

Environment, Food and Rural Affairs Committee

Oral evidence: Animal Welfare (Sentience) Bill inquiry, HC 277

Tuesday 7 September 2021

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Members present: Neil Parish (Chair); Ian Byrne; Dave Doogan; Rosie Duffield; Dr Neil Hudson; Robbie Moore; Mrs Sheryll Murray; Derek Thomas.

Questions 70 - 138

Witnesses

I: The Rt Hon Lord Benyon, Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs; Marc Casale, Deputy Director and Head of Animal Welfare, DEFRA.

Written evidence from witnesses:

- [Department for Environment, Food and Rural Affairs](#)
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Examination of witnesses

Witnesses: Rt Hon Lord Benyon and Marc Casale.

Q70 **Chair:** Welcome to the Select Committee of EFRA. We are very happy today to have Minister Richard Benyon with us. He is going to talk about the sentience Bill. We also have Marc Casale with him as well. It seems like you were only here just before recess. We were doing it then more remotely but, as you can see, Minister, we are now back. I think this is the first in-person session we have had since February 2020, so some time ago.

Lord Benyon: It is very nice to see you all three-dimensionally.

Q71 **Chair:** Welcome. I think we will get straight down to the business. We have been reading some of what you have been saying in the House of Lords on the Animal Welfare (Sentience) Bill. My first question to you is: how will the Bill ensure that the welfare of sentient animals is properly taken into account in policy making?

Lord Benyon: Thank you, Chairman, and thank you for this opportunity to talk about this important legislation. As you are aware, this builds on a part of the Lisbon treaty, article 13, which was a relatively ineffective way of recognising sentience in policy. We are trying to improve on that. It will allow policymakers right across Government to receive expert advice in relation to how sentient beings—other than humans—are affected by that policy.

This is at times a very niche area of science, a very technical part of our decision-making process, and the more I have looked at it the more I am convinced that Ministers, and indeed many officials, simply do not have the background in understanding the very complex areas of animal welfare that sentience covers. I think this expert committee will deliver better policy and sails the right path between being an overbearing, overdemanding addition to the policy-making process but, also, what some people are concerned about, that the article 13 declaratory statement was not enough. I think we are heading for a regime that will help make better policy.

Q72 **Chair:** Evidence to our inquiry has criticised the Bill's lack of detail in fundamentally important areas. How would you respond to this? We will talk about the independence of the committee and all those things later, but do you refute the fact that there is not enough detail or is it the design of the Bill from the Government? Is it a strategy? What is it?

Lord Benyon: I entirely accept that legislators such as yourselves will want to know more details about how, for example, the committee will actually run itself, how it will prioritise its work and how Ministers will be required to take forward the evidence that their committee produces.

I am very conscious of the work that your Committee did three years ago and the very clear recommendation, which I think was entirely justified,



that we want to limit the risk of judicial review. Your Committee was absolutely adamant that it wanted the ultimate accountability to remain with Parliament, not with the courts. If we are too prescriptive in line with some of the accusations that have been made, I foresee a lawyers' feeding frenzy. I know that is not what you wanted, and it is certainly not what we want.

Q73 Chair: We are going to talk about judicial review in other questions, so I do not want to particularly go down that road, but what we were concerned about then, and I think we are concerned about now, is that we want to make sure that the pain that sentients may feel is stopped as much as possible.

We are also mindful that if you do want to build a road, it is not just DEFRA, you see, it is across Government. Are you confident that this Bill as it stands can deal across Government, both from protecting animals but also from allowing development if it is necessary? It is a fine balance. I put my animal welfare hat on, and I can see a lot of need for this Bill. I can also see it being a huge block, if you are not careful, to people who are sometimes legitimately objecting but other times will go to every length to object.

Lord Benyon: I entirely understand and that is the key, fundamental point about this Bill, that this expert committee will present to Ministers right across Government their findings. It is then for the Minister to use his or her judgment, taking into account wider factors. Those wider factors may be economic advantage of a project or a policy. It may be cultural. It may be environmental. There may be other environmental factors that, when taking all those policies into account, lead the Minister to make the decision that, mindful of the evidence they have been given by the committee, they are going to go ahead with a scheme or not go ahead with a policy, or whatever it is. That freedom for the Minister is absolutely vital, mindful that they will be held to account by Parliament for their decision.

Q74 Chair: Perhaps this is a slightly unfair question, but you have previously been a Minister, and a very able Minister. If you were still that same Minister doing your previous job, would you be happier that this Animal Welfare (Sentience) Bill is in place or less happy? Perhaps that is an unfair question, but how would you consider it? What I am trying to do and what we did with prelegislative scrutiny is just to get down to how this will actually work on the ground.

Lord Benyon: Chairman, that is a very good question because in Ministers' busy lives they just want to get on with stuff. They know that their time in the sun is relatively brief and they want to get—I am overusing analogies—runs on the board. Anything that gets in the way of decision-making can sometimes be tedious. Being dragged in front of a Select Committee can sometimes be an impairment to the warp and weft of ministerial life, but what matters much more than the whims of



Ministers is that their policy is well thought through and is overlaid by expert advice.

There may be occasions in the future when a Minister in a Department sighs as they receive a report from the Animal Sentience Committee because it exposes something they had not thought of but that matters to—I cannot say our constituency—your constituents and it matters to the wider public. Ministers should welcome this because, as I said earlier, none of us has the degree of expertise, unless they are vets like Mr Hudson or others. They are likely to require that degree of expert assistance in making the right policy. As I said before, they can then apply their judgment to it and take into account wider factors.

Chair: The draft Bill was withdrawn back in 2018, so we are talking about nearly three years for it to come back so we trust you have it right now. I will move on to question No. 2 and Derek, please.

Q75 **Derek Thomas:** Lord Benyon, we have referred to a lot of this. As was said, the draft Bill was withdrawn in 2018 and our previous Committee referred to the way that sentience was being dealt with in almost a cavalier fashion and, as you say, it was subject to lots of potential for judicial review. Are you confident now that the new Bill addresses all those problems identified by the previous Committee without actually weakening the very intention of the Bill?

Lord Benyon: Yes, in a number of ways. I was not involved with the original Bill, so I have had to read my way in, and reading the evidence and the conclusions that you came to, I think you came to the right ones, to be perfectly frank. There was a row. I was in your House at the time. It would have been perfectly easy to have had some sort of declaratory statement in the EU withdrawal legislation and we would be in roughly the same position as we were in the European Union.

If we had gone down the original route, as you suggested, there would have been considerable wriggle room for judicial reviews on decisions, on various other things. I think the key point you raised—I think you referred to it as a chilling effect because of the risk of judicial review—is there was a direct legal obligation on Ministers to have regard to animal welfare. That has been changed and a number of other changes have been made. Your point about having a single-issue Bill, which just deals with this one matter, I think is the right approach and it is the one that we have sought to follow.

Q76 **Derek Thomas:** The development that you describe sounds positive, but has the Department effectively outsourced responsibility for animal sentience to the Animal Sentience Committee, which is not Parliament and is not Ministers?

Lord Benyon: No. The Department has some outstanding expertise in a whole range of animal welfare issues, and there are other committees and other experts that advise us in a variety of ways and other parts of



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government. For example, for animals used in medical experiments, that policy is advised on by another organisation.

This specific area around sentience is an emerging area of scientific knowledge and expertise. I think it has moved on since the original legislation was brought to you for prelegislative scrutiny, and I am sure we will come on and talk about decapods and cephalopods. There are other areas in which increasing evidence could direct policy in other directions and we think that this is a good way of Ministers, right across Government, receiving advice in a situation that is not stationary. It is a moving field.

Q77 Derek Thomas: To conclude, the Animal Sentience Committee would develop that evolving picture, but the Minister is ultimately still responsible for the policy decision-making and how we intervene in animal welfare?

Lord Benyon: One of the recurring misunderstandings about this Bill in some of the press reports I have read and, indeed, in some of the debates we have had in the House of Lords is that somehow this is going to create policy. This is going to inform policy decisions and those decisions are going to be taken by the Government of the day. I really want to emphasise that.

