

## Response ID ANON-DVM1-7VEV-Z

Submitted to **Animal Health & Welfare Act Amendment Consultation 2019**

Submitted on **2019-04-26 01:42:57**

### Questions

**1 The Scottish Government proposes that the maximum penalties for the most serious animal welfare offences should be strengthened. Do you agree?**

Yes

**Please explain the reasons for your answer.:**

Animals are sentient, feeling creatures and neglecting them or deliberately causing them harm must be taken very seriously and courts given the power to express growing public concern over animal abuse by issuing harsher sentences which hopefully will also act as a deterrent.

**2 Do you agree that the maximum prison sentence available for offences under section 19 (unnecessary suffering) and section 23 (animal fighting) should be increased from twelve months to five years imprisonment?**

Yes

**Please explain the reasons for your answer.:**

I would rather it was increased to ten years for the worst offenders to show that deliberate cruelty and neglect is not acceptable. Some of those involved in already illegal bloodsports are hardened criminals who go to great lengths to prepare for and organise dog fights, cock fights, badger baiting and the like. They also put the public at risk by breeding and training dogs to be extremely strong and extremely vicious.

In addition to longer sentencing and heavier fines I would like to see offenders put on a register (like that used for child abusers) and banned from having contact with animals. Such a register could be used to help ensure animal abusers do not obtain jobs or volunteer positions working with animals.

Animal Concern discovered a couple of years ago that a person given a court ban on keeping animals can simply transfer legal ownership to their partner and then continue living in the same home or on the same farm with those animals. A ban on having contact with animals would be a far more valuable instrument.

**3 Do you agree that there should be no upper limit on fines for offences under section 19 (unnecessary suffering) and section 23 (animal fighting)?**

Yes

**Please explain the reasons for your answer.:**

Organised dog fighting can see large sums of money wagered and high prices paid for "game" dogs. Large fines (coupled with long prison sentences) and confiscation of assets would be a good deterrent.

**4 Other than increasing the maximum penalties for unnecessary suffering; should we amend legislation in any other ways, in regard to attacks on service animals?**

Don't Know

**Please explain the reasons for your answer and what you would propose.:**

This is an extremely difficult area to deal with. Firstly we must define "service animals". Are we talking about police and customs dogs and police horses or do we also include guard dogs, search and rescue dogs, guide dogs, assistance animals, sheep dogs etc.? If a police horse is struck by a brick thrown during a riot how do you determine if that was a deliberate act of cruelty against the horse?

On balance I would say that animals, just like people, should not be subjected to abuse and cruelty while at work and that enhanced sentences should be available to the courts.

Perhaps it is also time to ensure that animals are not neglected or abused by those they work for? Enhanced sentencing for those guilty of neglecting or abusing guard dogs or failing to provide safety gear (glass resistant boots and stab resistant coats for police, sniffer and search and rescue dogs and eye protecting visors for police horses) could be useful.

**5 Do you agree that there should be no statutory time limit for prosecuting offences under section 19 (unnecessary suffering) and section 23 (animal fighting)?**

Yes

**Please explain the reasons for your answer.:**

Yes. It can take years for evidence such as video and film of animal fights to come into the public domain and it would be wrong not to prosecute just because an offence occurred more than a set number of years ago. Like child abusers, animal abusers are more likely to increase their offending the longer their crimes go unnoticed so prosecuting for historic crimes may stop current or future offending.

**6 Do you agree the introduction of proportionate fixed penalty notices would improve the enforcement of animal welfare offences?**

Don't Know

**Please explain the reasons for your answer.:**

I'm not sure.

This would have to be carefully considered to ensure that serious offences are not missed due to perhaps a number of minor offences being dealt with by fixed penalty but not linked. So long as good records are kept ensuring that second offences are treated far more seriously than this may be a good thing. If someone leaves a dog in a car in the summer sun and someone intervenes before the animal suffers badly then perhaps as £250 fixed penalty might make the owner more careful in future. If it happens again a court appearance, £1,000 fine and a ban on contact with animals would be appropriate.

**7 Do you agree that there is a need to speed up the process of making permanent arrangements for animals taken into possession under section 32 of the Act?**

Don't Know

**Please explain the reasons for your answer.:**

Not sure: This is a grey area requiring careful consideration for each individual case. Where someone immediately makes a statement admitting guilt on a neglect or cruelty charge it should be made possible to immediately find permanent new homes for any surviving animals prior to any court proceedings. Video, photographic and veterinary evidence of the animal at time of the complaint is adequate evidence for a court case.

Animals in commercial premises such as livestock farms, dog breeders, stables, the pet trade etc are perhaps regarded more as commodities by their owners and the law should allow for their immediate rehoming on charges being laid. If such a case ends in a not proven or not guilty verdict, appropriate financial recompense should suffice.

However in cases involving pets you are dealing with animals regarded as part of a family and, if a case ends in a not proven or not guilty verdict, financial recompense would not suffice and return of the animal would be more appropriate. However this currently means animals could be kept in kennels for months or years causing them stress and perhaps suffering. I have two suggestions here: arrange things so that such cases are fast tracked through the courts and consider a fostering scheme such as that provided in child abuse cases to allow the animals to stay in a family environment until the case is decided.

