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Journal

of Animal Welfare Law

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Council reports**

Welfare of Dairy Cows

**Cases and Other Materials
Concerning Animal Welfare**

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A note from ALAW

The trustees of ALAW have decided to issue a December edition of the Journal. This does not replace the two main editions of the Journal each year (Winter/Spring and Summer/Autumn). We are aware that in 2009, however, only one edition of the Journal was published so now seems like an ideal opportunity to issue this supplementary edition.

Researchers Sheryn Omeri and Camilla Whithouse are the major contributors to this edition and cover a full spectrum of animal welfare issues. Sarah Kite writes about the campaign launched by the BUAV to ban the import of the offspring from wild caught primates.

As ever, ALAW welcomes contributions, including articles and case reports, which should be sent to me at editor@alaw.org.uk.

On behalf of all ALAW's trustees I would like to wish a happy holiday season and New Year to all our members, contributors and supporters.

The Farm Animal Welfare Council (FAWC) Annual Reviews

The Farm Animal Welfare Council (FAWC) is an independent advisory body established by the Government in 1979. Its terms of reference are to keep under review the welfare of farm animals on agricultural land, at market, in transit and at the place of slaughter; and to advise the Government of any legislative or other changes that may be necessary. In this section we set out details from the body's last two annual reviews.

Farm Animal Welfare Council Annual Review 2008/09 (July 2009)

The Farm Animal Welfare Council (FAWC) Annual Review 2008/2009 reviews its work over the last period and summarises each of the reports, advices and opinions prepared in 2008 and 2009 the findings of which are summarized below:

a. **Report on the Implications of Castration and Tail Docking for the Welfare of Lambs.** This report notes that while the pain and distress caused by tail-docking is less severe than that following castration, it remains a *painful mutilation that should only be carried out with pain relief once practical methods of delivering local anaesthetics and analgesics have been developed.* The report recommends that sheep farmers, the meat industry, operators of farm assurance schemes and

retailers implement the Welfare Code, which requires careful consideration of the need for castration and tail-docking and that they introduce measures to avoid these mutilations. It also suggests that retailers and other elements of the food supply chain *should not require castration of lambs* and should reward farmers for adopting a welfare-oriented policy on castration and tail-docking.

b. **Advice on the Welfare of Pigs.** FAWC provided this advice in response to a request from the Secretary for Rural Affairs in the Scottish government. It compares British welfare standards for pigs with those of other countries that export to Britain. It highlights issues such as the UK's ban on close confinement in individual stalls for non-lactating sows and the wide coverage of domestic pig production by farm assurance schemes which have an increased inspection requirement and do not permit castration. The advice indicates that Great Britain has a higher proportion of extensive production systems than exist in other European and non-European countries and approximately 40% of its sows are managed in outdoor systems. The advice ultimately concluded that *the majority of pigs in Great Britain are kept to a higher welfare standard than those raised elsewhere in the European Union (EU).*

c. **Opinion on the Welfare of Farmed Gamebirds.** This opinion notes that approximately 40 million gamebirds (including 30-35 million pheasants and 5-10 million partridges) are reared and released each year in Great Britain. It *identifies a number of welfare issues* in relation to this, namely, the extent and duration of confinement of semi-wild species in systems offering a barren, restricting environment, use of management devices such as bits, spectacles and brailles, record-keeping, training, flock health and welfare and planning and development of best practice. The opinion recommends the adoption of flock health and welfare plans prepared in conjunction with a veterinary surgeon, ending the use of spectacles and closer control of other management devices, phasing out of barren cages and research into other accommodation, and further research into the adaptive and support needs of birds when released.

the majority of pigs in Great Britain are kept to a higher welfare standard than those raised elsewhere in the European Union (EU)

d. **Opinion on Policy Instruments for Protecting and Improving Farm Animal Welfare.** This opinion stresses the valuable role of policy instruments in protecting animals from unacceptable treatment and from cruelty. It recommends that consideration be given to *a labelling system to enable concerned consumers to make informed choices.*

Farm Animal Welfare Council Annual Review 2009/2010

The FAWC Annual Review for 2009-2010 sets out the Reports and Opinions provided by the body over the year and produced in summary below.

Report on the Welfare of Farmed Livestock at Slaughter or Killing – Part Two: White Meat Animals.

This Report, published in May 2009 considers the welfare of poultry (and other white meat species) in the last few hours of their lives up to the moment of slaughter or killing. The Report sets out six principles for the humane slaughter and killing of white meat species, namely:

- i. All personnel involved with slaughter or killing must be trained, competent and caring;

- ii. Only those animals that are fit should be caught, loaded and transported to the slaughterhouse;
- iii. Any handling of animals prior to slaughter must be done with consideration for the animal's welfare;
- iv. In the slaughterhouse, only equipment that is fit for the purpose must be used;
- v. Prior to slaughter or killing of an animal, either it must be rendered unconscious and insensible to pain instantaneously, or unconsciousness must be induced without pain or distress; and
- vi. Animals must not recover consciousness before death ensues.

Report on Farm Animal Welfare in Great Britain: Past, Present and Future'

Described as a 'landmark' Report, the FAWC examines the effectiveness of British policy on farm animal welfare since the Brambell Report in 1965 and sets out a strategy for improvements in welfare over the next 20 years. The report suggests that farmers and policy makers should strive to ensure that 'every animal has a life worth living.' Key parts of the Report are set out in more detail below.

Opinion on the Welfare of the Dairy Cow - October 2009. The Opinion reviews the welfare of the dairy cow since FAWC's previous report in 1997. It highlights that economic pressures on the industry have over the past decade have forced farmers to seek greater

“ Only those animals that are fit should be caught, loaded and transported to the slaughterhouse; ”

“ The report suggests that farmers and policy makers should strive to ensure that 'every animal has a life worth living' ”

efficiencies, which some believe have compromised the cow's welfare. The Opinion of the FAWC is that the welfare of dairy cows has not improved significantly over the past decade and further critical issues about the welfare of dairy cows need to be addressed.

Beak trimming of laying hens

The FAWC updated its advice on beak trimming of laying hens, advising that efforts should be made to end routine beak trimming in Great Britain as soon as possible. However, it concludes that, until it can be demonstrated reliably under commercial conditions that laying hens can be managed without beak trimming and without greater risk to their welfare from feather pecking and cannibalism, the ban on beak trimming should not be introduced on its original date in December 2010.

FAWC report: 'Farm Animal Welfare in Great Britain: Past, Present and Future' (October 2009)

In October 2009 the FAWC published a report entitled '*Farm Animal Welfare in Great Britain: Past, Present and Future*' ('the Report'). The Report reviews the effectiveness of British policy on farm animal welfare since 1965, explores the ethical principles underpinning farm animal welfare and suggests a strategy that will lead to improvements in welfare over the next 20 years.

The ultimate recommendation of the Report is that the current focus of policy should move beyond the absence of cruelty and unnecessary suffering and the duty to provide for the animal's needs and towards ensuring an acceptable quality of life over an animal's entire lifetime.

The FAWC also recommends that welfare surveillance be undertaken regularly by government and the farming industry in a manner that emphasises welfare.

