the best available prevailing scientific evidence. This necessitates continuous dialogue and review between the relevant government and advisory bodies along with international agencies in order to ensure that the most at risk species of wildlife are included in these schedules.²⁷⁷

Hunting

An example of wildlife legislation focused on one particular issue is exemplified by the Hunting Act. The UK's hunting regulations lack a general anti-cruelty provision. As discussed above, it is regrettable that the Hunting Act solely bans hunting wild mammals with dogs and hare coursing in certain circumstances, expressly permitting the killing of wildlife by dogs within certain other parameters. Rats and rabbits are excluded from the remit of the legislation, and a hare may be hunted by any number of dogs if it has been shot.

A further significant issue is the unfortunately limited practical impact of the hunting regime in the UK. Even though the Hunting Act legally bans fox hunting, in reality, the practice still occurs in the UK through 'trail' hunting.²⁷⁸ Trail hunting is the legal practice through which dogs are allowed to follow a pre-laid trail rather than chasing a real fox. However, in practice, since trails often overlap with real foxes' habitats, dogs end up chasing and killing real foxes.²⁷⁹ Moreover, it is understood that huntsmen have been known to shoot the foxes instead of allowing the dogs to kill them, which is not a criminal act under the Hunting Act 2004 (albeit it may be criminalised under the WCA).²⁸⁰

Other cruel practices are still pursued outside of England and Wales, and hunting with dogs is still legal in Northern Ireland.

The above considered, despite Section 1 of the Hunting Act providing what prima facie appears to be such an absolute prohibition, the practical reality of various of hunting leading to the death of foxes

²⁷⁶ Mike Radford *Animal Welfare Law in Britain* (1st edn, OUP 2001) p. 399.

²⁷⁷ R. Espin and the Lifescape Project *Reintroducing Wildlife into the United Kingdom: Practical and Welfare Perspectives* [2018] *The UK Journal of Animal Law* (Volume 2, Issue 2) pp. 39-48.

²⁷⁸ <https://www.league.org.uk/trail-hunting>

²⁷⁹ <https://www.league.org.uk/trail-hunting>

²⁸⁰ <https://www.league.org.uk/trail-hunting>

and other wildlife can be seen to drive a horse and cart through the protection offered by the legislation.

However, there remain strong political and social barriers associated with tightening the regulations around hunting, as hunting is regrettably strongly entrenched as a 'tradition' within certain segments of the UK population. Disappointingly, political sensitivities surrounding the issue of fox hunting, for example the practice of permitted 'trail hunting' is defended by various politicians²⁴⁹ stymieing the necessary cross-party political cooperation required to eliminate the gaps in protection.

Badger Culls and Health Control

Issues remain with regards to the culling of badgers in the UK. The UK Government has licensed badger culling by groups of farmers, in an attempt to control the spread of bovine tuberculosis, and two culls have occurred aimed at assessing the effectiveness and humaneness of shooting badgers. The culls have proven to be very controversial and have been criticised by various animal protection and conservation organisations.²³⁶ Since the API was first published in 2014, no new measure has been taken in relation to badger culling.

Law Reform and Executive Agencies

Legislation relating to wildlife in England and Wales has been subject to a 2014 review by the Law Commission, which concluded that 'the legal framework for wildlife management is overly complicated, frequently contradictory and unduly prescriptive.'

In February 2014, the Law Commission published a first report 'Wildlife Law: Control of Invasive and Non-native Species', which recommended that the Government introduce orders which will make it possible, under certain circumstances, to compel land owners or occupiers to carry out control or eradication operations, or allow them to be carried out by the issuing authority.²⁸¹ A draft Bill was published alongside a final report in November 2015.²⁸² One of the main suggestions of the draft bill recommended that the patchwork of existing legislation be replaced by a single statute; a mixed of civil and criminal penalties; the penalty for the most serious wildlife crimes will be extended from six months to two years in prison. Both the UK and Welsh Governments have responded to the Report making it clear that neither intends to implement the recommendations in the immediate future.

