

An abstract graphic on the right side of the page consists of several concentric, semi-circular arcs. The outermost arc is a light green color. Inside it is a cyan arc. Further in is a grey arc. At the center of these arcs is a solid grey circle with a small white dot in its upper right quadrant. The arcs are not complete circles, appearing as segments of larger circles.

Animal ethics, animal welfare and the Danish Animal Ethics Council

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1. Purpose

With this memorandum, the Danish Animal Ethics Council would like to present in more detail the complexity inherent in animal ethics and animal welfare issues. In the Council's opinion, the complexity of such issues only rarely comes across in the public debate and is only to a certain extent addressed in the Council's topic-specific statements and consultation responses.

In its discussions, the Danish Animal Ethics Council has an opportunity to see beyond the most obvious animal protection issues and to see these issues in a larger perspective that also includes other ethical considerations. In relation to animal experiments, this could include questions about which animal uses (typically serving human interests) are acceptable; in relation to biotechnologies, this could include questions about whether technological manipulation, e.g. cloning, in itself gives rise to concern; and in relation to farm animals, this could include questions about whether the production and use of animals as products can be justified at all and, if so, under what conditions. When such issues are examined, it may moreover be necessary to weigh considerations that point in different directions.

According to the Council, answers to such ethical questions should be informed by relevant knowledge and should be argued in terms of why it is ethically acceptable in principle or not. The answers will therefore typically depend on your ethical standpoint. Similarly, the answers to questions about whether or not the welfare of specific animals can be favoured under certain conditions will not only depend on knowledge available from researchers. Answers will also depend on what you believe to be good welfare. Finally, when balancing conflicting considerations, as is sometimes necessary, the result may differ depending on how you weigh the importance of individual considerations and those they concern, e.g. considerations for animals versus considerations for humans. With this memorandum, the Council would like to outline the values that may underlie the arguments presented in discussions on animal ethics and animal welfare.

The Danish Animal Ethics Council is convinced that issues concerning animal ethics will continue to play a significant role in the future. Increased international trade, knowledge about animal welfare, globalisation, climate change and similar will serve to make animal ethics issues even more pressing in the future, and, according to the Council, animal ethics issues should be addressed and prioritised among these areas. Furthermore, the Council is convinced that more recognition of the ethical aspects of animal protection issues is very important for understanding the concerns that animal protection issues raise, and, thus, also for identifying possible solutions. With this memorandum, the Council therefore also hopes to demonstrate how some of these issues cannot be answered just by reference to fact, to economics, or to the need for more knowledge. In some cases, there will be real and fundamental disagreement about who should be covered by what considerations, what is the right or the wrong thing to do, as well as how to define concepts such as 'good animal welfare'.

The Danish Animal Ethics Council therefore hopes that this memorandum will also help inform the political and general public debate and thus facilitate a more nuanced decision basis for authorities, stakeholders and individuals. Finally, the memorandum

is intended to provide transparency about the Council's work, both with regard to its work process when preparing statements and with regard to the Council members' approach to Council discussions.

2. Background

The following is a more detailed description of the legislative framework and work of the Danish Animal Ethics Council, as well as of the relationship between ethics and the law.

2.1 The Danish Animal Ethics Council

The Danish Animal Ethics Council was established in 1991 pursuant to section 25 of the Animal Protection Act¹. The Council replaced the Ethics Council for Farm Animals that had served since 1986 and is the result of a political intention to set up a council that addresses ethical issues concerning other animals than farm animals, e.g. animals used for research. The Danish Animal Ethics Council's first statement was published in 1992 and addressed animal used for experimentation. The statement eventually formed the basis for a revision of the Animal Experimentation Act.

The Danish Animal Ethics Council monitors developments within animal protection based on an ethical assessment. The Animal Protection Act, including the legislative background, provides no instructions as to what ethical considerations and principles are to be included in the Council's assessments, nor does it include a description of what is meant by 'animal protection'. The Council can provide statements on issues within animal protection and it is required to provide statements on specific issues concerning animal protection law at the Minister's request. Furthermore, the Council is required to provide advice to the Minister with regard to the establishment of rules pursuant to the Animal Protection Act.