It notes that many market mechanisms which would allow the concerned consumer to make an informed choice about food and other products from livestock is mostly unrealised due to the lack of education about food and farming, impartial information about farm animal welfare and verification of marketing claims about welfare standards above the legal minimum.

The Report starts by reviewing developments in farming since the Brambell report of 1965 which led to the enactment of legislation for the protection of farm animals, codes of recommendations for the welfare of livestock, advances in the science of animal welfare and greater emphasis on welfare in the training. The Report identifies in particular the following developments:

- a. The widespread availability of safe and cheap food in response to government calls for this since the 1950s. FAWC observes that this has often been achieved by adherence to unacceptable standards of farm animal welfare;
- b. Increased domestic production of milk, beef, lamb and chicken meat, though demand outstrips supply in relation to all commodities, with shortfalls being made up by imports, this

leading to a concern about global food security;

- c. Significant changes in farming business structure from one based on the small farm model to one presently dominated by the large, vertically integrated farming company employing intensive production methods for pigs and poultry;
- d. A transfer of economic power from producers to consumers driven by reform of the Common Agricultural Policy and the growth of supermarkets.

FAWC's philosophy of approach

The Report considers the **ethical principles** underpinning its approach. In considering precisely what provisions should be made by

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those who use farm animals in order to prevent them from being subjected to unnecessary suffering, the FAWC indicates that it is guided by the Five Freedoms (implicit in the Bramwell report), namely (i) freedom from hunger and thirst, (ii) freedom from discomfort, (iii) freedom from pain, injury and disease, (iv) freedom to express normal behaviour and (v) freedom from fear and distress.

The FAWC observes that while the Five Freedoms focus on poor welfare and suffering they should also aspire to provide good welfare. This entails all who are responsible for the supervision and care of farm animals to not cause unnecessary suffering and to provide for an animal's needs and some of its wants. The Report notes that good welfare is consonant with the Animal Welfare Act 2006 which imposes a duty on a person responsible for an animal to ensure welfare by taking “*such steps as are reasonable...to ensure that the needs of an animal...are met to the extent required by good practice.*”

In this Report, FAWC also states that despite its position on welfare, it is *opposed to the use of genetic modifications* in order to “breed out pain,” as such. In relation to this, the Report includes an example of using modern biotechnology to produce a pig unable to feel pain and unresponsive to other pigs. FAWC argues that while the application of science offers many opportunities to improve animal welfare, it does not favour the use of animal breeding practices and technologies, including genetic modifications that would decrease the sentience of farm animals.

National regulations relating to farm animals

In its Report, the FAWC reasons that the fact that economic pressures on farmers may lead to unacceptable standards of farm animal welfare suggests that there is a need for government regulation in relation to the latter.

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It observes that legislation protecting the welfare of farm animals has evolved over the past century commencing with the *Protection of Animals Act 1911* which was followed by the *Agriculture (Miscellaneous Provisions) Act 1968* and similar legislation in Scotland. The 1968 Act made it an offence to cause or permit livestock on agricultural land to suffer unnecessary pain or unnecessary distress. The principles underpinning this Act (and indeed some of its specific provisions) have been incorporated into the *Animal Welfare Act 2006* and extended to all kept animals.

Ethical Principles for the Humane Treatment of Farm Animals

The Report notes that there are three scientific approaches to understanding animal welfare; the first emphasizing the importance of how an animal feels, the second on biological functions in which an animal's fitness is assessed by productivity indices such as growth, the third imbuing a concern that animals be kept in environments within which their species have evolved. FAWC believes that all three approaches are relevant to an animal's quality of life.

In attempting to establish a minimum standard of acceptable treatment of farm animals, FAWC argues that as farm animals are, by definition, a product of domestication, humans owe a greater duty to them in view of our use of them for food, clothing and other purposes, than to animals in the wild. FAWC believes that this does not only apply to

farmers but to all who benefit from farming animals including retailers and the great majority of consumers.

Building upon these considerations the FAWC suggests that as a minimum, each farm animal should have 'a life worth living.' This incorporates concern with respect to both the animal's physiological and mental needs and should also extend to the manner of an animal's death. This minimum should apply uniformly to all farm animals regardless of their species or husbandry.

The FAWC argues that full compliance with the law should lead to an animal having a life worth living, which in turn suggests that the law should provide effective mechanisms for achieving this. Such mechanisms should include regular assessments which count both the positive and negative experiences of the animal from its birth to its death.

In determining whether an animal has had a life that is not worth living, FAWC suggests examination of factors such as whether the system or practice induces severe negative mental states, frustrates normal behaviour, precludes positive experiences or causes physical debilitation and whether the system fails to meet the physiological and mental needs of the animal.

Further, FAWC suggests that classifications of an animal's quality of life should be reflected in the labeling of products with livestock

provenance. It argues that products which have been produced in accordance with basic legal standards need not be labelled but that those derived from animals that have had a good life should be so identified.

Current Policies and their Implementation

In examining the Government's policies on farm animal welfare and their implementation, the Report points to evidence that the delivery of animal welfare policy is too complex and fragmented and is in need of reform. One of its key recommendations is the formation of a national inspectorate within DEFRA and that policies for farm animal welfare and their implementation in England, Wales and Scotland should be co-ordinated by national and local authorities and the enforcement of legislation and regulations relating to the welfare of animals on farms should be a statutory responsibility of local authorities.

Independent legal guardianship of the welfare of farm animals

Another key concept introduced by the report is that of **guardianship**. The FAWC argues that the government should exercise independent legal guardianship over the welfare of animals as a part of its responsibility to act in the public interest generally in order to prevent the welfare of farm animals resting solely with those having a vested interest such as farmers, farm

assurance and disease monitoring schemes. This would include the establishment of an independent information service to assist in the development of market mechanisms to allow the concerned consumer to make informed choices about purchases according to welfare provenance.

A Strategy for Farm Animal Welfare in Great Britain

FAWC advocates that the primary aim of a future strategy for farm animal welfare in Great Britain should be that every animal has a life worth living and that a growing

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The other major concept introduced by the FAWC in this Report is the power of the ‘concerned consumer,’
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number have a good life, with a substantially higher standard of welfare than the minimum prescribed by the law.

The other major concept introduced by the FAWC in this Report is the power of the ‘concerned consumer,’ i.e. providing citizens with independent information about food, farming and farm animal welfare and to establish market mechanisms that enable concerned consumers to make informed decisions about the welfare provenance of both home-produced and imported animal products.

If the new strategy is to be effective in improving the welfare of farm animals, FAWC argues, eight conditions must be fulfilled, namely that:

- a. the government acts as the guardian of farm animal welfare;
- b. standards for a good life are defined by an independent body;
- c. minimum welfare standards are defined by quality of life;
- d. stockmen are educated and trained to a high standard about animal welfare;
- e. welfare assessment are valid, feasible and rigorous, with independent audit;
- f. the food supply chain shows due diligence and marketing claims are verified;
- g. citizens are educated about food and farming from childhood;
- h. animal products are labelled according to welfare provenance.

Finally the Report proposes strategic goals for the medium- to long-term which should be reflected in government and commercial policy by 2015. These are in the nature of duties upon farmers, the livestock farming industry and their representative bodies, retailers, suppliers, food service outlets and government and concern issues such as quality of life of farm animals, the enforcement of legislation, consumers and the food supply chain.

