

All Party Group on Animal Welfare – 14.11.06

In Attendance:

Lorraine Barrett AM (Lab, Cardiff South & Penarth)
Matt Collis – International Fund for Animal Welfare
Roy Peckham – Pit Pony Sanctuary
Leslie Thomas – Greyhound Rescue Wales
Lionel Ford – Donkey Sanctuary
Phillip Jones – International League for the Protection of Horses
Kath Jenkins – Clerk, Environment, Planning and Countryside Committee, National Assembly for Wales
Sian Edwards – Dogs Trust
Lucy Merredy – Researcher for Lorraine Barrett AM
Barbara Windsor - Personal Assistant to Lorraine Barrett AM
Paul Pavia - Welsh Conservative Group
Karen Browne - RSPCA
Claire Lawson – Public Affairs Manager for Wales, RSPCA
Joe Allen - Morgan Allen Moore
Rahel Jones - Morgan Allen Moore

Apologies

Wendy Davies – British Horse Society Cymru
Sgt Ian Guidford – South Wales Police
Huw Thomas – Farmers Union Wales
Mickey Davenport – Badger Watch and Rescue, Dyfed
Michael Sharratt – Badger Watch and Rescue, Dyfed
Alain Thomas – Greyhound Rescue Wales
Suzanne Campbell – Protection of Wild Animals
John Campbell – Protection of Wild Animals
Ifan Lloyd - British Veterinary Association

Item 1: Chair's Welcome and Introduction

Lorraine Barrett AM welcomed everyone to the session, before indicating that many apologies had been received which were circulated. It was explained that the purpose of the session was to discuss the Animal Welfare Act and what legislation and measures APGAW as a group would like to see introduced as a result of the Act.

Lorraine Barratt AM also extended her apologies that she would have to leave shortly due to another commitment.

Item 2: Topic for Discussion: Animal Welfare Act

Claire Lawson (RSPCA):

- Introduced the topic for discussion noting that the Animal Welfare Act had received Royal Assent last week;
- Clarified that the Act applied to England and Wales, but there would be differences in both countries in many areas – firstly while a set date for implementation had been set in England, this was yet to happen in Wales, due to the complication of the election in terms of setting a timescale, and also the introduction of the Government of Wales Act, which would be changing the way that the Assembly works.
- Stressed that it was important to maintain pressure in order to ensure that the Act could be implemented in Wales as soon as possible through the passing of a Commencement Order, and preferably before England. If this did not happen, the

implication was that the Act may not be implemented in Wales until after the 2007 Summer Recess.

Lorraine Barrett AM

- Added that there was also the issue of translating the Bill, which would take time.

Kath Jenkins (Clerk, EPC Committee):

- Explained that in Wales, unlike Westminster, civil servants did not have purdah, and did not stop working during election times. It was very much business as usual.
- Clarified that, in terms of the new procedures of the National Assembly for Wales following the Government of Wales Act, there would be subordinate legislation committee, which would be comparable to the current Legislation Committee.
- Noted that there would be two main procedures towards making legislation – a negative and affirmative procedure. Essentially, the first procedure mean the passing of legislation without much scrutiny, while the second would be mean the opposite, and it would be a case of ensuring that Ministers and officials had appropriate information to decide on the correct procedure to use.

Phillip Jones (ILPH)

- Asked for confirmation that there was no date set in Wales as had been done in England.

Claire Lawson (RSPCA)

- Explained that the system in Wales was different to England. In England there are two set dates a year when legislation can be implemented, but in Wales, the situation is different, and they had to wait for a commencement order to be passed. This could be done on any date in Wales.

Kath Jenkins (Clerk, EPC Committee):

- Noted that the final Plenary before the election would be on March 28th. Following this, the Assembly Election would be held on the 3rd May. The Assembly Government would meet a week later to finalise its a Cabinet, but, judging on past experience, it was likely that it would take until mid June for committees to be selected. After this an equivalent of the Queen's speech would take place during the week after Spring Bank Holiday, where there would be some form of "My Government in Wales will...." speech made. Following all of this, it was only likely that committees would meet once or twice before the summer recess.

