

## Animal Welfare (Service Animals) Bill HL Bill 159 of 2017–19

### Summary

Under section 4 of the Animal Welfare Act 2006, it is an offence to inflict unnecessary suffering on an animal. In determining whether an offence has been committed, it must be considered whether suffering was for a “legitimate purpose”, such as protecting a person or property. The [Animal Welfare \(Service Animals\) Bill](#) is a private member’s bill which would disregard this consideration in cases related to police dogs and horses, making prosecution easier. The exemption proposed by the bill would only apply if the animal is under the control of a relevant officer and was being used appropriately at the time of the incident; it would not apply if the defendant is the relevant officer.

The bill was presented in the House of Commons on 13 June 2018 by Sir Oliver Heald (Conservative MP for North East Hertfordshire) and gained official government support shortly after.<sup>1</sup> The bill passed second reading on 6 July 2018 without debate and received cross-party support at committee stage on 16 January 2019. It completed its Commons stages on 8 February 2019, passing through the House without amendment. The bill was introduced in the House of Lords on 11 February 2019, sponsored by Viscount Trenchard (Conservative), and is scheduled for second reading on 1 March 2019. Although it is not a government bill, the Department for Environment, Food and Rural Affairs has produced the bill’s explanatory notes, with the consent of Viscount Trenchard.

### Background

The Animal Welfare (Service Animals) Bill follows a high-profile campaign referred to as Finn’s Law.<sup>2</sup> In October 2016, police dog Finn sustained serious injuries when he was attacked whilst assisting an officer in apprehending a suspect.<sup>3</sup> The case highlighted concerns about the suitability of existing legislation that could be used to prosecute perpetrators of violence against service animals.

At present, those responsible for injuring service animals can be prosecuted under section 4 of the Animal Welfare Act 2006 or charged with criminal damage. Under section 4 of the 2006 Act it is an offence to inflict “unnecessary suffering” on an animal, carrying a maximum penalty of six months imprisonment.<sup>4</sup> However, in determining whether suffering is unnecessary a number of considerations must be taken into account, including “whether the conduct which caused the suffering was for a legitimate purpose such as [...] the purpose of protecting a person, property or another animal” (section 4(3)(c)(ii)).<sup>5</sup> Therefore, a defendant could claim that they were justified in using physical force against a service animal, arguing that they were acting in self-defence.<sup>6</sup> In Finn’s case, the decision was taken not to prosecute the perpetrator under the 2006 Act for this reason, and instead to charge the defendant with criminal damage.<sup>7</sup>

There have been other reports of violence against police dogs; for example, in July 2018 police dog Axle was stabbed in Derbyshire whilst assisting police. Amongst other related offences, the perpetrator pleaded guilty to two counts of damaging property—to Axle and to the police car.<sup>8</sup> In 2012, a man

pleaded guilty for damaging property after stabbing police dog Aman in Suffolk following a police chase.<sup>9</sup> Between April 2017 and March 2018 police dogs were deployed in 1,920 incidents in England and Wales.<sup>10</sup>

### **Previous Parliamentary Activity**

On 10 October 2016, the Finn's Law campaign launched an e-petition to give police horses and dogs the status of police officers, so that they may be afforded the same protection.<sup>11</sup> The e-petition exceeded the 100,000 signature threshold for debate and was [debated in the House of Commons on 14 November 2016](#).<sup>12</sup> The Government response to the e-petition noted that attacks on police dogs already carried penalties and that offenders could be prosecuted under section 4 of the Animal Welfare Act 2006 or charged with criminal damage. Nonetheless, the Government acknowledged that “it is unpalatable to think of police animals as ‘equipment’ as is inferred by the charges of criminal damage”, and committed to “explore whether there is more that the law should do to offer the most appropriate protections to police animals and all working animals”.<sup>13</sup>

On 5 December 2017, Sir Oliver Heald introduced a ten-minute rule bill, the Service Animals (Offences) Bill, which sought to make it a separate offence to kill, wound, injure or poison a service animal.<sup>14</sup> The bill was objected to at second reading.<sup>15</sup>

### **Provisions of the Bill**

Clause 1 of the Animal Welfare (Service Animals) Bill would amend the Animal Welfare Act 2006 to require that section 4(3)(c)(ii) be disregarded in determining whether an offence of causing unnecessary suffering to an animal has been committed, if that animal is a service animal. This exemption would only apply if:

- (a) the animal was under the control of the relevant officer at the time of the conduct,
- (b) it was being used by that officer at the time, in the course of the officers' duties, in a way that was reasonable in all circumstances, and
- (c) the officer is not the defendant.

According to the bill's explanatory notes, these conditions are designed to:

Address a possible concern in relation to a service animal that might act in an unreasonably aggressive manner, or in situations where the relevant officer was off duty. In such cases a person would be able to use the self-defence consideration.<sup>16</sup>

The provision would also not apply in a situation where a “a relevant officer may be required to use force against their service animal to restrain it or to protect themselves or a member of the public”.<sup>17</sup> The bill defines the ‘relevant officer’ as a constable, person with equivalent powers, or prison custody officer, and empowers the Secretary of State to amend this list by regulations.

