



## BRIEFING PAPER

Number 8612, 24 October 2019

# Animal Welfare (Sentencing) Bill

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## Summary

Animal welfare is a devolved matter. For England and Wales, a range of legislation on animal welfare was consolidated under the [Animal Welfare Act 2006](#). This makes it an offence to cause unnecessary suffering to domesticated animals, or any animals under the control of man. The maximum penalty under the Act is currently a six-month sentence and/or an unlimited fine.

In 2016 the maximum sentence for animal cruelty offences in Northern Ireland under the [Welfare of Animals Act \(Northern Ireland\) 2011](#) was increased to five years, following the recommendations of [a review of the implementation of the Act](#). The Scottish Government [consulted](#) in February 2019 on increasing the maximum sentence from one to five years under the [Animal Health and Welfare \(Scotland\) Act 2006](#). The Environmental Food And Rural Affairs Select Committee carried out an enquiry into [domestic pet welfare](#) in 2016. One of its recommendations was that maximum sentences under the Animal Welfare Act 2006 should be increased to five years. The Government did not support the proposal at the time

However, following a number of serious animal welfare prosecutions, the Government announced in September 2017, that it intended to increase the maximum sentence to five years. It published [draft Animal Welfare \(Sentencing and Recognition of Sentience\) Bill](#) in December 2017 for consultation. Following this, the Government decided that it would legislate for increased sentences as soon as parliamentary time became available, whilst continuing to work further on animal sentience proposals.

The [Animal Welfare \(Sentencing\) Bill](#) was published on 26 June 2019. Second Reading in the Commons took place 9 July 2019. The Bill would increase the maximum penalty under the *Animal Welfare Act 2006* for the most serious animal cruelty offences in England and Wales from six months to five years. [Committee Stage](#) of the Bill took place on 23 July 2019. The Bill was passed unamended and was due a s Report Stage in the Commons on 4 September 2019. However, this was cancelled, and the Bill fell at the end of the 2017-2109 parliamentary session.

The [Queen's Speech](#) on 14 October 2019 set out the Government's intention to reintroduce the Bill in the 2019-2020 parliamentary session. Following this the [Animal Welfare \(Sentencing\) Bill 2019-2020](#) was published on 15 October 2019 with a Second Reading date of 29 October 2019

The text of the Bill is the same as that from the previous session. It increases the maximum sentence for certain animal cruelty offences to five years, would apply to England and Wales and would come into force two months after Royal Assent.

# 1. Background

Animal welfare is a devolved matter. For England and Wales, a range of legislation on animal welfare was consolidated under the [Animal Welfare Act 2006](#). This makes it an offence to cause unnecessary suffering to domesticated animals, or any animals under the control of man. The maximum penalty under the Act is currently a six-month sentence and/or an unlimited fine.

The Environment Food and Rural Affairs (EFRA) Committee published a report on [Animal welfare in England: domestic pets](#) on 16 November 2016. The report referred to the increasing disparity in sentencing powers for a range of offences relating to animals, as highlighted by the RSPCA:

The RSPCA noted increasing disparity in sentences available in differing animal legislation in England. For example, the Law Commission recently recommended imprisonment for up to two years for cruelty towards wildlife. Under the Crime and Policing Act 2014 a person could go to prison for three years if their dog injured a guide dog but only six months for beating their dog to death: “if you look at those sorts of comparisons, I would say that the overall sentencing is probably out of kilter with current thinking”<sup>1</sup>

The report also included a recommendation to increase the maximum sentence for cruelty offences to five years:

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.<sup>2</sup>

At the time the Government did not support an increase in sentencing, stating in its response that “current sentencing practice for offences of animal cruelty in the *Animal Welfare Act 2006* does not suggest that the courts are finding current sentencing powers inadequate”.<sup>3</sup>

In 2016 the maximum sentence for animal cruelty offences in Northern Ireland under the [Welfare of Animals Act \(Northern Ireland\) 2011](#) was increased to five years, following the recommendations of [a review of the implementation of the Act](#).

The Scottish Government [consulted](#) in February 2019 on increasing the maximum sentence from one to five years under the [Animal Health and Welfare \(Scotland\) Act 2006](#).

