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A note from ALAW

This Winter/Summer edition of the Journal for Animal Welfare Law covers diverse subject areas.

Joanne Sellick and Jason Lowther discuss whether the forthcoming Directive 2010/63/EU will improve the protection of animals used in research. Sally Case looks at sentencing in relation to animal cruelty using two tragic cases prosecuted by the RSPCA as examples. Peter Stevenson provides a briefing on two important regulatory instruments affecting farm animals. Paula Sparks and Dominika Flindt give a round up case law, other materials and news updates. Bridget Martin explores the on-going issue of Badgers and Bovine Tuberculosis. Chris Draper discusses how effective the licensing and inspection of zoos, under the Zoo Licensing Act 1981, is in supporting the welfare of zoo animals.

I hope you enjoy this issue. If you have ideas for ideas for further content please do get in touch.

Jill Williams
Editor

Enhancing the Protection of Animals Used for Scientific Purposes

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> **Around 12 million animals are used every year throughout the EU for experimental and other scientific purposes**

In September 2010, closely following adoption of the first international welfare standards on the use of animals in research and education by the World Organisation for Animal Health's (OIE)[1], the European Parliament, after many years of discussion, consultation and petition, voted to revise the European Union's legislation[2] on animals used for scientific purposes. This is significant because around 12 million animals are used every year throughout the EU for experimental and other scientific purposes[3]. In the UK alone, just over 3.6 million scientific procedures were started in 2009; a third higher than in 2000[4]. This is perhaps a surprising statistical rise when set against the findings of Home Office consultation on the, then evolving, EU legislation. This consultation seemed reflect the desire, outside of the respondents involved in animal research, for broader and deeper regulation[5].

This article will set out to identify the reasons that the EU has, finally, moved to legislate and will set out the content of the new Directive.

Background

Directive 86/609[6] was adopted by the, then, European Economic Community with the aim of eliminating disparities between the Member States in respect of the protection of animals used for experimental and other scientific purposes. The Directive was never significantly amended[7]. By the start of the new millennium the legislation was out of date from both a scientific perspective, in that there had been significant improvement in experimental techniques in the last two decades; and from an ethical perspective Neither aspect was reflected in what was becoming an increasingly archaic piece of legislation. The EU itself had also 'moved on', recognising the protection of animal welfare in the 1997 Treaty of Amsterdam Protocol on the protection and welfare of animals and more recently Article 13 of the Treaty on the Functioning of the European Union.

At a fundamental level, Directive 86/609 also failed to embed the application of the 'Three R's' principle. This principle, widely recognised and hence one that should be reflected in policy, legislation and practice, is that there should be the replacement, reduction and refining of animal testing. The Directive's lack of fitness for purpose was further reflected in the fact that Member States' national legislation offered more significant protection than the standards set out in the Directive. In addition, the Directive

[1]Adopted at the 78th General Session under the OIE Terrestrial Animal Health Code Chapter 7.8 see http://www.oie.int/eng/normes/mcode/en_chapitre_1.7.8.htm

[2]Directive 86/609/EEC OJ L358/1 18.12.1986 available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31986L0609:EN:HTML

[3]Statistics for 2008 see 6th Report from the Commission to the Council and European Parliament on the statistics on the number of animals used for experimental and other scientific purposes COM (2910) 511/ final 2; mice are the most commonly used accounting for 59% followed by rats at 17%. Larger animals though are also used with around 20,000 dogs and 10,000 non-human primates being the most significant. The total number used has remained relatively static as compared to 2007 and 2006 see 5th Report COM/2007/675 final and 4th Report COM/2005/7 final

[4]mostly accounted for by breeding to produce genetically modified and harmful mutant animals; excluding such breeding, the total was slightly higher than in 2000 (an increase of 70,000 procedures), Home Office, Statistics of Scientific Procedures on Living Animals, 2009 27 July 2010 HC 317 available at http://rds.homeoffice.gov.uk/rds/pdfs10/spanimals09.pdf

[5]Consultation available at http://tna.europarchive.org/20100413151426/http:/scienceandresearch.homeoffice.gov.uk/animal-research/legislation/summary report2835.pdf?view=Binary

[6]transposed into UK law through the Animals (Scientific Procedures) Act 1986 see http://www.archive.official-documents.co.uk/document/hoc/321/321-xa.htm

[7]There was though Commission Recommendation 2007/526/EC that Member States ensured they complied with the revised guidelines from the Fourth Multilateral Consultation of Parties to the European Convention for the protection of vertebrate animals used for experimental and other scientific purposes adopted on 15 June 2006: see OJ L197/1 30.7.2007

was an unclear and ambiguous piece of drafting that had in turn resulted in a lack of uniformity in national implementation measures, discussed further below. So, 24 years after the adoption of the Directive there was, as well as an out of date legislative environment, a varied legal regime throughout the Union generating a "highly diversified, unequal competitive environment"[8].

Revising the Law

Work on revising the Directive began in 2002, when the European Commission's Directorate-General for Environment (DG ENV) requested an opinion on the welfare of non-human primates used in experiments from the Commission's Scientific Committee on Animal Health and Animal Welfare (SCAHAW)[9]. During the same period, the European Parliament drafted a report[10] calling for the Commission to revise the Directive.

> **significant public demand for revision of the law**

In 2003, the DG ENV convened a Technical Expert Working Group to collect scientific and technical background information for the revision of the Directive[11]. Of note was that during this time the EU was taking the final steps towards banning the use of animal testing in respect of cosmetic products[12]. In 2005[13], the Animal Health and Animal Welfare Panel gave its scientific opinion on the use of animals for scientific purposes, which was followed by the European Parliament requesting the Commission prepare a proposal to revise Directive 86/609 by the end of 2006, but the process continued, with the Commission conducting an external impact assessment[14] (the 'Prognos Study') during 2006-7.

During 2007 it also became clear that there was significant public demand for revision of the law; the public consultation received a total of 42,655 replies, then the third largest number of responses to a Commission internet consultation. A large majority of respondents supported measures at a European level to increase the welfare of animals and believed that the EU should be a world leader in promoting animal welfare and protection. The Commission also had to publish a response to the large number of petitions and letters it had received from EU citizens on revision of the law, and specifically on the use of non-human primates in experimentation[15]. Indeed, on 25 September, the European Parliament adopted a Declaration[16] urging the institutions when revising the Directive to take the opportunity to formally end the use of apes and wild-caught monkeys and to introduce a timetable for the replacement of all primates in scientific experiments with alternatives. The culmination of this increasing demand for change was a proposal from the Commission[17], published on 5 November 2008, for a new directive accompanied by an impact assessment[18] drawing on, inter alia, the Prognos Study.

The Problems

The impact assessment identified four principal 'dimensional' issues associated with Directive 86/609 namely environmental/ animal welfare, economic, scientific and public/ societal problems. Heading the list of dimensional problems according to the Commission, although not perhaps in the eyes of the public, were the economic problems generated by competitive disadvantages for countries with high animal welfare standards[19]. The welfare problems were associated, first, with differing levels of care resulting from distinctions made between animals that were and were not protected under the Directive. This was compounded by differing standards in force as a result of Member States adopting different legislative levels of protection. The scientific problems were identified as being low innovation and lack of incentives to use alternatives, and obstacles to free movement for researchers due to differing standards in education and training. Finally, the public or societal problems were

[8]Commission Staff Working Paper, Impact Assessment, SEC (2008) 2410/2, COM (2008) 543

[9]available at: http://europa.eu.int/comm/food/fs/aw/aw_scahaw_en.html

[10]http://ec.europa.eu/environment/chemicals/lab_animals/pdf/evans_report.pdf

[11]For the final reports see http://ec.europa.eu/environment/chemicals/lab_animals/revision_en.htm

[12]Directive 2003/15/EC OJ L66/26 11.3.2003 amending Directive 76/768/EEC OJ L262/169 27.9.1976 – a testing ban on finished cosmetic products became effective on 11 September 2004 and on ingredients and combinations of ingredients on 1 March 2009. A marketing ban also came into effect on 1 March 2009 except for repeated dose toxicity, reproductive toxicity and toxicokinetics, in which case marketing bans will be introduced as alternative methods are adopted but with a maximum cut-off date of 11 March 2013

[13]Available at: http://ec.europa.eu/environment/chemicals/lab_animals/scientific_en.htm

[14]See the Prognos Report 2007 http://ec.europa.eu/environment/chemicals/lab_animals/ia_en.htm

[15]Brussels, 28.9.2007 available at http://ec.europa.eu/environment/chemicals/lab_animals/pdf/petitions_dir86_609.pdf

[16]DCL 0040/2007/ P6_TA-PROV (2007) 00407 available at:http://ec.europa.eu/environment/chemicals/lab_animals/pdf/fische_suite_en.pdf

[17]SEC (2008) 2410, COM (2008) 543 final Brussels 5.11.2008 see IP/08/1632, Brussels, 5 November 2008

[18]Commission Staff Working Paper, Impact Assessment, SEC (2008) 2410/2, COM (2008) 543

[19]According to the Commission this resulted from price differences; divergent regulatory and authorisation procedures resulting in variable durations and costs of projects; unsatisfactory working conditions and "increasing activist criminality" – Commission Staff Working Paper, Impact Assessment, SEC (2008) 2410/2, COM (2008) 543 at 11

stated by the Commission to be an 'increasing dissociation between weak legislation and strong public concern, evolving from changed ethical and societal values and increased public interest about the acceptability of animal testing'[20]. In light of these dimensional problems, the impact assessment pin-pointed thirteen specific policy issues.