International Wildlife and Wildlife Trade

With regards to wildlife trade, the UK continues to take a strong stance against illegal wildlife trade internationally with the recent Ivory Act 2018 considered one of the toughest in the world.²⁸³ This ban still contains exceptions to the general prohibition on trade, however, these are strictly limited and it can still be considered an example of legislation for other countries to follow. Holding a public consultation on the ban was positive to mainstream the plea of elephants being poached into the general public. In addition, numerous reporting and informative documents are available on the UK

²⁸¹ <https://www.gov.uk/government/publications/wildlife-law-control-of-invasive-non-native-species>

²⁸² <https://www.lawcom.gov.uk/project/wildlife-law/>

²⁸³ <https://www.bbc.co.uk/news/uk-43620012>



Government's website regarding the issue of ivory trade, including the number of ivory seizures that occurred in the UK from 2013 to 2017.²⁸⁴

With regards to wildlife trade, the UK is asserting itself as an international leader in combatting wildlife trafficking. The enactment of the Ivory Act 2018 suggests that there is a political momentum to combat illegal trade in wildlife in the country. This Political willingness was reaffirmed during the London Illegal Wildlife Trade Conference in October 2018.²⁸⁵ Over 50 countries signed the London 2018 declaration, committing to action to protect endangered species around the globe.²⁸⁶ In addition, then Environment Secretary Michael Gove launched Ivory Alliance 2024, a coalition of political leaders, conservationists and celebrities dedicated to defeating the illegal trade in ivory and establishing ivory sales bans in other countries. The ambition of the Ivory Alliance 2024 is to reduce the illegal killing of African elephants by at least one third by the end of 2020, and two thirds by the end of 2024.²⁸⁷

Furthermore, the UK's National Wildlife Crime Unit (NWCU) gathers intelligence and assists police forces and partners across the UK.²⁸⁸ The NWCU's priorities include badger, bat and raptor persecution and illegal trade in wild animals. Scotland's Crown Office and Procurator Fiscal Service's Wildlife and Environmental Crime Unit investigates and manages the prosecution of cases involving crimes against wildlife and the environment in Scotland.

Enforcement mechanisms

Where a wild animal is under the control of man, a cruelty offence is punishable in England and Wales with imprisonment of up to 51 weeks (to be read as six months) and/or a fine of up to £20,000 (Section 32(1) Animal Welfare Act 2006), in Northern Ireland with up to six months imprisonment and/or fines up to the statutory maximum for summary conviction and up to two years imprisonment and/or fines for conviction on indictment (Section 31 Welfare of Animals Act (Northern Ireland) 2011) and up to 12 months' imprisonment and/or fines up to £20,000 and for duty of care offences of up to six months imprisonment and/or fines up to level 5 on the standard scale (currently £5,000 under Section 37 of the Criminal Justice Act 1982 (the "CJA") (Animal Health and Welfare (Scotland) Act 2006 Section 46)).

An offence under the WMPA in England, Wales or Scotland is punishable with imprisonment of up to six months and/or a fine of up to level 5 on the standard scale (currently £5,000 under section 37 of the CJA) (Section 5). The same penalties apply for contravention of the Protection of Badgers Act 1992 (Section 12).

²⁸⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721443/ivory-billfactsheetivory-seizures.pdf

²⁸⁵ <https://www.gov.uk/government/topical-events/london-conference-on-the-illegal-wildlife-trade-2018>

²⁸⁶ <https://www.gov.uk/government/publications/declaration-london-conference-on-the-illegal-wildlife-trade-2018>

²⁸⁷ <https://www.gov.uk/government/news/ivory-alliance-2024-political-leaders-conservationists-and-celebrities-join-forces-to-tackle-ivory-demand>

²⁸⁸ <https://www.nwcu.police.uk/>



Contravention of the Hunting Act is punishable only with a fine, of up to level 5 on the standard scale (currently £5,000 under Section 37 of the CJA) (Section 6 Hunting Act); in Scotland imprisonment of up to six months is also possible (Section 8, Protection of Wild Mammals (Scotland) Act 2002).