Yes, I hope we have this right. We have left within the Bill the means to reflect changes to scientific evidence, so if there are new and emerging areas, perhaps new species and particular activities, agriculture, slaughter, those sorts of things, the committee can then move with that and policy can be refined.

Marc Casale: I gave evidence to the Committee in 2018 in relation to the original clauses, and I think one key difference is that the proposals we are now tabling provide for accountability to Parliament, not to the courts via judicial review. That is really important. The accountability mechanism will also ensure that the accountability is timely, proportionate and targeted, so it will be for the committee to focus on priority issues and the things that matter that are significant enough, and that will focus attention in the right areas.

The outcome is that we would hope, from the Government's perspective, that the committee's reports are positive and that is what Departments will aim for. That in turn will encourage Departments to make sure that all decision making is well-founded and based on suitable evidence, so that is how we think it is going to work in practice and the outcome should be greater assurance that decision-making is well founded, which should generate wider confidence in where we are with animal welfare. That is what we are aiming for as a sort of vision.

Q78 Chair: Just before I move to Robbie and question 3, Richard, you tempted me when you talked about slaughter. Religious slaughter, as you know, is very controversial, I believe, and I think all animals should be



stunned. What would happen if the Animal Sentience Committee came to you and said, "Right, Government, all animals should be stunned at slaughter"? It is still a decision of Ministers or where is it?

Lord Benyon: It is still a decision of Ministers, for which you and others will hold them to account. That is a very good example because a Minister might, for example, say, "We hear what you say but there are cultural and religious issues at play here and they require us to go down a different route". There is an awful lot happening in the Department about the rules relating to slaughter, and not least in this field. There have been great concerns raised in the House of Lords—and there will be in your House—that this is somehow a path towards changing the rules. It need not necessarily be, but it will inform areas of slaughter. My colleague Lord Goldsmith has been having regular meetings with religious groups and bodies to try to refine and improve the law on stunning before slaughter.

Sorry, I will be brief in my replies, but this is so important. One of the areas around that is extremely technical. What does stun an animal and what doesn't? What debilitates it to the point where it does not know what is happening or is it in some sort of half-conscious state? People really mind about this. I am not qualified to make a decision about that. I want experts to be able to inform that and then Ministers can apply the wider cultural and other related issues in the decision they take.

Chair: I will not press you further because I am aware there is a lot of work going on. The New Zealanders have done a lot of work on halal and partial recovery and partial stunning and so on, and hopefully we can move in that direction. But I will not press you any further because I think some of this is still being looked at.

Q79 **Robbie Moore:** I just want to drill down into the detail around the judicial review element following the Chair's question one. Lord Benyon, you said in the other place that the likelihood of a judicial review had greatly exercised DEFRA during the formation of the Bill. To what extent has the Bill been drafted to prioritise minimising the risk of a judicial review rather than protecting animal welfare?

Lord Benyon: Individuals and organisations will always try to push where they think there is a chink of light for them to exploit, but we think we have narrowed down the areas for judicial review to just two. One is failure to create the committee in the first place and the second is a failure of a Minister to respond within three months, which is the terms, to a report of the committee. Do you want to add to that?

Marc Casale: Yes. They are the main risks that remain. Again, we have designed these proposals to ensure that accountability will achieve the ends that we want so that, as I said, it is proportionate, timely, is targeted and is directed towards Parliament. That is the goal that we want to achieve, is to ensure that through that mechanism policy decision making is robust and can be justified. It is not as if the proposals have



been designed solely to avoid JR risk and, therefore, they will not achieve anything. Instead, we have come up with something that is a lot better, we think.

Q80 Robbie Moore: Do you feel that there is a tension between reducing the risk of a judicial review as much as possible and providing delegated legislation that benefits sentient animals while clearly getting the balance right between what Parliament has the ability to get involved with scrutinising? Where do you feel that that—

Lord Benyon: The tension between—sorry, can you just repeat that bit?

Robbie Moore: The tension between reducing the likelihood of a judicial review.

Lord Benyon: What we tried to do is create good policy that is held accountable here, not in the courts. I think that we have done that. There is a tension in trying to achieve that because it is natural for policymakers to be as prescriptive as possible. For example, if we were to say, which some people have asked me to do, the membership of the committee should contain three vets, somebody from the abattoir industry, someone from other different areas, from farming, personally I would quite like to see those sorts of people represented on the committee, but if you are too prescriptive in law, then if they make a decision at a time when those people aren't present or they have not been appointed or they are off sick, you can start to see how an organisation could exploit that over-prescriptive nature of your legislation.

We have deliberately left it off the face of the Bill, but we are going to be very clear in the guidance we give as to how the committee will be supported, the sort of formation it will have, the rules under which people will be appointed, their terms of appointment and all the rest of it. I am very happy to go into more detail if you wish.

Q81 Robbie Moore: Just on that guidance—because I think that will become a crucial element of how decisions are made—how do you feel that that guidance should be developed enough to equip those who are making the decisions to be fully informed?

Lord Benyon: My initial hope is that it will be clear enough in order to make people withdraw some of the amendments they have been talking about putting in at the Report stage, which I hope it will be. It is a serious point. I think people are right to ask, "How big is this committee going to be? What are the terms of reference? Who are the people who are going to be on it, the kinds of people who are going to be on it?" That can be explicitly laid out in guidance and will be before Report stage in a month or so. There are other aspects as well that Marc will—

Marc Casale: They could include the terms of reference of the committee, its objectives, the principles of its operation, what it does and how it does it. It could include aspects of the membership. How many members? What appointments process applies to them? What



governance applies to the committee itself in terms of how it operates? What transparency? Engagement considerations apply as well—how it might choose to alight upon those priorities that it wishes to report upon. All of those aspects we would wish to set out in the form of some sort of guidance document.

What we are saying is that we do not think that, in terms of having a proportionate accountability mechanism, this committee should be a non-departmental body and, therefore, all of these details about the committee it would not be appropriate to set them out in the legislation itself.

While as you say, Chair, the legislation itself does not go into these details that is by design on purpose because we think it is disproportionate to create additional government machinery that is over the top. But we will definitely be setting all that out and also providing Departments with guidance in relation to how they ought to be engaging with the committee and how they ought to be setting about to ensure that they achieve or seeking a positive report from the committee, which again could include how their own decision-making processes and evidence gathering ensures that there are—

Chair: We are going to talk about the committee membership in a minute in a future question.

Robbie Moore: That is fine from me, Chair.

Q82 **Chair:** I have one last question on it. Minister, it is the case with judicial review—and putting my previous local government hat on—that it just goes through process. It is a bit like when people challenge a planning decision. They will not necessarily overturn the decision. They will just go through the due process.

Are you absolutely confident now that the Bill puts in place a system that will not be easy to challenge from a process point of view? Basically, people use judicial reviews for all sorts of reasons, very often for delay and delaying projects, delaying all sorts of things. Are you pretty confident that what you have put in place now, while it can be challenged in the courts—everything is, I accept that—is unlikely to be? Is that your position or what?

Lord Benyon: Yes, I think we are as confident as we can be and, as I said before, I am sure there will be people who will attempt over the course of time to find an opportunity to challenge a process. It is perfectly simple for a Minister. When they receive the report from the committee, they know they have three months to reply, and we know in DEFRA as soon as this Bill becomes an Act we have to get on and appoint the committee and resource it. If those two factors are adhered to, the opportunity for judicial review is not there.

Q83 **Chair:** I think you also said in the law if the Government's response to the Animal Sentience Committee report was "found to be wanting". I do



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not want you to spell out what you would consider “found to be wanting” but why did you say that?

Lord Benyon: I suppose we are not being prescriptive as to how Ministers should respond but we, as the sponsoring Department for this committee, will already be having conversations with other Government Departments about how they should respond. I have said previously today that a Minister’s response should reflect and will reflect wider considerations than just those of the committee. Provided they have considered and paid all due regard to the evidence that they have received, they may well on receiving that evidence change that policy. If they believe the policy is more important than the narrow considerations of this committee, they can put it to one side and continue with the policy as previously planned if they explain why.