## 1.1 Sentencing trends

In 2018, 633 people were sentenced for offences under sections 4 to 8 of the *Animal Welfare Act 2006* in England and Wales. Of these, 65

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<sup>1</sup> EFRA Select Committee, [Animal welfare in England: domestic pets](#), 16 November 2016

<sup>2</sup> EFRA Select Committee, [Animal welfare in England: domestic pets](#), 16 November 2016

<sup>3</sup> EFRA Select Committee, [4th Special Report - Animal welfare in England: domestic pets: Government response to the Committee's Third Report of Session 2016-17](#), 7 February 2017

(10%) were sentenced to immediate custody. In each of the past 10 years, between 6% and 11% of people convicted of these offences were sentenced to immediate custody.

[Sentencing guidelines](#) for animal cruelty were reviewed in April 2017 with the aim of ensuring “that the most serious cases of animal cruelty receive appropriate severe sentences, within the available maximum penalty”.<sup>4</sup>

<b>CUSTODIAL SENTENCES FOR OFFENCES UNDER SECTIONS 4-8 OF THE ANIMAL WELFARE ACT 2006</b>					
England and Wales					
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Proceeded against	1,212	1,092	1,304	1,427	1,295
Found guilty	929	873	1,026	1,131	1,022
Sentenced	930	874	1,025	1,131	1,021
<i>of which:</i>					
Total Immediate Custody	81	52	87	108	84
% of total sentenced	9%	6%	8%	10%	8%
<i>of which:</i>					
Less than 3 months	41	29	47	39	32
3 months to less than 6 months	38	22	38	66	47
6 months <sup>(1)</sup>	2	1	2	3	5
<b>Continued...</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Proceeded against	1,039	799	764	743	797
Found guilty	814	621	583	606	634
Sentenced	815	623	583	607	633
<i>of which:</i>					
Total Immediate Custody	82	58	63	50	65
% of total sentenced	10%	9%	11%	8%	10%
<i>of which:</i>					
Less than 3 months	33	22	27	18	21
3 months to less than 6 months	48	33	33	30	43
6 months <sup>(1)</sup>	1	3	3	2	1

## 1.2 Animal Welfare (Sentencing and Recognition of Sentience) Draft Bill

The Government [announced](#) that it would be introducing tougher sentencing for the worse animal cruelty cases on 30 September 2017. The proposal was to increase the maximum sentence to five years:

Currently the maximum sentence is six months but the government will announce plans to bring forward new legislation that will increase that tenfold, sending a clear signal to any potential offenders that there is no place for animal cruelty in England.

There have been a number of recent shocking cases where courts have said they would have handed down longer sentences had

<sup>4</sup> [Written question HL188](#) 27 June 2017

they been available, including a case in April last year when a man bought a number of puppies just to brutally and systematically beat, choke and stab them to death. The new legislation will also enable courts to deal more effectively with ruthless gangs involved in organised dog fights.

Environment Secretary Michael Gove said:

“We are a nation of animal lovers and so we must ensure that those who commit the most shocking cruelty towards animals face suitably tough punishments.

“These plans will give courts the tools they have requested to deal with the most abhorrent acts.

“This is one part of our plan to deliver world-leading standards of animal welfare in the years ahead.”

Cases of extreme cruelty are rare – while on average about 1,150 people per year are convicted for animal cruelty, fewer than five of them receive the current maximum sentence. The change in law will ensure that offenders are properly punished in those rare but shocking cases.<sup>5</sup>

### The Bill

The [EU Withdrawal Bill](#) did not include provision to transfer the principle contained in Article 13 of the Lisbon Treaty recognising animals as sentient beings into UK legislation. This raised concerns amongst animal welfare campaigners as UK law, under the *Animal Welfare Act 2006*, does not explicitly recognise the term although it does acknowledge that animals can experience suffering and pain.

Following several unsuccessful amendments during [Committee stage](#) in the Commons, aimed at including the explicit recognition of animal sentience in the Bill, the Government [announced](#) on 12 December 2017 that it would be introducing legislation on both sentience and tougher sentencing for animal cruelty offences. A short three clause [draft Bill, explanatory notes and consultation](#) were also published. The consultation closed on 31 January 2018.

### Environment Food and Rural Affairs Committee Report

The EFRA Select Committee took evidence on the draft Bill and published its [response to the Government consultation](#) on 1 February 2018.

The Committee called for the Bill’s two clauses be split into separate pieces of legislation which would allow the “the ‘problematic concepts in the existing Clause 1 to be better defined” The concerns set out in the Committees report were summarised in a press release:

The Report:

Notes that: “[Animals] deserve better than to be treated in a cavalier fashion yet the impression given to us is one of haste. It appears that this draft Bill has been presented to the public - and Parliament - in a far from finished state.”

