

## Animal Offender Register in Wales

### THE CASE FOR INTRODUCING AN ANIMAL OFFENDER'S REGISTER IN WALES

#### What is an Animal Offenders Register?

An Animal Offenders Register would list persons convicted under the Animal Welfare Act 2006 and who received a disqualification order under Section 34 of the Act. The register would enable pet shops, breeders and rehoming charities to check if the prospective owner of an animal had been convicted and banned from owning or keeping animals.

#### The case for a register

*At present the perverse position is we rely on the criminal convicted of cruelty to animals to refrain from further abuse of animals. That is akin to trusting a drunk driver to voluntarily refrain from alcohol. That absurd notion, let alone the reality, shrieks of the need for a Register to monitor proven offenders and prevent them from having the opportunity to harm other people and animals<sup>1</sup>. N. C. Sweeney, barrister in animal law, criminal law and human rights*

An RSPCA Cymru poll by YouGov in early 2017, found that 88 percent<sup>4</sup> of people support the introduction of a register for those previously prosecuted for animal cruelty. In 2015 the RSPCA prosecuted 41 individuals for 89 offences of cruelty to animals in Wales. Since 2013 in Wales, the RSPCA has prosecuted 11 individuals for breaching their disqualification from owning and keeping animals under Section 34 of the Animal Welfare Act 2006. Across England and Wales, since 2013 the RSPCA has prosecuted 235 individuals for the same offence. However, there is a reliance on members of the public firstly being aware of an individual being banned and secondly reporting any breach of a disqualification order to us. Therefore we are unable to know exactly how many people may be committing offences by being in breach of their ban - having acquired a new pet, or indeed may be re-offending in terms of the care they provide (or do not provide) for their new pet.

The UK Government confirmed, in an answer in the House of Commons, that the reoffending rate for those who committed an offence under the Animal Welfare Act 2006 was on average just over one percent over the last eight years<sup>2</sup>. Overall and across all crimes, 46 percent of adults are reconvicted within one year of release in England and Wales. This increases to 60 percent for those serving 12 months or fewer in prison<sup>3</sup>, considering animal offenders serve a maximum of six months (and usually far less) this group could potentially have a higher reoffending rate. With 32 percent<sup>4</sup> of the public in Wales believing that animal cruelty has increased in the last ten years, the ability of the RSPCA to adequately investigate, prosecute and monitor convicted animal abusers is limited.

RSPCA Cymru believes that a register will act as a deterrent for individuals in committing acts of cruelty, punishment for convicted offenders and help to prevent the suffering of other animals from re-offenders. The type of register will determine the effect on preventing animal cruelty in the future. An open register will allow the greatest scrutiny on the individual by wider society and act as a clear punishment by 'naming and shaming' and thus also potentially have the strongest chance of preventing cruelty, if the offender knows their crime will be made public. However, open registers are controversial in the criminal justice system and the Home Office opted against a public register for child sex offenders. Although a closed register would reduce the impact of prevention in a wider context, it would still be a strong deterrent - and importantly could help prevent the offender from acquiring a new animal - RSPCA Cymru will continue its practice of issuing court alerts and details of successful prosecutions which legitimately names the accused/convicted individual.

<sup>1</sup> <https://www.criminallawandjustice.co.uk/features/Why-We-Need-Animal-Abuser-Registry>

<sup>2</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-11-29/55407/>

<sup>3</sup> Tables C1a and C2a, Ministry of Justice (2016) Proven reoffending statistics quarterly: July 2013 to June 2014, London: Ministry of Justice

<sup>4</sup> These figures are from YouGov Plc. Total sample size was 1103 adults. Fieldwork was undertaken between 10-13th January 2017. The survey was carried out online. The figures have been weighted and are representative (political) of all Welsh adults (aged 18+).

## Wider benefit of a register

The RSPCA is currently a member of the Links Group, which recognises the increasing research and empirical evidence which suggests that there are correlations between people who commit animal cruelty and who go on to commit acts of child or domestic abuse. Research has primarily come from the USA where the American Humane Society's report "Understanding the link between violence to animals and people" details the connections between children who commit animal cruelty who then go on to commit further crimes and the relationship between domestic abuse and harm caused to the family pet. The report states that a 2007 study found that women seeking refuge at a family violence shelter were nearly 11 times more like to report that their partner had hurt/killed their pet<sup>5</sup>.

Further research by Bill C. Henry found that identified animal abusers were 5.3 times more likely than non-abusers to have a record of a least one violent crime<sup>6</sup>. DeViney, Dickert and Lockwood found that where serious animal abuse has occurred in a household there may be an increased likelihood that some other form of family violence is also occurring and that children present may also be at increased risk of abuse<sup>7</sup>. During the debate on the Bill to introduce an animal abuse register in Suffolk County, New York, the Bill's sponsor Jon Cooper referenced research that found as many as 71 percent<sup>5</sup> of women fleeing domestic abuse that were surveyed said their pets have been killed or threatened by their abuser. Senator Cooper also claimed that the registry would act as a bellwether, highlighting potential issues of domestic abuse. Although there is increasing cooperation between the RSPCA and children's charities and social workers in the reporting of potential instances of child, elder and domestic abuse and vice versa with animal cruelty offences, a register may bring benefits which should be explored in order to reduce suffering for people and animals.

