

Brexit: Opportunities and Threats for Farm Animal Welfare

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Clearly, we must ensure that Brexit does not lead to any dilution of UK legislative standards on the welfare of farm animals. To date there is no indication the Government plans to weaken these standards. Indeed, the message from the Department for Environment, Food and Rural Affairs (Defra) is that good welfare should be seen as part of the UK's post-Brexit international brand. Secretary of State Andrea Leadsom has said that the UK's Unique Selling Point, both at home and abroad, should include the highest standards of animal welfare.^{1 2} This said, we will need to be vigilant as, post Brexit, Defra and Parliament decide the future shape of each piece of farm animal welfare legislation.

Brexit offers opportunities to strengthen farm animal welfare as the UK will no longer be constrained by EU free trade rules. Nor, in the fields of welfare during transport and slaughter, will it be subject to EU Regulations that provide only limited opportunities to enact stronger domestic legislation.

In the interests of brevity this article refers to the UK and Defra in London but decisions about farm animal welfare (and other aspects of food and farming) post Brexit will have to be taken separately by each of the UK's four constituent parts.

Live animal exports

The UK currently exports around 37,000 sheep per year for slaughter on the continent. Figures received under a Freedom of Information request from the Animal and Plant Health Agency show that in the eighteen months from 1 July 2014 to 31 December 2015 a total of 56,537 sheep were exported from England and Wales for slaughter on the continent. In addition, around 20,000 calves were exported from Northern Ireland to Spain in 2016. These are mainly male dairy calves.³

The Court of Justice of the EU has twice ruled that the UK cannot ban live exports.^{4 5} Once the UK leaves the EU it will be free to ban live exports provided that in any new trade agreement with the EU it insists on the inclusion of a

provision permitting it to do so. I believe Defra should not wait for Brexit but should now introduce a Bill to ban live exports for slaughter or fattening with the coming into force date being the day after the UK leaves the EU.

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On-farm welfare: *Trade considerations*

The EU Directives on the welfare of animals on-farm (those on pigs, laying hens, broilers, calves and the General Farm Animals Directive) lay down minimum standards and allow Member States to set stricter welfare provisions in their own territory. However, Member States are generally reluctant to impose higher standards on domestic farmers as EU trade rules preclude them from requiring

¹ Andrea Leadsom speaking to NFU meeting at Conservative Party Conference 2016. http://www.npa-uk.org.uk/Post-Brexit_UK_to_be_an_exemplar_for_animal_health_and_welfare_standards-Leadsom.html Accessed 18 December 2016

² Andrea Leadsom's oral evidence to House of Commons Environment, Food and Rural Affairs Committee, 19 October 2016.

<http://data.parliament.uk/writteneviden>

ce/committeeevidence.svc/evidencedocument/environment-food-and-rural-affairs-committee/the-work-of-the-department-for-environment-food-and-rural-affairs/oral/41680.html Accessed 18 December 2016

³ Livestock and Meat Commission for Northern Ireland. <https://www.lmcni.com/site/wp-content/uploads/2017/01/Latest-bulletin.pdf> Accessed 19 January 2017

⁴ Queen and Ministry of Agriculture, Fisheries and Food, ex parte Hedley Lomas (Ireland) Ltd, Case C-5/ 94. <http://curia.europa.eu/juris/showPdf.jsf?docid=99550&doclang=en> Accessed 18 December 2016

⁵ Queen and Ministry of Agriculture, Fisheries and Food, ex parte Compassion in World Farming Ltd, Case C-1/96 <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61996CJ0001> Accessed 18 December 2016

imports to meet stronger standards than those set by EU legislation.

After Brexit, EU law will no longer prevent the UK from requiring imports to meet certain standards. However, this freedom may prove illusory unless, when negotiating new trade agreements with the EU or others, the UK insists on the insertion of a clause permitting the UK to require imports to meet UK animal welfare standards. However, the UK's desire to build a large portfolio of new trade agreements could deter it from holding firm in requiring the inclusion of such a clause.

"If the UK is unable to prevent the import of lower welfare products, UK farmers may press the Government to dilute welfare standards and are highly likely to oppose any strengthening of standards."

Trade issues will be decisive in determining whether the UK is able to raise welfare standards post Brexit. If the UK is unable to prevent the import of lower welfare products, UK farmers may press the Government to dilute welfare standards and are highly likely to oppose any strengthening of standards.