Clause 2 deals with the territorial extent of the bill and its commencement. It would apply to England and Wales only; however, as animal welfare is in the devolved competency of the National Assembly for Wales, a legislative consent motion would be required to be passed by the Assembly.<sup>18</sup> The provisions of the bill would come into force two months after it is passed.

## House of Commons Stages

### *First and Second Reading*

The bill was presented by Sir Oliver Heald (Conservative MP for North East Hertfordshire) on 13 June 2018. Shortly after, on 15 June 2018, the Government announced its support for the bill.<sup>19</sup> Having received no objections, the bill had its second reading on 6 July 2018, progressing to committee stage without debate.<sup>20</sup>

### *Committee Stage*

No amendments were tabled to the bill at committee stage. Sir Oliver Heald retold Finn's story and the subsequent prosecution of the perpetrator. He argued that the charge brought against the defendant—criminal damage—was inappropriate in the circumstances:

[The charge] treated Finn as though he was simply a piece of damaged police property, like a police radio or something of the sort. [...] Criminal damage is an offence for which the penalty is largely determined by the value of the damaged property—a seven-year-old police dog close to retirement is not worth much money—and so it proved at court, where no separate penalty was imposed on Finn's attacker for the attack on the dog.<sup>21</sup>

Sir Oliver argued that the Animal Welfare Act 2006 fails to acknowledge the unique role of service animals, making prosecution difficult in cases like Finn's. He welcomed the Government's commitment to increase the maximum penalty for offences under the 2006 Act from six months to five years imprisonment—which was reaffirmed by the Government spokesperson later in the debate—and argued that this change, in conjunction with the bill, would mean, "for the first time, suitable protection for service animals and a proper sentence for offenders".<sup>22</sup>

The bill received cross-party support; Dr Lisa Cameron (SNP MP for East Kilbride, Strathaven and Lesmahagow) stated that the bill was "absolutely and fully supported by the Scottish National Party and the all-party dog advisory welfare group", of which she was chair. Dr Cameron also informed the committee that similar proposals were being considered in the Scottish Parliament.<sup>23</sup> David Hanson (Labour MP for Delyn) also expressed support for the bill, and confirmed that it was his understanding that the National Assembly for Wales and the Welsh Government were intending to give it legislative consent.<sup>24</sup>

The Parliamentary Under Secretary of State for Rural Affairs, David Rutley, said that "this important bill will champion the cause of our much loved service animals and [that] it recognises the strong feeling on the subject in the country and the public support for a fantastic campaign".<sup>25</sup> Responding to a question on whether similar provisions may be introduced in Northern Ireland, Mr Rutley said that the suspension of the Northern Ireland Assembly posed challenges.<sup>26</sup> Nevertheless, he concluded with the following commitment:

We will do all we can to support its swift passage without amendment through the Commons and the Lords as soon as possible. We also support the appropriate work in Scotland, Wales and Northern Ireland.<sup>27</sup>

The bill passed committee stage without division.

## **Report Stage and Third Reading**

No amendments were tabled to the bill for report stage; therefore, the bill progressed straight to third reading on 8 February 2019, where it passed without division. Sir Oliver Heald opened the debate by thanking those who had supported the bill and campaigned for the law change, before reiterating his argument for the bill.<sup>28</sup>

The bill received support from all those who spoke. Speaking on behalf of the Labour Party, Shadow Minister for Environment, Food and Rural Affairs, Luke Pollard, stated:

The Opposition will fully support this bill as it corrects a crucial imbalance in animal welfare. Service animals are sentient beings that bravely and loyally serve the public. The law should recognise them as such and give them the protections that they deserve.<sup>29</sup>

In addition, Mr Pollard argued that further action to ensure that the law could act as a successful deterrent was necessary, and he urged the Government to bring forward proposed legislation to increase sentences for animal cruelty.<sup>30</sup>

The Minister for Agriculture, Fisheries and Food, George Eustice, paid tribute to Sir Oliver for his work promoting the bill and outlined the measures the Government was taking to improve animal welfare, including extending the maximum sentence for animal cruelty from six months to five years. Mr Eustice stressed difficulties with the parliamentary timetable but said that this legislation “will be brought forward as soon as possible”.<sup>31</sup>

Sir Oliver closed the debate by stating that the bill “is a tribute to all the brave service animals in our country. I hope that it can now proceed”.<sup>32</sup>

## **Commentary**

The bill has received support from the Association of Police and Crime Commissioners, the International Fund for Animal Welfare, and the Kennel Club.<sup>33</sup> For example, in a statement welcoming the bill’s passage through the Commons, Kennel Club Secretary Caroline Kisko said:

We are pleased to see ‘Finn’s Law’ has taken the next step towards becoming law in this country, after it passed its final reading in the Commons today. This is a huge breakthrough for the way that we view and treat service animals, who perform such a crucial job in protecting our service men and women.