BUAV call on the UK Government to stop supporting the trade in wild-caught monkeys for research

Sarah Kite

Director of Special Projects, BUAV

The BUAV has launched a campaign for a change in the law to ban the import of the offspring of wild-caught primates into the UK for research purposes, and prohibit all imports from facilities which trap wild primates for breeding purposes.

The UK already has a ban on the use of wild-caught primates for research. According to Meg Hillier, the previous Home Office Minister, “Since 1997, we in the UK have not been accepting wild captured animals, only using captive-bred ones—that is F1—and some F2.”

F1 generation primates are those who are born in captivity; F2 generation primates are those who are bred in captivity within their country of origin. Overseas suppliers of primates to UK laboratories require prior approval from the Home Office which is supposed to be given only if the conditions at the supply and breeding centres, where the animals originate, are considered acceptable to the Home Office.

Whilst it might appear to the public that the current regulations afford adequate protection for primates living in their natural habitats in the wild, the BUAV has found that breeding colonies often trap animals

from the wild. Primates born to wild-caught parents and those exported from farms which continue to trap wild primates for breeding purposes continue to be allowed into the country. By doing so, the BUAV believes that the UK is perpetrating a trade that centres on the cruel trapping of wild animals.

The scale of the problem is significant. Between 2008 and 2009

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The UK already has a ban on the use of wild-caught primates for research
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almost 5,000 primates were imported into the UK for research purposes; the majority being long-tailed macaques (*Macaca fascicularis*) from Mauritius, a country that was the focus of an investigation carried out by the BUAV earlier this year. In answers to Parliamentary questions tabled by Henry Smith MP, former Home Office Minister Lynn Featherstone has stated that since 2009, 2,227 long-tailed macaques who were

born to wild-caught parents have been imported into the UK¹.

The BUAV has undertaken numerous field investigations into the international trade in primates for research. Evidence obtained invariably reveals the immense suffering inflicted on primates during their capture, caging, holding and transportation for the research industry. The BUAV investigation in Mauritius obtained shocking evidence of the cruelty and suffering involved in the trapping and breeding of wild long-tailed macaques. This primate species - the most widely imported and used in research - is listed in Appendix II of CITES (Convention for International Trade in Endangered Species).

In Mauritius, the monkeys are caught in gang or individual traps. BUAV investigators were told that trapped monkeys sustain injuries and broken limbs during trapping and transferral to transit cages. One young monkey with injuries was routinely taken from his cage by a trapper (who at the time worked for the company Noveprim) and tormented by being swung around in the air by his tail.

Footage obtained from inside one farm for Bioculture, another major primate company in Mauritius,

shows the extremely stressful methods of capture used which can potentially be harmful to the monkeys. Monkeys, frantic to escape, were grabbed and pulled by their tails by workers trying to capture them from pens prior to export.

Additionally, unlike the offspring of many other mammals, infant primates have a long period of dependence and development which requires an extended period of maternal care. In the wild, primates normally remain within their family group for many years. Natural weaning is a gradual process. Forcibly separating infants from their mothers is an extremely distressing experience for both the mother and infant.

The substantial negative impact caused by the trapping and removal of wild primates from their natural social groups is universally recognised by a number of organisations and official bodies, including the UK government's own advisory committee, the Animal Procedures Committee:

*"Trapping wild primates can cause significant distress, suffering and physical injury."*²

However recent proposals by the European Commission to ban the import of wild-caught and captive born primates into the EU were vigorously lobbied against by the animal research industry. The proposals were subsequently dropped from the final revision of the EU Directive on animal experimentation.

British MPs are therefore calling on the Government to ban the import of the offspring of wild-caught primates into the UK for research purposes, and prohibit all imports from facilities which trap wild primates for breeding purposes. The news will have huge implications for Mauritius, the UK's main supplier of such primates.

Questions have been tabled in the Houses of Parliament about the import of primates from Mauritius and an Early Day Motion tabled by Caroline Lucas, Leader of the Green Party, is calling on the Government to completely disassociate itself from the cruel trade in wild-caught primates for research. Caroline Lucas, MP has stated:

"I am calling on the Government to make real efforts to distance itself from the continued practice of using wild-caught nonhuman primates in research. As investigative work by the BUAV has shown, this trade inflicts unnecessary suffering and is

“Monkeys, frantic to escape, were grabbed and pulled by their tails by workers trying to capture them from pens prior to export”

inherently cruel. The British people have a strong instinct when it comes to animal cruelty and it's clear that this level of animal abuse will not be tolerated. The Government must

Trapping wild primates can cause significant distress, suffering and physical injury.²

therefore do more to take the lead in modern, humane medical research without animal suffering - and ban the import of wild-caught offspring for research."

Henry Smith MP who recently tabled parliamentary questions on this issue has also stated: *"I felt compelled to raise at the highest levels the disturbing capture and importation of non-human primates in to the UK for research purposes. I think many people in this country will be deeply concerned at the scale and unnecessary suffering caused by this cruel trade. By highlighting this issue I hope we can bring about awareness and change."*

The BUAV is calling upon the UK Government to dissociate the UK from this cruelty; and the government of Mauritius to take immediate action by banning the trapping and export of its primate population.

1) http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101104/text/101104w0001.htm#q_7

2) European Union Committee Sub-committee D (Environment and Agriculture), Inquiry into the Revision of the Directive on the Protection of Animals Used for Scientific Purposes:

Summary of evidence submitted by the Animal Procedures Committee
http://apc.homeoffice.gov.uk/reference/apc_response_house_of_lords.pdf

Proposed badger cull

On 15th September 2010, Agriculture Minister Jim Paice published proposals for additional measures to help control Bovine Tuberculosis [Bovine TB] in cattle for public consultation. Defra is consulting until 8th December 2010, on a proposal to issue licences to farmers and landowners who wish to cull and/or vaccinate badgers at their own expense.

Badger culling

The government argues that badger culling has the potential to reduce bovine TB in cattle by rapidly reducing the overall number of infected badgers, thus reducing the rate of transmission of the disease

“ Jim Paice published proposals for additional measures to help control Bovine Tuberculosis [Bovine TB] in cattle for public consultation ”

to cattle. The main body of evidence on the impact of badger culling is the Government-funded Randomised Badger Culling Trial (RBCT), which took place between 1998 and 2007. The trial demonstrates that badger culling reduces the incidence of bovine TB in cattle in high incidence areas if it is carried out on a sufficient scale, in

a widespread, coordinated and efficient way and over a sustained period of time. However, the RBCT showed that incidence of TB in cattle on land immediately surrounding the culling area increased initially. Over the course of the trial, this negative effect tailed off. Latest RBCT analysis shows that the level of TB in cattle in the surrounding area is comparable with the un-culled survey-only areas. Fortunately, measures can be put in place to mitigate the negative effects seen in the surrounding area. These include setting a required minimum area over which culling must take place and making use of barriers such as coastlines and major rivers, to limit badger movement.

The Minister thinks that badger culling is necessary because no other country in the world with a similar reservoir of bovine TB in wildlife has eradicated TB from cattle without stringent wildlife control measures. Mr Paice states that he has looked carefully at continuing to use the badger vaccination in isolation, but believes that it is not effective enough to stop the spread of TB and that veterinary advice and scientific evidence indicate that a combination of a vaccination and culling would be maximally effective.