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<sup>5</sup> DEFRA, [Sentences for animal cruelty to increase tenfold to five years](#), 30 September 2017

Welcomes the Government's decision to accept a predecessor EFRA's Committee recommendation on the introduction of a 5-year maximum sentence for animal cruelty, but raises concerns that the vagueness of other aspects of the legislation will, "impede and delay the introduction of this measure".

Questions why the Government "has not taken this opportunity to increase sentences for other breaches of animal welfare" as a, "A true "gold standard" in animal welfare will require the introduction of legislation which will increase sentencing across the board."

Recommends that the Government separates Clause one of the draft Bill and "proceed with the Bill as the Animal Welfare (Sentencing) Bill".

Recommends that Government introduces a "separate piece of legislation on animal sentience" which allows the 'problematic concepts in the existing Clause 1 to be better defined'.<sup>6</sup>

- one of the problems here is that it [Clause 1] is so vague that nobody will be sure what it means. The animal welfare organisations will not be sure, and policy makers will not be sure. Therefore, it will ultimately fall to the courts.

## Government response

The Government published a [summary of responses](#) and its plans for taking the legislation forward on 7 August 2018. Following the recommendations of the EFRA Select Committee, the Government proposed legislating to increase maximum sentences for animal cruelty as soon as Parliamentary time became available.

### Maximum sentences for animal cruelty

Taking into consideration the high proportion of responses that indicated that they agreed with the new maximum penalty, the government intends to bring forward proposals to increase the maximum penalty, specified under section 32(1) of the Animal Welfare Act 2006, to five years' imprisonment and/or an unlimited fine. The government accepts the EFRA committee's recommendation that the sentencing clauses are taken forward in a separate bill to the sentience clauses, in order to ensure the higher maximum penalty is available to the courts as soon as possible. The necessary legislation will be brought forward as soon as Parliamentary time permits.

The government has also confirmed its support for the Animal Welfare (Service Animals) Bill, introduced to Parliament by Sir Oliver Heald MP. This would introduce Finn's Law, ensuring service animals such as police dogs and horses will be offered greater protection. The proposed legislation will remove a section of the current law of self-defence, often used by those who harm a service animal.<sup>7</sup>

Defra also stated that it would continue to work further on animal sentience proposals and reiterated the intention to make any necessary changes to legislation before the UK left the EU. Further background on

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<sup>6</sup> EFRA Select Committee, [Animal Welfare \(Sentencing and Recognition of Sentience\) Bill report published](#), 1 February 2018

<sup>7</sup> Defra, [Animal Welfare \(Sentencing and Recognition of Sentience\) Draft Bill Consultation response](#), 7 August 2018

the animal sentience debate can be found in the Library Paper on [Animal Sentience and Brexit](#).

### ***Animal Welfare (Service Animals) Act***

Also known as [Finn's Law](#), the Act was originally a Private Members Bill in response to a campaign following a police dog being seriously injured on duty. The Bill received Government support and came into force on 8 June 2018. The Defra press release summarised the main provisions as follows:

The Animal Welfare (Service Animals) Bill, known as 'Finn's Law', will prevent those who attack or injure service animals from claiming self-defence.

The law is named after Finn, a police dog who was stabbed whilst pursuing a suspect with his handler PC David Wardell. Finn sustained serious stab wounds to the chest and head, but only criminal damage charges could be brought against his attacker.

This new legislation, coupled with the government's plans to increase maximum sentences for animal cruelty offences to five years in prison, will make sure those who harm service animals are punished accordingly.

According to the group which led the campaign for this law, more than 100 other service animals have been injured since 2012. This includes injuries such as being beaten with an iron bar, kicked or hit by a car.<sup>8</sup>

## ***2. Animal Welfare (Sentencing) Bill 2017-2019***

The Government published the [Animal Welfare \(Sentencing\) Bill](#) on 26 June 2019, which would increase the maximum sentence for animal cruelty to five years in England and Wales. A [press release](#) from Defra summarised support for the proposals:

The *Animal Welfare (Sentencing) Bill* means that animal abusers could face up to five years in prison, a significant increase from the current maximum sentence of six months.

This will make it one of the toughest sanctions in Europe, strengthening the UK's position as a global leader on animal welfare.