Claire Lawson (RSPCA)

- Suggested that the situation post election could well be quite chaotic, and although there was a positive disposition amongst all the parties towards the Animal Welfare Act it was a case of waiting in line as there was only so much pressure that could be applied.
- Affirmed that she would continue to raise the issue at every opportunity.
- Returning to the aim of the session, noted that following earlier sessions with Alan Streeter (Environment, Planning and Countryside Legislation Division), it had been noted that it would be useful for APGAW to work on formulating priorities for when the Animal Welfare Act was implemented, although it would be for the Assembly Member officers of APGAW, for example Mick Bates AM and Lorraine Barrett AM to agree on the group's priorities.
- Explained that there were two types of legislation that could be created with the Animal Welfare Act – regulations and codes of practice. While regulations were more firm and essentially dictated a "do/don't" approach to legislating, codes of practice were less prescriptive, but were useful as they created a level playing

field and reduced the levels of interpretation possible in courts of law. Codes of practice could be made for methods of practice as well as species.

- As an example, it was mentioned that for greyhounds regulations were sought as opposed to codes of practice, but that different issues would have to be looked at to establish the most appropriate type of legislation.

Phillip Jones (ILPH):

- Asked if the Act allowed for the Welsh Assembly Government to make their own separate regulations, and offered an example from Scotland where a different route to England had been taken in respect of enforcement notices. In Scotland, it is an offence to breach enforcement notices, but in England and Wales this is not the case.

Claire Lawson (RSPCA):

- Mentioned the enforcement notices issued by the RSPCA, noting that these had no link with Government.
- Explained that in Scotland, enforcement notices were legally binding and therefore the offence lay in breaking the enforcement notice.
- Noted that Governments in England and Wales would not want to waste money and resources, especially due to the availability of a judicial review over any decisions.
- Explained that, where possible the Welsh Assembly Government would be looking to lift codes and regulations from elsewhere, therefore it was reasonable to expect that, in many cases, a number of provisions would be the same as those in England. Nevertheless, the case for differences would be heard and a consultation process would apply to any potential legislation to be made.
- Suggested that the above point was more likely to apply to codes of practice, and, if it was decided that regulations were required here, it was more likely that differences could be seen.

Phillip Jones (ILPH):

- Raised the issue of enforcing the Act, and asked where additional funding would be sourced to support local authorities.

Claire Lawson (RSPCA):

- Explained that there was no extra funding attached to the Act. Instead the UK Government has proposed changes to licensing departments to move towards acting less regularly, and acting on a risk base system. Essentially, "if you're good, they won't come back".
- Mentioned that, due to the way that the Act was worded, local authorities were not that concerned, as the wording specified that they "may" act, as opposed to "should".

Phillip Jones (ILPH):

- Referred to the State Veterinary Office's jurisdiction over farm animals, but asked if they would be taking a similar role with non-farmed animals.

Claire Lawson (RSPCA):

- Explained that one of the main purposes of the Act was to work to bring companion animals to the same level as farm animals.

Phillip Jones (ILPH):

- Asked if there was already some form of priority list formulated with regard to the Animal Welfare Act.

Claire Lawson (RSPCA):

- Noted that it was up to groups and APGAW to influence the agenda to some degree.

Matt Collis (IFAW):

- Added that, when the Animal Welfare Bill was going through Westminster, plans for England's priorities had already been drawn up, but there was scope to change the order and speed with which certain proposals were put forth.

Phillip Jones (ILPH):

- Asked how much influence the APGAW group would have on the Animal Welfare agenda and any decisions that were made.

Claire Lawson (RSPCA):

- Suggested that APGAW and the Animal Welfare Network Wales were the only groups in Wales that collectively had great strength, and suggested that, as a more "political" group, it could be argued that APGAW in fact had the strongest voice and could have the greatest influence.

Phillip Jones (ILPH):

- Referred to England specifically, suggesting that, with the costs involved with implementing the Act, it was likely that Government was going to rely on charitable organisations to affect the legislation, and effectively work on their behalf.

Claire Lawson (RSPCA):

- Commented that they, as organisations would have to be seen to be acting and implementing the Act, having been vocal in requesting the legislative powers.
- Clarified that the Act was about promoting duty of care, and noted that everyone has a role to play. Agreed that the Act was not perfect, therefore there would be problems in terms of implementation but it was important to be positive.

Phillip Jones (ILPH):

- Praised APGAW, saying that effective work had been done by the group on the issue of greyhounds, and asked if the same formula used in developing the greyhound agenda could be used for other issues.

Claire Lawson (RSPCA):

- Noted that an equine group had already been established that could develop the equine agenda.
- Explained that, with greyhounds, it was an easy issue to look at in a sense as it was a capsule issue in Wales. It was possible to look at it and manage the resources required to tackle the issue.
- Added that it was not possible to directly apply the same formula to other issues, but that APGAW should be looking to form groups around each issue.