The reasons for explaining why may be many and varied. As I said, they may be environmental. They may be cultural. They may be economic. There may be many other areas of consideration that you are all aware of in the complex area of policy creation, but they will be better informed, and they will have to pay due regard to the impact their policy will have on sentient animals.

Chair: Talking about due regard brings me on to question No. 4.

Q84 **Dave Doogan:** Lord Benyon, sticking with your answer to that previous question, I have a question on language and the operational difference of the terminology “all due regard”, which is in the 2021 Bill, compared to just “regard”, which is in the draft 2017 Bill. What do you envisage as being the operational effect of that change?

Lord Benyon: This is taking us into the realms of draughtsmanship and legal advice. We wanted it to be as strong as possible without it being prescriptive and open to misinterpretation. I am of the opinion, on the advice that I have been given, that the terminology “having due regard” is stronger and strong enough to require Ministers to consider much more seriously a piece of evidence from this committee than they would have if they just had to have regard to it.

Sometimes in legislation, you will be aware—and we have all been on Bill Committees—you dance on the head of a pin around particular terminology, but Marc has been in this process of getting to that. You might add more flesh to those bones.

Marc Casale: Yes. Article 13 used the term “full regard” and the advice we had was that that sort of language does not work in English law. The choice was “regard” or “due regard” and the advice we received is that there is not that much difference between them in practice, so I think the language here reflects draughting from parliamentary counsel.

Equally, in the very first clauses that were issued in 2017, they said that Ministers should have regard to the needs of animals but, also, to pay all due regard or regard to other matters of public interest. Again, we have



subsequently had advice that says we do not need to include the second bit because that is automatically the case. In fact, the clauses now don't explicitly state that Ministers need to balance the needs of animals versus all other matters of public interest, because that automatically is the case, but that balancing requirement still applies, too.

Q85 Dave Doogan: To confirm, you are talking then that this change to wording is purely a legal matter? There have not been discussions within the Department that this type of intervention is due regard and another type of intervention might be less due or undue regard for the welfare of sentient animals?

Lord Benyon: This is legal advice, and this is advice from parliamentary draughtsmen. We have been led to the belief that that achieves the right balance of requirements on Ministers now and in the future, so yes.

Q86 Dave Doogan: Another phrase in the Bill is, "adverse effect on the welfare of animals as sentient beings". With the inclusion of that enacted, how will that differ from existing legislation relating to animal welfare as a distinct element?

Lord Benyon: "Adverse effect" sounds a negative word, but it is also about positivity. We do not want the committee just to look at the negative effects but to emphasise that certain policies, if you take into consideration the adverse effects of certain things, can have a positive effect on animal welfare.

Marc Casale: Yes. This was another matter for parliamentary counsel and legal draughting. Again, the advice we received in effect was saying that adverse effects also includes where you fail to provide for positive effects. For example, "adverse effects" doesn't just mean if an animal suffers pain. It could mean if you don't provide for animals who experience natural behaviours or have positive feelings, as it were, that the failure to provide for that counts as an adverse effect. While the legal language implies it is focusing on the negative, on the pain, in fact in practice the advice is that it covers everything. It basically means all effects on animals.

Q87 Dave Doogan: If there is an element of abstract scrutiny to actions or behaviours towards animal husbandry, how do you apply that subjectivity that says, "Yes, this is an adverse effect but it is a tolerable or acceptable adverse effect"?

Lord Benyon: There are a great many activities in farming, in countryside management, in fishing, that have an adverse effect on the individual animal but there are wider reasons why that goes ahead. It may be pest management. It may be the fact that animals are slaughtered for us to eat and it may be that—

Dave Doogan: Transportation.



Lord Benyon: Transportation, exactly. That is a very good point. A lot of work is going on and that is a very good example, Mr Doogan, because they are looking at a range of different issues in relation to different animals in transportation. What is the optimum distance that they travel? If you say that no animal must be moved beyond an absurdly short distance you will destroy the livestock industry, particularly in remote areas of Scotland. Everything has to be thought of, but the committee can provide the technical expertise and the Government can then make a decision bearing in mind those wider factors.

Q88 **Rosie Duffield:** We are still sticking with this theme for the time being. How would the Animal Sentience Committee fit alongside the Government's existing Animal Welfare Committee? Why have you created the ASC rather than just give the AWC greater powers?

Lord Benyon: The Animal Welfare Committee has a GB responsibility and it is directed in the work it does by the Government in a much more prescribed manner. The Animal Sentience Committee will not have that GB reach. There is already a sentience commission in Scotland and in the UK it will be able to dictate its own policy areas it wishes to go down.

Every way we looked at this—I am all for having as few organisations and bodies in government as possible—we just did not think it was compatible with the remit of the Animal Welfare Committee, so we have decided to keep it separate. I do think there will be an awful lot of cross-working between the two. There is nothing to say there should not be members of both committees who are on—there is a certain cross-fertilisation of members of the committee, so I think that they will work closely together but they do have a different scope, a different form of tasking, and the specific area around sentience we think deserves its own committee.

Q89 **Rosie Duffield:** Will you communicate that clearly to bodies that might need to refer things to you? I mean, for example, us, and then how we would communicate that to our constituents and things. Will you put in a PR campaign or something so that people know what the difference is and what the remit of both is?

Lord Benyon: You are absolutely right, there is the need for an information exercise, particularly among legislators, because you receive a lot of letters and emails on animal welfare issues, and you want those people to be directed to the right place and for them to understand that there are specific organisations that look into different areas of this policy and what the Animal Sentience Committee is all about.

When a Government are making policy, I think it is the Government's job to say, "We have received this piece of advice and this has informed how we are taking this policy forward," and to share that with you so that you can share it with your constituents. That is absolutely key. It is not just MPs. You will be aware there is a plethora of animal welfare organisations that are taking a great interest in this and want to make sure that they are influencing policy in the right way.



Q90 Rosie Duffield: Thank you. That really leads well into question six, which is the absence of a definition of sentience. Obviously, we are bombarded by constituents and NGOs who are rightly keen on getting a definition down—we want to be able to answer all of our constituents. Given the importance of sentience in the Bill, which is kind of central, and that 79% of responses to the 2017 Bill consultation called for the inclusion of a definition, why is there yet no definition on the face of the Bill?

Lord Benyon: For a number of reasons, Ms Duffield. First, it is a moving target. The definition of sentience has changed and the kind of species that one might be thinking of does change. There is not actually a tradition of declaratory definitional statements on the face of the Bill. I think the committee should be guided to state quite clearly what the definition of sentience is. That has happened with the Scottish sentience commission. That has happened in the Netherlands. That has happened, I think, in New Zealand. Therefore, I think it is for the committee to be quite clear about the definition it is working to.

That means also that in legislation you are not stuck with a 2021 definition of what sentience is. As scientific evidence improves and increases that can be changed, which it couldn't be if it was on the face of the Bill. Marc, you might want to say something.

Marc Casale: Yes. After the 2017 clauses were published and we had the DEFRA inquiry then, we did ask the then Farm Animal Welfare Committee to provide a definition of sentience, which they did do and put on their website. That would have been two or three years ago. Subsequently, as the Minister said, the Scottish Animal Welfare Commission has published its own definition of sentience, which is very similar but a bit different. Other bodies also have their own definition. While there is a common understanding, it has varied a bit over time, so we think the most flexible and future-proof arrangement is not to set it out on the face of the Bill itself but for it to be set again—these are the elements we mentioned earlier—in some sort of non-statutory document.

Q91 Rosie Duffield: Would one option be to set a definition out in secondary legislation so that it can be a bit of a moving feast? Is that an option rather than just a set definition by the committee?

Lord Benyon: I see where you are coming from, but my inclination is not to have it in legislation but to have it in the working papers of the committee, the chair and members of which, for example, you could grill on why they have selected that form of definition and how it might or might not differ from what other committees in other countries or, indeed, in the UK and Scotland have done. I think we have the balance right here and I would be unwilling to see it in any shape or form on the face of the Bill.

Q92 Rosie Duffield: I have one more thing. Are you then prepared to listen to NGOs and experts who may not agree with that or may not feel that



their best interests are represented by the make-up of the committee, which I know you don't want to prescribe too strongly? If that is an ongoing thing, would you be prepared to listen to those bodies that may not be totally happy with that?

