



# 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 welcomes the Government's commitment<sup>1</sup> to increase the maximum sentence which can be imposed by a Court for offences under sections 4, 5, 6(1), 6(2), 7 and 8 of the Animal Welfare Act 2006 to five years.**
- ★ **Furthermore, we agree with the EFRA Select Committee's recommendations for the Government to proceed without delay this aspect of the draft Animal Welfare (Sentencing and Recognition of Sentience) Bill but to apply this across the board to all animal welfare offences and to carry out a regulatory impact assessment of the proposal.**
- ★ **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 severe 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. 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. Yet 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 leaves us trailing behind the rest of Europe and other parts of the UK in terms of maximum sentencing.

The RSPCA receives and investigates thousands of complaints about cruelty to animals each year. In 2016, we received 149,604 complaints, the vast majority we were able to deal with by advice and only 1,477 were successfully prosecuted. Of the convictions in 2016, 60% were for cruelty (section 4 offences) and 1% were for fighting (section 8). The acts of cruelty classified under section 8 are some of the most extreme and which current punishments do not appear to 'fit the crime'.

During the past five years the maximum fine imposed on anyone prosecuted by the RSPCA under the Animal Welfare Act 2006 (AWA) is £15,000 (£2,500 for each of six offences). However, unless someone can repay a fine within a reasonable period, Courts adjudge that imposing large fines is therefore futile. This trend suggests that, in order to meet the appropriate punishment, focus should be placed upon prison sentences; which will also act as a deterrent for these crimes.

Although the AWA has increased sentencing for a convicted individual; by either sentencing them to a term not exceeding 51 weeks (as part of custody plus), or a fine not exceeding £20,000, (or both of these provisions), in terms of the custodial aspect, these sentences have never been enacted. Therefore, those convicted of inflicting cruelty on animals can only receive a maximum of six months imprisonment; should

<sup>1</sup> <https://www.gov.uk/government/news/sentences-for-animal-cruelty-to-increase-tenfold-to-five-years> (accessed 03.10.17)

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.<sup>2</sup> So those 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 an inadequate punishment for the severity of the crime in the public's eyes.

#### *Examples:*

1. A man who systematically abused and killed several puppies by beating, choking and stabbing them was sentenced to the maximum of six months imprisonment and banned from owning animals.
2. A man who kicked his girlfriend's dog to death was given a custodial sentence of just over five months, fined £1000 and banned from owning animals.
3. A man who fed his dog aspirin and paracetamol to try to kill her, before beating her to death with a shovel was sentenced to four months in prison and banned from owning animals.

#### **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 seen from the table a substantial 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, the maximum sentences for England and Wales pale in comparison to Scotland's one year sentence and even more so with Northern Ireland which has sentences up to five years.<sup>3</sup>

#### **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, after comparing sentences in England and Wales with equivalent offences in other countries we fair pretty badly. Clearly we should be looking at increasing our sentences so we are more in line with our European neighbours. There is also a distinct lack of consistency in sentencing animal related offences even within our justice system. For example, a person can go to prison for three years if their dog injures a guide dog, whilst the maximum sentence is only six months for beating a dog to death.

Finally, it is about clearly delineating what is acceptable in a civil society and establishing the consequences for transgressing these laws. 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 draft Animal Welfare (Sentencing and Recognition of Sentience) Bill**

The RSPCA was pleased to see the draft Bill<sup>4</sup> published just before Christmas and responded to both the Defra consultation<sup>5</sup> and EFRA Select Committee inquiry<sup>6</sup> into it. Furthermore, we welcome and support the

<sup>2</sup> <https://www.sentencingcouncil.org.uk/wp-content/uploads/Sept-2015-MCSG-pdf1.pdf>

<sup>3</sup> Scottish Government have recently committed to reviewing penalties under the Animal Health and Welfare (Scotland) Act 2006

<sup>4</sup> <https://www.gov.uk/government/publications/draft-animal-welfare-sentencing-and-recognition-of-sentience-bill-2017> (accessed 01.02.18)

<sup>5</sup> <https://consult.defra.gov.uk/animal-health-and-welfare/consultation-on-the-animal-welfare-bill/> (accessed 03.01.18)

recommendations<sup>7</sup> that the EFRA Select Committee has made on this Bill specifically with regard to the sentencing aspect<sup>8</sup>. Namely:

- the Government should proceed with the proposal to increase sentences without delay and split the Bill so that it deals with this issue alone (para 46);
- the Government should consider applying the policy of increased sentencing for animal welfare offences across the board and not just limit it to the Animal Welfare Act (para 19); and
- the Government should produce a regulatory impact assessment of this proposal and identify the animal welfare and fiscal impacts and measures that can be introduced to alleviate them (para 13).

From the RSPCA’s perspective we believe that increasing sentences across the board should not just cover ‘direct’ offences such as those under the Animal Welfare Act, or farming legislation, etc but also ‘indirect’ offences such as ivory smuggling, taking wild birds, badger digging, etc.

We now await the Government’s consideration of the EFRA report and recommendations and the responses to the public consultation and are keen to work with Defra to make this policy and law workable and effective.

**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.
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
Canada	5 years	Criminal Code of Canada, 445 + 445.1
Croatia	6 months	Animal Protection Act 1999
Cyprus	1 year	Animal Welfare Act
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
Germany	3 years	Animal Protection Act (Last revised in 2010)
Greece	2 years	Law is the 4039/2012

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<http://www.parliament.uk/business/committees/committees-a-z/commons-select/environment-food-and-rural-affairs-committee/inquiries/parliament-2017/draft-animal-welfare-bill-17-19/> (accessed 03.01.18)

<sup>7</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmenvfru/709/709.pdf> (accessed 01.02.18)

<sup>8</sup> For information about our views on sentience please see our separate briefing on this.

<b>Hungary</b>	3 years	Act XXVIII of 1998 on the Protection and Humane Treatment of Animals
<b>India</b>	5 years	Under section 428 + 429 of the Indian Penal Code
<b>Ireland</b>	5 years	Animal Health and Welfare Act 2013
<b>Italy</b>	3 years <sup>9</sup>	Italian Penal code 'offences against the feelings of animals' 2004
<b>Latvia</b>	5 years	Range of legislation
<b>Lithuania</b>	1 year	New Animal Welfare Legislation 2012
<b>Malta</b>	1 year	Animal Welfare Act 2002
<b>Netherlands</b>	3 years	Animal Health and Welfare Act 1992
<b>New Zealand</b>	5 years	Animal Welfare Amendment Act 2010
<b>Northern Ireland</b>	5 years <sup>10</sup>	Welfare of Animals Act 2011
<b>Poland</b>	3 years	Animal Protection Act 1998
<b>Portugal</b>	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
<b>Romania</b>	3 years	Law on the Protection of Animals 2004
<b>Slovenia</b>	2 years	Animal Protection Act
<b>Spain</b>	18 months	Animal Protection Law 2007 & newly updated criminal code
<b>Sweden</b>	2 years	'Cruelty to animals' under the Criminal Statute
<b>UK</b>	6 Months	Animal Welfare Act 2006

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<sup>9</sup> For animal fighting offences

<sup>10</sup> For indictable offences