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May 02, 2022 UK Passes its own Animal Sentience Act after Leaving the EU

By Andrew Rowan, DPhil

When the UK (United Kingdom) voted to leave the European Union (EU), one of the consequences would be the loss of legislation on various issues covered in existing EU laws. The UK government had to pass new laws covering the many items in EU legislation that would no longer apply to the UK, including the statement in the EU governing treaty that animals were sentient. The Conservative Government had promised to address the complicated range of legislative gaps, including the declaration that animals are sentient beings, that would be precipitated by the UK's departure from the EU via new omnibus legislation. As expected, the very complicated omnibus EU-departure legislation did not address all the "gap" issues. In particular, the issue of animal sentience was omitted. This omission prompted public dismay that animals would no longer have the protection of the EU declaration that they were sentient beings and led to a campaign calling on the Government to correct the omission. The Government promised to do so and eventually developed an Animal Welfare (Sentience) Bill to take the place of the EU language. On April 28, 2022, the United Kingdom (UK) Government bill stating that animals are sentient received Royal Assent from Queen Elizabeth, meaning that the bill is now an Act, the law of the land. What does this new law mean in practice?

The United Kingdom's animal sentience legislative approach is different from that adopted by the EU. On the issue of animal sentience, the EU included a

declaration that animals were sentient in the treaty that governs the functioning of the EU ([Article 13](#)) but did not develop a process for enforcing the declaration. By contrast, the new UK act has no declaration but does outline a process whereby government departments will be held accountable for including animal sentience in their deliberations and policies. In the words of Professor Jonathan Birch of the London School of Economics (and an advisor to the UK Government on the animal sentience issue):

“The UK has an approach to animal welfare based on oversight and accountability, with processes already in place to make sure scientists and farmers take welfare into account. This new Act extends that approach to policymakers themselves. Now they too have a duty to regard animals as sentient beings, and a process will be put in place to hold them to account before Parliament if they neglect that duty.”

The new law does not include a definition of “sentience” but leaves it up to the Government to decide which animals qualify as sentient. The Royal Society for the Prevention of Cruelty to Animals has developed a working [definition](#) of sentience as the “capacity to experience positive and negative feelings such as pleasure, joy, pain, and distress that matter to the individual.” The Government has now decided that the new bill will apply to a broader range of creatures than the vertebrates who have traditionally been considered to be sentient.

The new UK Animal Sentience Act applies to all vertebrates and decapod crustaceans (e.g., lobsters, crabs, and shrimp) and cephalopod mollusks such as the octopus. Cephalopod suffering and distress have already been recognized in some circumstances (e.g., animal experimentation laws and regulations). The new UK Animal Sentience Act will raise challenging issues regarding treating “farmed” octopuses and standard practices such as killing lobsters by placing them alive and conscious in boiling water.

[Farming octopus](#) has become an issue only recently. The Spanish multinational corporation, Nueva Pescanova, announced that it plans to start marketing farmed octopus (raised on an octopus “farm” in the Canary Islands) in 2023. While octopus farming may help reduce the pressure on wild octopus populations (an

estimated 350,000 tonnes caught annually – ten times the amount caught in 1950), the increasing global [concern](#) regarding octopus sentience may put a hitch in the company's plans.

The UK prides itself on being a leader in animal welfare, and the new Sentience Act confirms that leadership. The UK also has a government minister (Lord Zac Goldsmith) responsible for an animal welfare portfolio. The [press release](#) that announced the Queen's approval of the Animal Sentience bill also announced a bill outlawing rodent glue traps – a particularly problematic device from the perspective of animal welfare. The press release noted that the UK, since leaving the EU, "has been able to strengthen further its position as a global leader on animal rights." The Government has also published an [Action Plan for Animal Welfare](#). It promises to focus on five key areas – sentience and enforcement, international trade and advocacy, farm animals, pets and sporting animals, and wild animals. It will be interesting to follow how the Sentience Act now plays out in practical policies and laws in the UK.

In particular, the Sentience Act could have some far-reaching implications for wild animals and the protection of wild vertebrate (and invertebrate) habitats. Wild animals require healthy habitats and healthy environments to thrive. The Royal Society for the Protection of Birds (RSPB) in the UK produces an annual [State of the Birds report](#), documenting a 55% decline in populations of farmland bird species and a 27% decline in populations of woodland bird species. The decline in farmland birds has occurred despite the widespread uptake of agri-environment schemes in the UK. Overall, there were just over 80 million breeding pairs of birds in the UK or 19 million fewer pairs of native breeding birds in 2017 compared to 1966.

Understanding animal sentience and which species possess it is essential in promoting better animal welfare, but providing healthy and sustainable habitats is also vital for wild animals. A new NGO, the [Wild Animal Initiative](#) (founded in 2017), highlights the issues adversely affecting wildlife and campaigns to improve the welfare of wild animals (more than just wild animal conservation).

There have been relatively few practical consequences of the various declarations

in laws and public policy that animals are sentient. The new UK Animal Welfare (Sentience) Act will probably change that. The Act establishes an expert committee responsible for ensuring that government policy includes appropriate attention to animal sentience. Government ministers will be required to provide formal responses to questions raised by the new committee. This oversight process will likely raise many difficult questions about animal treatment in the years to come. It will undoubtedly begin to answer specific practical questions about the definition of sentience and the range of sentient animals.