Lord Benyon: Marc will give more details, but we have listened to a wide range. I think there were 40 different animal welfare organisations that have contributed to the thinking in this legislation. Perhaps some of them don't have a particular understanding of the importance of not having a definition in legislation because that may curtail the ability of the committee to reflect ongoing scientific and practical advice that it may receive.

Marc Casale: When it comes to, let's say, the committee wishing to issue its own updated definition of sentience, we expect that it would engage very closely with all key animal welfare groups and other scientific experts about that. There is also a key difference between the Animal Sentience Committee and the Animal Welfare Committee, in that the Animal Sentience Committee, because it will be able to decide which issues it wishes to focus upon, will be a lot more outward looking and engage much more directly with key stakeholders, including, no doubt, members of this Committee and the Chair, in relation to what it should be focusing on so that it alights upon the right issues. It will have that public profile.

Where you were asking about the differences, the Animal Welfare Committee on the other hand is just one of DEFRA's expert evidence committees alongside, for example, the Zoos Expert Committee and the welfare at killing sub-committee as well. They are there to provide DEFRA with internal advice rather than to be outward engaging.

Q93 **Mrs Sheryll Murray:** Can we look at the determining of which animals are sentient first? It is an absolute pleasure to see you back in the DEFRA fold, Lord Benyon. Why does the Bill confer responsibility for determining which animals are sentient on the Secretary of State rather than experts appointed to the Animal Sentience Committee?

Lord Benyon: The Secretary of State will make a decision based on the advice of experts, and the Secretary of State is accountable to you. I think that is the right way of doing it.

We have adopted the remit of the committee to consider vertebrates, that is anything with a spine, and I am sure you will want to get on to the ASC report and the possible extension of that to other species. That is the accepted international understanding of what a sentient animal is but, as I said earlier and as I am sure we will discuss, there are emerging views on whether there are other species that are not vertebrates that are sentient. Therefore, the Secretary of State can and will have the enabling power within the Bill to add species to it.

Q94 **Mrs Sheryll Murray:** You clearly read my mind because my next



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question is: how will you ensure that the process of determining which non-vertebrate species are sentient responds to scientific evidence in a transparent and timely manner?

Lord Benyon: That question can be answered by addressing the decapod and cephalopod issue. DEFRA has commissioned a piece of scientific work. The bid was won by the LSE and it has produced an extremely detailed report that looks into eight different criteria of animal sentience across 10 different species governed by the term decapod and cephalopod. I have read it and I found it compelling, but we have to make a decision at some point as to whether or not we are going to include them. That will be a departure from the initial definition of what a sentient animal is and we will have to consider all the factors in that very great lengthy report.

What was interesting about it was that people think with all these species, whether it is squid or octopus or crabs or lobsters, they either are or they are not. The point that this piece of scientific evidence produced is that some of them are, they would say, quite clearly sentient, some of them less so. It was very interesting reading it to see the different behavioural activities that they drew on to find their evidence. It is on the basis of that report that the Secretary of State will decide whether or not to include them in the remit of this committee.

Q95 **Mrs Sheryll Murray:** I am pleased that you have raised that report, but it is unpublished. DEFRA is yet to publish the LSE report, although it was submitted in December 2020. Could you give us any idea as to when that report will be published or why it has not been published to date?

Lord Benyon: It was completed in December 2020 but it had not been peer reviewed. We have a very strict rule in DEFRA that before paying in aid a piece of scientific advice we want to make sure that that has been through the rigorous process. It has now been through that and it will be made public before Report stage, so over the next three to four weeks it will be made public.

Q96 **Mrs Sheryll Murray:** Thank you. Given the delay in publishing the LSE report, how confident are you that DEFRA will be able to respond to the ASC reports within the proposed three-month timeframe?

Lord Benyon: I think three months is a fairly standard reporting time across Government. I don't know, I have not come bearing detailed evidence about, for example, the time that the Government have to respond to a Climate Change Committee report or any other statutory body. I think three months offers every Department the opportunity of not just replying but replying in a comprehensive way, weighing in all those other factors that I spoke about earlier.

I would reiterate that while the report was completed in December, having a proper peer review process—I got the report in July, I read it in recess, so I haven't been sitting on it for months. Government



Departments can and should reply within three months or they will not be complying with the important clause in the Bill.

Q97 **Mrs Sheryll Murray:** I look forward to seeing it, given my interest in molluscs—I am sure you understand—and crustaceans as well.

I have one final question. Given the Animal Welfare Act 2006 provides a similar power to recognise sentience and that this power has never been used, how likely is it that the Secretary of State will choose to use the power in the new Bill?

Lord Benyon: The Animal Welfare Act 2006 only covers vertebrates. There is, however, an enabling power in the Act for the Secretary of State to change that. That is a hard question to answer because you are asking me whether a future Secretary of State, years ahead, will be willing to make a change based on evidence that he or she has received. If they don't, these are all public documents and they will have to have good reasons why they don't. Marc, do you just want to add about the difference between the Animal Welfare Act and the sentience Bill?

Marc Casale: Yes. The Animal Welfare Act applies general protections directly to all kept animals. That includes powers to enable other regulations to be introduced that apply more specific protections, whereas the animal sentience Bill basically, as we have discussed, is an accountability relating to decision making. While under the welfare Act that can be applied to invertebrates if the Secretary of State considers that that is appropriate, doing so is a much bigger issue in some sense because you need to consider what the implication would be of applying these protections.

I think that is a decision that needs to be made very carefully. If, on the one hand, some invertebrates are considered to be sentient and, on the other hand, there is a read across to whether it would be consistent for them then to be included under the welfare Act and, indeed, under the Animal (Scientific Procedures) Act—at the moment I think cephalopods are covered by the Animal (Scientific Procedures) Act but decapod crustaceans are not—those linkages would need to be considered very carefully with a view to what they apply specifically in terms of protections for experiments and those who keep animals.

To come back to your earlier question about whether we will respond within three months, it is also worth remembering that the Animal Sentience Committee can issue reports at any stage in the policy-making process. What we would hope is not just that the committee waits until the end and then says, "Oh, well, this is what we think about the decision you have made," in relation to a final policy, but if the Government make the decision, let's say, to consult upon an imminent policy—for example, we want to consult soon on the local authority licensing of rescue centres—the ASC can then issue us with a report or something that says, "Well, okay, that is great. In relation to this emerging policy here is some



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evidence that we think you ought to be seeking to collect and here is where you ought to be focusing”.

I think that would be very helpful because then, as a Government, we can respond very quickly to that. Obviously, we would produce a statement within three months, but we would want to move quickly because it is very timely and considered.

Mrs Sheryll Murray: Thank you very much. Thank you, Secretary of State, I really appreciate your answers.

Lord Benyon: I am not the Secretary of State. *[Laughter.]*

Mrs Sheryll Murray: Sorry, Lord Benyon.

Chair: Can I bring in Neil Hudson now with a supplementary?

Q98 **Dr Neil Hudson:** Thank you, Lord Benyon and Mr Casale, for being before us today. It was just a follow-up to Sheryll’s question about the responsibility being confirmed on the Secretary of State about determining which animals are sentient.

Surely, moving forward, this expert committee will be regularly reviewing the up-to-date scientific evidence and putting down definitions of which animals are sentient and, therefore, then, the Secretary of State would be more having due regard to that definition and making policy decisions according to those definitions, rather than defining which animals are sentient, in a similar way to the JCVI making recommendations to Government and then the Government make the policy decision. Is that not a better way of doing it, that the experts say, “This is what the literature and the scientific progress says is the definition of sentience,” and the Government then pay due regard to that sentience according to how they adopt the laws?

Lord Benyon: Marc will correct me. It is entirely in the gift of the committee to say to the Secretary of State, “I don’t think you are considering the sentience of this particular species. There is some new evidence”. That would take the form of a report to which he would have to respond.

Marc Casale: Yes. I think the tricky thing is if the remit of the sentience committee is essentially animals as defined as being vertebrates, what you are getting at is how then could the committee by itself encourage Ministers to think about impacts on invertebrates.