Typically, the Danish Animal Ethics Council discusses overarching issues concerning keeping and using animals. In addition to animal welfare issues, the Council focusses on ethical aspects. Thus the Council is authorised to uncover not only factual but also value-related questions. The Council addresses matters of principle and does not deal with individual cases. In contrast to private animal protection organisations that typically focus exclusively on considerations for animals, the Council addresses animal welfare issues in a broader, societal perspective. The topics discussed by the Council are either taken up at the request of the Minister for Environment and Food (previously the Minister for Justice) or at the Council's own initiative.

Until 2015, the Act did not require that the Council and its members contributed to the public debate, prepared teaching materials or engaged in similar communication activities. However, the Council's chairperson and, to a certain extent, the individual

¹ Consolidation Act no. 20 of 11 January 2018

Council members have contributed regularly to the public debate on issues related to animal welfare and animal ethics, and the Council's secretariat has answered inquiries from citizens about the activities and statements of the Council.

A legislative amendment in 2015² made it possible for the Council to carry out communication and debate-generating activities at its own initiative or at the request of the Minister. More detailed regulations concerning the Council's work have been set out in rules of procedure³.

The Danish Animal Ethics Council consists of a chairperson and at least ten additional members. The Minister for Environment and Food is responsible for appointing the chairperson and the remaining members of the Council for a period of three years at a time. Some of the Council's members are appointed based on recommendations from relevant stakeholder organisations. Two Council members are appointed at the recommendation of animal protection organisations; two members are appointed at the recommendation of farmers' associations; and one member is appointed at the recommendation of the Danish Consumer Council. The remaining members are appointed independently of any potential affiliation with a specific organisation. The Minister must ensure a combination of members that, as far as possible, includes persons with insight into the academic disciplines that are of special importance for performance of the Council's tasks. The Danish Animal Ethics Council therefore has a broad composition of members with regard to academic backgrounds, practical experience and stakeholder groups in the animal area.

Over the years, the Danish Animal Ethics Council has published statements on numerous topics, from laboratory animals to biotechnology, farm animals, pets and hobby animals, and animals in the wild. In some cases the Council has provided more than one statement on the same topic, e.g. when new knowledge has become available or new considerations become relevant. In its statements, the Council covers both the legislative basis, existing factual knowledge and ethical considerations, and the Council presents concrete recommendations on the basis of its analysis. All of the Council's statements are available at the Council's website www.detdyreetiskeraad.dk.

When preparing its statements, the Council consults specialists and stakeholder organisations within the area concerned. The Council's discussions are therefore based on an analysis of relevant, factual aspects and interests. Through its discussions, the Council also identifies specific considerations relevant for the issue, including considerations for animals as well as for humans, and, to some extent, nature. However, the Council does not necessarily include every consideration in its deliberations. For example, the Council often decides not to examine e.g. socio-economic aspects, as the Council believes that the weighing of these aspects is more of a political task.

Apart from statements, the Danish Animal Ethics Council also prepares consultation responses. Public authorities such as the Ministry of Environment and Food call for consultation responses, often about specific bills and legislative proposals concerning

² Act no. 533 of 29 April 2015

³ Executive Order no. 1260 of 16 November 2015

animal welfare. In some situations, the Council will refer to its previous statements where these are relevant to the proposal in question. The Council's responses to specific consultations can be found at the government's public consultations portal Høringsportalen.dk, which includes responses going back at least a couple of years. Selected consultation responses are also available at the Council's own website. Finally, the Council also provides informal consultancy services to the Ministry of Environment and Food.

The Council's statements and its consultation responses address specific topics. The Council's recommendations in statements and consultation responses can address specific legislative initiatives or existing application of current regulations within the area concerned; or they can address the establishment of working groups to examine the details of a possible need for legislation in the area concerned. Furthermore, recommendations can be aimed at relevant organisations and other parties involved which, in the Council's opinion, should each bear their part of the responsibility for ensuring a positive development.

Although several of the Council's statements have caused some debate, the Council's work has been generally recognised for its thorough and professional treatment of the topics addressed; recognition that has also come from those who disagree with the Council's conclusions and recommendations. The fact that the Council bases its discussions on solid facts and endeavours to separate factual and ethical questions in its discussions has probably helped give authority to its statements. The benefit of this approach by the Council is that it leads to concrete suggestions – informed by factual knowledge and ethical values – for how the authorities, stakeholders and individuals can act. In this manner, the Danish Animal Ethics Council has contributed to promoting a number of initiatives in the animal protection area over the years. However, the relevant authorities and other affected parties themselves decide whether the Council's recommendations are to be acted on, and this is not always the case.

