

Is breeding companion animals with extreme conformations contrary to the UK Animal Welfare Acts?

The Animal Welfare Act (AWA) 2006 is a key piece of legislation, which has consolidated previous legislation and case law on animal welfare and animal abuse¹. It has successfully established a welfare duty for owners to meet the needs of their animals, while also ensuring a responsibility to prevent unnecessary suffering of domesticated animals. However, given the rise in popularity of designer breeds whose extreme conformations cause harm, many have debated whether the such breeders may be liable under the AWA 2006 for failure to prevent unnecessary suffering. This essay will argue that 1) although such breeders are theoretically liable under the AWA 2006, 2) the Act lacks clarity which hinders its applicability in practice, 3) highlighting a legislative gap and need for reform.

1) Breeding companion animals with extreme conformations: theoretically an offence under AWA 2006

Under the current AWA 2006, breeding companion animals with extreme conformations which causes unnecessary suffering theoretically meets the criteria for the offence which should make the breeder liable.

The AWA 2006 states that “a person commits an offence if he does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice.”² The Act defines an animal’s needs as “a suitable environment and diet, exhibiting normal behaviour patterns, any need to be housed with or apart from other animals, and its need to be protected from pain, suffering injury and disease.”³

Firstly, virtually all companion animals would be included under the scope of the AWA 2006. The AWA 2006 is a broad piece of legislation, which applies to animals who are “under the control of man on a permanent or temporary basis”, “not living in the wild”, and “commonly domesticated” in the British Isles⁴. The scope of the Act means that it has the potential to protect almost all domesticated animals.

¹ Animal Law TV by A-LAW, ‘A-LAW Bitesize Animal Law Episode 5: The Animal Welfare Act 2006 by Mike Radford OBE’ (*YouTube* 24 October 2020)

<<https://www.youtube.com/watch?v=9sNFkPWYTIE>> accessed 28 March 2025.

² Animal Welfare Act 2006, s9(1)

³ Animal Welfare Act 2006, s9(2)

⁴ Animal Welfare Act 2006, s2

Secondly, breeding animals with extreme conformations has long been considered to cause harm and suffering. For instance, dogs bred to have flat-faces, such as pugs, British bulldogs, and French bulldogs, are at a high risk of having "anatomical features that reduce quality of life" and "increased [risk] of inherited disorders"⁵ such as Brachycephalic Obstructive Airway Syndrome (BOAS), which causes difficulty breathing and chronic pain. These conditions cause permanent suffering and are often without cure. They may also incur costly surgeries to improve the wellbeing, healthy behaviour, and mobility of brachycephalic dogs.

In the absence of precise legislation to determine animal suffering, The Kennel Club and the University of Cambridge have developed the Respiratory Grading Function Scheme (RGFS) to classify dogs with BOAS. Dogs with a low score are suitable for mating, while those with high scores are unsuitable. If a female dog with a high RGFS score is "naturally or artificially mated" and suffers, the breeder is likely to be liable under AWA 2006, s9(1)⁶. If there is a causal link between the breeding and the suffering, the breeder may be equally liable under AWA 2006, s4 for causing the unnecessary suffering of animals. Licensed breeders, which account for under half of puppies⁷, are under an additional duty to safeguard the wellbeing of breeding animals and their offspring⁸. If both breeding animals are found to have an RGFS score of 2 or above and are mated, the licensed breeder may be additionally liable under Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (LAIA)⁹.

Ultimately, the AWA 2006 can theoretically be used to establish the liability of an irresponsible breeder of dogs with extreme conformations and high RGFS scores. Because such an act would meet the criteria of causing unnecessary suffering to an animal for the offences set out in the

⁵ Nicola Rooney and David Sargan, 'Pedigree Dog Breeding in the UK: A Major Welfare Concern?' (2009)

<<https://www.rspca.org.uk/webContent/staticImages/Downloads/PedigreeDogsReport.pdf>>.

⁶ Legal Advisory Group on Extreme Conformation in Dogs, 'Legal Analysis of Current English Legislation Regarding Breeding of Dogs with Evidence of Impaired Respiratory Function' (2024)

<<https://www.alaw.org.uk/wp-content/uploads/2024/12/LAGECDogs-Legal-analysis-regarding-breeding-of-dogs-with-evidence-of-impaired-respiratory-function.pdf>>.

⁷ House of Commons: Environment, Food and Rural Affairs Committee, 'Pet Welfare and Abuse' (House of Commons 2024)

<<https://committees.parliament.uk/publications/44130/documents/218854/default/>>.

⁸ Animal Welfare (Licensing of Activities Involving Animals (England) Regulations 2018, Schedule 6, para. 6(5)

⁹ Legal Advisory Group on Extreme Conformation in Dogs, 'Legal Analysis of Current English Legislation Regarding Breeding of Dogs with Evidence of Impaired Respiratory Function' (2024)

<<https://www.alaw.org.uk/wp-content/uploads/2024/12/LAGECDogs-Legal-analysis-regarding-breeding-of-dogs-with-evidence-of-impaired-respiratory-function.pdf>>

AWA 2006, breeders should theoretically be liable for knowingly breeding animals with extreme conformations which cause unnecessary suffering.

2) Difficulties of applying the AWA 2006 to establish liability in practice: a need for greater clarity.

However, despite the AWA 2006's theoretical ability to establish liability for irresponsible breeders of designer dogs, there are several issues with the Act which make it difficult to apply in practice.

Despite the fact that breeding dogs with extreme conformations which causes unnecessary suffering theoretically meets the criteria for the AWA, no such case has been made by the prosecution. This is perhaps due to a lack of clarity and guidance surrounding the applicability of the AWA 2006 with regard to breeding.