Roy Peckham (Pit Pony Sanctuary):

- Raised the issue of pit ponies and asked if the group could put forth regulations to ban their use.
- Noted that he had put forward lots of information on the issue, but was not gaining feedback.

Claire Lawson (RSPCA):

- Suggested that this could be developed as part of regulations or codes of practice on equines in a general sense.

Roy Peckham (Pit Pony Sanctuary):

- Disagreed, stating that pit ponies could not be added into legislation on equines and separate legislation was necessary, as there was currently separate legislation on the issue of pit ponies, which enshrined it as a separate issue.
- Explained that back in 2000, people were not prepared to talk about the issue, and mine inspectors were not prepared to visit small mines to inspect the relevant matters.

Phillip Jones (ILPH):

- Asked how many ponies were currently being used in mines.

Roy Peckham (Pit Pony Sanctuary):

- Explained that while none were currently being used, it was still legal, and there was a real risk that mine owners could look again at using horses due to the rising cost of energy prices.
- Noted that he was happy to do a presentation on the issue to show APAGW members the issues involved, nevertheless, it was obvious that mines were not a good place to take horses.
- Stressed that the legal expert who had been in attendance at the Animal Welfare Network conference had assured him that, as the 1956 Act regarding pit ponies had not been repealed, despite the Animal Welfare Act, lawyers would still argue that it was legal to use ponies in mines.

Claire Lawson (RSPCA):

- Noted that if it was still a possibility that horses could be used in mines, it was still a concern, therefore it would be placed on the list of APGAW suggestions.

Sian Edwards (Dogs Trust):

- Presented to the committee the three proposals of the Dogs Trust, which were to:
 1. ban the sale of dogs at pet fairs;
 2. ban the use of electric shock collars;
 3. see the route taken by Scotland with regard to tail docking also taken in Wales, with strong definitions of what constitutes a working dog which are breed specific, and also ensuring puppies are registered before tails can be docked.

Claire Lawson (RSPCA):

- Referred to the issue of pet fairs, stating that they are a complex matter, especially due to the response of Defra to a recent judicial review on the issue, where they stated that the sale of pets was illegal when not in the normal course of business.

Roy Peckham (Pit Pony Sanctuary):

- Suggested that there may be an issue with Chartered fairs as they might be exempt, even though these fairs had now been taken over as gypsy fairs.

Lionel Ford (Donkey Sanctuary):

- Noted that problems had been seen at the Gloucester fair, and while the problem had been addressed to some extent, it was a general problem.

Matt Collis (IFAW):

- Explained that commercial fairs had been banned bar a few exemptions, but that the issue was open to abuse and was abused.

Claire Lawson (RSPCA):

- Noted that there may be a need for a further level of enforcement at fairs, and that the query with regard to the possible exemption of Chartered fairs would be passed on to the RSPCA lawyers.

Roy Peckham (Pit Pony Sanctuary):

- Added that if an exemption did exist for Chartered fairs, it could lead to the situation being driven out and a greater problem developing in these chartered fairs.

Claire Lawson (RSPCA):

- Informed the members that Labour had proposed a ban on selling pets in its manifesto policy document for the Welsh Assembly election.

Matt Collis (IFAW):

- Explained that the Government in Westminster were going to bring something similar forward for selling pets to under sixteens, but it had been qualified and muddled with the provision of there being an exemption if an adult was present.
- Added that when discussed by MPs the argument had spiralled into discussing goldfish at fairs, and raffles at livestock shows, with comments that persons in livestock shows would likely be animal owners themselves, and able therefore to properly care for the animal.

Claire Lawson (RSPCA):

- Returned discussions to the Dogs Trust proposals and noted that there was likely general agreement on the issue of banning shock collars.

Matt Collis (IFAW):

- Noted that the argument put forth in England on this issue was that there was a lack of scientific evidence.

Roy Peckham (Pit Pony Sanctuary):

- Suggested that the proposal should be widened to state that they supported the banning of the use of shock collars with any animal.

Claire Lawson (RSPCA):

- Agreed that it was worth considering the proposal in a more general sense, but there would be an issue with electric fences, which would not be included in any legislation.
- Mentioned the performing animals' agenda, noting that electric shock collars were certainly an issue that should be considered here for legislation.
- Turned to the final issue raised by the Dogs Trust – tail docking, and stated that, although not present, this was something to which the NFU and other farmers' unions would oppose.
- Referred to the progress of the issue in London, stating that the unions came forth with an extensive list of exempted dogs, and had managed to sway a number of MPs who they expected to vote in favour of the ban on tail docking. In light of this, it was important to be aware that this could be a contentious issue.
- Commented that now might be a time to facilitate sub-groups on many of the issues to take forward proposals.