Q99 **Dr Neil Hudson:** I guess that begs the question about bringing invertebrates into the debate and into the recommendations from that committee then. If, for instance, the invertebrates are brought in—which I think would be a good thing—they are producing evidence to the Ministers to say, “This is what the evidence suggests is sentience; therefore, our recommendations to Government would be X, Y and Z”. I take your point, Lord Benyon, that if the Government are not doing that the committee can actually produce a report and say, “Look, we think in



this instance you are not paying due regard to sentience in that particular species”.

Marc Casale: If I can understand the mechanism you are suggesting, it would be that there is a decision by the Government in relation to how sentience is defined and, in effect, the sentience committee can issue an opinion or a report into whether that is correct or not. Then the Minister would have to respond to that.

Q100 **Dr Neil Hudson:** Surely, if the committee is defining sentience, it is for Government to then interpret that in their policy. You mention the point that there is a sliding scale. With some of these animals it isn't black or white in terms of that, so then the Government will make decisions according to where the animals are on that particular sentience spectrum.

Lord Benyon: The crucial thing is around policy. The fishing industry catches fish and the wider benefit of that is that if they are catching sustainably caught surplus of wild fish they are maintaining the economy of coastal areas, they are providing our population with a healthy diet, and our export payments benefit. That is the point where Ministers may take a wider view after considering the actual impact on an individual species of being yanked from the bottom of the sea and put on the deck of a vessel, which is not very pleasant. These are the kinds of factors that Ministers will consider when a particular species is being talked about.

Q101 **Chair:** Thank you, Neil. I am very interested in the peer review that you have had of the LSE report. Are you considering peer reviewing the reports of the Animal Sentience Committee, too, and, if you are, are you going to react within three months?

Lord Benyon: No, we have not had any discussions. The difference is that the LSE report was a commissioned scientific report. The Animal Sentience Committee will be taking into account all kinds of different pieces of peer-reviewed scientific evidence and setting that out in a professional way that can be referenced as a public document. Its report will just reflect its expertise and its collective opinion. There will not be a requirement for that to be treated in the same way as, for example, the LSE report has been.

Q102 **Chair:** There will not be any statutory rule as to how long it will be for the Secretary of State to respond to a recommendation, or will there be?

Lord Benyon: Yes, there will be; three months.

Chair: That will be the three months?

Lord Benyon: That is written into the face of the Bill. Any Minister in any Department who receives this report will have three months in which to reply.

Chair: Because that could be a Minister for Transport, it could be a Minister for Local Government or Health.

Lord Benyon: It could be a wide variety of different Departments.



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Q103 **Chair:** It will publish those reports and they will be public knowledge and we, as a Select Committee, or whoever will be able to call that committee in and we could speak to them; is that the situation?

Lord Benyon: Absolutely, yes.

Q104 **Ian Byrne:** Will the Animal Sentience Committee be independent of Government?

Lord Benyon: It will be independent in its decision-making process. We can discuss the definition of independence. Let's work on that, let's go straight to the point.

The committee will be appointed by Government in accordance with Cabinet Office appointment rules and terms of appointment. The chair will be appointed by Ministers, but the committee will be able to conduct its own work programme. Its reports will be entirely unaffected by any pressure brought on it by Ministers or others, and it can decide which areas of Government policy to go down. We did not want to create a non-departmental public body for reasons that Marc set out earlier.

Q105 **Ian Byrne:** Can you just clarify that again, because it is hugely important why we just cannot say it is an independent body?

Lord Benyon: I think it is an independent body. There are many other such organisations across Government and they robustly defend their independence. I think that it will be able to conduct itself in a free and independent way. The rules for the appointment of its members and its chair are laid out very clearly in Cabinet Office guidance.

Q106 **Ian Byrne:** We will come on to that in question 10. This is just going back to that simple question. It is about confidence. The RSPCA has stated that the independence is critically important, so why was it not put on the face of the Bill?

Lord Benyon: We have been very clear about the fact that this is not like the Animal Welfare Committee, which is directed in the areas it is seeking to carry out policy research. This is a committee that can set its own priorities, make those public, and come before you and explain why it has chosen to carry out a particular piece of work. It is not going to be told by me or anyone that it has to do this or that. Its reports will be independent of any ministerial influence and it will hold that Department to account on the basis that it has to be responded to within three months. If we are not going to create a non-departmental public body, and there are very good reasons why it should not be that, and we are giving it the greatest degree of independence possible.

Marc Casale: There have been a wide variety of schools of thought. Some people have been keen for there to be a non-departmental public body. Other camps have pointed out that there are already too many such bodies in existence, and we need to make sure that government is not unwieldy and overly bureaucratic. In terms of being able to ensure



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that we have accountability and the body operating in a way that is proportionate and timely and also targeted, we do not think a non-departmental public body is necessary.

Q107 **Ian Byrne:** It is going to have such a huge remit, though, isn't it? There is a fear that if it does not have that independence written into it then it will not be as effective as it should be.

Marc Casale: It will have the legal power to choose where it wants to focus and then to issue its own reports. Ministers will then have to respond to those report recommendations. It will have an independence in terms of how it operates. Again, it will be able to choose which Departments and which ministerial decisions it wants to focus on.

Q108 **Ian Byrne:** I will move on to question 10. The Government have brought forward legislation for the Trade Remedies Authority and the Online Procedure Rule Committee, which sets out specific details of their memberships. Why does this Bill omit specific details about the Animal Sentience Committee? What is the difference?

Lord Benyon: Sorry, why does it not have the membership prescribed on the face of the Bill?

Ian Byrne: Yes.

Lord Benyon: A very important question. There are a lot of disciplines within the animal welfare world that we want to draw on. You could have a committee of 40 members, all of them with different skills within the whole range of animal husbandry, farming, veterinary science, medicinal research, and all the rest of it. There have been people saying, "There must be a farmer on this, there must be someone from the veterinary profession," and all the rest of it. As I was saying earlier, if you do prescribe precisely what a committee should consist of, and if for any reason they are not all present or there or appointed at the time that the committee is making its recommendation on a particular policy, it could leave you open to challenge.

We will seek to achieve the best possible balance of people from across the animal welfare sector—I am emphasising the words "welfare sector"—and commercial organisations and industries that are affected or can bring real knowledge and real understanding about this. There are people who are prepared to go into the scientific detail of particular activities that could affect the animal welfare of sentient animals.

I am averse to the idea of being as prescriptive as others are able to be. There are other organisations where it is perfectly clear that you have to have a certain number of people from certain organisations, but we are talking about such a huge spectrum of skills here that to be prescriptive would be both dangerous and wrong.

Q109 **Ian Byrne:** Can you tell us if the ASC will have an independent chair?

Lord Benyon: It will have an independent chair who will—



Q110 **Ian Byrne:** Full time?

Lord Benyon: No, not necessarily full time. It will be somebody from the animal welfare world, from a profession or from an area of expertise who will have a real understanding of animal welfare issues. They could be recently retired. They could be working in the same way as other chairs of other bodies are and we do not want to be too prescriptive about the particular stage in their career or particular number of hours in the week that this would take.

Q111 **Ian Byrne:** Will that be determined by the Secretary of State?

Lord Benyon: We want to properly resource this committee, and I am answering the question. We want to make sure that the committee is properly resourced and that it has the necessary support for the work it does. It will have a secretariat provided by DEFRA, but the Secretary of State will not be deciding how many hours a week the committee chair will be giving to it.

Ian Byrne: But they will appoint a chair?

Lord Benyon: Yes.

Q112 **Ian Byrne:** Moving on, and you have touched on this, the Countryside Alliance said given that the committee's remit covers the entirety of Government policy, the ASC will need huge resources. What would you say to that?

Lord Benyon: We have experience in DEFRA of supporting other committees that advise us. We think this can come from our departmental budget. We will be proportionate and provide them with enough to do their work.

Q113 **Ian Byrne:** Do you have a forecast?

Lord Benyon: Are we going to put more figures on this?