In some cases, the Danish Animal Ethics Council has discussed topics that overlapped with other ministerial areas, e.g. topics relating to human health and nature management. Typically, the Danish Animal Ethics Council handles topics that go beyond animal ethics by declaring in statements and consultation responses, that the Council will only cover questions related to animal ethics; by just mentioning the additional problem areas, or by collaborating with other councils covering the relevant areas. The Danish Animal Ethics Council has thus previously issued statements in collaboration with the Danish Council on Ethics and the Wildlife Management Council.

Since 2016 the Council has developed its communication towards the public, e.g. with a new website, the use of newsletters and a twitter account. Furthermore, since 2016 the Council has participated in public events such as conferences and fairs on a regular basis.

2.2 Ethics and the law

Legal and ethical obligations to animals are not the same. Legislation determines e.g. what has to be done when keeping animals, and there is a punishment for violation of the rules. There is no punishment for thinking that the law ought to be different.

To a certain extent, legislation is an expression of the norms that apply in society. Therefore, legislation does not only reflect scientifically motivated conditions for animals, and the possible considerations merited by such knowledge. Legislation also reflects practical, financial and psychological concerns, for example. This means that legislation can express ethical limits on what the majority of people in a democratic society consider acceptable; however, there is thus also an inherent recognition that some people may have other norms. The prevailing norms may vary over time, and legislation is developed continuously along with developments in society.

Ethics as a discipline can bring the legislative limits up for discussion, including analysing the principles underlying the adopted rules, identifying alternative principles and considerations, revealing inconsistencies (i.e. double standards), and identifying alternative balancing of considerations. Such ethical reflection can contribute to continuously evaluating the legislative limits for human use of animals, including evaluations of whether some of these limits should be tightened or relaxed or abandoned entirely, and whether requirements should be introduced in new areas.

For a review of developments in the animal protection area and the Council's discussions of such legislative challenges, see the Council's statement on the Danish Animal Protection Act (2016).

3. Animal ethics and animal welfare

As appeared in the section on ethics and the law, there is a difference between legal obligations and ethical obligations towards animals. While the law lays down what society considers to be legal, there may be individuals who have different opinions about how things should be, although they accept that the law has to be respected. Of course, the requirements of the law and the opinions of individuals may coincide and the requirements of the law will then seem to be fair and to be providing adequate protection for animals. However, there may also be large differences between the two, and in such situations people may think that the law takes too much account of animals, or, conversely, that it does not provide animals with the protection they are entitled to. These different opinions about whether animals should even be considered, and, if so, how and to what extent they should be considered, reflect different underlying ethical values.

'Ethics' and 'morality' are common words in everyday language. They are of Greek and Latin origin, respectively, and refer to the same, i.e. 'customs'. They can be used differently but academics disagree about the differences in meaning between the two and how to apply them. One way to distinguish between the two terms is to consider morality to refer to an intuitive understanding of what is right and wrong, e.g. based

on social norms. Ethics are then considered to refer to a more analytical approach to identifying the values and principles on which social norms and institutions are based, and to discussing whether these can also be considered right and wrong upon closer scrutiny. As will be appear below, there are several different theories that describe such values, norms and principles for whom to consider and for what is right. Thus, everyday statements like "it's unethical" only indicate that someone thinks that something is wrong. The statement does not say anything about why *something* is wrong and therefore does not provide any basis for examining why others might disagree with this conclusion. If we are to come to any sort of deeper understanding of what leads to a conclusion about whether *something* is unethical or not, we need arguments, and here ethics as a discipline can offer a number of different arguments. Thus, an action can be argued to be unethical based on a certain ethical theory's description of what is the right thing to do.

The literature contains many different ways of presenting ethical theories and concepts. Below is a brief outline of examples of general principles. The ethical theories and concepts were originally targeted at humans but have since also been used to discuss aspects that concern animals. The outline below is not intended to provide an exhaustive account of the theoretical basis but merely briefly to describe some ethically fundamental differences that can also arise in the public debate. For a more detailed outline of ethical theories and concepts, see relevant literature.

3.1 Animal ethics: on our obligations to animals

Ethical discussions involve taking a position on whom and/or what is entitled to ethical consideration. According to some theories, humans – but not animals – are entitled to ethical consideration. According to other theories, not just humans and animals but also nature is entitled to ethical consideration. When it has been established who and/or what is entitled to ethical consideration, the next thing is to decide which considerations are relevant.