First, Directive 86/609 did not cover animals used in basic research, education and training, animals bred and killed for tissue and organs, or any invertebrate species or embryonic and foetal forms. This was most surely a reflection of the time in which the Directive was drafted – since the late 1980's there has been a shift from in-viro to in-vitro experimentation and a corresponding increase in the number of animals specifically bred for such purposes. This development had though been reflected in the legislation and practice adopted by Member States: 80% had extended their regulatory protection to animals used in basic research; 60% of them had extended protection to animals bred and killed for tissue and organs; however in contrast only 30% offered protection to invertebrate species or embryonic and foetal forms.

Another fundamental flaw was that the Directive did not require compulsory authorisation of projects. The impact assessment discovered that 21 Member States had forms of project authorisation and processes that were significantly different, often with non-transparent criteria. Stakeholders estimated that authorisation could account for 3-4% of the overall costs of a project involving animals[21] and take between 70 and 100 days. In addition, whilst every Member State had adopted ethical evaluation as part of its authorisation process, there were significant differences in practice so, for example, the Three R's principle was used as part of the evaluation in only 15 Member States. The Prognos Study ascertained that in 2005 whilst 7.3 million animal experiments were covered by mandatory ethical evaluation, a further 4.9 million were not[22].

only a small handful of States such as the UK, Germany, Austria and the Netherlands were prepared to establish national centres to pursue the goal of exploring alternative method

Additionally, in analysing the embedding of the Three Rs principle in the Directive it was found that whilst the Commission had set up the European Centre for the Validation of Alternative Methods (ECVAM) in 1991 to generate validation procedures and criteria, which it had been relatively successful at doing, only a small handful of States such as the UK, Germany, Austria and the Netherlands were prepared to establish national centres to pursue the goal of exploring alternative methods.

In terms of the important issue of animal welfare, Annex II of Directive 86/609 contained non-binding guidelines on accommodation and care. As such, their adoption by Member States had been erratic, with only some considering them compulsory standards. In addition, the Prognos Study revealed that whilst all the Member States had minimum legal requirements for the competence of personnel working with experimental animals once again practice differed, with only 35% of Member States requiring personnel to demonstrate the maintenance of competence[23].

In terms of the thorny issue of the use of non-human primates, the impact assessment found that the total use of them in the EU-25 is around 10,000 per year[24]. The use of Great Apes[25] was though extremely limited with only 6 used in 1999 and none in 2002 and 2005[26]. Inconsistency between Member States was evidenced in the fact that three had in fact outlawed the use of Great Apes and one had a partial ban[27]. As for the UK, in 1997 the Government stated that Great Apes had never been used under the Animals (Scientific Procedures) Act 1986 and whilst this had not previously constituted an actual ban,

[20]Commission Staff Working Paper, Impact Assessment, SEC (2008) 2410/2, COM (2008) 543 at 13

[21]See the Prognos Report 2007 Chapter 7 at 61 http://ec.europa.eu/environment/chemicals/lab_animals/ia_en.htm

[22]See the Prognos Report 2007 Chapter 7 at 20 http://ec.europa.eu/environment/chemicals/lab_animals/ia_en.htm

[23]See the Prognos Report 2007 Chapter 7 at 27 http://ec.europa.eu/environment/chemicals/lab_animals/ia_en.htm

[24]75-80% being Old World monkeys (primarily cynomolgus and rhesus monkeys) and 20-25% New World monkeys (primarily marmosets and tamarins) Commission Staff Working Paper, Impact Assessment, SEC (2008) 2410/2, COM (2008) 543 at 20-21

[25]Chimpanzees, gorillas, pygmy gorillas and orang-utans

[26]Commission Staff Working Paper, Impact Assessment, SEC (2008) 2410/2, COM (2008) 543 at 21

[27]UK, Austria and the Netherlands; partial ban in Sweden.

the Government would not permit their use as a 'matter of morality' since it was 'unethical to treat them as expendable'[28].
Those research areas using non-human primates were found to be primarily the testing of pharmaceuticals; the quality control of vaccines; and applied research and regulatory testing. Interestingly, evidence failed to show that there had been any consistent decrease in the use of non-human primates, as would be expected if the Three Rs principle was being effectively pursued[29].

The aspect of the Directive pinpointed as being significantly flawed was that whilst it did provide for the need for the State to impose 'periodic' inspections, the frequency with which they were to take place was not specifically stated. Consequently, Member States' practice differed significantly. The impact assessment also concluded that there was no systematic method or instrument employed to ensure that Member States avoided duplication of testing[30]; meaning around 160,000 animals per year could be subject to unnecessary testing[31].

Finally, in terms of the information available on animal testing, Directive 86/609 provided that States had to report every three years to the Commission. However, there was inconsistency on the reporting criteria and analytical categories, which had undermined confidence in the data[32]. There were additional problems with a lack of data at an institutional level, making it particularly difficult to ascertain trends. Evidence also indicated inconsistency at a national level, with most Member States making public information about animal testing through yearly reports but only some providing information in respect of the authorisation process and only a handful providing access to ethical evaluation reports.

The New Directive
On the 9 September, with the claim that the EU 'will soon have the highest standards of experimental animal welfare in the world'[33] the Commission announced the adoption of Directive 2010/63/EU34. The Directive applies to all situations where animals are used or intended to be used in procedures or bred specifically so that their organs or tissues may be used for scientific purposes, and continues to apply until the animals are killed, re-homed or returned to a suitable habitat or husbandry system.

the EU 'will soon have the highest standards of experimental animal welfare in the world'

The Preamble to Directive 2010/63 states that one reason for its introduction is to bring the law into line with new scientific knowledge in respect of 'animal welfare as well as the capacity for animals to sense and express pain, suffering, distress and lasting harm[35]'. Hence a primary aim of the Directive is to raise minimum standards and 'tighten the loopholes, remove ambiguities' and 'make the provisions coherent[36]'. The primary aim is therefore to offer uniformity but the Preamble does refer to a limited ability of the Member States to retain 'more extensive animal-welfare rules' in order to reflect 'national perceptions[37]'.

Main Themes
The 'theme' of the new Directive is one that attempts to strike the delicate balancing act between recognising the continued need to permit the use of live animals, whilst treating such animals as 'sentient creatures' with an 'intrinsic value'[38] that must be respected. Consequently, the Directive restricts their use to areas that 'may ultimately benefit human or animal health or the environment'[39]. The new Directive also emphasises the need to ensure that the 'final goal'[40] of removing the need to rely on such types of experimentation is one that is firmly embedded in the legislative framework.

To this purpose, the Directive specifically iterates that the Three R's principle must operate 'through a strict hierarchy of the requirement to use alternative methods'[41]; Article 4 of the Directive requires Member States to 'wherever possible' use a method that does not involve the use of live animals; to reduce the number

[28]HC, EU bibliographies: animal experiments directive, SN/IA/5081, 17 September 2010 available at http://www.parliament.uk/briefingpapers/commons/lib/research/briefings/SNIA-05081.pdf

[29]Commission Staff Working Paper, Impact Assessment, SEC (2008) 2410/2, COM (2008) 543 at 21 for example: the assessment identified that whilst the Netherlands had seen a small decrease in the use of NHPs between 2000 and 2004, the UK had seen a corresponding increase.

[30]Commission Staff Working Paper, Impact Assessment, SEC (2008) 2410/2, COM (2008) 543 at 25

[31]See the Prognos Report 2007 Chapter 7 at 29 http://ec.europa.eu/environment/chemicals/lab_animals/ia_en.htm

[32]Commission Staff Working Paper, Impact Assessment, SEC (2008) 2410/2, COM (2008) 543 at 27

[33]European Environment Commissioner, Press Release IP/10/1105

[34]OJ L276/33 22.9.2010

[35]OJ L276/33 22.9.2010 at para. 6

[36]Proposal for a directive on the protection of animals used for scientific purposes, COM (2008) 543 final, Brussels, 5.11.2008 at 4

[37]OJ L276/33 22.9.2010 at para. 7 This is set out in Article 2 of the Directive, which permits Member States to continue any provisions in force as of 9 November 2010 with the aim of ensuring more extensive protection than that contained in the Directive. Such provisions must be notified to the Commission by 1 January 2013: Article 2(1)

[38]OJ L276/33 22.9.2010 at para. 12

[39]OJ L276/33 22.9.2010 at para. 12

[40]OJ L276/33 22.9.2010 at para. 10

[41]OJ L276/33 22.9.2010 at para. 11

of animals used to a minimum; and refine breeding, accommodation and care and methods so as to eliminate or reduce to a minimum 'any possible pain, suffering, distress or lasting harm'.

Chapter V of the Directive focuses on the avoidance of duplication of procedures using live animals, through an obligation set out in Article 47, to accept data from other Member States, and the promotion of alternative approaches. The latter is an obligation that rests on both the Commission and the Member States, who are required under Article 49 to establish national committees for the protection of animals used for scientific purposes. It is expected that these bodies will both advise national competent authorities and animal-welfare bodies, as well as disseminate best practice. Further reflections of the Three Rs principle in the Directive include that it perceives the use of endangered species as a threat to biodiversity that means only a strict minimum may be used[42] ; that the 'ultimate goal[43]' of moving towards sourcing non-human primates from only self-sustaining colonies should be explored[44] (discussed further below); and that programmes to share the organs and tissue of killed animals should be promoted[45].

In order to boost the development of alternative methods the new Directive will require the establishment of an EU Reference Laboratory[46] , which will be responsible for coordinating and promoting the development and use of alternatives to animal procedures, and continue the work carried out by ECVAM. Member States are required to contribute in this activity by identifying and nominating suitable specialised and qualified laboratories, as well as ensuring the promotion of alternative methods at national level[47].

The Selection of Methods and Species

The new Directive requires the drawing of distinctions between both the choice of method and of the species used, on the basis that both factors can have a direct impact on the numbers of animals used and their welfare. The overriding factor in selecting the method according to Article 13 is that it must produce the 'most satisfactory results', using the least number of animals, whilst causing the 'minimum pain, suffering or distress[48]' and avoiding death as an 'end-point[49]'. The selection of species should in turn be based on that which displays the 'lowest capacity to experience pain, suffering, distress or lasting harm that are optimal for extrapolation into target species[50]'.

