

BRITISH VETERINARY ASSOCIATION



ANIMAL WELFARE BILL

Submission by the British Veterinary Association

INTRODUCTION

1. The British Veterinary Association (BVA) is the national representative body for the veterinary profession in the United Kingdom. In fulfilling this role, we naturally take a keen interest in all issues affecting the veterinary profession, be they animal health, animal welfare, public health or employment concerns.
2. The BVA will support Ministers' proposal to introduce an Animal Welfare Bill to bring up-to-date important legislation, much of which is of long standing. Attitudes to the welfare of animals have changed significantly since the key piece of legislation, the Protection of Animals Act, was adopted in 1911 and it is not before time that this, and other laws designed to protect the welfare of animals, were re-examined.
3. In contemplating this request for views on what we would like to see included in such a Bill, the Association has endeavoured to consider animal welfare in its broadest possible sense, looking at the welfare of farmed, companion, wild and captive animals and welfare at slaughter and in transit.
4. The safeguarding of animal welfare is one of the central tenets of the veterinary surgeon and upon admission to membership of the Royal College of Veterinary Surgeons every veterinarian makes a declaration which concludes with a promise that their "*constant endeavour will be to ensure the welfare of the animals committed to my care.*"
5. The role of the veterinary surgeon covers more than the treatment of animals. It extends to inspections and compliance and, in many disputed cases of cruelty and welfare, to expert opinion. These are all key areas which require greater recognition.

PRIMARY LEGISLATION

6. It is envisaged that by introducing an Animal Welfare Bill Ministers would be intending to introduce new primary legislation to replace those pieces of legislation highlighted in the consultation document. The BVA would foresee such a piece of legislation as providing the protection necessary to prevent all sentient animals (including birds and fish), irrespective of their function, suffering from cruelty, unnecessary pain and distress and poor welfare conditions. This will only be achieved if there is a clear understanding of what exactly is meant by good welfare. A legal definition would be desirable but not easy to achieve.

7. However, there is a logical basis for tackling such a definition through utilising the so-called “five freedoms”. These provide for a duty of care of animals covering, amongst other things, thirst, hunger and malnutrition, thermal or physical discomfort and pain, injury and disease.
8. In addition to setting out clear criteria for what is meant by good welfare, the BVA believes that the Bill should also cover cruelty and animal suffering. Consequently, it would appear logical for the proposals to attempt to consolidate the Protection of Animals Act, the Agriculture Miscellaneous Provisions Act 1968, the Abandonment of Animals Act and the Protection Against Cruel Tethering Act into one piece of legislation. What is not clear is why this should be restricted to farmed, domestic and captive animals as similar measures should also be in place to protect the UK’s wildlife. We would therefore wish to see the legislation which affords similar protection to all wild species consolidated and updated as part of these proposals.
9. As well as defining the circumstances of good welfare, the BVA believes that the proposed Animal Welfare Bill should also set criteria by which cruelty may be judged. Among the issues which it should therefore seek to address are the following:
 - (a) **mutilations:** whilst existing legislation covers a number of procedures which may be regarded as mutilations, there are a number of others which the BVA believes should also be subject to legislative control. It is suggested that the Animal Welfare Bill should prevent all mutilations except for those detailed under a separate, accompanying piece of secondary legislation which would include those already permitted under existing legislation;
 - (b) **abandonment:** the existing Abandonment of Animals legislation should be brought up to date and consolidated into the new Animal Welfare Bill proposals. Current legislation contains anomalies which result in procedures to deal with abandoned horses becoming protracted often giving rise to either further welfare or litigation problems. The proposals should remove these difficulties;
 - (c) **tethering:** as for abandonment, the existing legislation should be updated and consolidated into the proposals; and
 - (d) **baiting and fighting:** the BVA would like to see measures included in the proposed Bill to prevent cruel sports such as cock fighting, dog fighting and badger baiting.
10. The proposals will also need to stipulate the penalties to be imposed for those found guilty of offences under the new Bill. In order for such penalties to be effective deterrents, the BVA believes that they will need to be stronger than those currently in existence. Consequently, we would like to see provisions to allow for the greater use of banning orders and accompanying supervision orders (preventing convicted offenders from keeping animals) in addition to custodial sentences for repeat offenders.

11. We would also like to see the courts given the power to seize all animals owned by those convicted of cruelty offences – under the current legislation those guilty of such offences can simply sign their animals over to a relative who may have been complicit in respect of the cruelty charges and so the suffering continues. The Bill should seek to put an end to this practice and to stipulate who should be responsible for the care of any animals seized and their powers for disposal, be it by sale, loan or slaughter.
12. Alongside increased penalties, the BVA believes that the new Bill should extend the period of time available for the investigation of a case. The timescales provided for in existing legislation are too short and should be extended to twelve months at least. The Bill should also grant the courts powers to remove the animals from the care of the person under investigation pending the outcome of these inquiries (similar to a care order) and should again define who should be responsible for care during this period.