Contravention of the provisions of the WCA (in England, Wales and Scotland) or of the Wildlife and Natural Environment Act (Northern Ireland) 2011 is punishable with imprisonment and/or fines, of up to six months imprisonment and/or up to level 5 on the standard scale of fines (currently £5,000 under Section 37 of the CJA) (Sections 21 and 24 WCA respectively).

The Ivory Act introduces new penalties for persons breaching the prohibition on the ivory trade (Section 12), The Secretary of State may impose a monetary penalty up to £250,000 (Schedule 1, Part 1, Section 1). A person committing an offence can be sentenced on summary conviction to imprisonment for up to 12 months (in England, Wales and Scotland), up to six months in Northern Ireland. A person sentenced by higher courts (on indictment) can be imprisoned for up to five years.

Key recommendations

- **The UK Government is strongly encouraged to introduce a general offence of cruelty applicable to all forms of animal wildlife.** In order for the protection against cruelty offered to domesticated animals in the UK to apply to all forms of wildlife, the UK is encouraged to extend the protections offered by the cruelty offence contained within the Animal Welfare acts to wild animals.
- **The UK Government encouraged to ban any form of hunting that does not directly support subsistence i.e. for feeding oneself and one's family and not for commercial gain.** Subsistence hunting operations must employ the least cruel methods of hunting and slaughter, and that all possible efforts should be made to reduce the time to death of animals killed in these hunts. At the very least, the UK is encouraged to add humane killing provisions to the Hunting Act 2004, the Protection of Wild Mammals (Scotland) Act 2002 and the Wildlife and Natural Environment Act (Northern Ireland) 2011. At present, there is no anti-cruelty provisions in such Acts. Furthermore, cruel forms of hunting, such as dog hunting, is still allowed in Northern Ireland and only partly restricted in the rest of the country. The UK Government is strongly encouraged to enact a general ban on cruel forms of hunting, which includes trapping, dog hunting, baiting and falconry and to extend the act to protect rats and hares.
- **The UK Government is strongly encouraged to move swiftly in implementing the Ivory Act 2018.** The High Court's decision on 16 October 2019 to uphold the Ivory Act 2018 should be commended and where necessary reinforced against challenge.
- **The UK Government is strongly encouraged to raise the maximum punishment for breaches of welfare provisions for wildlife.** Following the publication of the draft Animal Welfare (Sentencing and Recognition of Sentience) Bill 2017, as the government continues to consider raising the maximum penalty for breaches of the Animal Welfare Act it would present



a hugely missed opportunity were the maximum sentence for criminal breaches of welfare provisions regarding wildlife not also to be raised.

Goal 3: Presence of supportive government bodies

9. The Government has assigned responsibility and accountability for improving animal protection at a high government level and has provided resources

Analysis of the legislation	
Ranking	B
<p>At the European Union level, the European Food Safety Authority (EFSA) provides independent scientific advice on existing and emerging risks associated with the food chain.²⁸⁹ The EFSA contains a Panel on Animal Welfare (AHAW), which provides expert advice on all aspects of animal diseases and animal welfare, focusing mainly on farm animals, including fish.²⁹⁰</p> <p>In England, the Department for Environment, Food and Rural Affairs (DEFRA) has responsibility for animal welfare, other than in scientific research. The Secretary of State for DEFRA is identified as responsible under the Animal Welfare Act 2006, and animal welfare is assigned as a portfolio to a Minister of State for DEFRA. DEFRA has established an Animal Health and Welfare Board for England (AHWBE) comprising a range of stakeholders to assist it in making policy and strategy recommendations.²⁹¹</p> <p>The AHWBE advises DEFRA Ministers on all strategic health and welfare matters relating to all kept animals in England, and DEFRA Ministers are expected to accept such advice.²⁹² The responsibilities of the Board include: to develop and implement animal health and welfare policy; assessing the risk of threats from animal disease; monitoring the regulatory framework on animal welfare; approving the operational plans of the Animal and Plant health Agency (APHA) and reviewing contingency plans for dealing with new disease outbreaks. The AHWBE brings together 'independent people with relevant knowledge and skills, and senior government officials'. At the time of writing, the AHWBE comprise at least one member of an animal protection organisation, namely the Chief Executive of Battersea Dogs & Cats Home.</p>	