⁶ It is beyond the scope of this article to examine the WTO case law in detail; however a full analysis by the author is at <http://www.ciwf.org.uk/media/7131790/the-impact-of-the-world-trade->

In cases where the UK does not conclude a new trade agreement, trade will be governed by the World Trade Organisation (WTO) rules. Both the EU and the UK tend to assert that the WTO rules do not enable restrictions to be placed on imports on animal welfare grounds. This, however, is to ignore WTO case law of the last sixteen years. A number of WTO Panel and Appellate Body rulings suggest that a WTO member country may be able to require imports to meet standards equivalent to its own provided that there is no element of discrimination that favours domestic producers and no discrimination between different would-be exporting countries.⁶

Post CAP farm subsidy payments

The UK farm subsidy arrangements that replace the Common Agricultural Policy (CAP) will also play a decisive part in determining the future of UK animal welfare. The core principle that should determine strategic thinking about post CAP UK farm support payments is that farmers should be rewarded by the market for outputs, with the taxpayers' role being to provide funding for public goods that the market cannot, or can only partially, deliver. Such public goods include high animal welfare and environmental standards. Farmers may be encouraged to take what some see as a commercial risk in adopting higher welfare standards by the combination of support from the taxpayer and premium prices from retailers where these are offered.

[organisation-rules-on-animal-welfare-2015.pdf](#)

⁷ Scientific Opinion of the Panel on Animal Health and Welfare on a request from European Commission on welfare of dairy cows. *The EFSA Journal* (2009) 1143, 1-38.

Farmers willing to improve welfare should be incentivised under the new domestic farm support system. Public funding could for example be granted for membership of RSPCA Assured, or for keeping pigs outdoors or on straw indoors. Payments to individual farmers could be tiered, depending on which level of high welfare they chose.

We will now examine a number of welfare improvements that should be pursued both now and post Brexit. All these would benefit from support under the new funding arrangements.

Need to halt the move to zero-grazing in dairy farming

Reports by the European Food Safety Authority and a new review of the literature show that pasture based cows have lower levels of lameness, hoof pathologies, hock lesions, mastitis, uterine disease and mortality than zero-grazed cows.⁷ ⁸ Pasture access also results in improved lying/resting times and lower levels of aggression. When given the choice between pasture and indoor housing, cows show an overall preference for pasture.⁹

Traditionally dairy cows in the UK are kept outdoors during the grass growing season (spring, summer and early autumn) and are then brought indoors for the winter months.

The term 'zero-grazing' refers to cows that are kept indoors for all or the vast majority of the year. Some zero-grazed cows are

⁸ Arnott *et al*, 2016. Review: welfare of dairy cows in continuously housed and pasture-based production systems. *Animal* doi:10.1017/S1751731116001336

⁹ *Ibid*



housed indoors for all twelve months of the year. Others are allowed out to pasture during their 'dry period' i.e. the two months between the end of their ten month lactation and the birth of their next calf. Cows have one such two month dry period per annum. However, they will only be able to go outdoors during their dry period if it coincides with the grass-growing season.

A study carried out a few years ago for Defra found that 6-7% of farms continuously zero-graze all their cows.¹⁰ The average herd size of these farms was more than double the national average; this suggests that around 15% of cows are permanently zero-grazed. In addition, a proportion of cows that in theory might be allowed out during their dry period or in

the latter part of the lactation (when milk yields are declining) do not get out because in their case this period coincides with winter. In all I estimate that about 20% of UK cows are zero-grazed.

Public animal welfare payments should only be available for pasture-based dairying; zero-grazing operations should not benefit from taxpayers' funding. Indeed, the UK should emulate Sweden where legislation requires cows to be kept on pasture during the grass-growing season.¹¹

Moving away from farrowing crates

Sow stalls (used during pregnancy) have been banned in

the UK since 1999 and are now banned EU-wide other than in the first four weeks of pregnancy. However, the use of farrowing crates remains lawful. Sows are placed in these crates a few days before giving birth and remain there until the piglets are weaned at 3-4 weeks of age. They are so narrow that the sow cannot turn around.