Marc Casale: We expect that the committee will be focusing on significant issues in a timely fashion that are of interest now rather than old issues. It is hard to say how many particular reports it might issue per year, but if you look at the Scottish Animal Welfare Commission, it publishes its work programme. There are maybe half a dozen issues per year that it is seeking to look at, and it has a forward look that identifies further issues into the future.

Q114 **Ian Byrne:** This has a huge remit, hasn't it?

Marc Casale: It covers all Departments. In practice, it could well be that most policy decisions that have a significant impact on animals are falling under the DEFRA wing but not all of them. That is one of the areas where these proposals go beyond article 13, which is targeted on some policy areas only. We cover every policy area with these reforms. But we were planning to make sure that the committee is fully resourced, yes.



Lord Benyon: Some of the work it will do will be quite quick and detailed. If local government, for example, were looking at the licensing of boarding services for pets, it might help the Department for local government to have a better understanding of what criteria there should be for the space a dog or a cat requires in those boarding houses so they can understand to license them properly. That is not going to require months of work. That could be the Animal Sentience Committee producing a very quick piece of information.

Q115 **Ian Byrne:** That is just one example, though, isn't it?

Lord Benyon: That is one example. There will be others that will be much bigger, you are absolutely right. When it comes to dealing with other issues there could be lengthier reports.

Q116 **Ian Byrne:** Do we have a forecast for the annual financial cost and have these figures been shared with the Treasury?

Marc Casale: We do not have a specific figure in relation to resourcing, but the secretariat will be funded from within my team in DEFRA. A number of people will be working on this full-time.

Q117 **Ian Byrne:** It is going to be within the existing budget as it is now, with no additional resource being given?

Lord Benyon: We are in the process of a spending review and it will be reflected in that, but we made a commitment that we want to do this and do it properly.

Q118 **Chair:** Just before we leave this, it is going to get most of its secretariat from DEFRA. Minister, you are assuring us that the chair is going to be independent. How can we be sure of that? Because at the end of the day it is for the Secretary of State for DEFRA to make the appointment, whoever he or she might be, whichever Government it might be, and it will be largely run from the DEFRA staff, as far as I can see. Where is its independence, Minister?

Lord Benyon: I am looking at it.

Chair: No, I can do what I can, but don't pass the buck like that, please.

Lord Benyon: I have had this argument made down the years about so many Government Departments. I do not think anyone could accuse, for example, Lord Deben—even though he is a Tory peer—of being anything other than independent in the way that he chairs the Climate Change Committee. I do not think anyone could accuse Dieter Helm of not being independent in the way he chaired the Natural Capital Committee. Yes, these are Government appointments, but you and others will be very quick to call out someone who is appointed as a sort of patsy. You would rightly hold the Government to account.

There is no incentive for us to produce someone in the position who just went through the motions. We want, and the legislation demands, a



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committee that is robust and is full of experts. There will be internal challenge if the chair is saying, "Oh, I don't think we will go down there, I don't want to upset that particular Secretary of State, I play golf with him on Saturday." Can you imagine how that would go down with the committee of experts?

Q119 **Chair:** It is not only independence, though, is it? It takes me back to when we started the meeting. It will be this balance between having good animal welfare but yet still being able to get Government, transport and all these things to run into the future. A lot relies on a good chair who is independent but also has a fair view of the situation, because otherwise you can push it in either direction, can't you? We can have confidence, can we, in the Government and the Secretary of State?

Lord Benyon: I have no name up my sleeve. We will go through a robust selection process. I have looked very closely at the Cabinet Office rules and the requirements that they give for fairness, integrity, diversity, and clarity of qualification for the job. They are strict rules, and it is very hard to comply with those rules and shove in somebody who is not going to cause you any difficulty.

Q120 **Chair:** I have one final one on this before I pass on to Neil Hudson. If you are too mean, dare I say it, with the way you set up the committee, the staffing and the arrangements for it, you can largely, shall we say, keep it in check if you chose to do so. We have had Natural England and many others in here who perhaps do not have their own press officers any longer. There are all sorts of ways of, shall I say, clipping the wings of various arm's-length bodies, be these not necessarily of DEFRA. Do we have the assurances that if you are going to set up this committee, it will be adequately funded and adequately staffed?

Lord Benyon: Yes, we have committed to properly resourcing this committee. In fact, there is something in the Bill that requires that.

Marc Casale: This is all about us wanting to raise the bar in terms of providing assurance that policy decisions are well founded. It all ties in with our action plan for animal welfare, where we make clear that we may well have some leading standards of animal welfare globally, but we want to stay at the leading edge of driving that forward. If you look at any well-run business they have decent assurance functions, and this is the purpose of these reforms. It is something we actively want to do so that we continue to be at the leading edge and driving that global agenda.

Chair: Thank you. Your answers to Ian and to myself will all be down on the record, and we look forward to this happening in the future. I am sure we will refer back to it if it does not, but I am sure that will not be necessary.

Q121 **Dr Neil Hudson:** I take on board your answer to Rosie about definition going on the face of the Bill and that potentially it is fluid and could evolve, but can I take you to the concept of animal welfare impact



assessments, which potentially can be a broad, overarching set of principles that then could be applied across different Departments? There appears to be a Government reluctance to introduce these animal welfare impact assessments, which could provide some consistency across government. Why do you feel that the Government are reluctant to put out these impact assessments that may well help to inform policy?

Lord Benyon: I have not heard, in either of my times in government—or outside it, indeed—Ministers saying we do not want that. I think there is a reluctance to have a specific requirement on everything, but the Government have commitments, for example, to have a family impact assessment that is overseen by the Department for Work and Pensions on new policy to check that it does not have an adverse effect on the family.

To an extent, this is providing that in a rather more flexible way than having a blanket policy that requires every new piece of legislation to have an animal impact assessment. This is a committee that is allowed to range across Government and look at policy as and where it needs to, rather than having an all-providing requirement. The vast majority of Government policy has little or no impact on animal welfare and I think it would, to an extent—forgive me—be window dressing if we were to create that. Education policy and most of our defence policy—

Q122 **Dr Neil Hudson:** Many members of the Committee are very exercised about animal welfare standards, say, in trade negotiations and there is new, very welcome legislation coming in on pet theft. If there were overarching, broad principles of animal welfare impact assessments that could then inform different Departments, that would be a helpful thing, would it not, which Ministers could consider when negotiating? I know we are going to get on to trade deals in subsequent questions, but Ministers could show that they have looked at that. We could have broad principles there that could be looked at.

Lord Benyon: I see where you are coming from. I just think we are providing that in a rather more nuanced way. I get the impression, in the three or four months that I have been back in the Department, that there is a sea change in our demand to improve animal welfare. It has always been there. We have introduced legislation down the years and down the centuries on animal welfare. We were doing it when I was last there. Nobody can accuse us of not having animal welfare at the heart of our departmental policymaking. What this Bill does is put it at the heart of wider Government.

Q123 **Dr Neil Hudson:** Thank you. That is very helpful. The next part of my question I think we have touched on a little bit, about how Ministers will respond to the sentience committee's reports. You mentioned at the beginning the risk of judicial review if they do not within three months and so on. What are the safeguards that you will put in place to make sure that Ministers will respond under clause 3, potentially, of the Bill?



Lord Benyon: It is worth just repeating the second part of clause 3, “The period is three months beginning with the day on which the Committee’s report is published” and clause 3(1): “Where the Animal Sentience Committee publishes a report under section 2, the Secretary of State must lay a response to the report before Parliament within the period specified”, being three months. It cannot be clearer than that. As I say, we will be working with other Departments to guide them as to how they should respond, and how they respond will in itself develop over the years. I hope that it will become an accepted part of every Department’s thinking because they know that if they have not had due regard to sentient animals, they will likely face a report that might challenge them. I hope that answers your question.

Q124 **Dr Neil Hudson:** Yes, it does, thank you. I want to get on to my next question—and again, we have touched on this earlier in the session—about the cross-Government role of this committee in terms of advising Ministers. Now, we have taken evidence in a previous session and the jury was split. Some people said that they welcomed that it was going to be under DEFRA, and some people said, “Well, shouldn’t it be in the Cabinet Office?” I am very much persuaded that it should be within DEFRA because DEFRA is the custodian of animal health and welfare, but because it is in DEFRA, are there any possible conflicts of interest or limitations as to what it can do that potentially, if it were put in a cross-departmental role, might be able to be mitigated? I think it should be in DEFRA but what are your safeguards to make sure it is going to work in DEFRA and it will be able to work cross-government?