²⁸⁹ <http://www.efsa.europa.eu/>

²⁹⁰ <https://www.efsa.europa.eu/en/panels/ahaw>

²⁹¹ <http://www.defra.gov.uk/ahwbe/>

²⁹² <https://www.gov.uk/government/collections/ahwbe-recommendations-speeches-and-publications>



DEFRA also works with the Dog Advisory Council,²⁹³ the Companion Animal Welfare Sector Council,²⁹⁴ and Equine Sector Council,²⁹⁵ bodies that feed into the Animal Health and Welfare Board of England.²⁹⁶ The AHWBE brings together experts including farmers, veterinarians, welfare experts and others from outside government together with the Chief Veterinary Officer and civil servants to make direct policy recommendations on policy affecting the health and welfare of all kept animals such as farm animals, horses and pets.

In addition, the Animal Health and Welfare Board of England (AHWBE) is responsible for strategic animal health and welfare policy and for overseeing the implementation of such policy in England, which covers:

- animal health;
- animal welfare;
- public health implications of animal diseases that fall within the remit of DEFRA – for instance, the health of circus and zoo animals fall within the scope of disease prevention;
- all kept animals.²⁹⁷

The list of recommendations from the AHWBE to DEFRA are listed on the Government's website.²⁹⁸

At the devolved government level, animal welfare is also the responsibility of the Welsh Assembly Government's Department for Rural Affairs, the Scottish Executive Environment and Rural Affairs Department and the Department of Agricultural and Rural Development in Northern Ireland. In Wales, the Ministry for Environment, Energy and Rural Affairs has the responsibility for animal welfare. In Scotland, responsibility for animal welfare falls under the Cabinet Secretary for Environment, Climate Change and Land Reform and the Minister for Rural Affairs and the Natural Environment.

The Environment, Food and Rural Affairs (EFRA) Committee is appointed by the House of Commons to assess the expenditure and policies of DEFRA.²⁹⁹ EFRA is one of the 19 Select Committees related to Government Departments. EFRA leads inquiries on environmental and agricultural matters, decided by the Committee itself. For each inquiry, EFRA usually issues a press notice outlining the topic of the inquiry and calling for interested parties to submit written evidence on the subject matter.

The Farm Animal Welfare Committee (FAWC) is an independent advisory committee of DEFRA and the devolved administrations in Scotland and Wales, providing advice on the welfare of farm animals, including farm animals on agricultural land, at market, in transit and at the place of killing.³⁰⁰ On 1 October 2019, FAWC was renamed the Animal Welfare Committee (AWC) and its remit of

²⁹³ <http://www.dogadvisorycouncil.com>

²⁹⁴ <http://www.casco.org.uk>

²⁹⁵ <http://www.newc.co.uk/law/equinehealth-welfarestrategy/>

²⁹⁶ <https://www.gov.uk/government/groups/animal-health-and-welfare-board-for-england-ahwbe>

²⁹⁷ <https://www.gov.uk/government/groups/animal-health-and-welfare-board-for-england-ahwbe>

²⁹⁸ <https://www.gov.uk/government/collections/ahwbe-recommendations-speeches-and-publications>

²⁹⁹ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/environment-food-and-rural-affairs-committee/role/>

³⁰⁰ <https://www.gov.uk/government/groups/farm-animal-welfare-committee-fawc>



responsibility was expanded to provide expert advice to Ministers on pets and wild animals kept by people, in addition to their original responsibility to advise on farm animals.³⁰¹

In Scotland, a new independent Animal Welfare Commission was announced in September 2019. The Commission's scope will cover wild living and companion animals and will provide scientific and ethical advice to the Government.³⁰² Chaired by Cathy Dwyer, Professor of Animal Behaviour and Welfare at Scotland's Rural College, 11 commissioners will sit on the Commission in their individual capacity, and not as representatives of particular groups. The Commission will specifically look at:

- how the welfare needs of sentient animals are being met by devolved policy
- possible legislative and non-legislative routes to further protect the welfare of sentient animals
- the research requirements to provide an evidence base for future policy development.