The Bill follows a public consultation last year, in which more than 70% of people supported the proposals for tougher prison sentences. It means the courts will be able to take a tougher approach to cases such as dog fighting, abuse of puppies and kittens, or gross neglect of farm animals.<sup>9</sup>

The press release also included statements from Battersea Cat's and Dog's home and the RSPCA welcoming the changes.

The chair of the EFRA Select Committee, Neil Parish, welcomed the announcement by stating that "we are delighted to see the Government listening to my Committee and public opinion and

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<sup>8</sup> Defra, ['Finn's Law' delivered to protect brave service animals](#), 8 June 2019

<sup>9</sup> Defra, [Gove delivers new bill to punish animal abusers](#), 26 June 2019



introducing tougher sentencing for those who commit crimes against animals".<sup>10</sup>

## 2.1 Provisions of the Bill

The Bill would increase sentencing powers in England and Wales under the [Animal Welfare Act 2006](#). The 2006 Act makes it [an offence](#) to cause unnecessary suffering to domesticated animals, or any animals under the control of man.

The [explanatory notes](#) for the Bill set out the Government's reasoning for introducing the legislation to increase sentencing for animal cruelty offences under the *Animal Welfare Act*.

3 There have been a number of recent cases related to these offences in which judges have expressed a desire to impose a higher penalty than that currently provided for under the Animal Welfare Act 2006. There is a particular desire to increase the penalties available in the case of crimes that relate to deliberate, calculating and sadistic behaviour.

4 Members of Parliament, wider stakeholders and the public have also sought to increase maximum penalties for animal welfare offences so that they exceed the current European average of 2.04 years. The Bill meets both of these needs by increasing the maximum penalties for the most serious offences under the Animal Welfare Act 2006 to five years and/or an unlimited fine.<sup>11</sup>

The provisions in the Bill are summarised as follows:

The Bill increases the maximum penalty for specific offences related to animal welfare in England and Wales. It does so by extending the current maximum penalty, specified under the Animal Welfare Act 2006, of six months and/or an unlimited fine to a penalty of five years and/or an unlimited fine. These offences therefore become triable either way, and may be heard in the Magistrates Court or the Crown Court.<sup>12</sup>

**Clause 1** of the Bill will increase the maximum sentence that would apply to the more serious prevention of harm offences under [section 32\(1\)](#) of the *Animal Welfare Act*:

- a. causing unnecessary suffering ([section 4](#))
- b. carrying out a non-exempted mutilation ([section 5](#))
- c. docking the tail of a dog except where permitted ([section 6\(1\) and 6\(2\)](#))
- d. administering a poison to an animal ([section 7](#))
- e. involvement in an animal fight ([section 8](#)).<sup>13</sup>

The Bill raises the maximum sentence for offences tried in the Magistrates' Court raised to 12 months' imprisonment. However, in reality this will remain as 6 months because Magistrates' Courts can currently only impose a maximum of 6 months imprisonment for any

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<sup>10</sup> EFRA Select Committee, [Committee welcomes increased sentences for animal cruelty](#), 26 June 2019

<sup>11</sup> Animal Welfare (Sentencing) Bill 2017-19, [Explanatory Notes](#), 26 June 2019

<sup>12</sup> Animal Welfare (Sentencing) Bill 2017-19, [Explanatory Notes](#), 26 June 2019

<sup>13</sup> Animal Welfare (Sentencing) Bill 2017-19, [Explanatory Notes](#), 26 June 2019

single offence. There is a general provision in the [Criminal Justice Act 2003](#) for 6 month maximum sentences in Magistrate's Courts to be raised to 12 months, but this provision has so far not been commenced. This is acknowledged in the explanatory notes.

**Clause 2** of the Bill covers territorial extent and commencement. The Bill will apply to England and Wales and will come into force two months after it receives Royal Assent. Legislative consent from the Welsh Government is required.

## 2.2 Second Reading

[Second Reading](#) of the Bill took place in the House of Commons on 10 July 2019. Introducing the Bill, David Rutley, the then Parliamentary Under Secretary of State at the Department for the Environment, Food and Rural Affairs, set out its provisions as follows:

The Bill amends the Animal Welfare Act 2006, which currently sets out a maximum penalty of six months' imprisonment and/or an unlimited fine for the more serious prevention of harm offences. That is much lower than the current European average for animal welfare offences, which is two years; indeed many countries have much higher maximum penalties. I am pleased to say that the Bill introduces one of the toughest punishments in the world and will bring us in line with the maximum penalties in Australia, Canada, New Zealand, Ireland, India and Latvia, which are all five years' imprisonment.<sup>14</sup>