The consultation makes the following proposals:

- Where there is a high incidence of Bovine TB in cattle, farmers and landowners will be eligible to

apply for issued licences under the *Protection of Badgers Act* 1992 cull badgers at their own expense.

- Licences would be subject to strict criteria to ensure culling is carried out effectively, humanely and with high regard to animal welfare:
 - Only culling by cage-trapping and shooting free-running badgers, carried out by trained, competent operators with appropriate firearms licences would be permitted. Gassing and snaring will not be allowed.
 - Culling would take place over a minimum area of 150km² so that it will have a net beneficial effect. Thus the government would expect to receive licence applications from groups of farmers and landowners rather than individuals.
 - License applicants will have to show how they intend to minimise the negative effect in the surrounding area identified by the Randomised Badger Culling Trial (RBCT).
- Most existing cattle measures will remain firmly in place. In some cases controls will be tightened where there is a higher disease risk; in others burdens on farmers will be reduced, but only where the Government is confident that this will not increase disease risk.



- Pre-movement testing will remain in place following a review. Some minor changes to TB testing will take effect immediately.

Mr Paice intends to publish a comprehensive bovine TB eradication programme early in 2011.

The proposed cull is however hugely controversial and opposed by many animal protection societies.

‘Viva!’ (Vegetarians International Voice for Animals) states that *‘...cattle-to-cattle transmission is the main vector of bovine TB, and that badgers play no major role in the spread of the disease. This view is backed by the results of the 10-year study by the Independent Scientific Group’s (ISG) report into the matter, which concluded that “Badger culling cannot meaningfully contribute to the control of bTB in Britain.” The ISG report also concludes that surviving badgers may move to new areas and this could cause the disease to spread.’*

The group points to the fact that recent figures have shown that TB infections in cattle in Britain are actually falling, not rising and maintains that this is evidence that a ‘cull’ of badgers is not needed and will be counterproductive. The group has also expressed fears that there will be no way of judging the contribution of increased cattle controls vs. badger ‘culling’ in the role of disease management. Viva! believes that killing badgers will be heralded as working, when it will actually be cattle controls that reduce the disease.

In England, if farmers are issued licences to shoot badgers Viva! Is

concerned that badgers will either be caught in cage traps and shot or shot as free-running animals and as badgers are nocturnal animals this will take place at night and could result in many animals seriously injured and not killed outright. Viva! has also criticised the piecemeal approach in England, where one farmer may shoot badgers and his neighbour will not. This goes directly against the advice of the ISG report. The plans also reveal that dead badgers will not be tested for TB, which means that the level of disease will not be reported.

Viva! maintains that the blame for the bovine TB crisis lays with governments and poor rural management by farmers. Dairy cows produce much more milk now and are in bigger herds than ever before – both of these factors are detrimental to an animal’s ability to fight infection. Also, the number of cows killed because of bovine TB is dwarfed by the number killed because of other issues: approximately 90,000 dairy cows culled annually due to mastitis (infection of the udder), 31,000 due to lameness and 125,000 due to infertility.

Dangerous Dogs Consultation Published

On 25th November, the Animal Welfare Minister Lord Henley published the summary of the responses to the dangerous dogs consultation to better inform wider

public debate on the issue, and repeated his commitment to tackling dangerous dogs and irresponsible owners. The Government is also currently working on a proposal for a project to look at the motivations, barriers and social norms surrounding the acquisition and keeping of ‘status dogs’ in urban communities in the UK. This project has the support of the Home Office, Communities, Met Police, RSPCA and Dogs Trust. Lord Henley believes that the owners of dangerous dogs must be held account. He is working closely with Ministerial colleagues in the Home Office on the anti-social behaviour dimension to this issue. Responses to many of the forty proposals in the dangerous dogs consultation were strongly divided, with primary concerns being whether the bans on specific dog breeds were the best approach to reduce dog attacks, and how to deal promptly and effectively with those that allow their dogs to be a nuisance to others. Lord Henley is in dialogue with groups such as the RSPCA to look at other issues raised in the consultation, such as breed-specific bans, micro-chipping and attacks on private property. The Government is expected to announce its approach to dangerous dogs early in the New Year.

Farm animal welfare regulations

Beak trimming

A Regulation was enacted in 2002 banning the beak trimming of laying hens in England from 1 January 2011. The ban was repealed in the *Mutilations (Permitted Procedures) (England) Regulations 2007*. However, following a recommendation from the Farm Animal Welfare Council in 2009 that routine beak trimming of laying hens should not be banned until an alternative means of controlling feather pecking and cannibalism in laying flocks could be introduced. On 8 November 2010 the Government laid before Parliament *The Mutilations (Permitted Procedures) (England) (Amendment) Regulations 2010 on the Beak Trimming of Laying Hens*. These Regulations remove the ban on routine beak trimming, but restrict the method used to the infra-red technology only.

The Beak Trimming Action Group has been tasked with establishing an action plan, to work towards a future ban on beak trimming. A review will take place in 2015 to assess the achievements on the elimination of beak trimming to date, with a view to reinstating the ban in 2016.

The Government justify the lifting of a ban on beak trimming on grounds that the alternative will lead to greater welfare problems. However the failure to include a new commencement date in the Regulations that lift the ban has been criticised by farm animal welfare

charity, Compassion in World Farming (CIWF) which comments that *'Beak trimming has traditionally been carried out to prevent feather pecking and cannibalism. However, scientific research shows that the correct way to prevent these problems is not to beak trim the birds, but to keep them in good conditions – in particular to provide opportunities for them to forage and ground-peck - and to select for birds that are less prone to feather pecking and cannibalism.*

The Government (and the previous Government) takes the view that farmers are not ready to prevent these problems without beak trimming and thus the draft Regulations remove the ban on beak trimming. Compassion in World

“The Beak Trimming Action Group has been tasked with establishing an action plan, to work towards a future ban on beak trimming”

Farming's principal concern is that the draft Regulations do not set a new commencement date. We believe that stakeholders involved in developing and implementing a strategy to manage laying hens without beak trimming are more

likely to be successful if they have a legally binding date to work toward.

This said, we welcome the statement by the Defra Minister of State, Jim Paice MP, that he is “absolutely committed to banning beak trimming in the long term” and that “the Government see the proposed removal of the ban as very much an interim solution”. Also welcome is his commitment to working with the Beak Trimming Action Group to find solutions to this issue and to establish an action plan, which will include a number of key milestones “leading up to a full review of beak trimming policy in 2015”. In his Written Statement to the House the Minister gave 2016 as the “provisional date for the ban on routine beak trimming of laying hens”. Whilst we welcome the setting out of key milestones, we believe that the new commencement date of 2016 should be included in the draft Regulations.’

Welfare of chickens raised for meat

The government has set down regulations (*The Welfare of Farmed Animals (England) (Amendment) Regulations 2010*)¹ to implement Council Directive 2007/43 which sets a maximum stocking density and defines minimum management and training requirements for chickens raised for meat.

Both regulations will be debated in the House of Commons and House

of Lords before they can be made and come into force.