## Animal Offender Register discussions in the UK

### England

A report by the Environment, Food and Rural Affairs Committee (EFRA) in November 2016 on animal welfare in England recommended to the UK Government that they look at the potential for an animal abuse register. The report states, "*It is very difficult to track those who have been banned from keeping animals. An accessible register could play an important role in protecting animals, and prevent abusers from accessing animals. We recommend that the Government examines the potential for the establishment of an animal abuse register of those convicted of animal cruelty offences and who have been disqualified from keeping animals.*"<sup>8</sup>

In the UK Government's response to the report, they re-stated the police's concern that a publicly available register "*could facilitate vigilantism*" and that the "*best arrangement*" was that "*if a person has concerns about another individual they can approach the police who can check their records on the Police National Computer. The police may then take the most appropriate action.*"<sup>9</sup>

This followed a question on the 16 October 2016 from Stephen Kinnock MP on the introduction of an animal abuse register, the Minister replied, "*Convictions for offences under the Animal Welfare Act 2006 are recorded on the Police National Computer and are not held on a public register. The Government would be concerned about the level of access to a public register, and Data Protection Act requirements would also apply. However, police forces are exploring how access to information relating to people banned from keeping animals might be improved for local authorities and other bodies with an enforcement role.*"<sup>10</sup>

### Northern Ireland

A review by the Ministry of Justice and the Department for Agriculture, Environment and Rural Affairs (DAERA) concluded that there is insufficient data to warrant a register, that convictions are not in the public domain and that any method for disclosure would be resource-intensive and therefore would lead to resources being taken away from the front line. The Minister, in a debate in June 2016, explained that information is shared between the Police Service of Northern Ireland and DAERA on animal cruelty offences and that they were looking at a way to share that information with local authorities<sup>11</sup>.

<sup>5</sup> Ascione et al., 2007; Volant, Johnson, Gullone & Coleman, 2008

<sup>6</sup> Henry, Bill C. The Relationship between Animal Cruelty, Delinquency, and Attitudes toward the Treatment of Animals. *Society & Animals*, Vol 12, No. 3, 2004, 185-207

<sup>7</sup> DeViney, E. Dickert, J. and Lockwood, R. (1983) 'The care of pets within child abusing families', *International Journal for the Study of Animal Problems*, 4, pp. 321 - 9.

<sup>8</sup> Environment, Food and Rural Affairs Committee, "Animal welfare in England: domestic pets", pg 33.

<sup>9</sup> <https://www.parliament.uk/publications/cm201617/cmselect/cmenvfru/1003/1003.pdf>

<sup>10</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-10-07/46874/>

<sup>11</sup> <https://www.theyworkforyou.com/ni/?id=2016-06-21.7.1>

## Examples from other countries - USA

### Tennessee Animal Abuse Registry

The state of Tennessee introduced the registry in 2015, covering convictions from 2016, which is maintained by the Tennessee Bureau of Investigation (TBI). The registry is publically available online<sup>12</sup> and includes the offender's name, address, date of birth, type of offence and photo. The offenders remain on the registry for two years, for their first offence, and five years for their second with the individuals being updated by the courts within 21 days of the conviction. The registry only covers companion animals (specifically dogs and cats) and non-livestock. It does not cover wildlife<sup>13</sup>. A fiscal note which accompanied the bill, from the Fiscal Review Committee states that the estimated fiscal impact of the registry was "not significant" and the the TBI could "create and maintain such list on its website...at no cost"<sup>14</sup>.

### New York

New York City Council (NYC) and a number of counties within New York State have implemented Animal Abuse Registers but vary in their approach with Orange County, Nassau County and Albany County opting for a similar approach to Tennessee with a public register whilst NYC have implemented a private register.

The registers in the counties are a result of publicised animal cruelty which has led to campaigns, such as Rocky's Law. The laws require offenders to register with the local sheriff's department within five days of being convicted and on any address or name change. Their details, including name, address and photo are then published online having paid a fee of \$125.00. The registers are maintained by the Mohawk Hudson Humane Society and the Nassau County SPCA at no cost to the taxpayer. The offenders are on the register for 15 years for a first offence and for life if they are convicted of a second offence<sup>15</sup>. Penalties for not registering include one year imprisonment and/or a fine not to exceed \$2,000. Organisations that do not check the register are subject to a fine not to exceed \$5,000. Farm animals are not included in the register.

New York City's Animal Abuse Register is extensive on who should register, the details of the offender and the organisations which must legally consult the register. The register is only accessible by organisations named under the Act, registering with the NYC Health Department. Key aspects of the law, that differ to other counties, include:

- Within five days of being convicted appear in person to register and within 20 days each year that they are on the register;
- Anyone who moves into NYC must register within five days if they were convicted outside of NYC;
- Information on the offender includes - name, DOB, sex, complexion, race or ethnicity, height, eye colour, weight, address and driving licence number;
- Five year retrospective convictions;
- Remaining on the register for five year, regardless of the conviction and ten years with a second offence;
- And increased organisations to include vets and animal control officers<sup>16</sup>.