Although some ethical approaches could therefore lead one to conclude that humans have no direct obligations towards animals, it may still be relevant to consider animals to the extent that such considerations promote human interests, e.g. provides good production results or a good reputation. In the case of animal experimentation, for example, such approaches would be concerned with whether the research results are applicable and whether the experiment is accepted by society, but there would be no deliberations on whether using animals in experiments is acceptable in general, or whether the welfare of the animals can be improved if the animals already fulfil their purpose and no one is asking for conditions to be improved.

According to other ethical approaches, animals' entitlement to consideration depends on the context. Thus, for example, animals which humans are emotionally attached to (e.g. dogs) or which have great symbolic value (e.g. pandas) would be entitled to greater consideration than other animals (e.g. rats). Much would therefore depend on the status the animal enjoys in the eyes of the person or society making the assessment. In the case of animal experimentation, focus would be on the species of animal used. There may be a desire to protect certain species (e.g. dogs and monkeys) from animal experimentation, while the use of other species is less

criticised because, although they may experience the same degree of suffering, these species (e.g. rats) do not enjoy the same status among humans.

The Danish Animal Ethics Council is aware that the notion that animals in themselves are not entitled to ethical consideration or that their status is determinant for what type of consideration they should enjoy also arise in the public debate. The Council's discussions, however, are based on the assumption that, regardless of their species, animals *do* have a claim to ethical consideration, and that humans therefore *do* have an obligation toward them. The members are of the opinion that the ethical discussions should be based on animals' biology. For example, they should be based on whether the animals are able to feel pain and joy, what their needs are and how they are affected by human actions, and not on what emotional attachments humans might or might not have to the animals, or what status the animals enjoy.

In the following, focus is therefore exclusively on ethical theories that include animals directly in ethical considerations, but may disagree about the nature of the consideration to which animals are entitled, and about the obligations that humans have to animals. The following therefore includes examples of various combinations of opinions about why animals are entitled to ethical consideration, how it can be argued that a certain action is more acceptable than others, and the challenges that this may pose. In the presentation below, animal experimentation is used as an example throughout to highlight the differences between the different approaches.

Utilitarian approaches

- In utilitarian approaches, all living beings (which are able to experience joy and pain, for example) are entitled to ethical consideration. So, this applies to both animals and humans. It may, however, be difficult to determine which animal species have evolved enough to possess the required abilities, as well as to determine whether all human beings, e.g. including severely brain damaged individuals, are to be included. With regard to animal species, there is no doubt that utilitarian approaches include mammals and birds. However, there can be disagreement regarding e.g. fish and insects.
- When assessing actions according to utilitarian principles, all the affected parties are to be included in the considerations, i.e. both animals and humans. Everyone counts as one individual, regardless of their species, and both direct and indirect consequences of actions must be included in deliberations. Furthermore, any alternative actions will also have to be considered. Then, actions and their consequences are weighed against each other, and the right thing to do will be what, from an overall perspective, provides more welfare or in some other way provides more of the 'desired outcome'. An essential aspect of utilitarian approaches is that the individual may be sacrificed to promote the interests of the community. One of the challenges, though, is how to weigh positive and negative consequences.
- Assessments of the use of animals for experimentation from a utilitarian perspective are typically concerned with whether the results of the experiments are expected to improve the welfare of humans and animals, and with how much distress and discomfort the research animals will be exposed to. Thus,

the aim is to weigh the advantages against the disadvantages. The use of animals for experiments, which involves inflicting pain on and eventually killing the animals, in itself weighs negatively but it is not necessarily a problem. What is decisive is that everything possible is done to minimise the suffering and enhance the positive results of the experiment, and that, overall, the experiment leads to a situation with more welfare than if it had not been conducted, or if it had been conducted in another way. In practice, this way of thinking has been referred to as the principles of the 3Rs in animal experimentation: Replacement (find alternatives to the use of live animals), Reduction (minimise the number of animals used), and Refinement (develop methods that ensure the best results from the animals used and provide the animals with the best possible conditions, e.g. by using gentler methods).