Lord Benyon: I will ask Marc to come in in a second, but I saw Dr Radford gave evidence, a man for whom I have huge admiration and who has been a great help with this legislation. I do think that in DEFRA we are very used to dealing with animal welfare organisations and the wider stakeholder community, some of which you are a member. There are already good stakeholder relationships and that saves so much time. If it was put in the Cabinet Office, where they are dealing with so many other issues, I think we would be missing a trick. I hope you would agree.

Marc Casale: Indeed. While DEFRA would be the custodian, as you say, for the sentience committee, we will definitely be engaging not just with other Departments but actively with the Cabinet Office themselves. They could facilitate the way in which the committee engages across all Departments. Again, we will be producing guidance and that guidance will not just relate to how Departments should engage with the committee but what they should set about doing in order to ensure that the reports that they receive are positive, which comes back to not necessarily having a mandatory requirement for an animal welfare impact assessment but saying, “Here are the tools and approaches you might want to adopt to ensure that the committee reports favourably upon your decisions.” We will be working closely with the Cabinet Office while ensuring that we are still the custodians of this committee.



That also takes into account that there are synergies between the sentence committee and, as we mentioned beforehand, the welfare committee, the Zoos Expert Committee and the welfare at killing sub-committee. If you were to put it in the Cabinet Office, you would miss out on maybe exploiting those synergies with the other committees we have. While it is a complicated field, we think this is the right place for it to be sitting.

Q125 Dr Neil Hudson: I agree with you and I am encouraged to hear that, but how can you ensure that the sentence committee is going to get everything it needs from these other Departments? You are the conduit. You will be talking to the Cabinet Office, you will be talking to the Department of Health, and so on. How can you make sure that you guys are going to give the committee what it needs to be able to produce its reports and advise?

Marc Casale: I think we would be encouraging the committee itself to form its own bilateral arrangements and engagement with other Departments.

Dr Neil Hudson: They will do it directly?

Marc Casale: Yes, so that it will have its finger on the pulse of what is happening in all key Departments. If that is not happening, obviously we are on hand also to engage with the Cabinet Office to support that.

Lord Benyon: We are quite good at breaking down the silos. One of my responsibilities is rural affairs, rural proofing and our development of those. It is all about building relationships. One of the things that is always tricky in government is the churn of people, and just as you have built up a relationship with someone in the Department of Health or the Department for Trade, they go. You have to keep it going. That is why this core team in Marc's directorate are going to be vital, because they will build up long-term relationships that will survive not only the churn there but the churn of people within DEFRA. There will also be people on the committee who will be well versed in the Whitehall two-step, they will know how government works and they will build those relationships themselves as well.

Q126 Dr Neil Hudson: I am encouraged to hear that. Your crack team will be able to make sure that the committee gets what it needs and that you can guarantee that. You are encouraging the committee to contact Departments directly as well, but if there is a churn and the person has moved on, if someone on that committee or the chair of the committee comes to you and says, "Look, we're not getting what we need", what guarantees can you give to say, "Okay, we'll make sure you get it"? Does it have to come through a Select Committee? What does it do?

Lord Benyon: I will not put words in Marc's mouth, but first of all it is at official-to-official level and if blockages are still there, then it will be the job of Ministers to break that. There is a statutory duty here for them to co-operate and to respond. We hope that the work that they are going to



be doing is in the early development of policy, at Green Paper stage, the prelegislative scrutiny stage, and it is quite attractive from a policymaker's point of view to have that kind of input. That does not come out of their budget.

Marc Casale: All Departments have central better regulation units and legislation units, and they are go-to places to find out not just what the Department is getting up to at the moment, but what it is thinking of getting up to in terms of future policy decision making. Even if there is churn in the people there, these units exist in every Department. Also, Departments produce calls for evidence and consultations and are open and transparent about future policy development. Expectations are high about the committee's ability to engage constructively with Departments, and we will definitely be on hand if the committee chair says, "I am having a bit of difficulty engaging with a particular Department." That is when we swoop in and also involve the Cabinet Office, because everyone wants this to work well.

Q127 **Dr Neil Hudson:** If they are struggling to find something, could they potentially ask you guys, "Can we trigger a call for evidence on this particular area where we're not finding anything in Whitehall that can help us?" Can this committee trigger something?

Marc Casale: I am not sure they themselves would trigger a call for evidence. It is more if they were finding it difficult to contact someone in the Department to understand what that Department was planning to do. We could obviously make enquiries and say, "Here are the right people to speak to about that Department's future reform programme."

Dr Neil Hudson: Thank you, that is very helpful.

Q128 **Chair:** Dr Radford gave evidence to this Committee and he said, "Ministers have talked in terms of this committee having the power to roam Whitehall". Dr Radford said, "The image that comes to mind is that of Monty Python and the Spanish inquisition".

Lord Benyon: I was not expecting that. *[Laughter.]*

Chair: Exactly. I do not quite share Neil's enthusiasm that you are going to be able to direct Secretaries of State because I suspect the Secretary of State for Transport, when he or she is having a little problem with a road or a railway, HS2 or whatever, is going to override some of this if we are not at all careful. We get Home Office Ministers in here and they can only go so far. Other Ministers can only go so far. I am not convinced that you are going to roll all these people over. I want a bit more assurance than that they are all going to sit there, roll over and say, "Yes, we'll do exactly what you tell us". I think Secretaries of State will back up big time. How are you going to make sure that this works?

Lord Benyon: I entirely follow your analogy. Secretaries of State will not be sitting wondering why they have not had the knock on the door from the Animal Sentience Committee, but the Animal Sentience Committee



will go to where it can be most effective. It will not waste its time on issues where it is a very niche matter of animal welfare where there are many other areas of much more importance, with a much more fundamental need for the kind of expertise that they will bring. That said, they do have the right to go to any Department, they do have the right to give their view on a particular policy, they will give it within their tight remit of the impact of that policy on sentient animals, and the Secretary of State will be able to take a wider view.

This is better than we have been living with under the European treaty, this is a step up for animal welfare, but it is not a burdensome quagmire of policy atrophy that some accuse it of being. It is proportionate, it is fleet of foot and it requires Ministers to do something that we think is important.

Q129 Chair: I think it will rely a lot on Parliament being able to scrutinise what this Committee is saying, be it this Select Committee or others, because that is the way to put pressure. Ministers and Secretaries of State will find this rather onerous on occasions, however laudable it might be. I think we will park that one there.

It leads me on to question 13 quite neatly. The Animal Sentience Committee will be considering any new or existing Government policy. How should it decide which policies to review and which to prioritise? Will you allow the chair and the committee to decide that or will you as Government, in the round, give it guidance? How do you see that working?

Lord Benyon: I come back to what I said earlier about it being important that the committee develops its own work programme and looks at policy. We will assist it through the secretariat and through our relationships with other Departments as we hear about policy development across Government, but it will be for them to develop their own work programme in accordance with their terms of reference. They will be encouraged to prioritise it to where they can be most effective rather than spending all their time on providing a lengthy report on something that might not be a good use of that time.

Q130 Chair: You also said that little would be gained if the Animal Sentience Committee reopened old debates. What debates were you referring to? Were you referring to religious slaughter?

Lord Benyon: Most debates around animal welfare are ongoing. Unless we were going to suddenly open old debates around bear baiting or something, I cannot see many others that would be relevant. The hope is that it will be around the development of future policy. I have been encouraged to try to limit the work the committee is doing to just look forward at new policy. It is very hard to put that in a form of words that does not reflect the fact that there is almost never a blank canvas from which you are creating policy. It evolves.



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Take farming. Farming practices have changed so dramatically and will continue to change, perhaps at a very fast rate now with new technologies, gene editing and various other things. All these areas of policy development suddenly become more relevant, but you cannot just look at them in terms of the future. You have to see how you got to this point. That is why we have not gone down the route that some suggested of prescribing it just to be for future policy, because they have to take everything in the round.