Welfare of dairy cows kept housed indoors and /or in very large herds

On 4 August 2010 Professor Christopher Wathes of the FAWC wrote to the Minister, Jim Paice following publicity about the welfare of dairy cows housed all year round with little or no access to grazing and/or kept in very large herds. The letter considers whether a dairy cow can be kept in such conditions in compliance with British law, having a ‘satisfactory’ standard of welfare. The letter purports to consider this question having regard to the concept of whether the dairy cow can have a ‘life worth living,’ a concept introduced in its 2009 report ‘*Farm Animal Welfare in Great Britain: Past, Present and Future*’ (see above).

The report acknowledges that the number of dairy cows housed all year round in Great Britain is increasing and that management of dairy cows that are housed is easier for the farmer. The letter lists a number of advantages and disadvantages to the dairy cow from a welfare standpoint in this form of husbandry.

The letter suggests further research on how all year housing affects the ability of dairy cows to express normal behavior and the extent to which impediments affect welfare. However pending this evidence, the FAWC’s advice is that a cow housed all the year round with little or no access to grazing can have a satisfactory standard of welfare, provided that housing and general facilities are appropriate.

In relation to very large herds, the FAWC also acknowledges that the size of dairy herds in the UK is continuing to rise and that cows in very large herds are often housed all year round because of the difficulties of access to pasture. The FAWC suggest that very large herds can benefit from economies of scale, such as the employment of a nutritionist or specialist veterinarian and may benefit from

“ The letter considers whether a dairy cow can be kept in such conditions in compliance with British law ”

improved training, staff development and staff motivation offered through larger enterprises. It identifies ‘few disadvantages’ provided the herd is divided into appropriate groups which are as ‘small as practicable.’ If appropriate management is not provided the main disadvantages identified include insufficient intake of feed and water and bullying in unstable groups.

The FAWC acknowledge that ‘in the time available’ they have not considered the views of consumers about labeling, but anticipate that ‘their objections to highly intensive farming practices will continue unless significant steps are taken to ensure that consumers become adequately and appropriately ‘informed’ about animal welfare issues.’

ALAW notes that Compassion in World Farming (CIWF) disagrees with the views expressed by the FAWC. CIWF point out that for dairy cows to express normal behavior they require the opportunity for grazing which is not possible in year-round housing. They cite the 2009 the European Food Safety Authority (EFSA), which conducted a major review of the scientific literature and concluded that: ‘*If dairy cows are not kept on pasture for parts of the year, i.e. they are permanently on a zero-grazing system, there is an increased risk of lameness, hoof problems, teat tramp, mastitis, metritis, dystocia, ketosis, retained placenta and some bacterial infections.*’

CIWF also point out that cows naturally live in relatively small stable groups of animals which are generally related to one another and form a stable hierarchy. It is thought that cows can recognize up to 60-80 other individuals and it is best to keep them in groups which are no larger than this. Clearly it is possible to keep more than one such group of cows in fields around a central milking parlour, but the larger the number of cows in all these groups, the further they will have to walk to obtain grazing. Furthermore, they observe that transferring cows between groups breaks social bonds and results in aggression as new hierarchies form.

CIWF responds to FAWC’s argument that housing cows indoors in large herds may benefit welfare as it enables cows to be given feed that responds to the needs of high yielding cows, which CIWF says ignores the fact that the need to provide such feed only arises because cows have been bred to produce yields that they cannot sustain through their natural fibrous diet.

¹ With equivalents in the devolved jurisdictions

CIWF suggests that the proper solution is to breed a more sustainable cow. Cows' level of milk yield should be such that it can be sustained on a pasture-based diet with the animals being given access to pasture during the grass-growing season and kept in moderate-sized groups.

CIWF comments that 'UK dairy farming is already becoming increasingly industrial, with a growing number of cows being 'zero-grazed' (kept indoors all or the vast majority of the year) and being bred to produce excessive milk yields that undermine their health and welfare. Compassion in World Farming is strongly opposed to this development and to attempts to intensify this process by establishing huge dairy farms in which thousands of cows will be kept indoors for all or most of the year while being pushed to even higher milk yields. There is a real danger that the UK dairy sector will regress to US standards where only a quarter of cows have access to pasture.'

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CIWF suggests that the proper solution is to breed a more sustainable cow

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New steps to improve the welfare of gamebirds scrapped
The Code of Practice for the Welfare

of Gamebirds Reared for Sporting Purposes, which was placed before Parliament in May this year under powers conferred by section 14 of the *Animal Welfare Act 2006* was due to come into effect on 1 October 2010. It was withdrawn however by the new farming minister, Jim Paice, allegedly after pressure from country sports organisations.

The code was drawn up under the previous government and relates to the welfare of birds produced as quarry for shooting enthusiasts and sets out how keepers can best meet the welfare needs of gamebirds, including recommendations on providing food and water and the use of certain types of equipment, as well as setting out minimum space requirements for housing breeding pheasants and partridges to ensure the birds are not kept in overcrowded conditions. Evidence of failure to follow the Code may be used in court to support a prosecution under the *Animal Welfare Act*.

It has been reported² that a revised code is expected to be introduced within two months, without rules that would require farmers to use larger ground pens instead of raised wire cages.

Marine Management Organisation

The Marine Management Organisation (MMO) was established on 1 April 2010 as an executive non-departmental public body under the *Marine and Coastal Access Act*. It brings together, in one

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It has been reported² that a revised code is expected to be introduced within two months
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organisation, the majority of marine decision-making and delivery mechanisms. It has incorporated the work of the Marine and Fisheries Agency and has acquired several new roles. It will work closely with a range of stakeholders in delivering functions on marine planning, marine licensing, nature conservation and fisheries management and enforcement issues.

² Independent, 5 July 2010

Media Reports

Supermarket chain pledges CCTV in abattoirs to stamp out cruelty

The Independent, Friday, 19 November 2010

On Friday 19 November, the Independent reported that Morrison's supermarket had promised to install CCTV at its abattoirs to reassure the public after Animal Aid captured secret footage of breaches of welfare laws at six out of seven randomly selected abattoirs – including one supplying organic meat, where pigs were kicked in the face. Across the UK animals were kicked, slapped, stamped on and thrown into stunning pens.

The newspaper reports that despite a claim by one firm that it worked 'to the highest standard of animal welfare' undercover footage had shown sheep being decapitated straight after their throats were cut, despite the requirement under the **1995 Welfare of Animals Slaughter or Killing Regulations**, that 20 seconds must elapse after throat-slitting to ensure animals have bled to death. Whilst the company disputed that it had broken the law, the FSA said there had been breaches and stepped up veterinary checks and "recommended improvements". It is reported that no legal action is likely.

The report highlights suspicion that many, if not most, of the 370

abattoirs in England and Wales break the rules.

Judge not the breed

Guardian.co.uk, Sunday 14 November 2010

On 14th November 2010, the guardian website published an article arguing that dog owners should be charged with a duty of care, whether they have a pit bull or a Pekinese. It was contended that only one dog in a

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thousand is born irredeemably dangerous, whereas the other 999 are more the product of their upbringing than of their genes. The so-called fighting breeds – particularly the much-maligned **Staffordshire bull terrier** – are as much in need of protection as the people who fear them.