Animals with additional protection

The Directive offers an interesting development in that certain animals seem to be offered a higher level of protection– justified it appears from the language of the Preamble as a reflection of public concern, something already witnessed in State practice. Firstly, the use of Great Apes is generally banned: Article 8(3). Non-human primates can only be used for 'biomedical areas essential for the benefit of human beings for which no other alternative methods are yet available'[51]. The use of non-human primates will therefore require the Commission's authorisation, presumably to ensure uniformity in decision-making, and will only be permitted for basic research; the preservation of the species; or when the work is carried out in relation to potentially life-threatening or debilitating conditions[52]. There must be no other alternative method available. The burden of proof will rest on the State to establish such a claim.

Other categories of animal that the Directive provides added protection for include animals taken from the wild and stray and feral animals of domestic species. In terms of the former, Article 9 provides that the use of animals taken from the wild should be limited to cases where the purpose of the procedure cannot be achieved using specifically bred animals[53]. In addition, the Directive has the aim of requiring that in the future the only non-human primates used are those that are either the offspring of an animal bred in captivity or sourced from self-sustaining colonies: Article 10[54]. To achieve this, the Commission will conduct a feasibility study, to be published by 10 November 2017, five years after which the requirement will come into force[55]. Feral and stray animals should not, as a general rule, be used at all under Article 11(1)[56]. The reason according to the Directive being that their background is not known and that capture and placement 'increases distress[57]'.

[42]OJ L276/33 22.9.2010 at para. 16; see Article 7

[43]OJ L276/33 22.9.2010 at para.19

[44]Article 10

[45]OJ L276/33 22.9.2010 at para. 27; Article 18

[46]Article 48

[47]Article 47

[48]OJ L276/33 22.9.2010 at para. 13

[49]OJ L276/33 22.9.2010 at para. 14

[50]OJ L276/33 22.9.2010 at para. 15; Article 13(2)(b)

[51]OJ L276/33 22.9.2010 at para. 17

[52]Article 8

[53]OJ L276/33 22.9.2010 at para. 20

[54]To which, see Kite, S. BUAV call on the UK Government to stop supporting the trade in wild-caught monkeys for research, Journal of Animal Welfare Law, December 2010, pp 6-7.

[55]Although this requirement will apply to marmosets from 1 January 2013: Annex II

[56]Although exemption to this can be granted in limited situations where there is an essential need and justification that it is necessary: Article 11 (2)

[57]OJ L276/33 22.9.2010 at para. 21

The Procedures
One of the most interesting innovations of the new Directive, following an amendment approved by the European Parliament at its first reading[58] , is the creation of a sliding scale of 'severity' for procedures: Article 15. This means that a test may inflict pain that will be categorised as being either 'non-recovery', 'mild', 'moderate' or 'severe'. Under Article 15(2) a procedure should not be performed if it will cause 'severe pain, suffering or distress that is likely to be long-lasting and cannot be ameliorated'. The Preamble to the Directive justifies this step as being a reflection of 'an ethical standpoint'.

As in Directive 89/609, the new Directive provides that procedures may be repeated on animals, since permitting such re-use may reduce the overall numbers used. However, the new Directive requires that this be permitted only after taking into account the 'lifetime experience[59]' of the animal and cannot adversely affect their welfare, so whether such repetition is warranted will have to be explored on a case-by-case basis. A proposal from the Commission[60] to only permit repeated procedures on animals that had been subject to 'mild' pain was rejected as being too strict and potentially liable to increase the number of animals required, thereby defeating the purpose of the new legislation. The compromise is that repeated procedures can be on animals that have experienced 'moderate' pain, as long as any subsequent procedure inflicts nothing more than 'moderate' pain: Article 16.

The Directive also deals with post-procedure welfare, where the most appropriate decision as to what to do with the animal is defined as one based on the animal's welfare and any potential risks to the environment. Those whose welfare has been compromised should be killed[61] , but those which are kept alive must receive care and accommodation appropriate to their state of health: Article 17. The Directive provides under Article 19 that animals may be set free or re-homed[62] if the animal's state of health permits it; there is no danger to the public, animal health or the environment and 'appropriate measures are taken to safeguard the well-being of the animal'. Apparently this is justified on the basis of the public's 'high level of concern[63]' about the fate of animals, particularly domestic ones such as cats and dogs. The Directive also lays down in Article 29 that if re-homing is permitted the breeder, supplier or user is under an obligation to adequately socialise the animal to ensure success and avoid unnecessary distress and any potential threat to the public and if the animal is wild, to provide a rehabilitation programme if necessary before they are returned to their natural habitat.[64]

Animal Welfare
There is emphasis within the Directive on aspects designed to ensure better protection of welfare standards. These are more comprehensive than those contained in the old Directive and in part codify developments in State practice, and

> **"animals may be set free or re-homed if the animal's state of health permits it"**

evolution of welfare standards referred to above. Indeed, the Preamble refers to the differences that had developed between Member States and that standards adopted 'no longer reflect the most recent knowledge on the impacts of accommodation and care conditions on both animal welfare and the scientific results of procedures[65]'. The Directive consequently provides for harmonized accommodation and care requirements, and sets out the obligation that these will be 'updated on the basis of scientific and technical development[66]' presumably so that Directive 2010/63 does not become effectively redundant in the same way that its predecessor did. A reporting requirement on the operation of the Directive is inbuilt, with Article 54 providing that the first report is due in 2018. The Commission may then make use of powers to amend the key annexes in line with developments in knowledge. There are a range of measures introduced in the Directive to enhance animal welfare including:

- A requirement that staff be authorised as being adequately educated and trained and that they be supervised until they have demonstrated the necessary competence[67];
- The need for breeders, suppliers and users to be authorised and have adequate installations and

[58]5 May 2009 available at http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2009-0343

[59]Article 16(d)

[60]Commission Communication on the Common Position COM(2010) 324 final 15 June 2010 page 5 available at http://www.parliament.uk/briefingpapers/commons/lib/research/briefings/SNIA-05081.pdf

[61]Article 17(2) – where it is likely to remain in moderate or severe pain, suffering, distress or lasting harm

[62]In contrast, Article 11 of Directive 86/609 stated that "... where it is necessary for the legitimate purposes of the experiment, the authority may allow the animal concerned to be set free, provided that it is satisfied that the maximum possible care has been taken to safeguard the animal's well-being, as long as its state of health allows this to be done and there is no danger for public health and the environment" (emphasis added). See Case C-205/01 Commission v Netherlands [2003] ECR I-661 for an example of failure to implement this provision correctly

[63]OJ L276/33 22.9.2010 at para. 26

[64]No further guidance as to minimum requirements, in relation to health, safety or socialising is provided in the Directive or its annexes however.

[65]OJ L276/33 22.9.2010 at para. 35

[66]Article 50

[67]OJ L276/33 22.9.2010 at para. 28; Article 23

equipment to meet the accommodation requirements of the particular species, for the procedures to be performed efficiently and for the least distress to be inflicted[68];

- That appropriate veterinary care be available at all times and a staff member of each establishment made responsible for animal welfare[69];
- That breeder/ supplier/ users create animal-welfare bodies with the primary task of advising on welfare matters. They should also follow the development and outcomes of projects at an establishment level; foster a climate of care; and provide tools for the practical application and timely implementation of scientific developments. This advice must be documented and open to scrutiny during inspections;
- That breeders, suppliers and users be required to maintain records of the numbers, origins and fate of all animals[71] and that dogs, cats and NHPs have a 'personal history file[72]'

A basic principle underpinning the Directive's approach is that both accommodation and care be tailored[73] in that they must be based on the needs and characteristics of each species[74], indeed Annex III establishes minimum enclosure size, floor area and height for a range of different species[75]. It also specifically provides that all animals, except those that are naturally solitary, be housed 'socially' in 'stable groups of compatible individuals[76]'. Where in single housing, the animal must be able to maintain visual, auditory, olfactory and/ tactile contact with its species; be kept alone for the minimum period necessary; and be re-introduced in a careful manner to avoid 'disrupted social relationships'. All animals must also be provided with enrichment in that they must be provided with 'space of sufficient complexity to allow expression of a wide range of normal behaviour'; enrichment must be species-specific and tailored for the individual. Enrichment strategies are also targeted as being subject to regular review and to requiring updating.

Inspections

Section 2 of Directive 2010/63 deals specifically with the issue of inspections something considered seriously flawed under the old legislation. Article 34(1) provides that competent authorities must now carry out inspections on a 'regular basis'. The Directive introduces a new concept in that the frequency will be specifically tailored to the institution being inspected, based on a risk analysis taking into account four factors, namely, the number and species of animals housed; the record of the breeder, supplier or user in complying with the Directive; the number and type of projects being carried out; and any information that may indicate non-compliance: Article 34(2).

This is subject to the new requirement that at least one third of users be inspected yearly and the exception that all breeders, suppliers and users of NHPs be subject to at least annual inspections. According to Article 34(4) an 'appropriate proportion' of inspections will have to be carried out without prior warning. A final safeguard is that if the Commission has reason for concern, such as the number of inspections without notification, it can take over the operation of a Member State's inspection infrastructure: Article 35(1).

