

Animal Welfare Law and Policy news roundup

Times, 3 December 2015 – dog fighting decision

Dominic Kelly reports that the RSPCA are preparing to mount a legal challenge to the ruling by District Judge Kevin Gray that a fight between a dog and a fox during a hunt cannot be classed as dog fighting for the purposes of section 8 of the Animal Welfare Act.

Belfast Telegraph, 4 November 2015 (Online edition) – Northern Ireland: cruelty cases

Noel McAdam reports that in Northern Ireland, Minister of Justice David Ford and Minister for Agriculture and Rural Development Michelle O'Neill are proposing harsher punishments for people found guilty of animal cruelty. Mrs O'Neill proposes that the maximum prison sentence available be doubled and maximum fines increased from GBP 5,000 to GBP 20,000.

Times, 10 October 2015 – urban fox cull

David Brown reports that Hackney Council in London temporarily halted plans to reintroduce the culling of urban foxes, after receiving a petition signed by thousands of people and a call by the RSPCA to use more humane, non-lethal deterrents, including managing rubbish.

Times, 17 October 2015 – proposed restrictions on lead shot

Report that EU and wildlife charities, including The RSPB and Wildfowl and Wetlands Trust are supporting proposed UK restrictions on lead shot under European proposals to classify it as a toxic substance. The Countryside Alliance warns that a ban could make shooting prohibitively expensive because alternatives to lead cost up to five times as much per cartridge.

Government consultations and policy

Dog breeding and pet sales
The Government has issued a consultation seeking views on proposed changes to the licensing system for animal establishments in England, including the licensing schemes for pet shops, animal boarding, riding schools and dog breeding.

The Government is proposing: 'to introduce new secondary legislation under the Animal Welfare Act 2006. This would introduce a single 'Animal Establishment Licence' for animal boarding establishments, pet shops, riding establishments, and dog breeding.'

We expect these changes to modernise the animal licensing system by reducing the administrative burden on local authorities. They will also simplify the application and inspection process for businesses, as well as maintain and improve existing animal welfare standards.

The proposed changes are intended to strengthen the regulation around the sale of companion animals, as well as tackling the much-publicised problem of irresponsible dog breeders, the subject of a recent symposium hosted by ALAW in 2015, bringing together stakeholder groups to discuss this issue.

Animal Welfare Minister George Eustice said:

'We are a nation of dog lovers but it is crucial that puppies are cared for properly and socialised in the first three months if they are to enjoy healthy and happy lives.'

We are aiming to reform the licensing regime we have so that smaller puppy breeding establishments must abide

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by the same regulations and licensing rules as bigger breeders so that the worst offenders can be dealt with more quickly.

We are also reviewing other animal related licensed activities such as pet sales to address problems associated with the growing trend for internet sales that can contribute to impulse buying.'

The consultation will run from the 20th December 2015 until the 12th March 2016.

Scottish hunting laws

The Scottish Minister for the Environment has announced that Lord Bonomy will lead a review on Scotland's hunting with dogs legislation. The review will consider whether existing legislation is providing the necessary level of protection for foxes and other wild mammals while allowing for the effective and humane control of these animals. Written evidence will be accepted from 1 February 2016 to 31 March 2016.

Trade in exotic pets

On 9 December 2015 Parliament debated the trade in exotic pets.

A House of Commons Library Debate Pack, published ahead of the debate on the exotic pets can be found at <http://researchbriefings.files.parliament.uk/documents/CDP-2015-0124/CDP-2015-0124.pdf>. The pack sets out the information on the issues with the exotic pet trade; policy; and campaigns by charities and other organisations.

The debate highlighted concerns about the impact of the growing trade in exotic pets on biodiversity, conservation and animal abandonment. Concern was raised that the current legislation does not adequately tackle these problems and

– as with the issues highlighted around irresponsible dog breeding – the debate highlighted problems around enforcement at local authority level.

In response to the issues raised, Animal Welfare Minister George Eustice said:
'There is a need to review all animal establishment licensing. We have a hotchpotch of different laws, most of which date from the 1950s and 1960s, covering a range of options. We are working on a review of that and I hope to go to consultation imminently.'

Confirming that the review would include the Pet Animals Act 1951, he stated 'The review will include that Act because although it has stood the test of time, it was designed in an era when the internet did not exist and it is important to review it to make sure it is clear. The law is already clear in that anyone trading on the internet must have a pet shop licence whether or not they have a pet shop in the high street.'