Farmers use these crates to prevent sows crushing their piglets. Farrowing crates should be rapidly replaced by free farrowing systems. A number of such systems are available and research shows that piglet mortalities in loose farrowing systems can as low as, or lower

¹⁰ AW1026: the Management and welfare of continuously housed dairy cows. <http://www.bovinetb.info/docs/a-study-to-investigate-the-management-and-welfare-of-continuously-housed->

dairy-cows.pdf Accessed 18 December 2016

¹¹ Animal Protection Ordinance [1988:539]. Djurskyddsförordning (1988:539). Näringsdepartementet. Available from:

http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/djurskyddsforordning-1988539_sfs-1988-539.

than, in crates.^{12 13} British farmers and scientists have played an important part in the development of free farrowing systems.^{14 15}

The UK should encourage a move to free farrowing systems, and ultimately ban the use of farrowing crates, giving farmers a reasonable phase out period.

Ending the use of enriched cages for laying hens

Barren cages for laying hens have been prohibited EU-wide since 2012 but the use of enriched cages is permitted. However, these cages provide only minor welfare improvements compared with the banned barren cage.^{16 17}

¹⁸ Germany has banned enriched cages from 2015 (with certain exceptions permitting their use until 2028).¹⁹ The UK should do the same.

Ban routine preventive use of antibiotics in farming

The overuse of antibiotics in intensive animal production contributes significantly to antimicrobial resistance in humans.^{20 21} The main use of antibiotics in farming is routine preventive use in intensive systems²² where animals are confined in overcrowded,

stressful conditions and are bred for maximum yield. These conditions compromise their health and immune responses, and encourage disease to develop and spread.^{23 24}

"The overuse of antibiotics in intensive animal production contributes significantly to antimicrobial resistance in humans."

Post Brexit the UK will be able to act unilaterally and should prohibit the routine preventive use of antibiotics in farming. Routine antibiotics use should be replaced by the keeping of animals in 'health-orientated systems'. In such systems good health would be integral to the system rather than being propped up by routine use of antibiotics. This approach would build good health and strong immunity by measures such as avoiding overcrowding and excessive group size; reducing stress for example by enabling animals to perform natural behaviours; and ending the early weaning of

piglets. This would deliver both good health and high welfare standards.

Need for meat and dairy products to be labelled as to farming method

Governments urge consumers to play their part in driving welfare improvements. At the same time both the European Commission and Defra refuse to introduce mandatory labelling of meat and dairy products as to farming method thereby leaving consumers to make their choices in the dark.

The problem is particularly acute as regards milk. Consumers are largely unable to play a part in determining the future direction of UK dairying as most milk is pooled together (other than organic milk) making it impossible to distinguish intensive and pasture-based milk. Defra should work with industry to explore ways in which pasture-based milk and dairy products can be labelled as such rather than being mixed with milk and dairy products from intensive herds. EU law requires eggs and egg packs to be labelled as to farming method; packs of eggs produced in enriched cages must be labelled 'eggs from caged

¹² Weber et al, 2007. Piglet mortality on farms using farrowing systems with or without crates. *Animal Welfare* 16: 277-279.

¹³ Baxter EM, Lawrence AB, and Edwards SA. Alternative farrowing accommodation: welfare and economic aspects of existing farrowing and lactation systems for pigs. *Animal*. 2012; 6(1):96-117.

¹⁴ *Ibid*

¹⁵ <http://www.360farrower.com/> Accessed 18 December 2016

¹⁶ EFSA AHAW Panel (EFSA Panel on Animal Health and Animal Welfare), 2015. Scientific Opinion on welfare aspects of the use of perches for laying

hens. *EFSA Journal* 2015;13(6):4131, 70 pp. doi:10.2903/j.efsa.2015.4131

¹⁷ Rodenburg TB, Tuytens FAM, and Sonck B. 2005. Welfare, health, and hygiene of laying hens housed in furnished cages and in alternative housing systems. *Journal of Applied Animal Welfare Science* 8(3):211-26.