Rights-based approaches

- In a rights-based perspective, all living individuals are entitled to ethical consideration, or at least those individuals that can be assumed to be aware of their own existence. Humans as well as many animals are covered but, again, there may be some challenges defining what categories are covered. In the rights-based approach, respect for the individual is central, and individuals are not to be used only as a mere means to promote the interests of others or be sacrificed for the community in some other way. Thus, rights are inherently inviolable rules for how we may treat animals. There are different interpretations of what rights animals are entitled to, e.g. the right to life, the right to liberty, the freedom to express natural behaviour and the right to bodily integrity (i.e. intact tails). However, it may be argued that such rights should be disregarded if this is assessed to be in the animal's own interest (e.g. euthanasia if the animal is suffering) or if it is to protect one's own right to life (i.e. killing the animal in self-defence). The rights-based approach is also concerned with whether animals are shown respect; however, also here, this is not clearly defined. Respect can e.g. be expressed as respect for the uniqueness of a certain animal species or the uniqueness of a specific animal, or it can be interpreted as the fact that animals should not be ridiculed or humiliated even if the animal itself does not experience the situation as negative.
- Assessments of whether an action is right or wrong from a rights-based perspective are thus concerned with consideration for the animal – whether it is being respected and whether its rights are being observed. A challenge here is how to make an ethical assessment in situations in which the interests of several individuals are at stake (the interests of animals as well as humans) and in which the rights of some individuals will inevitably be violated.
- It is difficult to justify the use of animals for experimentation from a rights-based perspective. This is partly because animals are used only as a means to promote the interests of others and partly because, while being used for experiments, the animals have limited freedom, they may even be exposed to invasive procedures, and ultimately their lives may be sacrificed. This way of thinking is expressed e.g. by organisations against animal experimentation.

Nature-based approaches

- The outset for nature-based approaches is that animals, humans and nature alike are entitled to ethical consideration. However, these approaches do not entail that animals and humans should be taken into account as individuals. Rather, they are considered as species and breeds, and thus as carriers of a gene pool, and it is the whole population of a certain species etc. that needs to be considered. Nature-based approaches are also challenged e.g. by definition issues. For example, they need to define what counts as nature and whether humans and domesticated animals can be said to be part of nature or separate from nature.
- Because the nature-based approaches are not concerned with the individual, there are a number of typical animal ethics discussions which these approaches cannot contribute to. For example, they offer no deliberations about whether or not it is acceptable to tail-dock pigs or provide advanced veterinary treatment to family pets. The nature-based approaches only join the discussion when something is at stake for populations, genetic and behavioural integrity, the environment and similar, and then they will typically offer deliberations about to what degree – if any – humans are allowed to manipulate nature. With regard to nature conservation issues, these approaches might argue in favour of removing certain individuals in order to save an entire population in the long term, or they might discuss whether humans should manage nature at all. With regard to agriculture, they may discuss issues related to sustainability.
- A nature-based perspective on animal experimentation would not focus on how much suffering is inflicted on the animal or on the use of animals for experiments in general. Rather, it would focus primarily on whether the experiment gives cause for concern with regard to the preservation of species, genetic integrity and biodiversity. In practice, any objection to animal experimentation on the basis of this type of approach is often reflected in concerns about the use of wildlife captured for research, about the use of genetically modified animals and similar techniques to manipulate natural reproduction processes, and about whether laboratory animals are kept in sealed-off systems so that there is no risk of them escaping and causing genetic pollution in nature.

The above examples of different approaches to ethical assessments vary both with regard to their underlying values and with regard to what they focus on. Sometimes the different approaches will point to the same result, but for different reasons. For example, animal experimentation can be criticised from both a utilitarian and a rights-based perspective, where from a utilitarian perspective the suffering of animals in an experiment is not offset by the benefits for humans, and from a rights-based perspective that animal experimentation violates the animals' right not to be only a means to benefit others. However, the two approaches may also point in different directions, e.g. because the utilitarian approach will argue that the use of animals for experiments is justifiable if the suffering of the animals is reduced as much as possible, if the purpose yields considerable benefits and if there are no alternative ways of providing the desired knowledge.

3.2 Animal welfare: on what constitutes a good life for animals

Animal welfare is a central concept in discussions on how we treat animals. With studies, scientists can demonstrate how animals are affected e.g. by different housing conditions, and such knowledge can contribute to our understanding of the implications for animals of those conditions. However, such knowledge does not in itself necessarily say anything about whether one specific housing system provides better animal welfare than another. Such knowledge must be interpreted against notions of what constitutes a good life for animals. Thus, when using a utilitarian approach to assess the strengths and weaknesses of different housing systems with regard to their ability to cater for animal welfare, one has also to consider what constitutes good animal welfare. There are different definitions of 'welfare' within ethics. Just as with the ethical theories on human obligations, the different perceptions of 'good welfare' were originally worded with humans in mind and were only later applied to considerations concerning animals. A few examples are given below. Similar considerations can apply to other of the concepts touched upon above, e.g. how to define 'rights', 'integrity', 'nature' and 'sustainability'.