It is sad to think that much loved, highly trained animals that are injured or even killed in the line of duty are not treated as sentient beings by the law.<sup>34</sup>

The International Fund for Animal Welfare said:

At IFAW, we are committed to improving the lives of dogs and other animals in the UK and around the world—and this includes ensuring that the animals who protect us get protection in turn from the law. [...] The speed with which Finn’s Law has passed through the House of Commons is a testament to the strong support within Parliament for the valuable work that service animals do.<sup>35</sup>

## Further Information

- [‘Finn’s Law’](#) website, accessed 14 February 2019
- BBC News, [‘Finn’s Law: Stabbed Police Dog Bill Passed by MPs’](#), 8 February 2019
- Department for Environment, Food and Rural Affairs, [Animal Welfare \(Sentencing and Recognition of Sentience\) Draft Bill, Consultation Responses](#), August 2018
- *Country Life*, [‘Police Dogs: The Fearsome Law Enforces Who Still Fit into Family Life’](#), 12 February 2017
- [Debate on ‘Police Dogs and Horses’](#), HC *Hansard*, 14 November 2016, cols 1–22WH

- <sup>1</sup> Department for Environment, Food and Rural Affairs, '[Government Announces Support for Finn's Law Campaign in Parliament](#)', 15 June 2018.
- <sup>2</sup> See: '[Finn's Law](#)' website, accessed 15 February 2019; and BBC News, '[Finn's Law: Stabbed Police Dog Bill Passed by MPs](#)', 8 February 2019.
- <sup>3</sup> Finn's Law website, '[Finn's Story](#)', accessed 15 February 2019.
- <sup>4</sup> Sentencing Council, '[Animal Cruelty \(Revised 2017\)](#)', 24 April 2017.
- <sup>5</sup> Animal Welfare Act 2006, section 4(3)(c).
- <sup>6</sup> [Explanatory Notes](#), p 2.
- <sup>7</sup> [Public Bill Committee, Animal Welfare \(Service Animals\) Bill, 16 January 2019, session 2017–19, 1st sitting, col 4.](#)
- <sup>8</sup> BBC News, '[Man Jailed for Stabbing Derbyshire Police Dog PD Axle](#)', 9 October 2018.
- <sup>9</sup> BBC News, '[Asher Picort Jailed for Father, Policeman and Dog Stab Attacks](#)', 19 March 2012.
- <sup>10</sup> Home Office, '[Police Use of Force Statistics, England and Wales April 2017 to March 2018](#)', 13 December 2018.
- <sup>11</sup> See: House of Commons Library, '[Debate on an E-petition Relating to Protection of Police Dogs and Horses](#)', 10 November 2016.
- <sup>12</sup> [HC Hansard, 14 November 2016, cols 1–22WH.](#)
- <sup>13</sup> UK Government website, '[E-Petition: Give Status to Police Dogs and Horses as 'Police Officers'](#)', 10 April 2017.
- <sup>14</sup> UK Parliament website, '[Service Animals \(Offences\) Bill 2017–19](#)', accessed 19 February 2019.
- <sup>15</sup> BBC News, '[Finn's Law: Tory MP Derails Bid for Police Dog Law Change](#)', 15 June 2018.
- <sup>16</sup> [Explanatory Notes](#), p 2.
- <sup>17</sup> *ibid.*
- <sup>18</sup> *ibid*, p 3.
- <sup>19</sup> Department for Environment, Food and Rural Affairs, '[Government Announces Support for Finn's Law Campaign in Parliament](#)', 15 June 2018.
- <sup>20</sup> [HC Hansard, 6 July 2018, cols 673–6.](#)
- <sup>21</sup> [Public Bill Committee, Animal Welfare \(Service Animals\) Bill, 16 January 2019, session 2017–19, 1st sitting, col 4.](#)
- <sup>22</sup> *ibid*, col 5.
- <sup>23</sup> *ibid*, col 6.
- <sup>24</sup> *ibid*, col 7.
- <sup>25</sup> *ibid*, col 7.
- <sup>26</sup> *ibid*, col 9.
- <sup>27</sup> *ibid*, col 10.
- <sup>28</sup> [HC Hansard, 8 February 2019, cols 511–12.](#)
- <sup>29</sup> *ibid*, col 521.
- <sup>30</sup> *ibid*, col 522.
- <sup>31</sup> *ibid*, col 526.
- <sup>32</sup> *ibid* col 527.
- <sup>33</sup> Association of Police and Crime Commissioners, '[APCC Welcomes Finn's Law Campaign Bill](#)', 15 June 2016; International Fund for Animal Welfare, '[Finn's Law a Step Closer](#)', 12 February 2019; and Kennel Club, '[The Kennel Club Response to Finn's Law Passing its Third Reading in the Commons](#)', 8 February 2019.
- <sup>34</sup> Kennel Club, '[The Kennel Club Response to Finn's Law Passing its Third Reading in the Commons](#)', 8 February 2019.
- <sup>35</sup> International Fund for Animal Welfare, '[Finn's Law a Step Closer](#)', 12 February 2019.

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