

Sentencing in Animal Cruelty Cases

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The Animal Welfare Act 2006 continued to provide that the cruel treatment of animals is a criminal offence. By section 4(1) a person commits an offence if an act or failure to act of his causes an animal to suffer, he knew or ought reasonably to have known it would have that effect, and the suffering is unnecessary. This section only applies to protected animals, as defined in the Act.

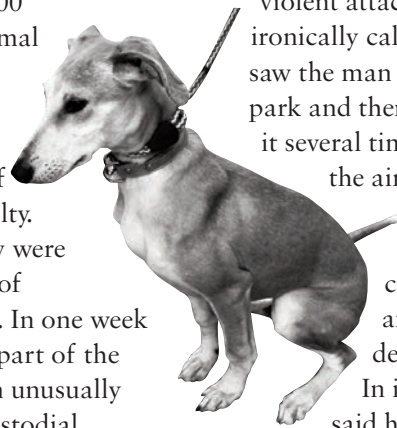
A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months, or a fine not exceeding £20,000. A person convicted might also be deprived of ownership of the animal, and disqualified from owning, keeping and other aspects of being involved with animals.

Courts are guided in their sentencing of these cases by the Magistrates Courts Sentencing Guidelines¹ Under the heading of offence seriousness Courts are advised that for one impulsive act causing little or no injury, a band c fine is the appropriate starting point. At the other end of the scale, attempts to kill or torture an animal should have 18 weeks custody as their starting

point, with a range from 12 – 26 weeks custody. Aggravating factors are listed as including the offender being in a position of special responsibility, or serious injury/death being caused to the animal. Mitigating factors include whether the offender has a limited capacity, or was ignorant of the proper care required.

In accordance with the section 144 Criminal Justice Act 2003, credit should be given for a guilty plea taking into account the circumstances in which it was given and the stage of the proceedings.

In 2010, the RSPCA obtained over 2,000 convictions against approximately 1,000 defendants for animal cruelty. The most common sentence passed for this offence was that of a community penalty. Comparatively few were dealt with by way of custodial sentence. In one week in January, in one part of the country, we saw an unusually high number of custodial sentences. Statistically, it is difficult to know whether this demonstrates a trend in either offending or



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sentencing behaviour without detailed analysis of a much larger pool of data. Some of the cases themselves however, make shocking reading.

In one, a 24-year-old man was sentenced to 8 weeks custody for a violent attack on his young dog – ironically called Thumper. A witness saw the man walking the dog in a park and then shouting at it, kicking it several times and pulling it up in the air by its lead. The dog squealed and yelped. The moment was captured on footage and after a media appeal, the defendant was identified. In interview the defendant said he was trying to help the animal who had previously belonged to someone else and had been kept in very poor conditions. He had tried to

¹www.sentencingcouncil.org.uk/docs/web_sgc_magistrates_guidelines_including_update_1_2_3_web.pdf

take the dog for a walk, but the dog just stopped. He said he had carried it for a time but the dog had then defecated on him, so he had become angry and shouted at it, to try and get it to listen. The dog messed itself again and the defendant kicked it. The defendant had been drinking on the day of the incident.



sorry about what had happened but he could not face the fact he would lose his dog. The District Judge said it was the worst case of neglect he had ever seen and considered that he should mark the offence with the revulsion which the public were likely to feel and which he himself felt. He found the offences so serious that only a custodial penalty was merited and ordered the defendant to a 16-week sentence of imprisonment. He was also disqualified from keeping animals for 20 years.

The defendant was remorseful in interview, and said he was disgusted with himself and never done anything like this before. It transpired the defendant was on released on licence for a serious offence at the time of this matter and as a result was recalled to prison. In sentencing the Bench found the breach of licence, the involvement of alcohol and the repeated nature of the attack on the young dog, all to be aggravating features. They said they found no mitigating factors.

Credit was given for a guilty plea which reduced what would have been a term of imprisonment for 12 weeks down to 8 weeks. He was also

In the same week, just a few miles away, a 47-year-old man appeared for sentencing in relation to the neglect of his dog. His circumstances were very different; he was in full-time employment and alcohol use did not feature in the offence. His dog had been attacked by another dog and suffered a serious injury to its face. Police were called to his flat some 4 months later because of concerns about a smell of decomposing flesh coming from the property. There they found the dog in an extremely bad way, with a large proportion of its face missing having been eaten by maggots. It was immediately taken to a veterinary surgeon who euthanised it to prevent any further suffering. The vet commented that the dog had no skin left below its left eye, including both the upper and lower lips, and no teeth remaining on the left side of the mouth. There was a purulent discharge and foul smell coming from this area. The dog was also very thin, although a full bowl of dog food had been found in the flat. The veterinary surgeons considered the animal had been suffering unnecessarily for a period of at least 4 weeks, if not longer.

Some might debate whether seriousness in animal cruelty offences is aggravated (or mitigated) by the defendant's state of mind, or whether it is more important to consider the extent and period of any suffering caused to the animal. It is clear that sentencing guidelines require both factors to be taken into account, and the above examples show that the results in sentencing terms can have an equal effect.

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disqualified from keeping animals for a period of 5 years. The Bench emphasised the purpose of the sentence was punishment and to act as a deterrent to others. The treatment of animals in this way would not be tolerated.

In interview the defendant was very tearful and said he had been reluctant to take the 15-year-old dog to the vets because he thought they would put it down. He said he had not intended to be malicious and he loved his dog. The defendant told the Court he was