The Commission will only consider areas that are within the normal current remit of UK Farm Animal Welfare Committee and the UK Zoo Expert Committee, where these relate to the overall responsibility of the Scottish Government.

The Home Office has responsibility for the regulation of the welfare of the use of animals in science, a non-devolved issue, and control of dangerous dogs. The Home Office has an Animals in Science Regulation Unit for which there is ministerial responsibility.³⁰³ The Unit includes a licensing team, an inspectorate and a business support unit. Its mission is to 'regulate the use of animals in scientific research for the benefit of people, animals and the environment through the provision of impartial licensing procedures and evidence-based advice, and by encouraging the development and use of the 3Rs (replacement, reduction and refinement)'.³⁰⁴ The 2017 Annual Report advised that there were 22 individuals involved in the Inspectorate, all veterinary or medical practitioners, and a licensing team of seven.³⁰⁵

The establishment of the Animal Procedures Committee, an independent advisory committee, has secured involvement of civil society in the implementation of the legislation surrounding animals used in scientific research. This was established to provide the Home Secretary and the Northern Ireland Minister of Health, Social Services and Public Safety with independent advice about the operation of the Act and their functions under it. The legislation required the interests of animal protection stakeholders to be represented on the Committee. In 2013, the Animals in Science Committee replaced the Animal Procedures Committee. The Animals in Science Committee's role includes advising animal protection organisations on sharing best practice within the UK and coordinating best practice by exchanging information within the European Union.³⁰⁶ The Committee publishes an annual

³⁰¹ <https://www.gov.uk/government/news/expert-animal-welfare-body-expanded-to-advise-government-on-future-reforms>

³⁰² <https://www.gov.scot/news/animal-welfare-commission/>

³⁰³ <https://www.gov.uk/government/publications/animals-in-science-regulation-unit-newsletters>

³⁰⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/761083/Animals_in_Science_annual_report.pdf

³⁰⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212449/asru-annual-report-2012.pdf

³⁰⁶ <https://www.gov.uk/government/organisations/animals-in-science-committee/about>



report including statistics on the number of animals used for scientific experiments.³⁰⁷

In 2004, the Governments of England, Scotland and Wales agreed a ten-year animal health and welfare strategy for Great Britain.³⁰⁸ Steering groups were established to oversee the implementation of the strategy, and frameworks were established thus demonstrating government commitment to improve animal health and welfare. Alongside the strategy, an Evidence Base was published to establish a baseline against which progress could be measured.³⁰⁹ Since the API was first published in 2014, the 10-year Animal Health and Welfare Strategy for Great Britain ended in 2014. The Welsh Government announced a 10-year Framework to succeed it, along with a newly appointed panel of six experts.³¹⁰ Section 3 is dedicated to monitoring and evaluation, done by the Wales Animal Health and Welfare Framework Group.³¹¹ In 2018, DEFRA alongside with the Animal and Plant Health agency published an 'Animal Health and Welfare Framework' policy paper, so that local authorities – county councils, metropolitan boroughs and unitary authorities in England – comply with their statutory duty to work with local communities to help them comply with laws that are aimed at preventing the spread of animal disease and protecting the welfare of animals.³¹² This framework focuses on farming practices. In fact, local authorities are given enforcement and inspection powers and duties in legislation relating to farm animals, for example in Sections 30 (enforcement) and 51 (appointment of inspectors) of the Animal Welfare Act 2006.

Analysis

In May 2011, the Independent Farming Regulation Task Force reported that, in the context of animal health and animal welfare, there is a commitment to reducing the burden of legislation and regulation on industry and sharing costs and responsibility with industry.³¹³ However, since the API was first published in 2014, there have not been any changes in that direction in the animal welfare or health standards. Notably, all Codes of Practice are still applicable.