SECONDARY LEGISLATION AND CODES OF PRACTICE

13. As primary legislation, the BVA does not foresee that the proposed Animal Welfare Bill would go into great detail about the conditions that should be satisfied to ensure the welfare of different species. Instead, it is envisaged that this piece of primary legislation will be supported by secondary legislation which will provide greater detail on the welfare requirements under different circumstances, e.g. at slaughter, in transit, on farms, etc.
14. The BVA would like to suggest that consolidation of the Pet Animals Act, the Animal Boarding Establishments Act, the Riding Establishments Act, the Breeding of Dogs Act and the Breeding and Sale of Dogs (Welfare) Act should be undertaken in strengthening this secondary legislation, much of which is already in place but which, as a result of new primary legislation, should also be subject to review.
15. In many cases, it may be necessary for this secondary legislation to be backed up by appropriate Codes of Practice. The Miscellaneous Provisions Act 1968 provides a useful model since it pre-empts the causing of unnecessary suffering in farm animals by the requirement to meet standards of care laid down in secondary legislation and Codes of Practice.
16. The areas which it is envisaged that such secondary legislation and codes of practice should cover include:
 - (a) animals in transit;
 - (b) at slaughter;
 - (c) farmed animals and fish;
 - (d) companion animals;
 - (e) captive animals;
 - (f) the breeding of animals;

- (g) wild animals including rehabilitation; and
 - (h) establishments where animals are kept including pet shops, animal sanctuaries, circuses, boarding establishments, riding and livery establishments, city farms, schools and exhibition aquaria, etc..
17. The BVA and other organisations have had a long involvement in seeking to improve health and welfare conditions for different species. The Association has supported the Farm Animal Welfare Council (FAWC) for many years and, in terms of codes of practice for welfare conditions, the Government should review all the recommendations made by FAWC over the last ten years. Just as the Government proposes to consolidate welfare legislation, there is a good case to review and consolidate these codes of practice.
18. For companion animals, including horses, the picture is more diffuse but there is still a great deal of material that could provide further codes of practice in this area. In this regard, the BVA has been consulted on the welfare societies combined response to the Government's proposals and supports their approach in principle. For our own part the existence of the BVA/KC canine health schemes offers dog breeders the opportunity to enhance dog breeding. Codes of practice should incorporate the benefits of these schemes as well.
19. The BVA has, quite separately, supported the creation of the Companion Animal Welfare Council (CAWC) and, indeed some years ago, proposed a Wildlife Animal Welfare Council (WAWC). In light of the Government's overall concern for animal welfare there is a strong case to establish CAWC and WAWC on the same lines as FAWC.

ENFORCEMENT

20. There is little point in introducing any new legislation if it is not going to bring about a real improvement in the welfare of the nation's animal population. For this to occur the legislation must be enforceable and there must be a desire to ensure that this is carried out.
21. Under the existing legislation the burden of proof that animals have been caused unnecessary suffering is often difficult to establish. The adoption of a legal definition of good animal welfare, accompanied by standards laid down in secondary legislation and codes of practice, may help to overcome these difficulties, by removing many of the subjective judgements made in the determination of what exactly is meant by unnecessary suffering.
22. Furthermore, by removing such subjectivity, it would also facilitate the implementation of effective and enforceable proposals aimed at preventing animal welfare abuse, as suggested by the creation of a new offence of "likely to cause unnecessary suffering". In practice, an inspector would visit an establishment and serve notice on the owner to make improvements within a specified period of time. Failure to respond to the notice would be grounds for charges of "likely to cause unnecessary suffering" being laid.

23. Enforcement of the legislation must also be consistent. At the present time, enforcement of the existing legislation is fragmented with different enforcement bodies being responsible for different aspects of animal welfare legislation, e.g. police, local authorities, DEFRA, etc. For the majority of these organisations, the enforcement of animal welfare legislation is only one of a myriad of functions that they undertake and as such competes with other functions for the allocation of scarce resources. A means of achieving consistency in enforcement must be provided by the Bill, perhaps by the greater integration between the enforcement agencies.

EUROPEAN CONTEXT

24. It must be remembered that the UK's animal welfare laws sit within a European context. Within Europe, as at home, there has been a growing recognition of animal welfare issues which, in 1997, saw the inclusion of a protocol on animal welfare in the Treaty of Amsterdam, which updated the 1957 Treaty of Rome. This is supported by a large number of Directives and Regulations relating to the welfare of farmed, wild and laboratory animals and by the EU's ratification of Council of Europe conventions on the:
- (a) protection of animals during international transport;
 - (b) protection of animals for farming purposes;
 - (c) conservation of European wildlife and natural habitats; and
 - (d) protection of vertebrate animals used for experimental and other purposes.
25. Furthermore, in addition to the legislative requirements that are already in place, it is understood that European legislation regarding the welfare of the companion animal is likely to be forthcoming in the not too distant future. If the proposals arising from this review are not to become quickly redundant it will be important for DEFRA officials when drafting the proposals to be in constant communication with their European counterparts.

CONCLUSION

26. The new Bill should introduce new primary legislation which should seek to prevent cruelty and suffering before it occurs (unlike the existing legislation which requires suffering to have taken place) but in order for it to be enforceable careful consideration will need to be given to its wording. This should then be backed up by a range of secondary legislation (with accompanying codes of practice where relevant) to cover the details of welfare requirements in a number of circumstances.
27. Whilst much of this secondary legislation may already be in place, e.g. welfare in transit and at slaughter regulations, it too should be subject to review as there are areas which are insufficiently provided for by such legislation, e.g. companion animals and others where improvements could be made, e.g. welfare at slaughter regulations.

28. Only by undertaking such an all-encompassing review, based upon scientific evidence, may the welfare of the animals in this country be substantially increased, in a manner which will be both enforceable and consistent with the requirements of the European Union. Much work has been done by FAWC over the years and greater recognition of their codes of practice is required.