Project authorisation

For the first time authorisation for all projects will be compulsory; all facilities wishing to breed, supply or use animals will be obliged to seek authorisation for their activities. An application[77] for project authorisation[78] will have to include a proposal; a non-technical summary[79]; and information on various elements as set out in Annex VI[80]. The

"veterinary care must be available at all times and a staff member of each establishment made responsible for animal welfare"

[68]OJ L276/33 22.9.2010 at para. 29; Articles 20-22

[69]OJ L276/33 22.9.2010 at para. 30; Articles 25 and 24(1)(a) respectively

[70]OJ L276/33 22.9.2010 at para. 31; Articles 26-27

[71]OJ L276/33 22.9.2010 at para. 32; Article 30

[72]OJ L276/33 22.9.2010 at para. 33; Article 32

[73]Annex III sets out provisions in terms of, for example, holding rooms, service rooms, enclosure design, ventilation and temperature, lighting, noise, feeding/diet, watering, rest and sleep areas and general care, such as that all animals must be checked daily.

[74]OJ L276/33 22.9.2010 at para. 34. It is to be noted that the success or otherwise of such approaches is heavily dependent upon the effectiveness of member states' practical compliance with the law, including proper inspection regimes by suitably qualified individuals, and timely enforcement of issues of malpractice.

[75]Including for mice, rats etc, rabbits, dogs, ferrets, marmosets, squirrel monkeys, macaques and vervets, baboons, cattle, sheep and goats, pigs, equines, domestic fowl and turkeys, quails, ducks and geese, pigeons, zebra finches, aquatic and semi-aquatic and semi-terrestrial anurans, aquatic urodeles, arboreal anurans, aquatic chelanians and terrestrial snakes

[76]OJ L276/33 22.9.2010 Annex III at 3.3(a)

[77]Decisions on authorisation must be communicated within 40 working days from receipt, extended by a further 15 days for complex or multi-disciplinary applications: Article 41

[78]Valid for a maximum period of 5 years: Article 40(3)

[79]Except for projects with procedures that are classified as non-recovery, moderate or mild and not using NHPs that are necessary to satisfy regulatory requirements or which use animals for production or diagnostic purposes with established methods: Article 42(1)

[80]These factors include the origin, numbers, species and life stages of animals to be used; the procedures; methods to replace refine and reduce the use of animals; the planned use of anaesthesia, analgesia and other pain relieving methods; reduction, alleviation and avoidance of any form of suffering; use of humane end-points; the experimental/ observational strategy; animal reuse and any accumulative effect; avoidance of unjustified duplication of procedures; housing, husbandry and care conditions; methods of killing; and the competence of the persons involved in the project.

evaluation of an application must be 'transparent[81]' and consider that the project is justified from a scientific or educational point, or is required under law; that its purposes justify the use of animals; and that it is designed to enable any procedures to be carried out 'in the most humane and environmentally sensitive manner possible': Article 38(1). Article 38(2) also requires that there be specific reference to the compliance of the project with the Three Rs principle; an assignment of the classification of the procedures to be used; and a harm-benefit analysis conducted. The Directive also specifically provides for the carrying out of additional, retrospective inspections to determine whether the objectives were met and the type and severity of harm inflicted. These will be compulsory for all projects using non-human primates and those where procedures are classified as 'severe'.

Reporting

Every 5 years from 10 November 2018, Member States will be required to send information on the implementation of the Directive to the Commission, which will in turn present a report to the European Parliament and Council: Articles 54(1) and 57. In addition, from 10 November 2015 Member States will be required under Article 54(2) to make publicly available annual information on the use of animals in procedures, including information on procedure severity and on the origin and species of non-human primates used.

Conclusion

The new Directive has to be welcome but certainly not only from the perspective of bringing a level playing field to the area in terms of reducing the 'unequal competitive environment'. Of far more significance is that Directive 2010/63 brings with it contemporary measures recognising the importance of animal welfare, the overt significance of which had previously been absent for too many years, and the obligation stated in the Preamble[82] to regularly review the new Directive should hopefully mean that the law will never again be so out of step with scientific and societal developments. It will certainly place the EU on a footing that means it as a whole has the greatest protection for animals used for scientific purposes in the world, and the hope may well be that this in turn generates a cascade effect of changes to the legislation of other countries.

Of greatest significance in the new Directive are probably the general ban on the use of Great Apes; the requirement for authorisation under ethical criteria and a better inspection system; and the improved provisions on animal welfare and care. The embedding of the Three Rs principle is also beneficial in that there will hopefully be increased action at EU and Member State level to develop and promote non-animal methods.

Additionally, the new legislation will significantly raise standards in some Member States, most notably the newly acceded countries:

"Currently in many of these countries, the bare minimum of regulation is in place with only voluntary guidance on animal housing, no meaningful ethical assessment of proposed experiments and virtually no national-level effort to develop non-animal alternative techniques[83]."

However, in other Member States, such as the UK, Germany and Austria, there will probably be little difference at a practical level. Some may therefore see the Directive as a 'missed opportunity[84]' to not only raise standards at the lower end, but to stretch the principles, and protection offered under those principles, to the next level. Of note in this context is that the Directive does not set out any clear, targeted schedule for the reduction of animal testing per se over any defined period of time[85].

In addition there are 'safeguard clauses' within the Directive, introduced at the first reading of the proposed legislation[86]. These offer three potentially worrying 'exceptions'. Firstly, whilst Article 15(2) provides that a procedure not be performed if it involves 'severe pain, suffering or distress that is likely to be long-lasting and cannot be ameliorated', Article 55(3) permits such pain to be inflicted where it is

"The vote in Strasbourg on 'new' rules with regard to scientific experiments on animals is a huge disappointment..."

[81]Article 38(4)

[82]OJ L276/33 22.9.2010 at para. 49

[83]http://www.makeanimaltestinghistory.org/directive.php?lang=gb

[84]See for example comments of the Humane Society International at http://www.makeanimaltestinghistory.org/resources/news/86_609%20Press%20Release%20Sept%202010%20for%20MATH%20site.pdf

[85]See for example comments of Four Paws 20 May 2010 available at http://www.makeanimaltestinghistory.org/resources/news/MATH%20press%20release%20May%202010%20website%20version.pdf

[86]Commission Communication on the Common Position COM(2010) 324 final 15 June 2010 available at http://www.parliament.uk/briefingpapers/commons/lib/research/briefings/SNIA-05081.pdf

'exceptional and scientifically justifiable'. In addition, there is no prohibition on this being applied to non-human primates, only that the State 'may decide not to' allow their use in such circumstances.

The 'ban' on Great Apes is perhaps more symbolic than anything else, since in practice no Member States was using them anyway. However, Article 55(2) does in fact permit the use of Great Apes, provided no other animal or alternative method can be used, where the State can justify believing such use is 'essential for the preservation of the species or in relation to an unexpected outbreak of a life-threatening or debilitating clinical condition in human beings'.

Finally, non-human primates can indeed still be used for purposes that are not for the avoidance, prevention, diagnosis or treatment of debilitating or potentially life-threatening clinical conditions, where the State has scientifically justifiable grounds for believing it is essential to use them and provided the purpose cannot be achieved by the use of any other species: Article 55(1). Any State wishing to proceed under one of the above safeguard clauses must seek the authorisation of the Commission, which can be granted only for a defined period of time. It can only be hoped that requests for such authorisation will be few in number, closely scrutinised by the Commission, and permitted only for the shortest of periods[87].

The new Directive represents a degree of progress, although some would argue the correct balance remains to be struck. David Martin MEP, Scotland's senior European MP and Vice-President of the European Parliament's Intergroup on Animal Welfare has said:

'The vote in Strasbourg on 'new' rules with regard to scientific experiments on animals is a huge disappointment...what we must move towards is clear restrictions on the use of non-human primates, a ban on the use of wild-caught animals, an unequivocal obligation to use non-animal alternative methods when scientifically available, and a ban on experiments which involve severe and prolonged suffering – today's ruling fell woefully below this'[88].

This sense of missed opportunity is also reflected in the view of the Pan-European ECEAE, which has stated that the Directive's more rigorous basis remains out of step with its own research into public opinion[89]. Ultimately, what interested parties must hope for is a more systematic approach to a law applied across a significantly larger European Union than when the original measure was introduced some 25 years ago.

Ultimately, therefore, to be truly meaningful, the new Directive will have to be far more rigorously enforced than its predecessor ever was. To begin, the Member States have two years from the publication of the Directive to adopt and publish national legislation transposing its provisions (the new Directive will not come into full force until 1 January 2013)[90]. The fact that many had imposed stricter measures under its predecessor may mean that this will not prove unduly problematic.

Nevertheless it is to be hoped that the Commission will demonstrate its genuine and significant commitment by ensuring this two year deadline is complied with.

[87]Provoking wildly different opinions in the Home Office Consultation referenced at footnote 5, above (see para 58 of that report)

[88]The full is available at http://www.martinmep.com/senior-scottish-mep-condemns-new-eu-laboratory-rules-as-inadequa

[89]The European Coalition to End Animal Experiments: for more information on their research, see http://www.eceae.org/en/what-we-do/campaigns/12-million-reasons/public-opinion.

[90]Article 61

Sentencing in Animal Cruelty Cases

Sally Ann Case
Head of Prosecutions RSPCA

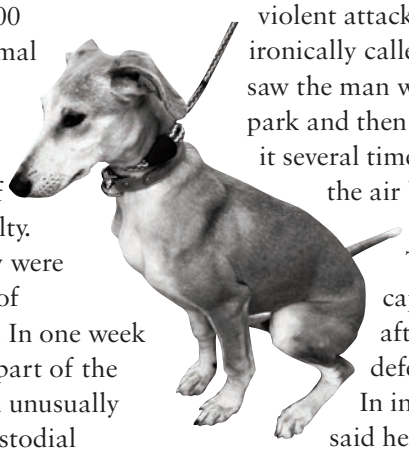
The Animal Welfare Act 2006 continued to provide that the cruel treatment of animals is a criminal offence. By section 4(1) a person commits an offence if an act or failure to act of his causes an animal to suffer, he knew or ought reasonably to have known it would have that effect, and the suffering is unnecessary. This section only applies to protected animals, as defined in the Act.

