

# Archive: 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)

Triable only summarily

Maximum: Unlimited fine and/or 6 months

Offence range: Band A fine – 26 weeks' custody

User guide for this offence

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Guideline users should be aware that the Equal Treatment Bench Book covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

For offences under section 4 (unnecessary suffering) and section 8 (fighting etc) **committed on or after 29 June 2021** the maximum penalty is five years' custody. The sentence levels in this guideline are therefore unlikely to apply to these offences and very serious cases should be committed to the Crown Court for sentence. See the interim guidance.

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

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
- 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 section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) 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 73 of the Sentencing Code and the Reduction in Sentence for a 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 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. Where the offence has resulted in personal injury, loss or damage the court must give reasons if it decides not to order compensation (Sentencing Code, s.55).

- Ancillary orders – Magistrates' Court

## **Step 7 – Reasons**

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

## **Step 8 – Consideration for time spent on bail (tagged curfew)**

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.