

# **Is Breeding Companion Animals with Extreme Conformations Contrary to UK**

## **Animal Welfare Law? – Tilly Green**

### **Introduction**

The selective breeding of companion animals for extreme conformations - such as brachycephalic (flat-faced) dogs, dwarf cats, and excessive skin folds in certain breeds - has led to significant welfare concerns in the UK. While these physical traits may be considered desirable for aesthetic or breed standard purposes, they frequently result in severe health complications, including respiratory distress, chronic pain, musculoskeletal disorders, and increased susceptibility to infections. These welfare issues raise fundamental legal and ethical questions about whether breeding for extreme conformations aligns with statutory protections under UK law.

The Animal Welfare Act 2006 (AWA 2006) provides the principal legal framework governing animal welfare in the UK. It imposes a duty of care on animal owners and breeders, requiring them to ensure that animals are free from unnecessary suffering. Additionally, specific breeding regulations, such as the Breeding and Sale of Dogs (Welfare) Act 1999 and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, impose further welfare obligations on breeders. This essay critically evaluates whether breeding for extreme conformations contravenes these laws, drawing on case law and academic literature to assess the adequacy of existing legal protections and potential areas for reform.

### **Legal Framework: The Animal Welfare Act 2006**

The AWA 2006 is the cornerstone of animal welfare legislation in England and Wales. Section 9 imposes a duty of care, requiring that an animal's basic welfare

needs be met, including proper nutrition, a suitable environment, protection from pain, and the ability to exhibit normal behaviours. Section 4 further prohibits unnecessary suffering, whether inflicted by direct action or through neglect.

Breeding extreme conformations raises serious legal concerns under both provisions. For example, brachycephalic obstructive airway syndrome (BOAS) in pugs and bulldogs results in chronic breathing difficulties, often requiring surgery. Similarly, severe hip dysplasia in German Shepherds and extreme dwarfism in Munchkin cats lead to chronic pain and mobility issues. Since these health problems are inherent to the animals' genetic make-up, their breeding could be argued to constitute a breach of s.9 (failure to meet welfare needs) and s.4 (causing unnecessary suffering). As Professor Donald Broom argues, 'Breeding practices that perpetuate physical traits known to cause health problems should be regarded as a violation of an animal's fundamental right to live free from preventable suffering'<sup>1</sup>. This perspective underscores that the deliberate propagation of traits like BOAS or hip dysplasia constitutes a breach of duty.

This argument is reinforced in *RSPCA v Walker*<sup>2</sup>, the defendant was convicted for failing to meet an animal's welfare needs under s.9. The court held that knowingly allowing an animal to suffer from preventable health issues constituted a breach of duty. Similarly, in *R (Gray) v Aylesbury Crown Court*<sup>3</sup>, the court ruled that suffering need not be intentional to violate s.4 - it need only be unnecessary and avoidable.

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<sup>1</sup> Donald M Broom, *Sentience and Animal Welfare* (CABI 2014) 89.

<sup>2</sup> *RSPCA v Walker* [2014] EWHC 2552 (Admin)

<sup>3</sup> *R (Gray) v Aylesbury Crown Court* [2018] EWHC 1233 (Admin)

This is particularly relevant to extreme breeding, where the suffering is inherent and foreseeable.

### **Regulatory Controls: The Breeding and Sale of Dogs Act 1999 & Licensing Regulations 2018**

Beyond the AWA 2006, additional regulatory measures exist to control breeding practices. The Breeding and Sale of Dogs (Welfare) Act 1999 sets out welfare standards for dog breeders, while the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 impose licensing requirements on those breeding and selling animals.

The 2018 Regulations specifically require that breeders prioritise animal welfare, providing local authorities with enforcement powers to revoke licences where standards are not met. This could be used to restrict the breeding of extreme conformations where there is clear evidence of associated health risks. However, Davies argues that ‘despite the legal protections, the failure to regulate breeding practices in a targeted manner allows harmful trends to persist, often exacerbating the suffering of animals. This insight underscores the challenges inherent in addressing the breeding of extreme conformations through current regulations, highlighting a critical gap in the proactive prevention of welfare harms.

In *RSPCA v Beeson*<sup>4</sup>, a breeder was convicted for failing to address chronic health issues in brachycephalic puppies. The court found that knowingly breeding animals predisposed to suffering amounted to unlawful conduct. However, enforcement

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<sup>4</sup> *RSPCA v Beeson* [2019] EWHC 2627 (Admin)

remains inconsistent. In *RSPCA v O'Connor*<sup>5</sup>, a breeder of French Bulldogs with severe BOAS was fined but avoided a custodial sentence, despite evidence that the dogs experienced prolonged distress. This disparity highlights weaknesses in enforcement, raising concerns about the adequacy of deterrents and the practical effectiveness of current regulations.

### **Do Current Laws Effectively Prevent Extreme Conformation Breeding?**

Despite the legal framework provided by the AWA 2006 and related regulations, enforcement challenges persist. The ability to secure convictions under s.9 requires clear evidence that an animal's welfare needs have been compromised. However, establishing causation between an extreme conformation and suffering can be complex, particularly where health issues develop gradually. As Radford highlights, the UK's animal welfare laws are often 'reactive rather than preventative'<sup>6</sup>, meaning that enforcement typically occurs only after suffering has been identified, rather than proactively preventing harm through stricter breeding regulations.

For instance, *RSPCA v Walker*<sup>7</sup> demonstrated the difficulty of proving a direct link between neglect and suffering, even in clear welfare violation cases. Similarly, in *RSPCA v Beeson*<sup>8</sup>, the prosecution had to establish that the breeder's failure to act directly resulted in harm. The lack of explicit statutory prohibitions on breeding for extreme traits creates a loophole, allowing ambiguity in enforcement.