The Guardian piece argues that the first task of the **dog advisory council** ought to be the replacement of the **Dangerous Dogs Act** with laws that aim to eliminate dangerous

owners. It goes on to argue that the introduction of dog 'asbos' and canine control orders, which are expected to be included in the forthcoming consultation report on the act, are only a minor part of the solution. The new bill needs to do far more than impose harsher penalties on owners who teach their dogs to menace and to fight. Dogs should be judged by their behaviour rather than their breed, and the owners of those that behave badly should be held to account. First and minor offences should be punished in the way that police hold to account motorists who break the speed limit by a couple of miles an hour – the attendance at courses in improved dog care. Anyone found to encourage aggression should be banned from owning a dog for life – with prison as the consequence of defying the prohibition.

A "duty of care" to their pet should become a legal obligation. Anyone who owns a dog accepts – or ought to accept – obligations that are exacting. Every owner ought to be obliged formally to accept the duty that the privilege of processing a dog requires. Facing the facts from the start would not only reduce neglect. Fewer dogs would be abandoned when the hard reality of ownership was recognised.

There is an urgent need for tougher breeder regulation – based on a contract, which every new owner must sign. It should make care and protection a legal obligation.

To make regulation a reality, every dog would have to be microchipped. That is an obligation responsible dog owners already accept as protection against loss or theft. Even though it costs very little, the government should meet the bill for pensioners.

The article anticipates that the call for regulation will be greeted by cries of anguish from the vested interests and in particular opposition from the pedigree lobby.

New powers would make landowners liable for wildlife crimes committed on their estates following upsurge in bird deaths

The Guardian, Wednesday 3 November 2010

On 3rd November 2010, the Guardian reported that proposals to tackle wildlife crime by making employers responsible for their employees' illegal poisonings were outlined by the Scottish Government.

Giving evidence at the Rural Affairs and Environment Committee, the Environment Minister Roseanna Cunningham announced the Scottish Government's intention to bring forward a Stage 2 amendment to the Wildlife and Natural Environment Bill.

She told the committee that the intended amendment would create a new vicarious liability offence that would target those who control or manage others who are involved in criminal bird persecution. Those found guilty could face six months in jail, be fined up to £5,000 pounds. There will be a defence for those who can show that they took steps to prevent persecution. The powers would, for the first time in the UK,

make landowners directly liable for wildlife crimes committed by their employees, after an upsurge in cases where rare birds of prey have been deliberately killed to protect grouse stocks on shooting estates.

It was reported that the proposals were welcome by conservation charities and political leaders at Holyrood, but condemned by estate owners as unnecessary and potentially damaging to the rural economy.

The article also reports that the RSPB urged ministers in London to introduce similar powers in England, because existing wildlife laws were not effectively enforced by the police and the courts, and were being widely flouted by shooting estates. The charity said hen harriers were on the brink of extinction in England because of systematic persecution on grouse moors in the Pennines, Peak District and north-east.

Law banning use of lead shot in duck hunts ignored

The Guardian website, Wednesday 10 November 2010

The Guardian reports that according to a government funded study, *A report on the Compliance with the Environmental Protection (Restriction of the use of lead shot)(England) Regulations 1999 - WC0730*, the law banning the shooting of ducks and other wildfowl with lead shot is being widely flouted across England. Seven in 10 of the ducks checked at game-dealers, butchers and supermarkets were killed with lead ammunition, while surveys of shooters and shoot organisers revealed that many admitted they did not always comply with the regulations introduced in 1999 intended to stop the death of water birds from lead poisoning

The RSPCA had laid an information on 11 June 2008 against Mr. Johnson for causing unnecessary suffering to an animal

caused by mistakenly eating spent shot which they mistook for food or grit.

The report notes that no one is known to have been prosecuted for breaking the law, which could result in a £1,000 fine. The regulations also ban lead shot being used to kill any birds below the coastal spring-tide high-water mark or in specified wetlands.

The report notes that the Wildfowl and Wetlands Trust (WWT), which wrote the report with the help of surveys by the British Association for Shooting and Conservation (BASC), said there had been no improvement since the trust conducted a smaller study with the RSPB in 2002. Non-compliance remained "high and widespread". Businesses selling duck killed by lead pellets are not breaking the law. The checks indicated how the law was particularly poorly observed on inland game and duck shoots. The BASC surveys found up to 45% of those responding admitted not always complying with the law.

The WWT is calling on the government to do more to ensure the law is obeyed. It recommends that offences are reported, and said shoot organisers should make compliance with the law a condition of taking part, and that game-dealers should demand that all their suppliers had behaved legally. The BASC agrees all regulations applying to the use of lead shot should be observed. The Lead Ammunition Group, a panel established by environment department Defra and the Food Standards Agency, is to report on the health impacts of lead shot on both wildlife and humans next summer.

Case Reports

R. (on the application of Badger Trust) v Welsh Ministers Court of Appeal (Civil Division) [2010] EWCA Civ 807

On 13 July 2010, the Court of Appeal ruled against the Welsh Assembly Government's plan to carry out a cull of around 1,500 badgers in a 288 sq km (111 sq miles) area of south-west Wales, intended to stop the spread of bovine Tuberculosis ("TB").

The case was an appeal against the decision of Lloyd Jones J dated 16 April 2010 (EWHC 768 (Admin), [2010] N.P.C. 45 [2010]) whereby he refused an application by the Badger Trust ("the appellants") to quash an order made by the Minister for Rural Affairs ("the Minister") on behalf of the Welsh Ministers ("the respondents"). The Minister had made **The Tuberculosis Eradication (Wales) Order 2009** (2009 No.2614 (W.212)), ("the Order") pursuant to the **Animal Health Act 1981** ('the Act') on 28 September 2009. The Order came into force on 21 October 2009 and authorized the respondents to carry out a non-selective cull of badgers in Wales.

Grounds of Appeal

The Badger Trust appealed to the court on the following grounds. (1) **Section 21(2)(b)** of the Act permits an order for the destruction of a wild species to be made if it would

"substantially reduce" the incidence of disease. It was submitted that the interpretation adopted by the Welsh Assembly set too low a threshold. The government was expecting a mere 9 percent reduction in bovine TB; the appellants argued that could not be construed as substantial. (2) When using a discretion to make a decision under s.21(2), it was necessary to carry out a balancing exercise between the benefit to cattle and the harm to badgers. The Minister had not undertaken such an exercise. (3) The basis of the consultation and decision-making was an Intensive Action Pilot Area (IAPA), but the subsequent order was erroneously made to the whole of Wales.

Judgment

Lady Justice Smith and Lord Justice Stanley Burnton found in favour of the appellants on Grounds 1 and 2, with Lord Justice Pill dissenting. All three of their Lordships found for the appellants on Ground 3.

(1) On the evidence, a badger cull produced a net reduction in the incidence of bovine TB of 9 per cent. The word "substantial" could only be construed in context, which in this case was that there had to be either elimination or a substantial reduction. The size of the reduction had to be considered against the total and a reduction of 9 percent was a reduction from 100 per cent to 91 percent. As a matter of ordinary language, such a reduction could not be construed as substantial.

