

Animal cruelty (Revised 2017)

Animal Welfare Act 2006, s.4 (unnecessary suffering), s.8 (fighting etc), s.9 (breach of duty of person responsible for animal to ensure welfare)

Effective from: 24 April 2017

Triable only summarily:

Maximum: Unlimited fine and/or 6 months

Offence range: Band A fine – 26 weeks' custody

Step 1 – Determining the offence category

The court should determine culpability and harm caused with reference **only** to the factors below. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category.

CULPABILITY demonstrated by one or more of the following:

Factors indicating high culpability

- Deliberate or gratuitous attempt to cause suffering
- Prolonged or deliberate ill treatment or neglect
- Ill treatment in a commercial context
- A leading role in illegal activity

Factors indicating medium culpability

- All cases not falling into high or low culpability

Factors indicating low culpability

- Well intentioned but incompetent care
- Mental disorder or learning disability, where linked to the commission of the offence

HARM demonstrated by one or more of the following:

Factors indicating greater harm

- Death or serious injury/harm to animal
- High level of suffering caused

Factors indicating lesser harm

- All other cases

Step 2 – Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

A case of particular gravity, reflected by multiple features of culpability in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.

	High culpability	Medium culpability	Low culpability
Greater harm	<p>Starting point 18 weeks' custody</p> <p>Category range 12 – 26 weeks' custody</p>	<p>Starting point Medium level community order</p> <p>Category range Low level community order – High level community order</p>	<p>Starting point Band C fine</p> <p>Category range Band B fine – Low level community order</p>
Lesser harm	<p>Starting point High level community order</p> <p>Category range Low level community order – 12 weeks' custody</p>	<p>Starting point Low level community order</p> <p>Category range Band C fine – Medium level community order</p>	<p>Starting point Band B fine</p> <p>Category range Band A fine – Band C fine</p>

The court should then consider further adjustment for any aggravating or mitigating factors. The following is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far.

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the owner/keeper of the animal: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- Distress caused to owner where not responsible for the offence
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Use of weapon
- Allowing person of insufficient experience or training to have care of animal(s)
- Use of technology to publicise or promote cruelty
- Ignores warning/professional advice/declines to obtain professional advice
- Use of another animal to inflict death or injury
- Offender in position of responsibility
- Animal requires significant intervention to recover
- Animal being used in public service or as an assistance dog

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability, where not linked to the commission of the offence
- Sole or primary carer for dependent relatives
- Offender has been given an inappropriate level of trust or responsibility
- Voluntary surrender of animals to authorities
- Cooperation with the investigation
- Isolated incident

Step 3 – Consider any factors which indicate a reduction, such as assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

Step 4 – Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

Step 5 – Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the *Offences Taken into Consideration and Totality* guideline.

Step 6 – Compensation and ancillary orders

In all cases, the court should consider whether to make compensation and/or other ancillary orders including deprivation of ownership and disqualification of ownership of animals.

Step 7 – Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 8 – Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.