Speaking for the Opposition, Sue Hayman, welcomed and supported the Bill but indicated the intention to table amendments during Committee Stage to extend its scope to include wild animals:

We are supporting the Bill today, but we will seek to improve it in Committee. We have concerns, which are shared by a number of stakeholders, about the scope of the Bill. This has already been mentioned in an intervention. The proposals apply only to the Animal Welfare Act 2006 and therefore do not apply to wild animals in the way that they apply to domestic animals. Our concern is that this creates a two-tier system, even if by oversight as opposed to intention. The same sentences should be available to judges for similar or identical crimes, regardless of whether the animal is domesticated or wild<sup>15</sup>

## 2.3 Committee Stage

[Committee Stage](#) of the Bill consisted of two sittings on 23 July 2019. During the first sitting the Committee took evidence from RSPCA and Battersea Dogs and Cats Home. It also took evidence from Inspector O'Hara, national policing lead for dangerous dogs and companion animals and Mike Schwarz, a consultant at law firm Bindmans LLP. A full transcript is available on the [Parliament website](#).

Line by line consideration of the Bill took place during the [second sitting](#). Two amendments were tabled to the Bill, both withdrawn without division. The Bill was passed unamended.

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<sup>14</sup> [HC Deb 10 July 2019 c336](#)

<sup>15</sup> [HC Deb 10 July 2019 c340](#)

The first, amended tabled by Labour MP Anna Turley, sought to amend Clause 1 “to require courts, where people filmed themselves committing the offence or posted online a video of themselves committing the offence, to treat that as an aggravating factor in sentencing”. In response the Minister stated that aggravating factors, other than the most serious, are usually set out in sentencing guidelines.<sup>16</sup> And that “as the Bill will change the maximum sentence available for animal cruelty, the sentencing guidelines for animal cruelty will be subject to review by the Sentencing Council, which will publicly consult on the updated guidelines.”<sup>17</sup>

The second amendment was tabled by Sue Hayman for the opposition. It would have amended Clause 2 to require the Secretary of State to lay before Parliament, within two years of the Act coming into force, a report on the its effectiveness, including on the overall coherence of animal welfare legislation.<sup>18</sup> During the debate she explained that Labour’s view that the Bill should extend to wild animals, that “all animals are equal” and:

Our preference would be for the Bill to set a maximum sentence according to the level of cruelty in the offence, rather than whether the animal is domestic or wild, which I have discussed with the Minister. New clause 2 offers the option of looking into that and giving Parliament an opportunity to consider it once the Act has taken effect. As I have said, we do not want to delay the Bill—we want it on the statute book quickly, which is why we are asking for a review. I hope the Minister considers it and I look forward to his response.<sup>19</sup>

In response, the Minister agreed to meet to discuss the issue further in the “very near future”.<sup>20</sup>

Report Stage of the Bill was due to take place on 4 September 2019. However, this was cancelled, and the Bill fell at the end of the 2017-2109 parliamentary session.

### **3. *Animal Welfare (Sentencing) Bill 2019-2020***

The [Queen’s Speech](#) on 14 October 2019 set out the Government’s intention to reintroduce the Bill in the 2019-2020 parliamentary session:

We will take forward several measures to promote and protect animal welfare, including re-introducing the Animal Welfare (Sentencing) Bill to increase maximum sentences for animal cruelty.<sup>21</sup>

Following this the [Animal Welfare \(Sentencing\) Bill 2019-2020](#) was published on 15 October 2019 with second reading date of 29 October 2019.

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<sup>16</sup> [HC Deb 23 July 2019 c23](#)

<sup>17</sup> [HC Deb 23 July 2019 c31](#)

<sup>18</sup> [HC Deb 23 July 2019 c35](#)

<sup>19</sup> [HC Deb 23 July 2019 c36](#)

<sup>20</sup> [HC Deb 23 July 2019 c40](#)

<sup>21</sup> Gov.uk, [Queen's Speech 2019: background briefing notes](#), 14 October 2019

## 12 Animal Welfare (Sentencing) Bill

The text of the Bill is the same as that from the previous session. It increases the maximum sentence for certain animal cruelty offences to five years, would apply to England and Wales and would come into force two months after Royal Assent

Full background, a summary of Second Reading and Committee Stage for the previous Bill, including debate about whether coverage of the Bill should be extended to cover wild animals, is available in Section 2 above.

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