Hedonism

- In the hedonistic approach, good animal welfare provides the animal with pleasant experiences and protects it from unpleasant ones. So what makes a difference is how the animal itself experiences its situation. Because an animal has no direct means of communicating whether it experiences a situation as pleasant or unpleasant, one has to interpret indirect indicators of the animal's subjective experience (e.g. signs of stress or enjoyment) in order to determine whether its welfare is good in a given situation.
- When using animals for medical experiments, the focus of the hedonistic approach would therefore be on whether the animal is experiencing comfort or discomfort during the experiment itself and in the housing facilities. If the animal seems to be enjoying resting comfortably next to its feeding bowl rather than having to forage for food, from a hedonistic perspective this means the animal has better welfare if it is relaxing rather than if it is exposed to advanced measures to stimulate its foraging behaviour.

Accommodating preferences

- Here, it is believed that good animal welfare is achieved when the animal is allowed to do what it prefers. This approach is often applied in animal welfare research, e.g. studies which offer the animal a choice between different things or have the animal demonstrate its motivation to work for access to a specific resource. However, interpretation of the results is complicated by the fact that animals probably only have the capacity to act on short-term preferences, i.e. what they want here and now. Presumably, animals are unable to predict any direct negative consequences (e.g. getting pain from running with an injured leg which should have been given rest), or the long-term consequences of their choices (that the leg will not heal correctly or that healing will take longer if the leg is not rested).

- From a preferences perspective, the assessment of how animals are kept will thus focus on whether the animals can do what they prefer. To enrich the animals' environment, they should be given options and these should reflect the animals' real (presumed) desires, so as to cater for their welfare and not just be a choice between two evils.

Perfectionism

- The perfectionist approach places emphasis on whether the animal can realise its potential. The animal should live as it is biologically supposed to, i.e. according to its nature. Amongst other things, this means the animal should be able to perform its species-specific behaviour, even if this entails a risk of the animal feeling discomfort. However, defining an animal's nature and species-specific behaviour can be challenging if the animal is a domestic animal. Consequently, it can also be difficult to determine which potential the domestic animal should realise in order to have good welfare.
- When assessing how animals are kept, the perfectionist approach would focus on whether or not the conditions encourage their species-specific potential. So, it is not enough to ensure enrichment of the animal's environment; it has to be done in a way that encourages the animal's natural behaviour, even if this may lead to frustration. The perfectionist approach would thus consider it to be good animal welfare to stimulate the animal's natural foraging behaviour, even if the individual animal would prefer to have the food served.

The above approaches to what is a good life for animals can point in the same direction regarding how to best ensure animal welfare, although not necessarily. For example, the animal may prefer to perform its natural behaviour, and when it is allowed to do so, it experiences pleasure. However, natural behaviour may also be linked to stress (e.g. when prey seeks refuge) or be uncomfortable (e.g. when the animal has to forage for food rather than being served the food). Therefore, the theories can also point in different directions with regard to what is considered good welfare.

Animal welfare scientists can study how animals respond to the conditions they are kept under, and the things they are exposed to. This knowledge is important for the ethical considerations as it helps determine when animal welfare is considered good enough, and whether the animals' interests are sufficiently taken into account.

Science can look at both objective and subjective measures of animal welfare. Objective measures can be observed directly, e.g. mortality, growth rate, productivity and behaviour. Subjective measures reflect the animals' own experiences, e.g. pain and joy. Here, observations must be interpreted as a sign of animal emotions. This may be difficult, and therefore it may be tempting to just focus on measures that can be observed directly. But if the subjective measures are excluded there is a risk of overlooking aspects that some may consider important to animal welfare.

Thus, scientists typically include many different measures, when they study animal welfare. These do not always point in the same direction or are equally clear. Then

results must be interpreted with the best explanation possible. Here, the way similar conditions are experienced by humans may serve as inspiration. For example, if animals have a nervous system similar to humans, it is likely that what hurts us also hurts them. Sometimes scientific results are ambiguous. Then, consequences may be considered of whether to give animals or humans the benefit of the doubt.

