



Sentencing for animal cruelty

the arguments for an increase

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Key facts...

- ★ Currently the most severe punishment for serious acts of animal cruelty is up to six months in prison and/or an unlimited fine.
- ★ The RSPCA would like to see the maximum sentence which can be imposed by a Court for offences under section 4 and section 8 of the Animal Welfare Act 2006 to be raised to five years.
- ★ England and Wales currently have some of the lowest sentences for animal offences not only in the world but also within the UK. Northern Ireland, for example, has a maximum sentence of five years for some animal cruelty offences.

Background

The public has become increasingly concerned at the fact that some sentences do not appear to 'fit the crime' committed against animals, especially those concerning extreme or premeditated cruelty, such as fighting. The UK has some of the most progressive animal welfare legislation in the world, which reflects the high level of public consciousness of compassion towards animals. But despite this, the RSPCA deals with cases of serious neglect, cruelty and violence against animals every day.

The largest possible punishment for the most serious of animal cruelty is up to six months in prison, an unlimited fine and a ban on keeping animals, which has us trailing behind the rest of Europe and parts of the UK in terms of maximum sentencing.

The RSPCA receives and investigates thousands of complaints about cruelty to animals each year, for example 149,604 in 2016 and the number of people we successfully prosecuted in that year was 1,477. Of the convictions in 2016, 60% were for cruelty (section 4 offences) and 1% were for fighting (section 8). The latter acts of cruelty are some of the most extreme and where current punishments do not appear to 'fit the crime'.

During the past five years the maximum fine imposed on anyone the RSPCA has prosecuted under the Animal Welfare Act 2006 (AWA) is £15,000 (£2,500 for each of six offences) and Courts take the position that unless someone can repay a fine and costs incurred within a reasonable period there is no point in imposing large fines. This suggests that the focus should be on prison sentences to meet the appropriate punishment and deter any further committing of these crimes.

Although the AWA increased sentencing for a person found guilty of such offences to be liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or a fine not exceeding £20,000, or to both these provisions, at least in terms of the custodial aspect, were never enacted. Thus people who inflict cruelty on animals or fight them for money can only receive a maximum of six months imprisonment should the Magistrate deem a custodial sentence is suitable. This is something the public might, quite rightly, find very hard to understand or accept as appropriate. The Sentencing council also recommends that if the defendant pleads guilty at the first reasonable opportunity, the sentence can be cut by a third.¹ So those

¹ <https://www.sentencingcouncil.org.uk/wp-content/uploads/Sept-2015-MCSG-pdf1.pdf>

who commit the most violent of crimes against animals, but admit guilt at the first Court hearing, can receive a sentence of only four months imprisonment. This is rightly felt to be inadequate in public eyes, as it does not reflect the seriousness that the most violent crimes of animal cruelty should be held.

Case studies

In November 2016, Graham Williams plead guilty for failing to provide veterinary treatment and causing unnecessary suffering to his German Shepherd Yarna, and was sentenced to four months in prison and banned from keeping any animals for life². It was reported that the Judge said he would have imposed a longer sentence had the law allowed, however credit had to be given for the guilty plea.

In 2016 public attention came to the case of Baby the Bulldog, who was tortured and severely beaten by Andrew Frankish, who was filmed and audibly encouraged by the younger brother Daniel Frankish to carry out the abuse. With both men laughing and clearly enjoying themselves throughout the video, Baby was repeatedly held aloft and thrown down a flight of wooden stairs, as well as being stamped on the head and jumped on with both feet numerous times.

Police arrested the men after the footage had been handed in and reviewed by the RSPCA Inspector. The two men pleaded guilty to causing unnecessary suffering to Baby the bulldog by subjecting her to unnecessary physical violence, an offence under the AWA. The two brothers received a suspended sentence of two years, six months' tagged curfew and £300 in costs.

Major public outcry ensued from the leniency of the sentence given to the two men and demonstrates the inadequacies felt about their sentencing.

It is also notable that the Law Commission, in its 2015 review of wildlife law in the UK, recommended a maximum sentence of two years for those convicted of offences involving wild animals³. The Sentencing Council has recently consulted on draft guidelines for animal welfare offences and although the consultation has closed, final drafts have not been published yet⁴.

What is the position in other countries?

England and Wales, despite being progressive in passing the AWA, seem to be among the lowest in the table for sentencing of animal cruelty offences (see table at the end of this briefing note). As can be seen from the table a great number of EU countries have maximum sentences of between two and three years for animal cruelty, with sentences going up to five years for Canada, Australia and New Zealand. Even within the United Kingdom, England and Wales compare less favorably for maximum sentences, with Northern Ireland having sentences up to five years and Scotland one year.⁵

Why should sentences be increased?

