

OneKind submission of 5 July 2023

PE2021/D: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

This statement is in response to petition PE2021. We do not propose to offer specific recommendations at this stage, merely to express our concern for the welfare of these sheep, to reflect on the challenges their somewhat unusual situation poses, as we understand it, and to urge that consideration is given to how the welfare of the sheep on St Kilda could be better protected, especially with regards to preventing starvation.

How to address concerns for the wellbeing of the sheep on the islands of St Kilda is complicated by the fact that they do not fit neatly into one of the categories humans have created for other animals. OneKind advocates for equitable protection to be given to each individual, regardless of whether they are 'wild', 'farmed', 'pet' or so on.

Nonetheless, legally, the protection afforded to animals, and who is responsible for that protection, are determined by the classification of the animal, and so it is necessary to clarify the status of these sheep.

The Scottish Government has stated the sheep on St Kilda should not be classified as feral, and therefore dependent on man, as the populations on each island are descendants of sheep who have been on the archipelago for many generations and have adapted to conditions there. The Government's statement also says that even if these sheep were brought under the protection of the Animal Health and Welfare (Scotland) Act 2006 there would be no positive duty of care to ensure welfare or prevent unnecessary suffering, as no 'owner', who would be the responsible party, has been identified.

Regardless of how the sheep are ultimately classified, the historic movement of a non-native, domesticated species to a remote island archipelago has created a situation with specific animal welfare risks. Although the original introduction of the sheep to these islands happened long ago, the situation seems to warrant our current society taking responsibility for the welfare of these sheep. Being on an island means that this population cannot be regulated by dispersal or predation and studies over decades have shown that high levels of winter

starvation can occur. In this situation there is arguably a moral obligation, even if not a legal one, to attempt to prevent that starvation.

Although there is no legal duty of care for animals not 'under the control of man', there are precedents in Scotland of actions taken to prevent unnecessary suffering in wild animals. The most direct comparison is deer management, in which welfare and avoidance of winter mortality due to starvation are considered. Deer best practice guidance says that owners/managers of the land should aim to prevent welfare problems like starvation from arising.

Bodies who could potentially take responsibility for the sheep on the islands of St Kilda include NatureScot, as the Scottish Government's wildlife body, the National Trust for Scotland, who own and manage the islands, or the researchers of the Soay Sheep Project, who have studied the sheep on Hirta for decades.

Any action taken to try to reduce levels of winter starvation could itself have an impact on the sheep and we urge that that animal welfare impact assessments are carried out on any proposed solutions, to ensure that the wellbeing of the sheep is prioritised.