Sian Edwards (Dogs Trust):

- Explained that the Dogs Trust is working to collect evidence on electric shock collars.

- Informed members that they had already collected much evidence on tail docking.

Roy Peckham (Pit Pony Sanctuary):

- Again suggested that the proposal on banning tail docking should also be aimed at other animals as well as dogs.

Claire Lawson (RSPCA):

- Agreed that this should be considered.
- Explained to members that the Animal Welfare Act bans all mutilations but that the Government would have to write a list of exemptions, including an exemption for working dogs, and noted that they were expecting consultations on these exemptions.
- Informed members that there was a working party looking at this issue.

Matt Collis (IFAW):

- Added that a consultation on mutilations and exemptions had already been held in England.

Lionel Ford (Donkey Sanctuary):

- Raised the issue of working donkeys, and stated that many local authorities were defaulting on their statutory duty to these animals, and noted that perhaps the Welsh Assembly Government could make a difference by putting increased pressure and offering increased guidance to local authorities to ensure that they act.
- Added that there was certainly a duty of care issue involved with dealing with working donkeys.

Claire Lawson (RSPCA):

- Asked where in Wales these animals could be found.

Lionel Ford (Donkey Sanctuary):

- Informed members those locations where working donkeys could be found included Llanelli, Carmarthen, Newcastle Emlyn, Barmouth, Rhyl and Aberystwyth.

Claire Lawson (RSPCA):

- Suggested that they could add it to their wishlist, but there would be a need for evidence to support the proposal.
- Also mentioned that it could form a part of a proposal for a code or regulations on equines.

Lionel Ford (Donkey Sanctuary):

- Explained that the Donkey Sanctuary had already devised a code of practice that could be developed and put forward, and reiterated that they would like to see the Welsh Assembly Government put pressure on local authorities to stop turning a 'blind eye' to the issue of working donkeys across Wales.

Claire Lawson (RSPCA):

- Mentioned that the issue might be something for the Animal Welfare Network to take forward, and they could potentially arrange to invite local authorities to meet with the network and open the dialogue, suggesting that they would likely appreciate the support of such a network in their work.

Phillip Jones (ILPH):

- Added that the Animal Welfare Network should also possibly look towards the judiciary system to offer advice to magistrates, as there were issues where they seemed to have a poor understanding, for example in giving animals back to owners after any convictions.
- Suggested that they could approach somebody from the judiciary side to come and explain their approach to animal welfare cases.

Claire Lawson (RSPCA):

- Commented that if the codes of practice worked as they hoped they would, then the room for interpretation in a court of law should be curbed.
- Agreed that at present, there was too much room for interpretation when cases came to court, but noted that the Act already held provisions to help here as it places an onus on magistrates to explain why they have made their decision and to clarify on what ground – this would automatically improve the situation.
- Noted that the Act also enabled the passing of confiscation or banning orders where relevant.

Matt Collis (IFAW):

- Informed members that Defra had placed funds aside for training in relation to the Animal Welfare Act, and it would be possible to seek clarification if any of this money would be designated for the training of magistrates as well as local authority representatives.

Sian Edwards (Dogs Trust):

- Asked if magistrates received any notice on the kinds of cases that they were going to hear each day, and suggested that there was a potential for the Animal Welfare Network to act as an advisers to magistrates.

Claire Lawson (RSPCA):

- Responded that it may be possible to formulate a list of experts which they could consult.
- Added that questions could also be raised about the experts and their suitability could be called into scrutiny.
- Referred to the recent case regarding a captive monkey, where it had been decided that although the case for cruelty had been proven, the case for unnecessary cruelty had not been proven.
- Explained that this was an example of why codes of practice were important in order to remove the many levels of interpretation.

Matt Collis (IFAW):

- Noted that a code of practice for primates was required and if the codes were not right, then further issues and complications could become apparent.

Claire Lawson (RSPCA):

- Added that there was also an issue that dangerous legal precedents could be set.
- Suggested that it was up to APGAW to play a role in looking at consultations and draft codes to ensure that they were appropriate and effective.

Matt Collis (IFAW):

- Indicated that it was likely that, in many cases, codes devised by England, Scotland and Wales would be the same or similar, and it was important to look at targeting key people to ensure that any amendments that were necessary were highlighted, and hopefully would pass and spread across the three countries.

