

**National Assembly for Wales All Party Group for Animal Welfare (APGAW) Meeting  
08.03.05**

**In attendance:**

Chair, Lorraine Barrett AM (Lab, Cardiff South and Penarth)  
 Mick Bates AM (Lib Dem, Montgomeryshire)  
 Christine Gwyther AM (Lab, Carmarthen West and South Pembrokeshire)  
 Mr Mike Radford, Law Professor, University of Aberdeen  
 Claire Lawson, RSPCA Cymru Wales  
 Sarah Marsh, Greyhound Rescue Wales  
 Leslie Thomas, Greyhound Rescue Wales  
 Phillip Jones, International League for the Protection of Horses  
 Michael Sharratt, Badger Watch and Rescue, Dyfed  
 Mickey Davenport, Badger Watch and Rescue, Dyfed  
 Wendy Davies, British Horse Society  
 Huw Thomas, NFU Cymru  
 A Williams, Rhondda Animal Aid  
 M A Oram, Rhondda Animal Aid  
 Lionel, Donkey Sanctuary  
 Suzanne Campbell, Protection of Wild Animals  
 John Campbell, Protection of Wild Animals  
 Sally Horn, Animal Aid  
 Secretariat: Rhian Jones and Dylan Bowen, Morgan Allen Moore Cymru

**Item 1: Chair's Welcome and Introduction**

Lorraine Barrett AM welcomed everyone to the meeting and introduced Mike Radford, specialist in animal welfare law at the University of Aberdeen.

**Item 2: Presentation by Mike Radford on the Animal Welfare Bill**

Mr Radford stressed that the Bill is essential as the law as it currently stands causes much confusion. Mr Radford identified the following problem with the current animal welfare legislation:

- Most animal welfare legislation stems from the Protection of Animals Act 1911. There is, however, no provision in this Act to allow Ministers to draft secondary legislation. Therefore any changes have to be made by primary legislation and given the time constraints on legislative time, changes to the original Act have been piecemeal.

Mr Radford focused on the new Bill and highlighted two major advances, which he noted as;

- The notion of 'duty of care' included in the Bill.
- The Bill will have broad enabling powers. These executive powers will provide flexibility and will be particularly relevant for the National Assembly. Mr Radford stated that the legislation will provide the National Assembly with significant powers relating to animal protection and added that Assembly Members will be able to build up significant body of animal welfare regulations.

Mr Radford stressed that the unfortunately the legislation's passage through Westminster is by no means assured. He added that if it is not included in the session immediately following the general election, then there is a danger that it could fall. He commented that ministerial changes within DEFRA could occur following the election and stated the importance of making the new ministerial team aware of how important this legislation is and to also maintain political pressure to ensure that the Bill is introduced.

Mr Radford focused on two events that had happened in the last week, namely:

- DEFRA published its response to the pre-legislative scrutiny recommendations of the Environment, Food and Rural Affairs Committee, and he added that the DEFRA's response was positive.
- The Scottish Executive has signalled its desire to introduce its own animal welfare bill. He added that Scotland intend to press ahead regardless of what happens at London and stated that this could well provide the catalyst for Westminster to put greater priority on the Bill.

Mr Radford also focused on a number of issues that need to be addressed:

- **Welfare:** Welfare per se has never been defined and welfare requirements can vary across species and age of the animal. The welfare issue also raises difficult political and legal questions, particularly relating to companion animals. There are also a number of difficulties for authorities to intervene when welfare issues arise, for example:
  - It is more difficult for the state to intervene when suspected abuse of animals occurs in a person's home.
  - The legal status of companion animals in one of property belonging to their owner and the Human Rights Act protects the right of a person over their property.
- **Enforcement:** The above matters also raise enforcement issues, for example, who is going to enforce the law? Mr Radford noted that it will probably come under the jurisdiction of local authorities. He added that this was a weakness of the Bill. It was argued that local authorities do not always have the expertise, resources or interest to perform such tasks. He also stated that vets could have a role to play, but added that not all vets are experts in animal welfare.

Concluding his presentation, Mr Radford stated that an independent body is needed to enforce animal welfare law, for example the establishment of an animal welfare commissioner which would achieve greater coordination and consistency across the UK.

### Item 3: Summary of points which arose in discussion with APGAW members

#### The impact of the General Election

- Mike Radford noted that all the major parties support the concept of an animal welfare Bill.

#### Legal issues

- Following comments made by Phillip Jones it was noted that regulations under an animal welfare bill would be legally binding; codes of practice would not be legally binding.
- Leslie Thomas queried whether the legal status of companion animals could be changed in the Bill. Mr Radford noted that there is no intention to change the legal status and that no one has devised an alternative which is politically acceptable.
- Following a question by Lorraine Barrett AM regarding cats, Mr Radford confirmed that cats are domestic animals rather than wild animals.
- Sarah Marsh spoke of the problems associated with greyhound farming and proving that the dogs are pets.
- Sally Horn raised the issue of sentience. Mr Radford noted that sentience is recognised by the amendments to the Treaty of Rome and member states and EU institutions must have due regard to sentience when developing policies relating to animals.
- In response to Suzanne Campell's comments, Mr Radford noted that he is in favour of defining animals as 'property' as the owner would be held ultimately responsible for the animal.
- Following a question from Michael Sharratt, Mr Radford noted that when a badger is in a person's 'control and custody' this is covered by legislation. In releasing the animal into the wild that person's actions would also be covered by law under 'abandonment'.

#### Definitions

- Mick Bates AM praised Mike Radford's presentation and queried the definition of 'reasonableness' within animal welfare law. Mr Radford noted that under the Bill the offence of 'failing to take reasonable steps to promote or safeguard the welfare of animals' will be created.
- In response to a question by Wendy Davies asking whether the definition of 'suffering' will be included in the Bill, Mr Radford noted that there is no legal definition for 'suffering'. A welfare offence under the Bill is intended to fill the 'lacuna' if an animal is in an unsatisfactory condition.

#### Veterinary Services

- John Campell noted that the State Veterinary Service is to become an agency on the 1<sup>st</sup> of April 2005. He believes that this agency should be independent of the state and be used by local authorities to employ veterinary surgeons to provide 'a veterinary opinion' in animal welfare cases.

**Scottish Executive**

- In response to a query by Christine Gwyther AM, Mr Radford noted that the Scottish Executive's document is purely a reflection of responses and does not provide an indication of their current policy.

The Chair, Lorraine Barrett AM concluded this session by expressing her sincere thanks to Mr Radford for his contribution to the meeting.

**Item 4: Stray Dogs**

- Lorraine Barrett AM stated that Alun Michael MP is guiding the Neighbourhood Bill through Parliament. This Bill will remove all police responsibility for stray dogs and place it on the local authorities.
- The RSPCA and The Dogs Trust are lobbying to solidify local authority responsibility within the Bill.
- The Chair indicated that she intends to invite Mr Michael MP to speak about the Bill to APGAW.

**AOB**

- A request was made for suggested topics for future meetings to be e-mailed to the APGAW Secretary.
- It was recommended that APGAW submit evidence from Wales on equine passports to DEFRA.
- The next meeting will be held on the 10<sup>th</sup> of May at 12.30pm.

Dylan Bowen and Rhian Jones