¹⁸ Lay D et al, 2011. Hen welfare in different housing systems 2011 *Poultry Science* 90 :278–294

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<https://www.buzer.de/gesetz/7344/al54179-0.htm> Accessed 18 December 2016

²⁰ World Health Organisation, 2011. http://www.who.int/mediacentre/news/releases/2011/whd_20110406/en/ Accessed 19 December 2016

²¹ European Medicines Agency, 2006. Reflection paper on the use of fluoroquinolones in food-producing animals in the European Union. http://www.ema.europa.eu/docs/en_GB/document_library/Other/2009/10/WC500005155.pdf Accessed 19 December 2016

²² *Ibid*

²³ T Humphrey (2006) Are happy chickens safer chickens? *Poultry welfare and disease susceptibility*, *British Poultry Science*, 47(4):379–391

²⁴ M Greger (2007) The human/animal interface: emergence and resurgence of zoonotic infectious diseases. *Critical Reviews in Microbiology*, 33:243–299

hens'.²⁵ Post Brexit, Defra should unilaterally extend this requirement to meat and dairy products.

Improving welfare at slaughter

Food Standards Agency (FSA) data show that in the period July 2014 - June 2016 there were over 4,000 serious breaches of animal welfare legislation at slaughter and during the transport of animals to slaughterhouses.^{26 27}

"Defra should introduce legislation requiring slaughterhouses to install CCTV and to make the footage available for independent monitoring and to the FSA."

Analysis of the data by the Bureau of Investigative Journalism states that during this period there were 130 level 4 problems (animals subjected to avoidable pain, distress or suffering) during slaughter, 4005 level 4 problems during transport to slaughter and 320 other level 4 problems. Some of these breaches of the law affected several animals particularly in the case of poultry. The FSA's data makes disturbing reading. Just looking at the data

²⁵ Commission Regulation (EC) No 589/2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs

²⁶ [https://www.food.gov.uk/about-us/data-and-policies/foia/foirelease/information-released-under-the-freedom-of-information-act-and-environmental-information-regulations-in-2015/animal-](https://www.food.gov.uk/about-us/data-and-policies/foia/foirelease/information-released-under-the-freedom-of-information-act-and-environmental-information-regulations-in-2015/animal-welfare-regulations-at-slaughter-2014-2015)

for the most recent month (June 2016) one sees the following problems (and I use the FSA's wording):

- Birds trapped between crate and module; this problem appears many times in the FSA data
- Stunning not effective (cattle); this too appears regularly in the FSA data
- 1 trapped wing, upside down birds, several bruising and fractures
- Cattle: 3 misplaced shots
- Broken leg (pig)
- Weak animals (calves)
- 5 trapped heads, upside down birds, several bruising and fracture
- Very dirty water left over from last week
- Animals dead on arrival (lambs, pigs).
- Massive tumour ulcerated and bleeding in sheep's mouth.

Defra must take urgent steps to very substantially reduce the incidence of – and eventually to eliminate – the problems identified by the FSA data. Defra should introduce legislation requiring slaughterhouses to install CCTV and to make the footage available for independent monitoring and to the FSA.

Incorporating Article 13 TFEU into UK law

Article 13 of the Treaty on the Functioning of the EU recognises

welfare-regulations-at-slaughter-2014-2015 Accessed 19 December 2016

²⁷ <https://www.thebureauinvestigates.com/2016/08/28/severe-welfare-breaches-recorded-six-times-day-british-slaughterhouses/> Accessed 19 December 2016

²⁸ Farm Animal Welfare Committee. Farm animal welfare in Great Britain: past, present and future.

animals as 'sentient beings' and requires the Member States, when formulating and implementing EU policy on *inter alia* agriculture, to "pay full regard to the welfare requirements of animals". Post Brexit, similar provisions must be incorporated into UK law.

A more ambitious approach is needed as to what is meant by good welfare

Welfare science and policy tend to focus on preventing poor welfare rather than on promoting positively good outcomes. However, this minimalist approach is increasingly being queried. There is a growing recognition of the need to take a less narrow view of what constitutes good welfare.

The Farm Animal Welfare Committee stresses that all farm animals should have 'a life worth living' and a growing number should have 'a good life'.²⁸ It states that "each farm animal should have a life that is worth living to the animal itself, and not just to its human keeper". It adds that 'a life worth living' requires meeting wants, not just needs.

A recent paper stresses that it is necessary not only to minimise negative experiences but also "to provide the animals with opportunities to have positive experiences".²⁹ Such experiences can arise "when animals are kept with congenial others in spacious,

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319292/Farm_Animal_Welfare_in_Great_Britain_-_Past_Present_and_Future.pdf Accessed 19 December 2016

²⁹ Mellor DJ. Updating Animal Welfare Thinking: Moving beyond the "Five Freedoms" towards "A Life Worth Living". *Animals* 2016, 6(3), 21; doi:10.3390/ani6030021

stimulus-rich and safe environments which provide opportunities for them to engage in behaviours they find rewarding. These behaviours may include environment-focused exploration and food acquisition activities as well as animal-to-animal interactive activities, all of which can generate various forms of comfort, pleasure, interest, confidence and a sense of control.”