Unfortunately science cannot answer all questions. If a study shows that it makes a difference for the animal, e.g. if it is indoors or outside, then you know, that this makes a difference. But if the study does not show such a difference, it is not clear whether this is because indeed this does not make a difference for the animal, or because the study is not sensitive enough. As scientists study more and more animal welfare, the basis improves for ethical considerations about whether animals are treated well enough.

4. Council members' positions

The above sections outlined different approaches to animal ethics and animal welfare. Most people can probably identify with arguments from more than one of the ethical positions described. This could be because the different approaches each focus on different aspects and therefore they are not equally suited to coping with all issues. However, people could also identify with several approaches because they are inconsistent in their argumentation and change focus based on gut feelings and without considering whether there are relevant conditions to justify such a change across different situations, i.e. what in popular terms is referred to as having double standards.

The theoretical approaches as described above are also represented among the members of the Danish Animal Ethics Council. Below is a description of the current Council members' (2019) considerations of principles concerning animal welfare and human obligations to animals.

4.1 The obligations of humans to animals

The Council members agree that, in principle, the use of animals for purposes that serve human interests is acceptable. That is, the members generally take a utilitarian approach. However, the members have different opinions about the conditions for human use of animals, and about when such conditions can be said to have been met. One condition could be that the purpose should be acceptable. This position gives rise to deliberations e.g. about whether animals should be used for fur production or for testing certain products. Another condition could be that the animals should be ensured 'a good life'. Deliberations here could pertain to whether the animals are kept under appropriate conditions and whether there ought to be additional requirements, e.g. concerning housing and access to positive stimuli. Such deliberations could reflect a rights-based argument that animals must always be ensured certain minimum conditions if human use of animals is to be acceptable. However, the obligation to ensure animals certain conditions can also be argued from a utilitarian perspective.

For example, it could be argued that it would cost the consumer relatively little to establish considerably better welfare conditions for farm animals and the overall welfare would thereby be improved. A third condition could be that the use of animals should be sustainable, both in terms of nature and the environment. Such deliberations typically arise in connection with animal food production and could reflect a nature-based approach. (However sustainability can be understood in different ways and has not been more clearly defined by the Council members.) A final condition for the use of animals could be that the animals' biological nature should be respected, both in terms of the animal's physical appearance, its species-specific behaviour and its genetics; an approach that could reflect either a rights-based focus on the individual animal, or a nature-based focus on the species as a whole. Such deliberations are often voiced both in the public debate and in the Council's own discussions as the concept of respect for animal integrity. However respect for animal integrity can be interpreted and understood in many different ways. Since the Council also refers to the concept in its statements and consultation responses, the members would like to take the opportunity here to specify that, when referring to the concept of respect for animal integrity, usually the Council are referring to the considerations mentioned above.

4.2 Animal welfare

The Danish Animal Ethics Council has previously provided statements on its understanding of 'good animal welfare'. In the statement about market-driven animal welfare (2012) the Council said:

"Marketing a commodity as being based on production that caters for animal welfare raises the question of 'What is good animal welfare?'. Some people may emphasise freedom of movement and possibility to live a natural life, while others are more concerned with low mortality and low disease rates etc. to indicate whether animals are suffering.

...

The Danish Animal Ethics Council has discussed the two tracks with regard to defining good animal welfare: ensuring freedom to express natural behaviour versus registering problems such as mortality and morbidity. The Council believes that allowing animals good opportunities to express their natural behaviour is crucial for good animal welfare. However, of course, the Council also believes that it is important to safeguard the lowest possible incidence of mortality and morbidity, etc. The Council recognises that, in a number of cases, there will be a dilemma with regard to satisfying both of these considerations in practice, but it would like to emphasise that protecting animals from problems such as morbidity and mortality should not serve as an excuse for systematically depriving animals of their behavioural needs."

In line with the statement from 2012, the current members of the Danish Animal Ethics Council believe that good animal welfare entails both ensuring that the animals can live in accordance with their nature and have their needs met, *and* protecting the animals from negative feelings such as stress, hunger and disease, and providing as many positive experiences as possible. Thus the members adhere to both a hedonistic and perfectionistic understanding of what constitutes good animal welfare. However, as mentioned in the descriptions of these theories above, there may be situations in

which these two understandings point in opposite directions, and where it becomes necessary to prioritise. In these situations, the members agree with the prioritisation described in the statement referred to above about market-driven animal welfare, i.e. that ensuring the animals good opportunity to express natural behaviour is a crucial condition for good animal welfare, and that measures to protect animals from death and disease cannot serve as an excuse for systematically exposing the animals to behavioural deprivation.

