

MPI Workshop, 2017  
“Sentience”

# Legal opinion: Defining “sentience” in the Animal Welfare Act 1999



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1. Identify the 3 consistent elements of the “sentience” definition
2. There are 4 key words that form the “2-element” standard that determine if a person has broken the law regarding the care of an animal. What are they?
3. The 3<sup>rd</sup> element of sentience correlates with what standard in the Codes of Welfare?

## A. SENTIENCE (200, APA > AWA > SAWA)

1. Definition: 3 consistent elements – the issue is about responsibility for the 3<sup>rd</sup> element
2. NZVA position statement
3. Test: Did the animal experience pain/distress ... AND ...? – Evidence



## B. "BUSINESS AS USUAL"

"Merely symbolic"

Treaty of Lisbon ...

= 2 of the 3 elements

## C. LAW / COURTS

1. Law is a "power-house of words". Law is not in the habit of repeating itself : 2 of 3, Simple logic illustrates that the "something new" is element number 3
2. AWA s10: "good practice and scientific knowledge" - Five Domains
3. Leadership, other jurisdictions: Fill the "gap", AWA s2 "sentience means that animals experience negative and positive states"

## D. PUBLIC EXPECTATIONS: Law as "society's rulebook"

## E APPLICATION AND EFFECTS

1. Gap, "the empty Christmas gift" – Accidental or intentional leadership
2. Review of all animal uses. Examples: Contrasts of companionship vs entertainment - uses, environment (e.g. "shelter", facility design)
3. Predictable cost-related resistance, ALREADY APPLIED BY LEADING BODIES
4. Opportunities: e.g. trade, reputation - lead or keep up or a lost opportunity
5. Codes of Welfare: Best > Standard - Already being done

## Explanation

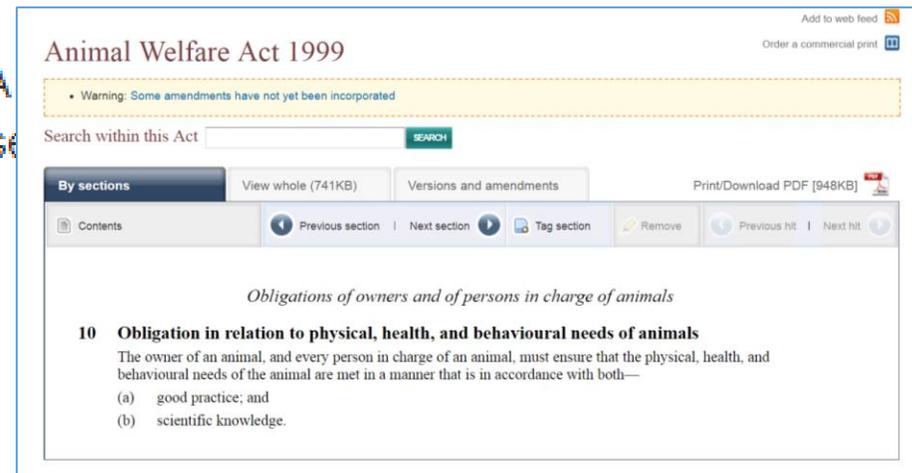
In August 2015, acknowledgement of animals as ‘sentient’ was introduced to New Zealand’s Animal Welfare Act (1999), but ‘sentience’ was not defined as part of this amendment to the legislation. The

**A** NZVA sees this legislative gap as an opportunity for veterinarians to demonstrate leadership by providing a definition.

The inclusion of ‘sentience’ in the Act should not be merely symbolic but rather should set a new standard for society’s expectations of the ways animals are treated, and move us beyond minimum standards to focusing on positive welfare states and welfare enhancement.

**D** The New Zealand Veterinary Association's (NZVA) development of a definition of sentience that encourages a prioritisation of positive states and welfare enhancement is consistent with scientific knowledge and current public expectations of ‘good practice’.

It also aligns with the stated objectives of the NZVA animals, humans and the environment as being inseparable.



Animal Welfare Act 1999

Warning: Some amendments have not yet been incorporated

Search within this Act

By sections | View whole (741KB) | Versions and amendments | Print/Download PDF [948KB]

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*Obligations of owners and of persons in charge of animals*

**10 Obligation in relation to physical, health, and behavioural needs of animals**  
The owner of an animal, and every person in charge of an animal, must ensure that the physical, health, and behavioural needs of the animal are met in a manner that is in accordance with both—

- (a) good practice; and
- (b) scientific knowledge.

## Sentience

**Policy type:** Position statement  
**Status:** Current  
**Date ratified:** July 2017

## Definition

The NZVA believes that 'sentience' is the ability to feel, perceive or experience subjectively. (ie. the animal is not only capable of feeling pain and distress but also can have positive psychological experiences, such as comfort, pleasure or interest that are appropriate to its species, environment and circumstances).

To state that animals are sentient accepts that they can experience positive and negative emotions.

Such an acknowledgement establishes a responsibility for those in charge of animals to treat them in such a way as to prevent unnecessary pain or distress and to provide opportunities for them to experience positive emotions.

“AND”

1



3

2

	Feel, Perceive, Experience	Negatives: Pain, Distress	Positives: Comfort, Pleasure, Interest
1820 Animal Protection Act 1911	✓	✓	X
Animal Welfare Act 1999 Treaty of Lisbon	✓	✓	X
<b>Amendment:</b> “...recognise animals as sentient”	✓	✓	

Resources:

- New Zealand Law Journal: “To feel or not to feel” (February 2017)
- Vetscript articles (assorted)

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**Thank You!**



1. 3 elements in the definition of sentience:  
“Sentience means that animals experience negative **and positive** states”
2. There are 4 key words that form the “2-element” standard that determine if a person has broken the law regarding the care of an animal. Name them.
3. **The issue** created by the legislative gap **is about responsibility for the 3<sup>rd</sup> element** of the sentience definition. Organisations are already implementing standards of care that equate with what the Codes of Welfare establish as “best practice”.