A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months, or a fine not exceeding £20,000. A person convicted might also be deprived of ownership of the animal, and disqualified from owning, keeping and other aspects of being involved with animals.

Courts are guided in their sentencing of these cases by the Magistrates Courts Sentencing Guidelines[1] Under the heading of offence seriousness Courts are advised that for one impulsive act causing little or no injury, a band c fine is the appropriate starting point. At the other end of the scale, attempts to kill or torture an animal should have 18 weeks custody as their starting point, with a range from 12 – 26 weeks custody. Aggravating factors are listed as including the offender being in a position of special responsibility, or serious injury/death being caused to the animal. Mitigating factors include whether the offender has a limited capacity, or was ignorant of the proper care required.

In accordance with the section 144 Criminal Justice Act 2003, credit should be given for a guilty plea taking into account the circumstances in which it was given and the stage of the proceedings.

In 2010, the RSPCA obtained over 2,000 convictions against approximately 1,000 defendants for animal cruelty. The most common sentence passed for this offence was that of a community penalty. Comparatively few were dealt with by way of custodial sentence. In one week in January, in one part of the country, we saw an unusually high number of custodial sentences. Statistically, it is difficult to know whether this demonstrates a trend in either offending or sentencing behaviour without detailed analysis of a much larger pool of data. Some of the cases themselves however, make shocking reading.



> **A witness saw the man walking the dog in a park and then shouting at it, kicking it several times and pulling it up in the air by its lead**

In one, a 24-year-old man was sentenced to 8 weeks custody for a violent attack on his young dog – ironically called Thumper. A witness saw the man walking the dog in a park and then shouting at it, kicking it several times and pulling it up in the air by its lead. The dog squealed and yelped. The moment was captured on footage and after a media appeal, the defendant was identified. In interview the defendant said he was trying to help the animal who had previously belonged to someone else and had been kept in very poor conditions. He had tried to

[1]www.sentencingcouncil.org.uk/docs/web_sgc_magistrates_guidelines_including_update_1_2_3_web.pdf

take the dog for a walk, but the dog just stopped. He said he had carried it for a time but the dog had then defecated on him, so he had become angry and shouted at it, to try and get it to listen. The dog messed itself again and the defendant kicked it. The defendant had been drinking on the day of the incident.

The defendant was remorseful in interview, and said he was disgusted with himself and never done anything like this before. It transpired the defendant was on released on licence for a serious offence at the time of this matter and as a result was recalled to prison. In sentencing the Bench found the breach of licence, the involvement of alcohol and the repeated nature of the attack on the young dog, all to be aggravating features. They said they found no mitigating factors.

Credit was given for a guilty plea which reduced what would have been a term of imprisonment for 12 weeks down to 8 weeks. He was also disqualified from keeping animals for a period of 5 years. The Bench emphasised the purpose of the sentence was punishment and to act as a deterrent to others. The treatment of animals in this way would not be tolerated.

> **The District Judge said it was the worst case of neglect he had ever seen**

In the same week, just a few miles away, a 47-year-old man appeared for sentencing in relation to the neglect of his dog. His circumstances were very different; he was in full-time employment and alcohol use did not feature in the offence. His dog had been attacked by another dog and suffered a serious injury to its face. Police were called to his flat some 4 months later because of concerns about a smell of decomposing flesh coming from the property. There they found the dog in an extremely bad way, with a large proportion of its face missing having been eaten by maggots. It was immediately taken to a veterinary surgeon who euthanised it to prevent any further suffering. The vet commented that the dog had no skin left below its left eye, including both the upper and lower lips, and no teeth remaining on the left side of the mouth. There was a purulent discharge and foul smell coming from this area. The dog was also very thin, although a full bowl of dog food had been found in the flat. The veterinary surgeons considered the animal had been suffering unnecessarily for a period of at least 4 weeks, if not longer.

In interview the defendant was very tearful and said he had been reluctant to take the 15-year-old dog to the vets because he thought they would put it down. He said he had not intended to be malicious and he loved his dog. The defendant told the Court he was sorry about what had happened but he could not face the fact he would lose his dog. The District Judge said it was the worst case of neglect he had ever seen and considered that he should mark the offence with the revulsion which the public were likely to feel and which he himself felt. He found the offences so serious that only a custodial penalty was merited and ordered the defendant to a 16-week sentence of imprisonment. He was also disqualified from keeping animals for 20 years.

Some might debate whether seriousness in animal cruelty offences is aggravated (or mitigated) by the defendant's state of mind, or whether it is more important to consider the extent and period of any suffering caused to the animal. It is clear that sentencing guidelines require both factors to be taken into account, and the above examples show that the results in sentencing terms can have an equal effect.

Compassion In World Farming Briefing

Peter Stevenson
Chief Policy Advisor
Compassion in World Farming

The Mutilations (Permitted Procedures) (England) (Amendment) Regulations 2010 came into force on 23 December 2010.

A Regulation was enacted in 2002 banning the beak trimming of laying hens from 1 January 2011. Beak trimming is carried out to prevent feather pecking and cannibalism. However, scientific research shows that the correct way to prevent these problems is not to beak trim the birds, but to keep them in good conditions – in particular to provide opportunities for them to forage and ground-peck – and to select for birds that are less prone to feather pecking and cannibalism.

The Government (and the previous Government) took the view that farmers are not ready to prevent these problems without beak trimming and accordingly these Regulations remove the ban on beak trimming. However, the Regulations do ban the hot-blade method (except in emergencies) and only permit the use of infra-red trimming. The Government has made it clear that its long-term aim is to ban all forms of routine beak trimming. It has said that it will review the situation in 2015, with a view to banning all routine beak trimming in 2016.

The Welfare of Farmed Animals (England) (Amendment) Regulations 2010 came into force on 23 December 2010.

These Regulations implement the EU Directive on the welfare of chickens reared for meat (broilers). The Directive is largely disappointing, doing little to address the main welfare problems that affect intensively produced broilers.

The Directive sets a maximum density of 33 kg/m2 (around 16 birds/m2) but, by way of derogation, permits Member States to allow the keeping of broilers up to a maximum of 39 kg/m2 (around 19 birds/m2) provided that a number of welfare conditions are met. By way of further derogation, Member States may allow broilers to be kept up to a maximum of 42 kg/m2 (around 20 birds/m2) if certain further criteria are fulfilled. We are pleased that the Government has set a maximum stocking density of 39 kg/m2 rather than the Directive's permitted maximum of 42 kg/m2. That said, we believe that even 39 kg/m2 is far too high and places bird welfare at risk.

> **Reaching their slaughter weight in about 38 days, which is around twice as fast as 35 years ago.**

The Directive does nothing to address the high level of leg disorders that mainly arise from the fact that today's broilers have been pushed (largely through genetic selection) to reach their slaughter weight in about 38 days, which is around twice as fast as 35 years ago.

Case Reports, Other Materials & News Updates

Hashman v Orchard Park (Dorset) Ltd t/a Orchard Park

In a judgment handed down on 21 January 2011, Employment Judge Guyer sitting in the Employment Tribunal ruled that the claimant's view on the sanctity of life constituted a philosophical belief for the purposes of the Employment Equality (Religion or Belief) Regulations 2003. The Claimant Mr Hashman had brought proceedings in the Tribunal against the Respondent alleging that his contract as a sub contract gardener had been terminated and that his dismissal amounted to direct discrimination on grounds of philosophical belief in the sanctity of life, comprising his particular belief in the value of anti-hunt activism. He claimed the alleged discriminatory conduct was in breach of regulation 3 of the 2003 Regulations.

The court held that it was prepared to accept that the Claimant's beliefs about fox hunting and hare coursing fell to be considered within the parameters of his general philosophical belief in the sanctity of life. The belief was said to comprise 'beliefs in the value to life or veganism, environmentalism and animal rights activism.' The judge concluded that 'I find that his beliefs are truly part of his philosophical beliefs both within the ordinary meaning of such words and within the meaning of the 2003 regulation.' He cautioned against drawing a conclusion from his judgment that everyone opposed to fox hunting necessarily holds a philosophical belief within the meaning of the 2003 Regulations, however the importance of the judgment lies in the recognition that such belief is at least capable of falling within the meaning of the 2003 Regulations. (See News Updates below.)

Wildlife
The Spring Traps Approval (Variation) (England) Order 2010 came into force on 24 December 2010 and vary the Spring Traps Approval Order 1995 which approves types of spring traps for use in England and Wales. The 2010 Order adds further types of spring traps to those approved for use in England.

> **beliefs in the value to life or veganism, environmentalism and animal rights activism**

Welfare of game birds (Scotland)
The Code of Practice for the Welfare of Game birds Reared for Sporting purposes was issued with the authority of the Scottish Parliament pursuant to section 37 of the Animal Health and Welfare (Scotland) Act 2006. The Code applies in Scotland and came into force on 28 February 2011. The purpose of the Code is to provide practical guidance in relation to the provisions of the Animal Health and Welfare (Scotland) Act 2006 affecting birds bred and reared for the purpose of release for sport shooting. Failure to comply with the Code may be relied upon to establish liability for an offence under the Animal Health and Welfare (Scotland) Act 2006.

Europe

Welfare of animals during transportation
The European Food Safety Authority (EFSA) published on 12 January 2011 a Scientific Opinion on the welfare of animals during transportation. The EFSA make a number of recommendations for improving the welfare of animals during transportation, including in relation to journey times, vehicle temperature and sufficient space for animals being transported. However Eurogroup for Animals deems as 'disappointing' the conclusions which call for further research and highlight concerns about the lack of implementation of the current Regulations.

In the meantime the Netherlands government announced that it will ban the use of double-deck trucks loaded on both decks with cattle aged 1-year or older as the trucks arguably compromise the welfare of cattle during transportation.