Need for a Sustainable Food and Farming Act

Industrial livestock production not only results in poor animal welfare but also has a detrimental impact on natural resources, human health and food security. Industrial production is dependent on feeding human-edible cereals to animals who then convert them very inefficiently into meat and milk. 45% of UK cereals are used as animal feed.³⁰ For every 100 calories fed to animals in the form of human-edible crops, we receive on average just 17-30 calories as meat.^{31 32}

Industrial livestock’s huge demand for cereals has fuelled the intensification of crop production which, with its monocultures and agro-chemicals, has led to water

pollution,³³ soil degradation³⁴ and biodiversity loss.^{35 37} Reducing the need for animal feed would ease the pressure to farm arable land intensively so enabling these natural resources to be restored.

Chatham House reports conclude that technical mitigation measures and increased productivity will be insufficient on their own to prevent an increase in farming’s greenhouse gas emissions.^{38 39} These show that we cannot meet the Paris Agreement’s targets without a reduction in global meat and dairy consumption. Moreover, the high levels of meat consumption that have been made possible by industrial production contribute to heart disease and certain cancers.⁴⁰

We need food and farming that produces nutritious food and encourages healthy diets. That enables us to meet the Paris climate targets and restores water, soils, wildlife and biodiversity so that they are passed in good shape to future generations. Decent livelihoods for farmers and respect for animals as sentient beings, as individuals must be core elements of the new policy.

Compassion in World Farming advocates the introduction of a Sustainable Food and Farming Bill to ensure that the Government is required to pursue these objectives and to do so in a cohesive manner, ensuring that one objective is not achieved at the expense of another. The Bill should set measurable targets to be achieved by specified dates. The Scottish Government is committed to bringing forward a Good Food Nation Bill to draw together all aspects of its work on food. The other parts of the UK should do likewise.⁴¹

³⁰ Agriculture in the United Kingdom, 2015. Author’s calculation based on Tables 7.2-7.4

³¹ Lundqvist, J., de Fraiture, C. Molden, D., 2008. Saving Water: From Field to Fork – Curbing Losses and Wastage in the Food Chain. SIWI Policy Brief. SIWI. http://www.sivi.org/documents/Resources/Policy_Briefs/PB_From_Filed_to_Fork_2008.pdf

³² Nellemann, C., MacDevette, M., Manders, et al. (2009) *The environmental food crisis – The environment’s role in averting future food crises*. A UNEP rapid response assessment. United Nations Environment Programme, GRID-Arendal, www.unep.org/pdf/foodcrisis_lores.pdf

³³ Parliamentary Office for Science & Technology, 2014. Diffuse Pollution of Water by Agriculture: Number 478

³⁴ Edmondson *et al*, 2014. Urban cultivation in allotments maintains soil qualities adversely affected by conventional agriculture. *Journal of Applied Ecology* 2014, 51, 880–889

³⁵ Tsiafouli *et al*, 2015. Intensive agriculture reduces soil biodiversity across Europe. *Global Change Biology* (2015) 21, 973–985, doi: 10.1111/gcb.12752

³⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/372755/UK_Wild_birds_1970-2013_final_-_revision_2.pdf

³⁷ Reversing insect pollinator decline. <http://www.parliament.uk/business/publications/research/briefing-papers/POST-PN-442/reversing-insect-pollinator-decline>

³⁸ Bailey R *et al*, 2014. Livestock – Climate Change’s Forgotten Sector. Chatham House.

³⁹ Wellesley *et al*, 2015. Changing climate, changing diets: pathways to lower meat consumption. Royal Institute of International Affairs

⁴⁰ Aston LM, Smith JN and Powles JW, 2012. Impact of a reduced red and processed meat dietary pattern on disease risks and greenhouse gas emissions in the UK: a modelling study. *BMJ Open* 2012, 2:e001072 <http://bmjopen.bmj.com/content/2/5/e001072.full.pdf+html>

⁴¹ SNP Manifesto 2016. <http://www.snp.org/manifesto> Accessed 20 December 2016