(2) Consideration of relevant matters was necessary before the discretionary power to make an order could be properly exercised. Whilst not an exhaustive list the Minister should have had regard to the following factors: (a) the nature and extent of the adverse effects of killing a large number of badgers; (b) whether the benefits from the proposed cull outweighed those adverse effects; (c) even if there were to be an expected reduction in the

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On the evidence, a badger cull produced a net reduction in the incidence of bovine TB of 9 per cent
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incidence of bovine TB in cattle within the cull area, the Minister should also consider the increase which was to be expected outside the cull area due to the perturbation effect; (d) the uncertainties inherent in the assessment of the likely effect of a cull and (e) the cumulative or synergistic way in which other cattle control methods she intended to deploy might interact with the cull so as to produce a beneficial effect greater than that of the cull alone. In the instant case, the minister had not given a reasoned decision; she had simply made the order.

(3) The assembly was wrong to make an order for the whole of Wales when it consulted on the basis of a pilot area. This was the crucial failure in the government's case. In his judgment, Lord Justice Pill said that power devolved to the Welsh assembly government would need to be exercised on a regional basis within Wales and not made subject to a single regime which applies throughout the country.

Accordingly the Order was quashed. The Welsh Assembly has indicated that they will accept Court of Appeal's decision and will not appeal to the Supreme Court.

“The Welsh Assembly has indicated that they will accept Court of Appeal's decision and will not appeal to the Supreme Court”

R (on the application of Petsafe Ltd) v The Welsh Ministers [2010] EWHC 2908 (Admin) 16th November 2010

Background

Judicial Review proceedings were brought by a manufacturer and distributor of pet products, Petsafe Ltd and The Electronic Collar Manufacturer's Association, ('the claimants') against the Welsh Ministers, ('the defendants') to quash the **Animal Welfare (Electronic Collars) (Wales) Regulations 2010**, ('the Regulations'). Section 12 **Animal**

Welfare Act 2006, ('the Act'), had empowered the defendants to make relevant regulations for the purpose of promoting the welfare of animals for which a person was responsible, as well as the progeny of such animals. Regulation 2 of the 2010 regulations prohibited the use on cats and dogs of any electronic collar designed to administer an electric shock.

Grounds for Judicial Review

The claimants submitted that the Regulations:

(1) Represented an unjustified deprivation of their possessions and a breach of the right to peaceful enjoyment of property, pursuant to Article 1 of the First Protocol ECHR;

(2) Represented an unjustified restriction on the free movement of goods contrary to Article 34 of Treaty on the Function of the European Union;

(3) Were *Wednesbury* unreasonable and perverse;

(4) Were *ultra vires* because Reg. 2(1)(a) and (b) – prohibitions on attaching and causing an electronic collar to be attached to a cat or dog – are not restricted in the application to animals “for which a person is responsible” as required by s12 of the Act.

(5) Lead to perverse consequences, namely in respect of Reg. 2(1)(c) which prohibits a person to be responsible for a cat or dog to which an electronic tag is attached. Criminal liability is attached to anyone who is responsible for an animal, irrespective of the reason why the person is taking responsibility. Thus someone who is ordered to remove an electronic collar could face criminal charges.

The Judgment

In the Queen's Bench division of the High Court, His Honour Judge Beatson ruled:

(1) Any interference with Article 1 was justifiable because the prohibition on the use of electronic collars was aimed at the promotion of animal welfare;

(2) Article 34 was engaged, but any interference with trade was proportional and necessary. The court considered that *R (on the application of Countryside Alliance v Attorney General)* offered a useful comparison, where the House of Lords ruled that any impediment on trade between Member States was a minor and unintended consequence;

(3) Given that there are other alternative and more effective methods of training or controlling animals, which did not require any negative physical impact, and sought to address the underlying causes of the unwanted behaviour, the Regulations were not *Wednesbury* unreasonable or perverse.

Furthermore, the defendants' decision to ban electronic collars was made after a full consultation with relevant experts and the democratically accountable and elected National Assembly for Wales approved the decision.

(4) Regulation 2(1) (a) and (b) were not *ultra vires* s.12 of the Act because they should be construed as referring to animals for which a person was responsible.

(5) The claimants' submissions on Regulation 2(1)(c) represented an “excessively literal construction” and in reality, was neither *Wednesbury* unreasonable nor perverse.

The claimant's application for Judicial Review was therefore refused.

(1) James John Gray (Senior) (2) Julie Cordelia Gray (3) Jodie June Keet (formerly Gray) (4) Cordelia Gray (5) James John Gray (Junior) v Royal Society for the Prevention of Cruelty to Animals (2010)

Background to the Appeal

The appellants appealed against their convictions of 8th May 2009 before District Judge Vickers, for a number of animal cruelty offences. James (senior) and Julie Gray were husband and wife; Jodie, Cordelia and James (junior) were their children. All the appellants had been convicted with two offences under the **Animal Welfare Act 2006**, (“the Act”). The first appellant (“the father”) and fifth appellant (“the son”), who was 14 at the time of the matters complained of, were each convicted for a further nine offences under the Act. The appeal concerned whether the RSPCA had proved all the necessary elements of each offence to the criminal standard in respect of each appellant.

Facts

The father ran a horse business at Spindle farm in Amersham, Buckinghamshire, which was visited by the police and the RSPCA. Upon inspection, horses and donkeys were found at the premises in poor conditions. Many were sick, injured and malnourished. Horse carcasses and bones were found around the site. Some animals were euthanased and over 100 equines were seized and removed.

The Judgment

Judge Tyrer and two lay magistrates at the Crown Court in Aylesbury held: For the RSPCA to succeed with

charge under s4 of the Act, they had to show to the standard of criminal proof that: (a) the animals in question were protected animals under s2 of the Act; (b) that the particular appellant either knew or ought to have known that his act or failure would cause an animal to suffer or would be likely to do so (c) that the suffering was unnecessary.

Whilst there was a great deal of case law on the meaning of s1(1)(a) of the **Protection of Animals Act 1911**, the court found that this case law was no longer relevant to the 2006 Act. Section 4 is clear and given in the alternative.

To prove an offence under s.9 of the Act, the RSPCA had to show to the standard of criminal proof *inter alia*, that the appellant had a responsibility for the animal under s3 of the Act. This responsibility can be on a temporary or permanent basis; it includes being in charge of an animal and specifically includes that ownership of an animal carries responsibility for that animal with it.

If a child under 16 is responsible for an animal, those who have actual care and control of that child are also responsible for that animal. Contrary to the son’s submissions, there is no ambiguity in Parliament’s intention: the purpose of section 3(4) is to extend responsibility for an under 16 to both the under 16 and those who have care and control over him.

An offence under s.9 is committed when a person responsible for an animal fails to take all or some of those steps which that would have been taken by a reasonably competent and humane person in all of the circumstances to meet that animal’s needs to the extent required of good practice. When he knew or did not know, may be one of the

circumstances to be considered when determining what steps a reasonably competent and humane person would do in his position. What is reasonable is an objective question.

When section 9 statements were read without protest or requests for examination of witnesses from the appellants, the court is entitled to treat such evidence as agreed.

Conclusions

The court preferred the expert evidence of the respondent RSPCA to the appellants’. The RSPCA expert witness was clear, had a total grasp of case, demonstrated abundant and obvious expertise, was able to better argue and research his evidence and destroyed the appellant witnesses’ contrary arguments.