Food labelling
The Environment Committee of the European Parliament has called for the labelling of meat to indicate the country or place of provenance for all meat and poultry, milk and dairy products and meat, poultry and fish when used as an ingredient in processed food. The report also calls for a label specifying whether meat is from slaughter without stunning.

Cloned food
Despite the European parliament's strong position against cloning as part of the Novel Foods Directive there was failure to agree a common text with the European Council have failed to agree on the Novel Food Directive which will now allow the sale and import of food from cloned animals. The Parliament's delegation chair Gianni Pittella and rapporteur Kartika Liotard made a joint statement that:

"The Parliament has made considerable efforts towards reaching a compromise but these were not mirrored by Council. It is simply incredible that the Council, which consists of the same political parties as the Parliament, cannot agree to the Parliament position on the prohibition of food from cloned animals and their offspring. It is equally incredible that the Council is willing to turn a blind eye to public opinion, as well as the ethical and animal welfare problems associated with cloning. Time is rapidly running out. Negotiations can only have a positive outcome if Council moves towards consumers' expectations on the issue of cloning. If the position of Council and Commission remains exclusively tied to commercial trade interests, Parliament won't accept any deal."

Animal testing
Eurogroup for Animals reports that 'A new Commission Regulation was adopted on 10 January for the replacement of a controversial animal testing method used to test for some toxins in shellfish meat. Member States have to replace the animal tests by the non-animal alternative at the latest by 31 December 2014. Presently, the mouse bioassay (MBA) and rat bioassay (RBA) are the official methods for the detection of this group of biotoxins (commonly referred to as Diarrheic shellfish poison (DSP)). The mouse bioassay is a very distressful animal test, whereby mice are injected with shellfish extract until some of them die. Recently, EFSA noted these bioassays have shortcomings and do not guarantee human safety. Additionally, an alternative non-animal method has recently been validated. Unfortunately, even after the 2014 deadline, the MBA method will still be permitted for periodic monitoring to detect new or unknown toxins.'

Spanish zoo ruling
The European Court of Justice found that Spain had failed to adequately protect zoo animals and neglected to apply EU rules for the inspection and licensing of its zoos. The ruling comes after animal welfare organizations called on the EU to intervene after raising concerns that Spain had not put in place measures for licensing and inspection of zoos in its Autonomous Communities. Following the initial complaint in 2006 twelve Spanish zoos were closed, but concern remained about remaining establishments.

Summary of the Memorandum to Environment, Food and Rural Affairs Committee Post-Legislative Assessment of the Animal Welfare Act 2006

Almost five years after the Animal Welfare Act 2006 came into force the government carried out an assessment of the effectiveness of the Act as part of the process set out in the document Post-Legislative Scrutiny – The Government's Approach (Cm 7320). The memorandum offers a preliminary assessment, which has been submitted to the Environment, Food and Rural Affairs Select Committee.

> **The mouse bioassay is a very distressful animal test**

Background for the Act
The Animal Welfare Act was passed in 2006 and introduced in England and Wales in early 2007. The Act superseded and consolidated twenty-two Acts of Parliament that previously acted to protect animals. The purpose behind this piece of legislation was to meet modern day animal welfare of farmed, domestic and captive animals. The legislators set out a number of objectives they wished to achieve with this Act such as simplifying the legislation, introducing positive duty of care to owners to ensure that the needs of animals are met, allowing preventive action to protect animals from suffering, strengthen and amend current offences related to animal fighting, increase the effectiveness of law enforcement for animal welfare offences, increase the age from 12 to 16 at which a child may buy an animal and prohibit giving of pets as prizes to unaccompanied children under the age of 16, and ban mutilations of animals with certain specified exemptions.

Animals confined in research facilities are not included in the 2006 Act and

their fate is still regulated by the Animals (Scientific Procedures) Act 1986.

Prosecutions and legal issues under the Act
Statistical data collected for the assessment reveals a steady increase in prosecutions brought before Magistrate Courts. In 2009 RSPCA secured 98% prosecution success rate; 103 defendants were found guilty under the Act.

The memorandum also discloses that the new power of seizure of animals in distress provided to the police or local authority inspectors by section 18 of the Act was exercised twice. The Act was considered by the High Court on two occasions: in R v Johnson [2009][1] and in RSPCA v Ian King [2010][2]. Both cases related to the extension of time-limits for bringing proceedings for summary offences in section 31 of the Act.

Assessment of the Act
DEFRA contacted a range of organizations that regularly use and enforce the Act to help them carry out the assessment. Among the groups that provided their views on the effectiveness of this legislation were Anti-docking Alliance, Blue Cross, British Veterinary Association, Farm Animal Welfare Council, Horse Trust, The Magistrates' Association, People for the Ethical Treatment of Animals and RSPCA.

The general consensus among the participants was that the Act works well in practice and that it is achieving the objective of improving the general standard of animal welfare compared to previous laws that were in place.

During the assessment the respondents expressed their views on specific sections of the Act. For instance in Section 1 (Animals to which the Act applies) the omission of invertebrates in the Act has been raised as a concern and some respondents considered that the concept of sentience should be reviewed in the light of the recent EU review of the welfare of animals used in scientific procedures. Introduction of Section 4 (Unnecessary suffering) is believed to have simplified and updated previous legislation. Section 5 (Mutilation) is seen as an important tool particularly in the context of "status dogs." Tail docking under Section 6 raised various concerns and respondents indicated that clarification of this part of the Act is required. Section 9 (Duty of person responsible for animal to ensure welfare) is a new addition and has brought about a significant contribution to raising animal welfare standards. However, a number of respondents argued that section 9 is not sufficient enough to bring about necessary improvements for wild animals used in circuses.

DEFRA contacted a range of organizations that regularly use and enforce the Act to help them carry out the assessment

Criticisms of the Act
Respondents criticisms centred on three issues: the enforcement of the Act, delays in introduction of secondary legislation, and the lack of raising public awareness of what is expected of pet owners under the Act, and what kind of role the legislation plays in the field of animal welfare.

Conclusion
The general view among the parties was that although there is space for improvement the Act has had a positive impact on animal welfare in England and Wales. DEFRA's assessment concluded that: "[i]t is agreed that there is still more to do in terms of achieving higher standards of animal welfare in the UK, but the Act does provide suitable framework for doing so and has already resulted in an improvement in animal welfare. The Act has ultimately achieved its objectives of harmonising farm and companion animal welfare and consolidating and simplifying animal welfare legislation."

Implementation of Battery Cages Ban in 2012
New fears arose in regards to delaying the banning of barren battery cages.

On 20th January 2011 Eurogroup for Animals reported its opposition to non-compliance or postponement of the deadline for the ban of battery cages after the Commission met to discuss how to facilitate the implementation of the legislation on time. Fears emerged after some egg producers failed to invest in new systems having 12 years to change their farming practises. Most Member States pledged to implement the ban on time, only Poland called for implementation of the legislation to be delayed. Eurogroup requested the Commission to re-evaluate penalty fines that would prevent the parties from carrying out their obligations.

[1]EWHC 2702 (Admin)
[2]EWHC 637 (Admin)

News Updates

New recommendations for transport of animals
Eurogroup for Animals noted (13th January 2011) the publication of the Scientific Opinion by the European Food Standards Authority, which recommends a number of improvements in transport of animals. The Opinion recommends direct and shorter transport times, better consideration of temperature problems, listing of animal welfare indicators to enable operators to assess the conditions of animals, monitoring systems, and better preparation of animals for travelling. Although the Animal Transport Regulation have been in place for over five years the Eurogroup's investigation showed that transporters are getting away with causing animals to suffer by overloading trucks and taking longer to transport animals.

Later this year the Commission is to publish a report on the impact of the existing law. Eurogroup calls on Commission to take action and revise the existing legislation: "The indifference to animal suffering during transport and the unwillingness to take responsibility by both Member States and the European Commission is unacceptable and we call on the Commission to review the animal transportation regulation and to come forward with a clear action plan to improve enforcement."

Campaigner's anti-hunting beliefs akin to religion
The Guardian on 9th March 2011 noted the decision of the Southampton employment tribunal in the case brought by an anti-hunting campaigner Joe Hashman. The Claimant alleged that he was made redundant from the Orchard Park Garden Centre in Dorset in 2009 by his employers, who are members of the South and West Wiltshire Hunt. Judge Guyer dismissed the defence's arguments that Hashman's convictions were "politically motivated by class war and that they endorsed violence." He held that claimant's animal rights beliefs were a "philosophical belief" akin to religion under the employment law. Moreover, Hashman's beliefs in the inviolability of life "extend to his fervent anti-fox hunting belief" and should thus be protected under the Employment Regulations 2003. (See case report above.)

Badger cull in Wales gets a green light from the Welsh Assembly
The Farmers Guardian reports that on 23rd March the Welsh Assembly voted in favour of a badger cull to eradicate the spread of bovine tuberculosis in cattle. A leading group challenging the Assembly in this respect, the Badger Trust, is seeking legal advice following the vote. In the past two years court action initiated by the Trust prevented the cull from taking place. The Trust considers the elimination of badgers illegal and ineffective referring to the Independent Scientific Group calling the cull a meaningless contribution in the fight against bovine TB.

> **"the cull of 70% of badgers will not solve the problem"**

The RSPCA expressed disappointment in Assembly's decision promptly stating that the cull of 70% of badgers will not solve the problem. The Society believes that vaccination, increased levels of testing, improved biosecurity and stricter controls on the movement of cattle would reduce the spread of bovine TB in cattle.

The Badger (Control Area) (Wales) Order 2011 will apply in West Wales in the so-called intensive action area of north Pembrokeshire and neighbouring areas of Ceredigion and Carmarthenshire. In England the government postponed its decision on the culling of badgers to later in the year.