'The areas we want to cover include enforcement. I am keen to see whether we can make greater use of the UK accreditation scheme so that people who are registered with, for example, the Kennel Club, do not necessarily need a separate local authority licence. We should let local authorities focus on those who are outside a system at the moment. I am also keen to look at resource sharing. It would be possible, for example, for one or two local authorities to develop a specialism in exotic pets and to provide help to other local authorities. There are greater prospects for joint working.'

Specifically on exotics, we are considering making it a requirement of having a licence that care sheets and information sheets are provided

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to owners before they are allowed to purchase pets. That would be a big step forward because, through the licensing and legislative process, there would be a requirement for that information to be given. We are also considering whether we can have a more risk-based approach.

Next year, we will review the code for primates. I had a delightful visit to Wild Futures in the constituency of my hon. Friend the Member for South East Cornwall (Mrs Murray). It does fantastic work. Our view is that it would already be a clear breach of the Animal Welfare Act 2006 for anyone to have a primate in a domestic setting. There are private keepers who can provide the needs of primates, and I am open to looking further into some of the points she made.

My final point relates to the legislation on importing and exporting. Exotic animals imported into the UK are subject to import controls to prevent the introduction of disease to this country. Imported reptiles and snakes do not need to be accompanied by a health certificate, but a certificate must be completed by the competent authority of the exporting country for exotic birds. What is crucial is that all animals imported to the UK from a third country must be presented at a border inspection post and subjected to a veterinary and documentary check by the Animal and Plant Health Agency. Additional controls for many exotic species are provided through CITES—the convention on international trade in endangered species and include around 35,000 species.'

A full report of the debate can be found on Hansard, 9 Dec 2015: Column 337WH

Wildlife Crime Penalties Review Group: Report

In November 2015 the Scottish Government published 'The Wildlife Crime Penalties Review Group' report, which sets out a number of recommendations including: increasing the maximum penalties available; greater use of alternative penalties such as forfeiture; systematic use of impact statements in court; new sentencing guidelines; and consolidation of wildlife laws. The report can be found at <http://www.gov.scot/Resource/0048/00489228.pdf>

Law Commission report on the reform of wildlife law

The Law Commission report (Law Com 362) was published in November 2015. The report makes recommendations for the reform of wildlife law in England and Wales. The report recommends that the existing legislation regulating wildlife should be replaced by a single statute which will manage the strategic, long-term management of wild animals, birds and plants and their habitats.

Volume 1 contains the report. Volume 2 contains a draft wildlife bill. Both can be accessed at:

- http://www.lawcom.gov.uk/wp-content/uploads/2015/11/lc362_wildlife_vol-1.pdf
- http://www.lawcom.gov.uk/wp-content/uploads/2015/11/lc362_wildlife_vol-2.pdf

Consultation on proposed changes to the Control of Trade in Endangered Species Regulations: A summary of responses and the government reply

In September 2015 the Department for Environment, Food and Rural Affairs published a report containing

a summary of responses to its consultation on proposed changes to the Control of Trade in Endangered Species Regulations and the Government's reply to the main issues and next steps.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/461543/cotes-consult-sum-resp.pdf

Farm Animal Welfare Committee reports

In October 2015 the Farm Animal Welfare Committee (FAWC) published its opinion on free farrowing systems and the welfare of sows and piglets. The report identifies the welfare issues faced by sows and their piglets in farrowing crates and in free farrowing systems. The report makes a number of recommendations for Government consideration.

Beak Trimming Action Group Review

The Beak Trimming Action Group (BTAG) was convened in 2002, following legislation setting a timetable for a ban on the routine beak trimming of laying hens to come into force on 1st January 2011. However, there had not been sufficient progress in addressing the problems of injuries caused by pecking and following recommendations by the Farm Animal Welfare Council, the *Mutilations (Permitted Procedures) (England) (Amendment) Regulations 2010* removed the ban, but restricted routine beak trimming to birds under 10 days old, using infra-red technology only.

BTAG is made up of 'representatives from the poultry industry, animal welfare NGOs, veterinary and scientific specialists, retailers, the Farm Animal Welfare Committee, Defra officials and devolved administrations.'

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This recent report sets out the group's recommendations about the ways in which laying hens might be managed so that trimming of their beaks is not necessary.