The Government has committed to giving effect to Article 13 once Britain leaves the EU. This involves not only recognising that animals are sentient (which is important symbolically), but also imposing a duty upon public bodies to have regard to animal welfare when formulating and implementing public policy. In order to ensure that this duty is meaningful, it must include a mechanism by which animal

³⁰⁷ <https://www.gov.uk/government/collections/animals-in-science-regulation-unit-annual-reports>

³⁰⁸ Animal Health and Welfare Strategy of Great Britain, Defra, 2004 accessed at:

<http://www.scotland.gov.uk/Resource/Doc/35596/0014443.pdf>

³⁰⁹ Defra, Animal Health and Welfare Strategy for Great Britain: The Evidence Base, 2004

<https://webarchive.nationalarchives.gov.uk/20130402160628/http://archive.defra.gov.uk/foodfarm/policy/animalhealth/strategy/evidence-base.pdf>

³¹⁰ <http://politicalanimal.org.uk/wp-content/uploads/2014/11/140721ocvoahwfen.pdf>

³¹¹ <https://gov.wales/walesanimalhealth-and-welfare-framework-group>

³¹² <https://www.gov.uk/government/publications/animalhealth-and-welfare-framework-2018/animal-health-and-welfare-framework>

³¹³ The report of the independent Farming Regulation Task Force, Striking a balance: reducing burdens; increasing responsibility; earning recognition:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69201/pb13527-farm-reg-task-report.pdf



interests can be taken into consideration, and public bodies must be adequately informed by a body with scientific and ethical expertise.

Once the UK leaves the EU, it will lose the scientific expertise available through well-respected and influential scientific advisory bodies such as the European Food Safety Authority (EFSA) which provides independent scientific advice to the European Commission on food related risks, including animal welfare.

These factors make it imperative that public authorities, including Government Ministers, should have access to scientific and ethical advice by a non-departmental public body independent of Government and preferably, reportable to Parliament. It is also important that such a body should reflect multi-stakeholders, including NGOs representing animal interests in the relevant areas. We believe that neither the Animal Welfare Committee (which is not independent of DEFRA, is heavily dominated by veterinary and industry interests and has a scope limited to domesticated animals and wild animals under the control of people), nor the Animal Health and Welfare Board are fit for this purpose.

The UK Government should set up an Animal Welfare Commission to support Government – including individual departments and public bodies – in discharging its duty to animals, providing independent and transparent advice. Scotland is leading the way in this respect. It has already established an independent Animal Welfare Commission and its scope includes both wild and companion animals. Its remit involves considering the welfare needs of sentient animals are being met by policy and the legislative or non-legislative routes to providing an enhanced level of protection. We welcome this progressive step.

We would welcome other initiatives to make meaningful the duty to consider the welfare needs of sentient animals, such as prospective animal welfare impact assessments. In this respect, it is important that impact assessments are not merely prospective (such as annual reports to Parliament), but provide an opportunity to feed into the policy making process.

Enforcement mechanisms

The responsibilities of the relevant government bodies are established in legislation.

Key recommendations

- **The UK Government is encouraged to create a new, independent Animal Welfare Commission to provide advice to all government ministers at the UK and devolved level, including through prospective animal welfare impact assessments.** This body would support Governments in fulfilling their duties to animals, ensuring decisions are underpinned by the best scientific and ethics expertise.
- **The UK Government is strongly encouraged to adopt an Animal Welfare Strategy at the country level, which should include reporting requirements against clear goals.** The 10-year Animal Health and Welfare Strategy applicable in England, Wales and Scotland ended in 2014,



and does not appear to have been renewed, except in Wales.