New course at the University of Essex

This autumn law undergraduates at the University of Essex will be offered to gain insight into animal law through a new module 'Animal Welfare and Wildlife Law.' The aim of this ambitious and in-depth course is to explore the legal issues that surround the use and treatment of animals by humans and the degree of legal protection that is afforded to animals by the law. The pre-established categories of domestic (companion, working, scientific, food) and wild animals (food, exhibit, bio-capture, pure wild) will be scrutinized in detail from various philosophical points of view to gain insight into the basis of laws. Through this course the students will acquire a deeper understanding of legislation, case law, EU laws as well as international laws applicable to each category of animals. Participant students will also learn about the role that relevant government departments, treaty bodies, NGO's and charities play in the field of animal welfare. Please contact Dr Darren Calley at the School of Law, the University of Essex, Wivenhoe Park, Colchester, Essex, CO4 3SQ, or email dscall@essex.ac.uk for more information.

Paula Sparks
Barrister
Doughty Street Chambers

Dominika Flindt
Legal Researcher

Badgers and Bovine Tuberculosis

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A Response to the Coalition Government Consultation on tackling the disease and a badger control policy [1]

Bovine tuberculosis is a virulent disease, which is still running out of control in the UK. It attacks the cattle herds. More controversially, it is argued that there is in addition, a wildlife reservoir, which, in the UK is to be found in the badger population. Indeed, Australia has achieved TB eradication through stringent cattle controls combined with a central programme targeting wildlife[2]. New Zealand too has achieved substantial progress by this method[3]. Therefore the disease in both these sources must be tackled if there is to be a final resolution of this problem.

However, the situation in New Zealand must be distinguished from that in the UK in that the wildlife reserve in New Zealand is to be found in an invasive non-native species, the Australian brushtail possum, while the badger is not only an indigenous species in the UK, it is also protected. Although not sufficiently rare to be included on Schedule 5 Wildlife and Countryside Act 1981[4], it is protected by the Bern Convention[5].

Furthermore, because of the many acts of appalling brutality that have been inflicted on it over the years, it has its own legislation, the Protection of Badgers Act 1992, whose primary purpose is to prevent such suffering. However, this is not only an issue of animal welfare, it is also costing the Government and hence the tax payer many millions of pounds each year so that the costs of control "are becoming unaffordable[6]". The Coalition Government has set-out options for badger control in areas with high and persistent levels of bovine TB. To this end, in September 2010, it launched its Consultation "Bovine Tuberculosis: The Government's approach to tackling the disease and consultation on a badger control policy".

In the Consultation document, the Government set out six policy options regarding the control of bovine TB in badgers in England[7]:

Option 1: continue with the current policy (i.e. No additional control measures);

Option 2: a Government-led policy of badger culling under the Animal Health Act 1981;

Continued...

[1]See Defra : "Bovine Tuberculosis: The Government's approach to tackling the disease and consultation on a badger control policy", September 2010. Most of this article is taken from the author's Response.

[2]Annex A to the Consultation, para. 17.

[3]Ibid, para. 18.

[4]It is on Schedule 6, which lists animals that cannot be killed or taken by certain methods.

[5]The Convention on the Conservation of European Wildlife and Natural Habitats, 1979, ETS 104.

[7]See Defra : "Bovine Tuberculosis: The Government's approach to tackling the disease and consultation on a badger control policy", September 2010, p.4. "In England, in 2009, bovine TB cost the tax payer £63m and over 25,000 cattle were slaughtered for bovine TB control", see p. 10.

Option 3: a Government-led policy of badger vaccination under the Animal Health Act 1981;

Option 4: Issuing licences under the Protection of Badgers Act 1992 to cull badgers;

Option 5: promoting greater use of licences under the Protection of Badgers Act 1992 to vaccinate badgers; Option 6 : issuing licences under the Protection of Badgers Act 1992 to cull, vaccinate or carry out a combination of culling and vaccination.

Although there appear to be six options, in fact the Government has ruled out the first three. It has decided Option 1 is not working, while Options 2 and 3 are not cost-effective, or, as the Consultation document states "Options 2 and 3 are not affordable given the current pressures on public spending and could not be justified in cost-benefit terms[8]", but should this be the main criteria when considering a cull of sentient creatures?

Option 4 raises a number of important issues, foremost of which is the simple fact that culling alone does not work. Badgers have been culled since 1975, in the early days by gassing in their setts with cyanide. Indeed, many thousands of badgers and cattle have been slaughtered in an attempt to eradicate the disease. In this most recent proposal, some badgers would be trapped in cages, and then shot, the others would be killed by free range shooting. The killing would be carried out by farmers and landowners who would be authorised under licence.

> **If there is to be a cull, there should be ring vaccination around an area of culling if badgers are not to spread the disease further**

The Protection of Badgers Act 1992 makes it an offence to kill badgers except under licence, and then only in certain specific circumstances. This means that the people the Government proposes should carry out the cull, will almost certainly never have shot a badger before. They may well have shot foxes, but a Game Conservancy Trust Report to Defra[9] makes it clear that if the killing is to be carried out humanely, because "badger anatomy differs significantly from deer or fox anatomy" the operators must be well aware of the differences[10]. Thus, "if operator competence is not assured, then there is a distinct risk of causing suffering to some badgers", although "the actual level of risk" of causing suffering where "animals are shot and wounded but cannot be dispatched quickly" is unknown[11]". Indeed, the Report states quite unambiguously that professional operators rather than landowners and farmers should carry out, at the least, any free range shooting part of a cull. Therefore this option should surely be ruled out on these grounds alone, but if it were to go ahead, it should surely only be carried out by specially trained marksmen who have been shown to have reached a set level of competency.

Another major problem associated with culling is the phenomenon of perturbation, where badgers, some undoubtedly infected with the tuberculosis bacillus, flee from the killing ground, often ending up some distance into the surrounding area. Badgers, some possibly infected, may also move in from neighbouring areas to occupy vacant territory. The Government suggests using vaccination as a possible option in this situation "e.g. by surrounding culled areas with a ring of vaccination, or vaccinating in any "gaps" in a culled area where culling is not possible[12]".

Under Option 5, more badgers would be vaccinated against the disease. The vaccine used is BCG[13], the same vaccine that has been used to great effect to protect humans from tuberculosis. Research on vaccination has been carried out over a number of years, with badgers being vaccinated both in laboratory conditions and in the wild[14]. The results are very encouraging, so much so that at a meeting in December 2008 on The Final Study Report[15], "it was agreed that there was insufficient scientific grounds to justify culling badgers in 2009". The study would continue. Moreover, because it is in the later stages of the disease that the bacillus, Mycobacterium bovis is transmitted, a vaccine that can reduce the likelihood of an animal progressing to this point, is likely to have a beneficial effect. Indeed, research findings of the latest results of trials conducted by the Veterinary

[8]See note 1, para. 138, p.44.

[9]See the Summary of the Game Conservancy Trust Report to Defra, "Shooting as a potential tool in badger population control", August 2006, pp. 6-7.

[10]Ibid, point 7, p. 9.

[11]Ibid, point 6, p. 7.

[12]See note 1, para.119, p. 39.

[13]Bacille Calmette Guerin.

[14]The Food and Environment Research Agency has carried out extensive trials in a wild population of badgers.

[15]VLAS/05/036,"Field Trial to Assess the Safety of Bacille Calmette Guerin (BCG) Vaccine Administered Parenterally to Badgers".

Laboratory Agency, show that vaccination reduced the incidence of the disease by 74%, by slowing down its progression[16]. Another advantage of vaccination is that it is unlikely to cause perturbation. Computer modelling by Fera[17] has suggested that, if there is to be a cull, there should be ring vaccination around an area of culling if badgers are not to spread the disease further[18]. Furthermore, because immunity takes time to develop, "vaccination would need to precede culling[19]".

An oral vaccine would be an even better option, and although the Consultation document[20] states that this is still at the research stage and unlikely to be available before 2015 at the earliest, this might be unduly pessimistic. A team of researchers led by Dr. Eamonn Gormley and working at University College, Dublin have found a way of preventing the vaccine "from being destroyed by powerful acids in badgers' stomachs" so that the particles can "be absorbed by the gut where it triggers an immune response". The researchers' aim is to incorporate the vaccine into bait "which will be eaten by badgers and over a couple of years we can build up the immunity in badger populations[21]".

The Government's preferred approach is Option 6, which is a combination of Options 4 and 5. Licences would be issued to kill badgers "subject to a specific set of licence criteria". However, "under existing arrangements farmers and landowners will also be able to apply for licences to vaccinate badgers" while "under the new proposal, they will be able to use vaccination either on its own or for use in combination with culling". The idea is that farmers and landowners will be empowered "to take control of the wildlife reservoir at the local level and decide for themselves which control measures to use". This approach will encourage them "to fully consider the role of vaccination in support of a cull and increase the chance of successful disease control[22]". The fatal flaw in Option 6 is that, while it would give farmers and landowners a choice whether to cull, vaccinate or combine the two procedures, there is no compulsion on those who would simply want to kill badgers, to vaccinate them as well. The benefit is that it recognises the fact that those who want to, will be able to use vaccination on its own. Indeed, the Government hopes that this "could also lead to greater participation from a wider range of farmers[23]".

Badger control is part of a package going towards the long term goal of eradicating tuberculosis in cattle

Badger control is part of a package going towards the long term goal of eradicating tuberculosis in cattle. Although the Coalition Government originally intended to announce their decision in February, at the recent National Farmers' Union conference the Minister for Agriculture announced a delay, probably untilMay at the earliest[24]. Its preferred option is Option 6, yet this fails to make vaccination compulsory. The BCG vaccine works and an oral version could be a more practical and cheaper option for the taxpayer. Research in other countries shows that the vaccine also works to protect cattle, but unfortunately, there is currently a European Union ban on vaccinating cattle against bovine tuberculosis[25] because it is difficult to get an accurate result when testing the herds and there is at present, no way of differentiating between a cow that has the disease and a cow that has been vaccinated.