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<sup>5</sup> *RSPCA v O'Connor* [2022] EWHC 2206 (Admin)

<sup>6</sup> Mike Radford, *Animal Welfare Law in Britain: Regulation and Responsibility* (Oxford University Press 2001) 85.

<sup>7</sup> *RSPCA v Walker* [2014] EWHC 3687

<sup>8</sup> *RSPCA v Beeson* [2019] EWHC 2627 (Admin)

Moreover, while licensing regulations allow for intervention, the absence of breed-specific restrictions means that breeders can continue to produce animals with exaggerated physical traits without immediate consequences. Unlike in the Netherlands, where dogs with excessively short muzzles are banned from breeding, the UK lacks specific prohibitions against extreme conformations. This regulatory gap significantly weakens the preventative power of UK animal welfare law.

### **Potential Legal Reforms**

Given these enforcement challenges, a more robust regulatory response is necessary. One potential reform is an explicit amendment to the AWA 2006 to prohibit breeding practices that inherently cause suffering. While s.4 and s.9 provide general protections, they do not specifically address genetically inherited conditions that result in chronic health issues. This gap allows breeders to perpetuate extreme conformations without direct legal consequences.

Judicial consideration of extreme breeding practices in *RSPCA v Beeson*<sup>9</sup> underscored the link between extreme conformation and suffering. The veterinary evidence presented in that case highlighted that a direct genetic predisposition to suffering must be established for legal intervention. This evidentiary threshold poses enforcement difficulties, as proactive regulation is limited. An explicit amendment banning breeding practices known to cause unnecessary suffering- such as the intentional breeding of brachycephalic dogs with obstructive airway syndrome - would provide greater legal clarity and ease enforcement.

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<sup>9</sup> RSPCA v Beeson [2019] EWHC 2627 (Admin)

The UK could also adopt breed-specific regulations, mirroring the Dutch model. The Netherlands introduced legislation in 2020 prohibiting the breeding of dogs with excessively short muzzles, focusing on preventing the perpetuation of inherited disorders like BOAS. Similar restrictions could be incorporated into the Animal Welfare Regulations 2018, which already regulate dog breeding. Introducing specific prohibitions against breeding dogs with extreme conformations- such as those failing to meet BOAS risk criteria- would align UK law with contemporary welfare standards.

Another potential reform involves expanding civil liability under The Consumer Rights Act 2015 and The Sales of Goods Act 1979. Currently, consumer protection laws offer limited recourse for purchasers of animals with severe hereditary conditions. By holding breeders accountable under a product liability framework - similar to that in *Godley v Perry*<sup>10</sup> - consumers could be entitled to legal redress for animals bred with foreseeable health issues. For instance, breeders knowingly selling French Bulldogs with BOAS or Cavalier King Charles Spaniels with syringomyelia could be subject to financial liability, incentivising ethical breeding.

### **Ethical and Welfare Considerations**

The ethical considerations surrounding extreme conformation breeding are significant. Breed standards promoted by organisations like *The Kennel Club* often prioritise aesthetics over health, reinforcing harmful breeding practices. The popularity of brachycephalic breeds has been exacerbated by social media, where platforms like Instagram and TikTok drive demand for animals with extreme features.

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<sup>10</sup> *Godley v Perry* [1960] 1 WLR 1298

Case law highlights the ethical implications of these breeding practices. In *RSPCA v Walker*<sup>11</sup>, the court recognised that failing to meet an animal's welfare needs can constitute a criminal offence. However, enforcement is reactive rather than preventive, meaning that suffering must occur before intervention takes place.

Veterinarians play a crucial role in advocating for responsible breeding. By educating breeders and consumers about the health risks associated with extreme conformations, veterinary professionals can help shift public attitudes towards more ethical breeding practices.

## **Conclusion**

The breeding of companion animals with extreme conformations raises serious legal, ethical, and welfare concerns. While the AWA 2006 and associated regulations provide a legal framework, enforcement remains inconsistent, and gaps in legislation allow harmful breeding practices to continue. Amendments to existing laws, breed-specific prohibitions, and expanded civil liability could strengthen protections and provide clearer enforcement mechanisms.

Ultimately, a multi-faceted approach - combining legislative reform, public education, and industry regulation - is necessary to ensure that breeding practices prioritise animal welfare over aesthetics. By implementing stronger legal protections, the UK can move towards a more ethical and welfare-focused approach to animal breeding, ensuring that companion animals are bred for health and well-being rather than harmful physical traits.

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<sup>11</sup> *RSPCA v Walker* [2014] EWHC 3687 (Admin)

## Table of Cases

### UK Cases

Godley v Perry [2960] 1 WLR 1298

R (Gray) v Aylesbury Crown Court [2018] EWHC 1233 (Admin)

RSPVA v Beeson [2019] EWHC 2627 (Admin)

RSPCA v O'Connor [2022] EWHC 2206 (Admin)

RSPCA v Walker [2014] EWHC 3687 (Admin)

### Table of Legislation

Animal Welfare Act 2006, ss 4, 9

Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations  
2018

Breeding and Sale of Dogs (Welfare) Act 1999

Consumer Rights Act 2015

Sale of Goods Act 2015

### Secondary Sources

Broom DM, Sentience and Animal Welfare (CABI 2014)

Radford M, Animal Welfare Law in Britain: Regulation and Responsibility (Oxford  
University Press 2001)