5. From principles to recommendations

The Animal Ethics Council has formulated the following three benchmarks that guide the Council's work:

- Factuality: Examine the topic – what are the facts and what are opinions?
- Consideration: Think through the topic – what considerations are at stake and to whom?
- Action: Make recommendations – what are the alternatives in the short and long term, and who can contribute to improvements?

In practice this means, that the Council as mentioned earlier, in its statements strives to uncover both the factual basis and the value-related questions raised by the topics it addresses. If the considerations that the Council chooses to include in its discussions point in different directions, the Council attempts to provide their reasoned assessment of how these conflicting considerations should be balanced. In this connection, the Council members may make a distinction between what it considers as ideal conditions, long-term objectives and possible compromises and steps in the right direction within the existing framework. The Council then presents its specific recommendations aimed at ensuring or improving animal welfare with regard to the relevant question. As mentioned initially, the Council's recommendations can be directed at several different responsible parties, including legislators, authorities, stakeholder organisations and the general public.

The Council generally agrees on its recommendations but sometimes there may be disagreement. Such disagreement may pertain to differences in opinions of principle regarding the topic (see above on different ethical approaches) and, thus, perceptions of the ultimate ideal. There may also be differences in how members choose to weigh scientific uncertainties, and there may be differences in opinion about what compromises and directions are realistic. In some of these cases, the Council is still able to reach agreement about the recommendations to put forward under the given circumstances. In other cases, the Council will disagree about what to recommend.

Thus, there is no objective of reaching agreement in the Animal Ethical Council on the value-related questions. In the Council's view, it would be contrary to the intention of the Council's work to make consensus an end in itself. Instead, the Council emphasises uncovering what the disagreements are based on when they occur. This ties in nicely with what the Council interprets to be its task, i.e. exploring and identifying the diversity of arguments in the debate, and the reasons behind them (including arguments not represented in the Council), as well as the various, possibly different, recommendations the Council believes are fair. In contrast, it is a clear

objective that the basis for the Council's discussions is relevant and correctly presented, that relevant ethical considerations are discussed, and that conclusions and recommendations, as well as reasons for any disagreements, are clearly described.

At all events, all Council members' opinions and desires for recommendations are described. If the Council disagrees about the recommendations, this can be mentioned in the text, i.e. text can describe how some members believe one thing while others are of another opinion. Alternatively, a separate statement can be made. Sometimes, but not always, the Council will mention how many members subscribe to the individual viewpoints. The Council generally believes that the number of members supporting a specific viewpoint is of minor relevance because the Council members have not been appointed to represent the population. Therefore, when the Council makes divided recommendations, these cannot be interpreted to reflect what a smaller or larger percentage of the Danish population believes. What is important are the arguments, conclusion and underlying thoughts that can help inform further work on the topic in question by politicians and others. In the Council's opinion, a viewpoint deserves to be included regardless of how many Council members or members of society support it.

The Council finds, that it should be up to the politicians, stakeholders and others who work with the relevant area to decide how to weigh the various considerations and recommendations when transforming these into action. Once it has published a statement on a specific topic, the Council's work on this topic will end. Typically, the Council does not follow up on whether any concrete initiatives have been launched as a response to its recommendations. However, the Council may return to a topic later on in connection with other activities.

Annex: Preparation of this memorandum by the Danish Animal Ethics Council

This memorandum was initially prepared in 2015. The text is revised regularly and at least when new members are appointed; i.e. every three years.

The Council comprised the following members when revising the memorandum in October 2019:

- Bengt Holst (Chairman)
- Jes Aagaard
- Paolo Drostby
- Pernille Hansen
- Per Jensen
- Pernille Fraas Johnsen
- Sebastian Klein
- Yke W. Kloppenburg-Oosterwoud
- Peter Mollerup
- Lene Munksgaard
- Michael Nielsen
- Thomas Søbirk Petersen

The Council comprised the following members when the initial version of this memorandum was prepared in 2015:

- Bengt Holst (Chairman)
- Jes Aagaard
- Pia Haubro Andersen
- Britt Brøchner-Nielsen
- Paolo Drostby
- Sebastian Klein
- Per Bach Laursen
- Peter Mollerup
- Thomas Søbirk Petersen
- Dorte Rebbe Schou
- Anne Sørensen
- Mette Vaarst