Claire Lawson (RSPCA):

- Reminded members that at present, only three Welsh Assembly representatives were shadowing key personnel in Defra, and while it was important to put forth ideas and keep the issue alive, it was equally important that animal welfare representatives did not become victims of their own eagerness.
- Further clarified that meetings like those held by APGAW were important as it fed the work of the likes of Alan Streeter (EPC, Legislation Division), and helped officials to identify priorities, but at the same time, they as officials did not have time to individually meet with all groups and representatives, and therefore they could gain stronger results by joining forces.
- Noted that the animal welfare groups had good support from all four parties, and it was important to go through the right channels to most effectively deliver ideas and proposals to the appropriate people and avoid overburdening them.

Matt Collis (IFAW):

- Listed that IFAW's priorities as developing a code of practice on primates that was consistent, legislation on the internet sale of animals/pets, and also on sanctuaries.

Claire Lawson (RSPCA):

- Queried whether primates were a reserved area for the Home Office.

Matt Collis (IFAW):

- Replied that this was the case, but that it was not clear whether how primates were kept and cared for was reserved.
- Further added that the issue of breeding primates for supply purposes also needed to be clarified.
- Noted that the code on primates should include that the animal is kept to the same standards as a zoo. There is an issue as there is no register or way of knowing who is currently keeping pets as primates beyond the dangerous wild animals licence register.
- Suggested that they should aim for an outright prohibition on primates as pets, and then have exemptions, adding that while was possible to implement licensing and registration through secondary legislation, the best route would be to have a general prohibition.
- Moved on to the issue of internet sales, saying that, as a cross border and international issue, it would be unrealistic and not necessarily effective to have a separate route taken in Wales.
- Compared this with sanctuaries, noting that it was possible that different legislation could be developed and implemented in Wales, Scotland and England as it was a static issue in that sanctuaries do not move.
- Noted that in Scotland they had developed sanctuary regulations before England and had developed a licensing scheme. In England they were looking at registration, but it was up to Wales which route they chose to follow.

Claire Lawson (RSPCA):

- Noted that Defra had chosen a two tier registration system, with one tier for large sanctuaries and another for small sanctuaries.

Matt Collis (IFAW):

- Replied that Defra had now backed away from this original position and were now proposing a five year renewable registration, where no inspection would take place unless an issue came to light.

- Clarified that it was essentially a risk management inspection system, but that there was a significant flaw in that, if a sanctuary was not open to the public, issues would be less likely to come to light.

Claire Lawson (RSPCA):

- Noted that, from the point of view of the work of the RSPCA, without a licence, they were unable to access a site, and there was a concern about the smaller sanctuaries they could not access. In light of this, there is a need for a proper form of licensing.
- Added that, having said this, there were well intentioned people who operated small sanctuaries whom licensing could discriminate against, due to the costs involved with licensing.

Matt Collis (IFAW):

- Stressed that it was the view of the IFAW that there should be a variable license fee, depending on the size of the sanctuary and the kinds of the animals housed.
- Noted that Defra had drafted a definition of sanctuaries based on purpose, which was quite good, and that this was a sensible way to go about it.
- Concluded that as sanctuaries were location specific, they were something that could certainly be dealt with and managed properly.

Phillip Jones (ILPH):

- Noted that there were similar issues involved with livery yards.

Leslie Thomas (Greyhound Rescue Wales):

- Suggested that APGAW should stress the importance of setting up an industry authority for greyhounds.

Phillip Jones (ILPH):

- Suggested that the transportation of animals was a major issue that should be added to APGAW's list of priorities.

Claire Lawson (RSPCA):

- Mentioned that transportation was something that would likely “creep into” several pieces of legislation.
- Referred to transport in relation to circuses, and informed members that positive progress had been made on this issue. There was good political inclination, with Brynle Williams AM (Con, North Wales) and Lorraine Barrett (Lab, Cardiff South and Penarth) showing particular support. Other parties had also shown backing for this issue.
- Noted that it was expected that further information would be available in the New Year on the progress being made with regard to animals in circuses.
- Placed before the committee the RSPCA's priorities for legislation to be put before APGAW, which were circuses, greyhounds and game rearing.

Claire Lawson brought the session to a close. Roy Peckham raised an issue regarding the message board function on the APGAW website. Claire Lawson informed the committee that Karen Browne would be looking to get the message board up and running and also look at reviewing the membership of APGAW and bringing possible new members on board.

Rahel Jones
16.11.06