The appeals by the first to fourth appellants were dismissed and the appeal by the fifth appellant son was allowed in part.

- The court found that the RSPCA had proved its case against all the appellants for the two offences. They had all been responsible for the animals and had known what was happening on the premises but had taken no action to alleviate it.
- In respect of the father, all nine further convictions were upheld regarding the state of the carcasses or horses. The RSPCA had proved that he had failed to exercise reasonable care and supervision in respect of protection or had caused unnecessary suffering.
- Seven similar convictions were upheld for the son. Two of the original convictions were dismissed, as he had been absent from the yard at the relevant time.

News from Europe

Animal cloning

In November 2010 Eurogroup for Animals reports that in the latest Eurobarometer survey on biotechnology, which included questions on the cloning of animals, the results make it clear that Europe's citizens believe cloning is unsafe, unnatural and should be regulated by the EU.

The survey follows the European Parliament's vote in favour of a ban for cloning animals for food production and a proposed temporary ban on cloning animals for food production disclosed in a leaked draft report of the European Commission.

Eurogroup for Animals raises concerns that the large majority of animals successfully produced from

the results make it clear that Europe's citizens believe cloning is unsafe

the cloning process are born with significant deformities and often suffer greatly throughout their short lifespan and reiterates their call for an immediate ban on the cloning of animals for food production, and on

the sale of imported food products from cloned animals and their offspring and calls on all European decision makers to take steps to ensure that the cloning of animals for food production is outlawed immediately.

EU Court rescinds temporary suspension of EU seal trade ban

In November 2010 Eurogroup for Animals reported that the General Court of the EU has repealed the temporary suspension of the EU's ban on the trade in seal products directed toward a specific group of sealers. In July 2010, a group of individual Canadian, Norwegian and Danish Inuits and hunters applied for a stay of execution of the EU Regulation 1007/2009 through the European courts out of fear that the EU ban would negatively affect their livelihood. The Court subsequently granted the applicants a temporary suspension, allowing them to trade seal products in Europe. On Monday 25 October the judge rescinded this suspension, citing several arguments why the applicants could not obtain urgent measures in their favour. The General Court mainly focused on two arguments: It was not presented with clear evidence that the Inuit faced "imminent financial hardship" as a direct result of the ban and points out that a clear exemption has been made for trade within their community and for non-commercial

purposes; The judge also points at that in the absence of implementing rules which have yet to be formulated or implemented, it is impossible to assess what kind of impact the ban will have on their ability to trade and therefore excludes the option of urgent measures being imposed by the Court.

More food information for consumers

Eurogroup for Animals report that on 14th June, Members of the European Parliament voted in favour of new food labelling rules that will ensure that all meat products placed on the European Community market will carry information on where the animal was born, reared and slaughtered. Most notably, MEPs also agreed to the labelling of meat products from slaughter without stunning. This vote follows the first reading by the Parliament and the text is expected to return to the Parliament for a second time following deliberations by Member States. Country of origin labelling was already compulsory for certain food products including beef, honey and vegetables.

Member States agree on new animal testing rules

Eurogroup for Animals welcomed

the Council of the EU's political agreement on its text for the revision of Directive 86/609 on the protection of animals used for scientific purposes. Aimed at revising outdated legislation that no longer reflects current scientific advancement, Eurogroup for Animals reports that the proposed rules are one step closer to being finalised. Eurogroup believes the compromise reached between EU institutions goes a long way towards addressing animal welfare concerns, but there are still a number of exemptions that will, for instance,

“the large majority of animals successfully produced from the cloning process are born with significant deformities”

make the approval of painful procedures on non-human primates for research and testing more likely.

The proposed rules also move towards promoting the 3Rs principles of replacement, reduction and refinement more, hereby urging researchers not to test on animals unnecessarily. Eurogroup highlights however concern regarding the removal of the requirement to use alternatives where available.

European Parliament calls for increased EU action to improve animal welfare

On 5th May 2010, Eurogroup

reported that The European Parliament had called on the European Commission to take clear action to improve the welfare conditions of animals throughout the course of its current mandate. Voting overwhelmingly in favour of Marit Paulsen's report on the Evaluation and assessment of the animal welfare action plan 2006-2010, MEPs signalled that they would like to see measures put in place to develop, implement and enforce animal welfare legislation.

Eurogroup for Animals welcomes the strong support of MEPs' for actions aimed at improving animal well-being in Europe. The awareness of parliamentarians' of animal welfare and their willingness to send a strong message to the European Commission urging it to put animal welfare at the heart of its policy-making is a major step forward.

Following the adoption of this report Eurogroup will continue to work with the European Parliament to urge the Commission to produce a new Animal Welfare Action Plan as soon as possible and to ensure that it contains adequate measures to ensure all current EU law affecting animal welfare is enforced in all member states.

UK criticised for inadequate animal welfare controls, 14 April 2010

In April 2010 Eurogroup reported that the United Kingdom was criticised by the EU's Food and Veterinary Office (FVO) for failing to act on their recommendations to improve its animal welfare checks. The UK's central authorities dealing with animal welfare were

“Eurogroup believes the compromise reached between EU institutions goes a long way towards addressing animal welfare concerns”

found to not have to properly applied EU rules on space allowances and enrichment for laying hens and for failing to check on the welfare of hens still being kept in battery cages.

Eurogroup reports that in the results of a second audit report, FVO inspectors also criticised aspects of the country's controls on the import and transit of live animals and noted a lack of clear provisions for controls to be carried out at entry points for the import of (non-commercial) pet animals from third countries as well as animals on the CITES list and for failing to put in place the necessary provisions to monitor the movement of live animals.

**How to contact us: Email info@alaw.org.uk or write to
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What is ALAW?

ALAW is an organisation of lawyers interested in animal protection law. We see our role as pioneering a better legal framework for animals and ensuring that the existing law is applied properly.

We believe that lawyers should, as well as interpreting laws, ask questions about the philosophy underlying them: they have always played a central role in law reform. There is also a real need to educate professionals and the public alike about the law.

Animal cruelty does not, of course, recognise national boundaries and we are building up a network of lawyers who are interested in animal protection in many different countries.

What ALAW will do?

ALAW will:

- take part in consultations and monitor developments in Parliament and in European and other relevant international organisations,
- highlight areas of animal welfare law in need of reform,
- disseminate information about animal welfare law, including through articles, conferences, training and encouraging the establishment of tertiary courses,
- through its members provide advice to NGOs and take appropriate test cases,
- provide support and information exchange for lawyers engaged in animal protection law.

Who can be a member?

Solicitors, trainee solicitors, legal executives, barristers, pupil barristers, judges and legal academics are eligible to join and will receive regular issues of the *Journal of Animal Welfare Law*. Other interested parties can become subscribers to the *Journal* and receive information about conferences and training courses.

How can you help?

Apart from animal protection law itself, expertise in many other areas is important - for example, public law, civil liberties, environmental health, planning law, freedom of information, civil litigation, media law, company law and charity law.

In addition, lawyers have well-developed general skills such as advocacy and drafting which are useful in many ways. Help with training and contributions to the *Journal* are also welcome.