Other states that have bills on introducing animal abuse registers include Illinois, Massachusetts, Michigan, Missouri, New Jersey, Pennsylvania, Washington and West Virginia.

In 2010 and 2011 the California State Senate debated two bills on introducing an Animal Abuser Register, which failed to pass the Senate Judiciary Committee. The main reason for the bill not making progress was the estimated cost of introducing and maintaining the register. The Californian Senate Appropriations Committee estimated that the costs would range from \$750,000 to \$2million. However, estimates by other states and the Animal Legal Defense Fund put the cost at \$19,000 to \$60,000<sup>17</sup>.

<sup>12</sup> <https://www.tn.gov/tbi/topic/tennessee-animal-abuse-registry>

<sup>13</sup> <http://www.capitol.tn.gov/Bills/109/Bill/SB1204.pdf>

<sup>14</sup> <http://www.capitol.tn.gov/Bills/109/Fiscal/HB0147.pdf>

<sup>15</sup> [http://orangecountygov.com/filestorage/1162/1372/20537/Rocky's\\_Law.pdf](http://orangecountygov.com/filestorage/1162/1372/20537/Rocky's_Law.pdf)

<sup>16</sup> <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1194780&GUID=4283D6A7-F421-44D9-AFCD-0053D523B89A&Options=&Search,https://www1.nyc.gov/assets/doh/downloads/pdf/environmental/animal-abuse-registry-faqs.pdf>

<sup>17</sup> <http://aldf.org/press-room/animal-abuser-registry-proposed-in-california/>

## Issues on the creation of a register

In 2012/13 the creation of an animal offender register was debated by the National Assembly for Wales Petitions Committee. The resulting consultation - in which RSPCA Cymru took part - raised a number of issues that will need to be considered.

### Cost

A number of charities have raised concerns about the cost of implementing a register, the ongoing costs to maintain the information and the cost to rehoming organisations for checking the register. There are a number of options RSPCA Cymru would like to see considered to overcome these issues, not least of all to ensure no undue burden is placed on organisations trying to rehome animals or those individuals and families seeking to acquire a pet.

Although some of the costs of a register are paid for by the offenders in the USA - they are required to register and pay to do so, at the time of conviction, it is important to note that the number of offenders in Wales would unlikely be sufficient to cover all costs of maintaining a register. In the examples given from the USA the register is either absorbed into the work of the local police or is maintained by an animal welfare charity.

### Data protection

There are a number of factors to consider around the databases of offenders and offences in existence given that the Animal Welfare Act is enforced by the police, local authorities and the RSPCA. Concerns have been raised around data protection and ensuring that the information pertaining to these individuals isn't used inappropriately, possibly leading to vigilante retaliation, and that their human rights aren't affected. It would also be important to ensure that any register is regularly maintained so that an offender's spent conviction is removed, following the end of the disqualification period as designated by the court at the time of conviction.

RSPCA Cymru would like to see a system that explores providing only an affirmative or negative response, on whether or not the person is on the register, to any query from a rehoming charity or pet shop, for permission to supply the individual with an animal. This should minimise the risk of data protection breaches. However, by removing spent offenders from the register, it would enable them to reoffend and not be caught by the register. The Tennessee Registry system is able to keep costs low but the consequences to this appear to compromise data protection and the ability of the offender to rehabilitate, as such is a system unlikely to garner support from the criminal justice sector in Wales.

### Cross UK border issues

If Wales was to introduce a register while no equivalent exists in Scotland or England, there would undoubtedly be challenges not least of all where individuals will cross the border to acquire an animal. That said, offenders could cross into Ireland or the continent to purchase/acquire an animal and it would be the same offence. Work to profile offenders is ongoing and this could be explored further to determine how motivated repeat offenders are and how likely they would be to travel great distances to acquire a new animal and breach their disqualification order.

Rehoming organisations near the border with Wales could be encouraged to check the register on receiving a request from an individual with a postcode in Wales, as part of the check to see if the person is suitable, such as the RSPCA's home visits before adoption. It is also worth noting that cross-border issues have not deterred municipalities and States in the US from enacting offender registers.

### Third parties

To avoid offenders acquiring new animals through either a family member or a friend, some legislation (e.g. within the jurisdiction of the New York register) includes a condition for that family member or friend to check the register when giving or transferring ownership of an animal. If they fail to do so, they can receive a fine and/or imprisonment.

## RSPCA Recommendation

RSPCA Cymru would like to see the creation of a Ministerial Task and Finish Group to consider the feasibility of an animal offender register with issues around confidentiality/access, data protection, range of offences, funding and penalties for non-compliance duly considered by experts in animal welfare enforcement and within the criminal justice system.