Case Summaries

ROYAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS v WEBB & ANOR [2015] EWHC 3802 (Admin)

In this case the RSPCA appealed by way of case stated against a decision that it had filed a complaint out of time. On 9 February 2010 the RSPCA seized a number of cats and kittens from the respondents' home pursuant to the *Animal Welfare Act 2006* s.18 (5) on the basis that the animals were suffering or likely to suffer if their circumstances did not change. On 10 August the RSPCA filed a complaint seeking authority under s.20 (1)(b), s.20 (1)(d) and s.20(1)(e) to dispose of the cats by re-homing or by having them destroyed.

The Crown Court found that the RSPCA had failed to file the complaint within the six-month time limit prescribed by the Magistrates' Courts Act 1980 s.127, as the animals were seized on 9 February and therefore the filing of the complaint on 10 August was one day late.

The RSPCA argued that the seizure of animals under s.18 (5) did not automatically trigger commencement of the time when the matter of complaint arose and relied upon a later date when it obtained a vets report that revealed their underlying condition.

The court agreed that any seizure of animals under s.18 (5) did not automatically constitute commencement of the time when the matter of complaint arose.

However, on the facts of the case, it was held that the judge was entitled to conclude that the complaint had arisen on 9 February so that time had started running for the purposes of s.127 on that date.

R (on the application of RICHARD MCMORN) (Claimant) v NATURAL ENGLAND (Defendant) & DEPARTMENT FOR THE ENVIRONMENT FOOD & RURAL AFFAIRS (Interested Party) [2015] EWHC 3297 (Admin)

The claimant, a gamekeeper, applied for judicial review of a decision by the defendant (Natural England) refusing to grant him a licence to kill a small number of common buzzards.

Buzzards are protected under the Wildlife and Countryside Act 1981 and cannot lawfully be killed or captured without a licence issued by the defendant, unless their control is necessary to prevent serious damage to livestock, there being no other satisfactory solution.

The claimant managed pheasant shoots in relation to which he released poults, young pheasants, which became prey for buzzards. The claimant applied for licences to kill a small number of buzzards on the basis that they were doing serious damage to his poults by killing and disturbing them, making his pheasant-shooting business unviable. The applications were refused.

The court held that the defendant had an undisclosed policy to treat buzzard or raptor applications differently from those relating to

other species taking into account the adverse public opinion which the grant of a licence for the killing of buzzards, to prevent serious damage to a pheasant shoot, would cause.

It had been unlawful for the defendant to reach its decision on the claimant's application on the basis of its undisclosed policy. In reaching its decision, the defendant had unlawfully taken account of public opinion, which was an irrelevant consideration. The defendant's decision had been unreasonable. The Claimant's application was granted.

R (on the application of CRUELTY FREE INTERNATIONAL (FORMERLY BUAV)) (Claimant) v SECRETARY OF STATE FOR THE HOME DEPARTMENT (Defendant) & IMPERIAL COLLEGE LONDON (Interested Party) [2015] EWHC 3631 (Admin)

The court rejected an application for judicial review of the defendant secretary of state's decision not to suspend or revoke the interested party's scientific experimentation licence and/or to await the final report of the inspector before taking steps.

One of CFI's concerns was that the decision to impose sanctions before the publication of the report was motivated in part by a concern to avoid a perception that the report influenced the decision.

The court held that it was not necessary for the minister to wait for a formal, final report from an inspector on a licence-holder's compliance before taking any steps against the licence-holder, if sufficient information had already been gathered and passed on so as to enable a decision to be taken. In this case, the minister was equipped with all the relevant information to enable him to take a properly and sufficiently informed decision and with the benefit of proper input from the expert inspectors. The minister also had unfettered power to act before it was finalised.

In the course of the hearing 'with a degree of judicial encouragement' the parties reached an agreement on an additional ground about a statement which CFI claimed was a mistake or an ambiguous statement appearing on the face of the published Animal In Science Committee (ASC) report, which suggested that the inspectors had investigated 180 allegations by Cruelty Free International of breaches of the law by researchers and found only five to be established. In fact, the inspectors only formally investigated 18 allegations, finding five sets proven, as well as wide-ranging general deficiencies at Imperial College.

Michelle Thew, Cruelty Free International Chief Executive, comments on the decision:

"It was always perplexing why the Home Office steadfastly refused to correct an obvious error which they could see was causing us damage. We remain very concerned about lenient penalties for licence infringements and will continue to pursue this. It sends completely the wrong message to animal researchers, and the public."

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