CRUELTY TO ANIMALS

Welfare of Animals Act (NI) 2011

4. - (1) A person commits an offence if—

(a) an act of that person, or a failure of that person to act, causes an animal to suffer,

(b) that person knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or be likely to do so, and

(c) the suffering is unnecessary.

(2) A person commits an offence if—

(a) that person is responsible for an animal,

(b) an act, or failure to act, of another person causes the animal to suffer,

(c) the first-mentioned person permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening, and

(d) the suffering is unnecessary.

Maximum Sentence

Welfare of Animals Act (NI) 2011, s.31(1A)
Indictment: 5 years imprisonment and/or an unlimited fine
Summarily: 12 months imprisonment and/or £20,000 fine

Assessment of Offence

(Starting points and ranges based on 1st time offender convicted following contest)

Nature of Offence	Starting Point	Sentencing Range
Minor short term suffering caused as a result of the mistreatment (whether active or passive).	Community Order + Deprivation Order + Disqualification Order	Fine to Community Order + Deprivation Order + Disqualification Order
Substantial suffering caused by the mistreatment (whether active or passive) with no long term suffering.	5 months custody + Deprivation Order + Disqualification Order	3 – 12 months custody + Deprivation Order + Disqualification Order
The animal died or was humanely 'put down', suffered severe injury or long term suffering because of the mistreatment (whether active or passive).	7 months custody + Deprivation Order (when applicable) + Disqualification Order	6 – 12 months custody + Deprivation Order (when applicable) + Disqualification Order

Examples of Possible Aggravating Factors of Offence	Examples of Possible Mitigating Factors of Offence
1. Offence committed in respect of multiple animals. 2. Animal survived but serious or long term injury caused/requires significant intervention to recover. 3. Gratuitous violence towards the animal (e.g. setting animal on fire, drowning, swinging by the tail). 4. Use of weapon. 5. Offence committed as a form of revenge against the owner of the animal or in the context of an ongoing dispute with the owner. 6. Offender in a position of special responsibility towards the animal (other than ownership simpliciter). 7. Offender involves children in the offending. 8. Offence committed for commercial gain. 9. Offender ignored previous advice/warnings regarding the treatment of the animal. 10. Mistreatment over prolonged period of time. 11. Offence motivated by, or demonstrating, hostility to the victim (animal's owner) on account of his membership of a racial group, religious group, sexual orientation group, disability or presumed disability.* 12. Distress caused to owner where not responsible for the offence. 13. Failure to comply with current court orders. 14. Allowing person of insufficient experience or training to have care of animal(s). 15. Use of technology, including circulating details/photographs/videos etc. of the offence on social media, to record, publicise or promote	1. Ignorance of appropriate care. 2. Mental disorder or learning disability, where linked to the commission of the offence.

cruelty. 16. Use of another animal to inflict death or injury. 17. Animal being used in public service or as an assistance dog.	

Relevant Cases

NI Cases	*English Cases*
R v Kirkwood and others [2014] NICC 5	N/A
R v Downey and Stewart [2014] NICC 19	

Notes

1. Community Orders are Probation Orders, Community Service Orders or a combination of both, Combination Orders. Community Orders are direct alternatives to custody; the appropriateness of Community Orders must be considered before imposing short custodial sentences (i.e. 12 months or less). Community Orders involve significant intervention into offender's lives and impose demanding obligations. The focus is protection of the public by reducing offending whilst also directly punishing the offender for the harm caused. If an offender breaches a Community Order the Order may be revoked and the offender resentenced.
2. If the offender owns the animal which was the subject of the offence, the court may order the offender be deprived of ownership of the animal and any of the animal's offspring – Art.32 of the 2011 Act.
3. The court may make a Disqualification Order against the offender for such period as it thinks fit and in relation to animals generally, or in relation to animals of one or more kinds . Such an order disqualifies the offender from:
   (a) from owning animals,
   (b) from keeping animals,
   (c) from participating in the keeping of animals,
   (d) from being party to an arrangement under which that person is entitled to control or influence the way in which animals are kept,
   (e) from dealing in animals.
   (f) from transporting animals, and
   (g) from arranging for the transport of animals.

Where a court decides not to make a Disqualification Order, it must state its reasons for the decision. - Art.33 of the 2011 Act.
4. Where the holder of a dog licence or a block licence is convicted of the offence in relation to a dog, the court may suspend that licence for such period as the court thinks fit. Where such a suspension is ordered, the court shall order the holder of the licence to deliver it to the clerk of the court within a period specified in the order and may also make such order as it thinks fit for the disposal or destruction of any dog or dogs kept by the holder of the licence. – Article 34 of the Dogs (NI) Order 1983.
5. *Where a court finds the offence was aggravated by 'hostility' it shall state in open court that the offence was so aggravated (Criminal Justice (No.2)(NI) Order 2004, Article 2).