Defra is working on a diagnostic test (a "DIVA" test) to solve this problem. It aims to have such a test approved by 2012[26], so anything that can be done to advance this date, should be done, including an increase in research funding. Although badgers are protected under the Bern Convention "exceptions can be made for various purposes" and this includes taking action to prevent serious damage to livestock, "but only provided that there is no other satisfactory solution and that the exception will not be detrimental to the survival of the population concerned[27]". With the current rapid improvements in vaccination, any use of the exception will become increasingly difficult to justify for, as Dr. Gormley pointed out "while culling can be effective at controlling TB spread in the short term, in the long term, vaccination is really the only way to eradicate the disease[28]".

[16]See: The Proceedings of the Royal Society B, November 2010.

[17]The Food and Environment Research Agency.

[18]Defra Home Page, Research Section and Consultation, Annex D, pp. 1-2.

[19]Ibid, para.6, pp.1-2.

[20]See note 1, Annex C, paras. 8 and 12.

[21]Richard Gray "Oral TB vaccine may prevent need for badger cull", The Telegraph, 12 September 2010.

[22]See note 1, para. 138, pp. 43-44.

[23]Ibid.

[24]See http://www.farmersguardian.com/home/latest-news/nfu11-badger-cull-decision-on-hold-paice/37243.article

[25]See EU Directive 78/52/EEC.

[26]See note 1, para. 62, p. 23.

[27]See note 1, para. 76, pp. 27-28.

[28]See note 17.

The Zoo Licensing Act 1981 and the Welfare of Animals in UK Zoos

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There has been a long history of keeping wild animals in the UK, dating back to the Norman kings of England and the subsequent establishment of the royal menagerie at the Tower of London in the 13th Century. The first "modern" zoological garden arrived with the opening of London Zoo to the public in 1847. Since then, the range of species kept and the number of zoos in the country has responded in part to public demand, while in recent years the educational and conservation profile of zoos has gained currency.

Zoos today (defined as establishments "where wild animals are kept for exhibition... to which members of the public have access, with or without charge for admission, seven or more days in any period of twelve consecutive months", with the exception of pet shops and circuses[1]) include everything from farm parks with some wild animals, reptile centres, park aviaries, butterfly houses, bird of prey centres, to the more traditional metropolitan zoos and aquaria.

Legislation relating to keeping animals in zoos arose, in part, from concerns that the Protection of Animals Act 1911 was insufficient to protect the specific welfare of captive wild animals. Calls for regulation and inspection of zoos in UK began emerging in Parliament in the late 1960s, resulting in first reading of the Control of Zoological Gardens Bill in 1971. However, early calls for regulation of zoos were somewhat assuaged by the establishment of the Federation of Zoological Gardens of Great Britain and Ireland in 1966, which had as its object to encourage the proper care of wild animals in captivity, and to 1973, undertook inspections of 90 zoos[2]. The Zoo Licensing Act 1981 (ZLA) finally came into force in 1984, requiring the licensing and inspection of zoos in Great Britain to cover the welfare of animals, the role of zoos in biodiversity conservation, and the safety of the public.

The biodiversity requirements of the Act were given further precedence by Council Directive 1999/22/EC. This Directive came about as the result of parallel lobbying by both the zoo industry and animal welfare groups in the European Parliament. It was given force of law in the countries of UK in 2003. The main change resulting from the Directive was the introduction of a framework for the participation of zoos in conservation and education. This further reinforced the welfare requirements of the ZLA by requiring zoos to "accommodate their animals under conditions which aim to satisfy the biological and conservation requirements of the individual species, inter alia, by providing species specific enrichment of the enclosures; and maintaining a high standard of animal husbandry with a developed programme of preventive and curative veterinary care and nutrition"[3]. In addition, it imposed a requirement for the local authority to approve arrangements for the welfare or disposal of animals in the event of closure of a zoo. Nonetheless, at Government level, zoo legislation has remained the responsibility of departments dealing with biodiversity conservation rather than animal welfare.

While the ZLA and its amendments remain the primary legislation, vertebrate animals kept in zoos in Great Britain are subject to protection under the Animal Welfare Act 2006 / Animal Health and Welfare (Scotland) Act 2006. Following devolution and

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[1] The Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002

[2] HL Deb 15 June 1973 343 cc986-1013

[3] OJ L 94, 9.4.1999, p.25

the amendments required by the Directive, responsibility for zoo legislation in Wales and Scotland lies with the Welsh Assembly Government and the Scottish Executive respectively. Zoos in Northern Ireland are licensed and inspected under both the Welfare of Animals Act (Northern Ireland) 1972 and the Zoo Licensing Regulations (Northern Ireland) 2003.

Section 9 of the ZLA makes provision for the Secretary of State to put in place standards relating to the management of zoos and animals in zoos. These "Secretary of State's Standards of Modern Zoo Practice" have taken various forms over the years, and the last major review took place in 2004[4]. The welfare provisions within the Standards are based around the Five Freedoms or "Principles". However, the Standards include little in the way of species-specific provisions (with details limited to invertebrates, reptiles and amphibians, pinnipeds, marine birds, waterfowl and birds of prey[6]). Additional standards on the keeping of cetaceans in captivity were produced following the review by Klinoska & Brown[7] and are often regarded as the main obstacle to the proliferation of dolphinaria in the UK. The cetacean standards were recently recommended for review by the Zoos Forum, the Government-appointed advisory body on zoo matters[8], but to date this process remains unfinished.

The licensing and inspection of zoos under the Act (including what can be considered to be official assessment of animal welfare in zoos) is undertaken by Local Authorities, with informal site visits by Local Authority representatives every twelve months; and less frequent (approximately every 3 years) formal inspections undertaken on behalf of the Local Authority by Government-appointed Zoo Inspectors. Inspectors should have regard to the Standards, any species management guidelines, and the Zoos Forum Handbook[9] when carrying out a zoo inspection. It should be noted that an inspection includes not only the welfare of the animals, but also the participation in conservation and education, record keeping, staff-training, public safety – even the adequacy of public parking and toilets. As most inspections will take place in a single day, there are limitations on the ability of the inspection process to fully assess animal welfare.

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As a result of concerns that the application of the ZLA is inconsistent, Defra have funded a review of the implementation of the Act by local authorities in England and Wales, which is due to be delivered in summer 2011[10]. However, the reliability of the formal inspection system remains untested. Furthermore, there is an apparent disconnect between central and local Government on zoo matters, as evidenced by the lack of complete centralised list of licensed zoos[11]. Information on the process and results of zoo inspections is held only at individual Local Authority level, and consequently industry-wide assessment of the welfare of animals in zoos in the UK is lacking. Similarly, information on numbers of prosecutions under the ZLA or refusals of licence is not held by Defra, the Ministry of Justice or the Department for Local Communities and Justice[12]. This contrasts with formal inspections of animal-keeping facilities under the Animals (Scientific Procedures) Act 1986, for example, where annual statistics of compliance and infringements are maintained and published[13].

There would seem to be an urgent need for review of the inspection process, the Standards and their application to ensure an effective and workable system to ensure the welfare of animals in UK zoos.

[4] http://ww2.defra.gov.uk/wildlife-pets/zoos/standards-zoo-practice/

[5] FAWC (1979). http://www.fawc.org.uk/pdf/fivefreedoms1979.pdf

[6] Defra (2004). Appendix 8 – Specialist Exhibits. http://www.defra.gov.uk/wildlife-pets/zoos/documents/zoo-standards/app8.pdf

[7] Klinowska M & Brown S (1986). A Review of Dolphinaria. DoE

[8] The Zoos Forum, was recently reconfigured and looks set to become the "Zoos Expert Committee" under the authority of Defra. It is not yet clear how this will affect its role and function.

[9] http://ww2.defra.gov.uk/wildlife-pets/zoos/zoo-forums-handbook/

[10] Defra (2010). Review of the implementation of the Zoo Licensing Act 1981 in local authorities in England and Wales. http://www.defra.gov.uk/wildlife-pets/zoos/documents/zoo-licensing-act-adas-review.pdf

[11] Defra (2009). Defra list of zoos operating in England (October 2009). http://www.defra.gov.uk/wildlife-pets/zoos/documents/zoo-list.pdf

[12] Letter from Defra, 28.02.2011

[13] Home Office (2009). Animals Scientific Procedures Inspectorate and Division Annual Report 2009. http://www.homeoffice.gov.uk/publications/science/769901/animals-annual-report-2009

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ALAW is an organisation of lawyers interested in animal protection law. We see our role as pioneering a better legal framework for animals and ensuring that the existing law is applied properly.

We believe that lawyers should, as well as interpreting laws, ask questions about the philosophy underlying them: they have always played a central role in law reform. There is also a real need to educate professionals and the public alike about the law.

Animal cruelty does not, of course, recognise national boundaries and we are building up a network of lawyers who are interested in animal protection in many different countries.

What ALAW will do?

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- take part in consultations and monitor developments in Parliament and in European and other relevant international organisations,
- highlight areas of animal welfare law in need of reform,
- disseminate information about animal welfare law, including through articles, conferences, training and encouraging the establishment of tertiary courses,
- through its members provide advice to NGOs and take appropriate test cases,
- provide support and information exchange for lawyers engaged in animal protection law.

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Solicitors, trainee solicitors, legal executives, barristers, pupil barristers, judges and legal academics are eligible to join and will receive regular issues of the *Journal of Animal Welfare Law*. Other interested parties can become subscribers to the *Journal* and receive information about conferences and training courses.

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Apart from animal protection law itself, expertise in many other areas is important – for example, public law, civil liberties, environmental health, planning law, freedom of information, civil litigation, media law, company law and charity law.

In addition, lawyers have well-developed general skills such as advocacy and drafting which are useful in many ways. Help with training and contributions to the *Journal* are also welcome.