For instance, there is also considerable uncertainty surrounding the scope of the AWA 2006 - specifically whether the Act applies to offspring. Current legal theory suggests that Parliament's intention was to exclude offspring from the AWA; other commentators have interpreted the Act as applying to offspring, causing much confusion.¹⁰

There is also uncertainty surrounding the *mens rea* needed to be established to meet the offence of knowingly breeding a dog with extreme conformations. There is uncertainty surrounding which specific acts or omissions need to be established to satisfy the *mens rea* of the offence, as there is no case law on the matter.

Ultimately, the uncertainty and lack of guidance surrounding the Act has made it difficult to apply in practice. Although other areas of the AWA 2006 are clear, the lack of guidance surrounding breeding animals with extreme conformations has meant that it has never been prosecuted in practice. To remedy this, a test case could be brought before the courts or DEFRA could issue a "statutory COP" to establish greater clarity¹¹.

¹⁰ Legal Advisory Group on Extreme Conformation in Dogs, 'Written Evidence Submitted by the Legal Advisory Group on Extreme Conformation in Dogs (LAGECD)(PWA0057)' (UK Parliament 2023).

¹¹ Ibid

3) The legislative gap in preventing the breeding of animals with extreme conformations: a need for reform

Although licensed breeders are regulated by LAIA 2018, non-licensed breeders (which in 2015 accounted for 88% of puppies in the UK¹²) are primarily regulated by AWA 2006. Clarifying and extending the scope of the AWA 2006 to include offspring would put non-licensed breeders under the same duty of care as licensed breeders under LAIA 2018. This means that there is a concerning legislative gap for unlicensed breeders, which is insufficiently regulated by AWA 2006.

For instance, the current AWA 2006 legislation offers insufficient protection against unregulated Canine Fertility Clinics (CFCs). The rise of CFCs has been tied to an increased demand for designer breeds with harmful extreme conformations. In addition to the rise in demand for pets during COVID¹³, CFCs have gained increasing popularity in the UK, rising from 37 in 2020 to over 400 in April 2023¹⁴.

Although some CFCs have legitimate aims and legally operate under the supervision of registered vets, many do not. Due to a legislative gap, there is insufficient regulation surrounding CFCs, meaning “individuals [with no formal veterinary training] can set themselves up as CFCs without regulation”, according to Sarah Carr¹⁵. Ultimately, CFCs have gained popularity because of their ability to assist in reproductive dysfunction and facilitate the breeding of designer dogs, often with harmful extreme conformations.

Because stud dogs do not fall under LAIA, a bad faith breeder may use the same stud dog with extreme conformations to father several litters, without breaching any law. This has the potential to put their offspring at risk of extreme conformations and a “lifetime of ill-health and suffering”¹⁶.

There is also a lack of deterrent which encourages unethical breeding. For instance, bad faith veterinarians who fail to comply with The Veterinary Surgeons Act face a maximum fine of

¹² Battersea Dogs and Cats Home, ‘Battersea’s New Report Exposes the Murky World of Dog Breeding | Battersea Dogs & Cats Home’ (*Battersea.org.uk*2015) <<https://www.battersea.org.uk/about-us/news/batterseas-new-report-exposes-murky-world-dog-breeding>> accessed 28 March 2025.

¹³ Business Insider, ‘How Extreme Breeding Is Leaving Pugs and Bulldogs Breathless | True Cost | Business Insider’ (*www.youtube.com*18 November 2022) <<https://www.youtube.com/watch?v=R5Vt-xhso0Y>>.

¹⁴ House of Commons: Environment, Food and Rural Affairs Committee, ‘Pet Welfare and Abuse’ (House of Commons 2024).

¹⁵ Ibid, 16

¹⁶ Ibid, 15.

£100¹⁷. This is an insufficient deterrent to comply with the law, considering the demand for designer dogs and the revenue received from dog fertility operations which often supersedes the fine. Furthermore, the current Veterinary Surgeons Act 1966 excludes CFC operations entirely, illustrating the legislative gap and need for reform.

Many organisations have supported the modernisation of the Veterinary Surgeons Act 1966 to include CFCs and increase the fine to act as a better deterrent. Although the House of Commons has recognised these suggestions¹⁸, and the Government has made commitments to reform¹⁹, they have not yet been implemented. Although these suggestions are welcome, a reform of the AWA 2006 has the potential to offer broader coverage to prevent the unnecessary suffering to animals when breeding. A combination of reforms which clarifies and expands the AWA 2006 to put unlicensed breeders under the same obligations as LAIA 2018 would offer more robust protection to fill the existing legislative gap in breeding.

To conclude, although breeding animals with extreme conformations technically satisfies the criteria of AWA 2006 s9 or s14, for causing unnecessary suffering to companion animals, there is insufficient clarity which impedes the application of these offences in practice. This issue is exacerbated by the demand for designer dogs, the rise of underregulated CFCs, and a lack of enforcement which has made the AWA inadequate at protecting against harmful breeding practices. Serious legislative reform and increased clarity is needed to protect animals and ensure their rights are respected.

¹⁷ Veterinary Surgeons Act (1966)

¹⁸ House of Commons: Environment, Food and Rural Affairs Committee, ‘Pet Welfare and Abuse’ (House of Commons 2024)

¹⁹ Melissa Antieul, ‘BVA Welcomes Government Commitment to Reform of the “Veterinary Surgeons Act”’ (*Veterinary Practice* 4 March 2025)

<<https://www.veterinary-practice.com/2025/bva-welcomes-government-commitment-to-reform-of-the-veterinary-surgeons-act>> accessed 25 March 2025.