**8 Do you agree that the ability to make suitable permanent arrangements for animals taken into possession (using a court disposal order) after service of a notice and after lapse of a specified period will benefit the welfare of animals?**

Yes

**Please explain the reasons for your answer.:**

Quick, vetted and suitable rehoming would of course be best, but I would refer back to my answer to Q7.

**9 Do you agree that the ability to make suitable arrangements for these seized animals after a short period will free up resources of the relevant enforcement authorities and animal welfare charities; allowing them to help a greater number of animals?**

Yes

**Please explain the reasons for your answer.:**

This is of course true, but we cannot be driven solely by cost considerations in these matters. Again I refer back to my comments on Q7.

I also think it is time to question the role of "animal welfare charities" in these matters. Some years ago the Government refused to cover the £1 million spent by the SSPCA for work carried out to help overstretched government agencies contain a national Foot and Mouth epidemic. Some weeks ago the Scottish Government refused to give the SSPCA the extra powers they had requested to help deal with criminal cases of animal abuse.

We are talking here about prosecution of criminal activity. Very serious crimes which can include a great deal of suffering and death. Crimes carried out against animals by people who may well go on to commit crimes of cruelty against people. Why the hell should we be relying on charities to use scarce public donations to investigate, prosecute and pick up the financial tab for dealing with serious criminal activity or to otherwise fill the gaps caused by under-funding of the official agencies which have a duty to care for animals in the livestock and pet industries?

There are more than enough non-criminal cases of animal suffering, especially wild animal suffering, to keep the SSPCA and other animal welfare organisations overstretched and underfunded. When Animal Concern Advice Line receives reports of criminal animal cruelty we report that to Police Scotland, not the SSPCA. The SSPCA and others should not be used to plug the huge gaps in resources needed to properly investigate and prosecute crimes against animals.

**10 Should such a new power to make permanent arrangements for animals that have been taken into possession apply to all animals, or only to commercially kept animals; such as puppies in breeding facilities, puppies for sale and livestock?**

Yes (all animals)

**Please explain the reasons for your answer.:**

It is a qualified Yes.

I seem to have pre-empted this question in my answer to Q7, part of which I repeat here:

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In cases involving pets you are dealing with animals regarded as part of a family and, if a case ends in a not proven or not guilty verdict, financial recompense would not suffice and return of the animal would be more appropriate.

However this currently means animals could be kept in kennels for months or years causing them stress and perhaps suffering. I have two suggestions here: arrange things so that such cases are fast tracked through the courts and consider a fostering scheme such as that provided in child abuse cases to allow the animals to stay in a family environment until the case is decided.

**11 Do you agree that the owner or previous keeper should have an opportunity to appeal against permanent arrangements being made within a short time period?**

Yes

**Please provide views and supporting evidence on other considerations that might apply.:**

no comment

**12 Do you agree that three weeks is a reasonable period of notice before making suitable permanent arrangements for animals taken into possession?**

Yes

**Please explain the reasons for your answer.:**

Again a qualified Yes. Only if the system is geared up to deal with this properly in the time period given.

**13 Do you agree that the previous keeper should be able to apply for compensation based on the commercial value of these animals, less reasonable costs?**

Yes

**Please explain the reasons for your answer.:**

If found not proven or not guilty the owner or keeper of animals kept for commercial purposes should be refunded the full commercial value of the animal(s) without deduction of any costs other than money they might have saved through not having to pay for the upkeep (feeding, vets bills etc) of the animals. If found guilty the owner should have to meet all costs incurred in keeping and rehoming the animals less any income generated if any of the animals were sold.

Pet owners found not proven or not guilty but whose animals have been permanently rehomed should be liable for full recompense of the commercial value of the animal(s) and compensation for the emotional suffering caused by the removal of a member of their family.

**14 Do you have any practical suggestions about how to value commercially kept animals other than farm livestock?**

**Please explain the reasons for your answer.:**

The onus should be on the owner to produce evidence (receipts, bills of sale, prize awards etc) to prove the commercial loss they have suffered.

**15 Please provide any further comments or suggestions on the proposed new system for making permanent arrangements for animals.**

**Comments::**

The welfare of the animals must come first. It would be very wrong if the victims of cruelty and abuse were caused further suffering due to the inadequacies of a system which is supposed to protect animals.

**About you**

**What is your name?**

**Name:**

John F. Robins

**What is your email address?**

**Email:**

animals@jfrobin.force9.co.uk

**Are you responding as an individual or an organisation?**

Organisation

**What is your organisation?**

**Organisation:**

The pressure group Animal Concern and the charity Animal Concern Advice Line.

**Sector and Origin**

Animal Welfare Organisation

**If other, please specify.:**

**The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:**

Publish response with name

**We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?**

Yes

## **Evaluation**

**Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)**

**Matrix 1 - How satisfied were you with this consultation?:**

Neither satisfied nor dissatisfied

**Please enter comments here.:**

Could do with at least one "Any other comments or suggestions" box.

**Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:**

Slightly dissatisfied

**Please enter comments here.:**

I represent several animal welfare organisations and we have many supporters without internet access. I'd like to see a better system for soliciting responses from people who do not have internet access. Perhaps newspaper adverts inviting people to apply for hard copies of the questionnaire which they can fill in and post back?