Q131 **Chair:** Your emphasis would be on new policy, but you would not be averse to them looking back over some existing policy. Is that where you would state your case?

Lord Benyon: I hope it would be concentrating on new policy, mindful that there is a long narrative that has led up to that new policy developing. To be perfectly frank, I think they will be busy doing things that are of massive importance to thousands of animals, whether it is agriculture, fishing or other activities. They can inform future regulation and future policy in an effective way by looking forward. When you get talking about animal rights rather than animal welfare, you can sometimes go down a rather depressing dead end of political controversy, when actually what we are talking about here is improving the quality of animals in the context of many much wider issues, and raising the profile of it. That is why I do not want it to get bogged down in some of the past debates that may have occurred.

Q132 **Chair:** Yes, if it can concentrate on animal welfare rather than animal rights, that would be definitely the role, but again, that is guidance from Government, is it not? I thank you for that statement.

The final one, even though Dr Hudson did his best to steal this last question from me, is on trade. This is one thing that Dr Hudson, myself and many of this Committee are concerned about. As we do trade deals in the future, we expect very high standards of animal welfare in this country and perhaps the sentience committee may even want higher standards. That will put price pressure and we do not want it undermined by trade deals. What effect can the Animal Sentience Committee have on proposed new trade deals?

We are getting a great deal of trouble with the Trade and Agriculture Commission report published by the Trade Department on the core principles. The new one is taking a long time to come into being. We are, meanwhile, signing up to deals with Australia, there is one with New Zealand coming along, and we are not getting our protection. How do you see this, perhaps, alongside the Trade and Agriculture Commission? Would you see it making recommendations to that? How do you see it working?

Lord Benyon: The answer is that it could, but I suspect the committee will look and see, as I said earlier, where it can be most effective and whether there is another organisation that can deliver on those concerns. Now, the Trade and Agriculture Commission would be the right place for



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people to raise concerns about standards. That is one of the reasons it was set up. It may well be that the Animal Sentience Committee will say that it can conduct its activities in other areas. However, I do not want to prescribe where it can and cannot go. The Department for Trade is a Department of Government and very much within the remit of this Bill.

Q133 **Chair:** Yes, but you have been saying all along, Minister, that the whole idea of the Animal Sentience Committee is that it works across Departments. Therefore, surely it should have an influence on trade.

I am sorry, but I will be boring on this issue. If we are going to downgrade what we buy in trade across the world, we put our own farmers and producers out of business and we also do harm to animal welfare globally. It is a serious matter. It does drive us insane in this Committee that we do not get the answers, not necessarily from DEFRA in this instance but from the Trade Commission. If there is going to be cross-fertilisation, can it not be in this area as well?

Lord Benyon: It can be. We are on the record as being very keen to protect standards and not to export production of meat products to countries with lower standards. We want to make a virtue of the standards we have in this country. We want our farmers to be rewarded for applying those standards. We want the policies that surround those standards to be well-informed by Committees such as this and by other experts in the development of policy. The Trade and Agriculture Commission has a role, and it is a hard one, as part of that piece of legislation. It could certainly be the best way of raising these issues but not the only way, and the Animal Sentience Committee can go down that route if it so wishes.

Chair: I have a couple of supplementaries: first of all, Rosie, on behalf of Geraint Davies, who cannot make it here today, and then Ian, please.

Q134 **Rosie Duffield:** Geraint Davies has sent in a question because he is really exercised over this particular issue about the trade deals. The Australia trade deal, where we all got an awful lot of correspondence, stresses the cruel practices that we just would not accept here in this country: the prevention of flystrike harming those sheep physically, and being kept locked up in transport for 24 hours. I know you have just touched on this, but could the new committee be involved directly in the trade deals and negotiations? Would that be something that you see as a possibility to prevent those kinds of things that we just would not deem acceptable over here?

Lord Benyon: They are perfectly at liberty to submit a report to the Department for International Trade on any area of Government policy.

Q135 **Chair:** Basically, they skin the backs of the lambs, do they not, in order to stop the flystrike? Let's be blunt about it. The Australians still do it. The New Zealanders have banned it now. We need to be absolutely clear when we are doing trade what we are trading in. Sometimes, in the niceties of this world, we are not prepared to say what is actually



happening. If Geraint were here, he would describe in great detail to us exactly what happens to these lambs.

Rosie Duffield: He would.

Chair: Let's be blunt. I think it is getting us more and more frustrated. As we sign up to great animal welfare, which is absolutely right, let's be sure that we are going to do this in trade deals.

Marc Casale: Legally, the sentience committee can look at any decision by any Minister, but at the same time we would expect the committee will consider what other bodies are operating in the same field. In relation to animal experiments we have the Animals in Science Committee, which occupies that space, and then in relation to trade deals we have the new Trade and Agriculture Commission. That does not mean that legally the sentience committee cannot also look into those areas. It would be for the chair of the sentience committee and for the committee itself to decide if it sees value in also issuing a report in that area. That could be a report that may be in relation to saying, "Here's what we think about welfare standards in a particular trading partner and how we think that ought to be taken into account", and just clarifying what those are.

Chair: Right. We look forward to encouraging them in the future to do precisely that, and I dare say we might be doing that.

Q136 **Ian Byrne:** I have listened to the evidence and your response to Rosie's question and the Chair's. I am totally confused because we have made a great play of the independence and I think there will be a great fear about not having that word "independence" all over the Bill and having a body that, as Neil said, will be staffed by DEFRA and chosen by the Secretaries of State. Will they have the ability to ask the challenging questions that have just been raised by Rosie and Geraint? Will they be not unduly influenced not to be going into areas where they have been deemed by Government not to go?

This is a crucial question because I am getting hammered—I am sure every MP is—about the worries around trade agreements and animal welfare. If we are setting up this body that you have said—and I take your word for it, Lord Benyon—is going to be independent, then this, for me, will be a test of its independence and its strength, that it actually goes into these areas and ensures animal welfare in this country is also involved in trade deals. It should be an integral part of a trade deal, where they have sight of the trade deal and go over it from the committee's point of view.

Lord Benyon: I can see I need to work on you to convince you of our determination to have a robust and independent committee. That is what it will be. I think our record shows that we have appointed people who suit the role and are fiercely independent when it comes to it, right across different areas of Government, not just in DEFRA. We will do that in this case. This committee will be a creature of statute but also hosted by DEFRA and, therefore, the committee and the chair will be appointed by



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us, but have a look at those criteria that the Cabinet Office rules require because they do not allow you to appoint somebody who will not go down these areas of policy.

Q137 **Ian Byrne:** My worry is they will not have the powers when the Secretaries of State from the various Departments say, "Look, keep your nose out of this, this is not your remit." Are they going to have the strength to push back and say, "It is our remit, and we are going to do what we deem necessary"? That is my fear. I am sure other people have these fears as well.

Lord Benyon: You will be able to judge this. Their reports will be publicly available, and Ministers' responses will be publicly available. They will be laid before the House. You will be able to take evidence from them. We would be rightly criticised if we were to appoint people who did not have the right expertise and were not prepared to ask the difficult questions that such a committee demands.

Q138 **Ian Byrne:** Could the House direct the committee to investigate something, say a trade deal?

Lord Benyon: You cannot direct but you can suggest. It will be for it to create its own work process. We are not going to direct it. It chooses where to go. We can help it. We can even, like you, suggest that there is an area of policy that is being formulated in some part of Whitehall that should demand its attention. That is your right as well. There are frequent opportunities within Parliament to raise these issues and to hold it to account, and perhaps, most of all, Ministers.

Chair: Ian, thank you for those supplementary questions. Minister, Richard, and Marc, thank you very much for your evidence session. We do feel very strongly about this in this Committee. We want this sentence committee to work well. I think its independence and the independence of its chair will be essential if it is going to work properly into the future. We have had those reassurances from yourselves, we just need to make sure now they are delivered by Government. I have faith in the Secretary of State, but I think we need to ask these questions and we need to be clear, at the end of the day, that it will be independent and be able to look across government and at future trade deals as well. Thank you both very much.