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The Right Honourable Michael Gove MP
Secretary of State
Defra
Nobel House
17 Smith Square
London
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Monday, January 29, 2018

Dear Mr Gove,

I am writing on behalf of the Angling Trust, the national representative body for all forms of recreational fishing, to express our serious concerns over possible consequences for our sport as a result of the government's Animal Welfare (Sentencing and Recognition of Sentience) Bill which is currently the subject of consultation and pre-legislative scrutiny.

The Bill seeks to increase the maximum sentences for animal cruelty and also to write into law the concept of animals as 'sentient beings'.

In your ministerial statement on December 12th you stated: "The draft Bill will embed the principle that animals are sentient beings, capable of feeling pain and pleasure, more clearly than ever before in domestic law. There was never any question that our policies on animal welfare are driven by the fact that animals are sentient beings, and I am keen to reinforce this in legislation as we leave the EU."

The Angling Trust has no issue with increasing the penalties for animal cruelty but in common with other field sports organisations we are extremely concerned that a poorly drafted piece of legislation on the issue of animal sentience could lead to a series of legal challenges by groups opposed on principle to angling.

These concerns were given added impetus in the recent evidence to the Environment Food and Rural Affairs examination of the draft bill from Mike Radford, Reader in Law, University of Aberdeen and Sir Stephen Laws KCB, QC, former First Parliamentary Counsel. Both these experts concluded that the bill as drafted could have unintended consequences and would leave the situation open to legal challenge with final determinations made by the courts rather than parliament.

I hope you have had an opportunity to read their evidence in full but I would highlight the following extracts in particular:

Chair: *Am I right in saying that there seems to be very little limitation as to where it could be taken?*

Sir Stephen Laws: *That is right. It suffers from the defect of being an attempt to do politics with law and then to encourage people to do politics in the courts. That seems to me to be unwise. These are worthy objectives but they are probably objectives that are better dealt with by means of political accountability than by legal propositions.*

Q4 Chair: *Perhaps I am putting words into your mouth, but in a way this Bill potentially could hand a lot of the powers of Parliament, or perhaps a lot of the decisions that should be made by Parliament, to be judged in the courts through judicial review. Is that where you would see it?*

Sir Stephen Laws: *It is making Ministers accountable to the courts. To the extent that they are accountable ultimately to the courts, they will not be accountable to Parliament, because they will decide that they will do what is within the law and then Parliament can comment on what they do that is within the law.*

Q46 Sir Stephen Laws: *... the impact of this provision is less likely to be significant in relation to those matters where animal welfare clearly is the issue, because it is unlikely that, where animal welfare is the issue, Ministers will not be able to show they have had proper regard to it. The main, and in my view mischievous, impact of this is where it has an impact on things that are peripheral to animal welfare. It provides a handle for challenging other decisions.*

Q48 Mike Radford: *... a phrase such as "matters affecting public interest" can mean all things to all people. If it is left like that, the only body that can define precisely what it means would be the courts.*

Q54 Mike Radford: *If what one is looking for is a simple statement that animals are sentient beings, then you need to define what "animals" are, because there is no scientific consensus that all animals are sentient beings.*

Q57 Sir Stephen Laws: *Ideally there is no real legal need so it is better not to have clause 1 at all. If there is, there are better ways of doing it.*

Then there is the question as to why clause one of the Bill on sentience is needed at all and what precisely is meant by the term 'animal'.

The House of Commons Research Briefing - Animal Sentience and Brexit (8155) - states:

1.3 Existing Legislation There are several legislative instruments in the UK covering animal welfare. Many of these implement EU law, for example, the Welfare of Farmed Animals (England) Regulations 2007, and the Welfare of Animals (Transport) (England) Order 2006, and these will continue to be in force as they are, although it will be possible for the Government to amend these after Brexit. In addition, Animal Welfare Act 2006, which applies in England and Wales, makes it an offence to cause unnecessary suffering to any animal. 'Animal' is defined in Section 1 to include all (non-human) vertebrates and may be extended by regulation to include

invertebrates on the basis of scientific evidence that “animals of the kind concerned are capable of experiencing pain or suffering”. While the legislation does not specifically mention the word ‘sentient’, the Explanatory Notes for Section 1 mention that the Act applies to vertebrate animals as they are “currently the only demonstrably sentient animals”.

Therefore it seems to us that the existing definitions within the Animal Welfare Act 2006, with its accompanying acknowledgement of sentience, deliver the objectives of clause one, provide clear definition and make further, and more demonstrably challengeable legislation, not only unnecessary but undesirable.

During the passage of the 2006 Act the then Government was concerned that their law should not be used to challenge the legitimacy of angling as a sport and fish were specifically excluded from the definition of ‘animal’ in the legislation. Should you decide to proceed with this Bill we urge you on behalf of the UK’s three million anglers to adopt a similar approach and to ensure that one of the nation’s most popular outdoor activities is not threatened in any way.

I hope you will give due regard to our concerns and look forward to receiving your response on this issue as soon as you are able so that we can keep our members informed.

Yours sincerely,

A handwritten signature in cursive script that reads "Mark Lloyd". The signature is written in black ink and is positioned above the typed name and title.

Mark Lloyd
Chief Executive