Goal 4: Support for international animal welfare standards

10. The Government has incorporated the OIE’s guiding principles for animal welfare and its animal welfare standards into policy and legislation

Analysis of the legislation	
Ranking	A
<p>The OIE Animal Welfare Standards focus on transport, slaughter, production systems (beef cattle, broiler chickens, dairy cattle, pigs), stray dog population control, the use of animals in research and education, and working equids.³¹⁴</p> <p>DEFRA and the relevant devolved governmental departments are acting in accordance with the guiding principles of the OIE and there is policy and legislation. It should also be noted that the OIE’s guiding principles are founded on the Five Freedoms, which were developed in 1979 by FAWC.</p> <p>All eight points of the OIE’s Guiding Principles for Animal Welfare are incorporated by legislation, including through the Animal Welfare Act 2006, the Animal Health and Welfare Act 2006 (Scotland) and the Welfare of Animals Act (Northern Ireland) 2011.</p> <p>All eleven OIE standards are covered, but some appear in legislation such as the Animals (Scientific Procedures) Act 1986 and the Welfare of Farmed Animals (England) Regulations 2007, and others are covered by the Codes of Practice which have quasi-statutory authority.</p> <p>Analysis</p> <p><i>The UK Government has assigned responsibility for animal welfare at high levels and provided resources to improve animal welfare and to fulfil its commitments with respect to the OIE.</i></p> <p><i>However, as of November 2019, despite public commitments the UK Government has not introduced legislation to recognise animals as sentient beings to ensure their protection as we leave the European Union. The inclusion of sentience in legislation is crucial to abide by the very definition of animal welfare as stated in the OIE Terrestrial Code, which refers to ‘the physical and mental state of an animal in relation to the conditions in which it lives and dies’.³¹⁵</i></p>	
Enforcement mechanisms	

³¹⁴ <http://www.oie.int/infographic/StandardsAW/index.html>

³¹⁵ <http://www.oie.int/infographic/StandardsAW/index.html>



There are enforcement mechanisms for the UK's legislation for all categories of animals. This legislation incorporates the OIE's guiding principles and standards and there is evidence of welfare surveillance, reporting, licensing, guidance provision and prosecutions.

Key recommendations

• **The UK Government is urged to expediently enact legislation recognising animal sentience and creating a prospective duty, capable of meaningful execution, on Ministers to consider animal welfare standards when formulating and implementing future policy. The UK has incorporated the OIE's animal welfare standards in its legislation and Codes of Practice. However, as it stands, the UK is imminently due to leave the European Union and has not as of yet made provision to ensure animals are recognised as sentient beings after this point.**

11. The Government has pledged in principle support for the Universal Declaration on Animal Welfare (UDAW)

Analysis of the legislation

In 2009, the 27 Agriculture Ministers of the European Council unanimously approved a statement on the UDAW encouraging the European Commission to support and initiate further international initiatives to raise awareness and create a greater consensus on animal welfare and inviting the Member States and the Commission to support the UDAW initiative.³¹⁶ Prior to this endorsement, the UK Government supported the global campaign for the UDAW. This included participation in the Manila Conference in 2003, where a foundation text for the UDAW was agreed. In 2007, a motion of support for the declaration agreed at a plenary of the World Animal Health Organisation (OIE).³¹⁷

Note: The UDAW is a proposed formal international acknowledgement of a set of principles giving animal welfare due recognition among governments and the international community. An expression of support for the UDAW demonstrates a government's commitment to working with the international community to improve animal welfare.

Analysis

Though it is positive that the UK Government has pledged support to the UDAW through a joint declaration with other EU Agriculture Ministers in 2009, as the UK is due to leave the European Union, this support might be lost. As such, the UK Government is encouraged to reaffirm its commitment to supporting the UDAW.

Enforcement mechanisms

There are no enforcement mechanisms relevant to this indicator.

³¹⁶ http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/agricult/106877.pdf

³¹⁷ <https://apgaw.org/apgaws-work/minutes-archive/>



Key recommendations

- **The UK Government is encouraged to renew their pledge of support to the UDAW, in addition to the joint declaration of support from the EU Agriculture Ministers of the European Council in 2009.** This is particularly important given the UK's imminent departure from the EU.

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