There are a number of reasons why we believe sentences for animal cruelty should be increased. Firstly, public attitudes have changed in the ten years since the passing of the AWA, with real demand for Courts to be given the options to pass tougher sentences for such extreme forms of cruelty. The public wants to see the punishment fit the crime.

Secondly, when comparing sentences in England and Wales with comparable offences in other countries we fair pretty badly and even allowing for different approaches to criminal justice systems we should be looking at increasing our sentences so we are more in line with our European partners. It is also the case that there is a lack of consistency in sentencing animal related offences even within our justice system. For

² <https://www.vettimes.co.uk/news/man-jailed-for-beating-dog-to-death/> (accessed 06.12.16)

³ Law Commission 2015 Wildlife Law vol 1 Point 10.162

⁴ <http://www.sentencingcouncil.org.uk/about-us/our-work/magistrates-court-sentencing-guidelines/> (accessed 02.11.16)

⁵ Scottish Government have recently committed to reviewing penalties under the Animal Health and Welfare (Scotland) Act 2006

example, a person can go to prison for three years if their dog injures a guide dog but only six months for beating their dog to death.

Finally, it is about deciding what is acceptable in a civil society and setting down a marker for the consequences of being cruel to animals. This should act as a deterrent for some and equally for those who are convicted of such offences it shows the public that the Criminal Justice System takes these matters very seriously.

The EFRA Select Committee proposals

The EFRA Select Committee concluded their inquiry into animal welfare in England: domestic pets in November last year and has considered sentencing. Of the 40 conclusions and recommendations in the report it is specifically stated that ‘The current penalties for animal welfare offences in England are amongst the lowest in Europe. We recommend that the maximum penalty is increased to five years.’⁶

What would the RSPCA like to see?

We would like to see increased sentencing for animal abuse so that it reflects the seriousness of many of the crimes the RSPCA prosecutes. There is a real need for stronger consequences for people who think it is acceptable to be cruel to animals. **We would like to see the maximum sentence which can be imposed by a Court for offences under section 4 and section 8 of the AWA to be raised to five years.**

Table 1 - List of countries and their maximum sentences for animal cruelty

Country	Maximum sentence	Comments
Australia	Up to 5 years	Legislation is different in each state. NSW and WA both carry up to 5 years imprisonment.
Canada	5 years	Criminal Code of Canada, 445 + 445.1
India	5 years	Under section 428 + 429 of the Indian Penal Code
New Zealand	5 years	Animal Welfare Amendment Act 2010
Austria	1 year	Animal protection Act 2004 Federal Act on the Protection of Animals. Currently reviewing penal code, looking for a 2 year sentence
Belgium	6 months	Belgian Ministry of Health
Bulgaria	3 years	Art.325b of Bulgaria’s Penal Code
Cyprus	1 year	Animal Welfare Act
Croatia	6 months	Animal Protection Act 1999
Czech Republic	3 years	Act No 246/1992 Coll., on the Protection of Animals Against Cruelty 1992
Denmark	2 years	Act on the Protection of Animals 1991
Estonia	1 year	Article 264 of Penal Code
Finland	4 years	Penal Code of Finland 17:14A1
France	2 years	Penal Code Art 521-1 & 521-2 1992

⁶ https://www.publications.parliament.uk/pa/cm201617/cmselect/cmenvfru/117/11709.htm#_idTextAnchor071, date accessed (23.04.2017)

Germany	3 years	Animal Protection Act (Last revised in 2010)
Greece	2 years	Law is the 4039/2012
Hungary	3 years	Act XXVIII of 1998 on the Protection and Humane Treatment of Animals
Ireland	5 years	Animal Health and Welfare Act 2013
Italy	3 years ⁷	Italian Penal code 'offences against the feelings of animals' 2004
Latvia	5years	Range of legislation
Lithuania	1 year	New Animal Welfare Legislation 2012
Malta	1 year	Animal Welfare Act 2002
Netherlands	3 years	Animal Health and Welfare Act 1992
Northern Ireland	5 years ⁸	Welfare of Animals Act 2011
Poland	3 years	Animal Protection Act 1998
Portugal	1 year	Thirty-third amendment to the Penal Code, approved by Decree-Law No. 400/82 of and the second amendment to Law No. 92/95 2014
Romania	3 years	Law on the Protection of Animals 2004
Slovenia	2 years	Animal Protection Act
Spain	18 months	Animal Protection Law 2007 & newly updated criminal code
Sweden	2 years	'Cruelty to animals' under the Criminal Statute
UK	6 Months	Animal Welfare Act 2006

⁷ For animal fighting offences

⁸ For indictable offences