

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(1)

Indictment: 5 years imprisonment and/or an unlimited fine

Summarily: 12 months imprisonment and/or £20,000 fine [for offences committed on/after 1 August 2016]

6 months imprisonment and/or the statutory maximum fine (£5,000) [for offences committed before 1 August 2016]

Assessment of Offence

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

<u>Nature of Offence</u>		<u>Starting Point</u>	<u>Sentencing Range</u>
The animal survived the mistreatment	The offence was committed by passive mistreatment (e.g. malnutrition)	Community Order + Deprivation Order + Disqualification Order	Fine to Community Order + Deprivation Order + Disqualification Order
	The offence was committed by active mistreatment (e.g. hitting)	3 months Custody + Deprivation Order + Disqualification Order	Community Order to 6 months Custody + Deprivation Order + Disqualification Order
The animal died from the mistreatment or had to be humanely 'put-down' due to the mistreatment	The offence was committed by passive mistreatment (e.g. malnutrition)	3 months Custody + Disqualification Order	Community Order to 6 months Custody + Disqualification Order
	The offence was committed by active mistreatment (e.g. hitting)	6 months Custody + Disqualification Order	3 - 12 months Custody + Disqualification Order

Examples of Possible Aggravating 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

Examples of Possible Mitigating Factor of Offence

1. Ignorance of appropriate care

<p>disability.*</p> <ol style="list-style-type: none"> 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 to publicise or promote cruelty 16. Use of another animal to inflict death or injury 17. Animal being used in public service or as an assistance dog 	
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Relevant Cases:

NI Cases:

R v Kirkwood and others [2014] NICC 5
R v Downey and Stewart [2014] NICC 19

English Cases

R (RSPCA) v Chester Crown Court (2006) 170 JP 725
[Barker et al. v. RSPCA](#) [2018] EWHC 880 (Admin)

Notes:

1. 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
2. The court may make '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, and
- (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

3. 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

4. In E&W the offence of 'Animal Cruelty' is a summary only offence but the maximum sentence that can be imposed by the Magistrates' Court for the offence is £20,000 fine and/or 6 months imprisonment. – see s.4 of the Animal Welfare Act 2006

1. *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).