

PE1455/C

Petitioner Letter of 20 April 2015

PETITION PE1544

Comments in Response to the SSPCA.

I am overall delighted with the positive response Mr Flynn has provided and would like to thoroughly thank him for taking the time to do so.

I am pleased that the SSPCA agrees with extending the maximum penalties of the Animal Health and Welfare (Scotland) 2006 Act to other aspects of the Act.

I appreciate that the potential penalties have been increased in the last decade; however, legislation needs to be amended if and when it is deemed ineffective, regardless of any time limit.

I believe that rules and laws exist in the modern world as a deterrent to crime. The world would be relatively chaotic if there were no consequence available for wrongdoings. I appreciate that the deterrent value of penalties has never really been tested, and perhaps that is something that could be looked into. I remain on the stance that penalties and legislation are there to serve as deterrents. Crime should always be prevented in the first instance.

I wholeheartedly agree with the comment recommending an automatic ban on ownership or custody of animals to anyone guilty of a cruelty offence. If someone cannot treat an animal properly, taking the opportunity out of their hands is a fantastic incentive.

However, many animal cruelty acts are carried out by people who do not own the animal involved, such as the man in Fife who tied a dog to a tree and burned it alive - the dog did not belong to him, as well as individuals involved in dog fighting rings who are actively kidnapping cats and dogs to use as bait. Disqualification orders are not always applicable to the guilty party, which is why applying the sentences are of such importance.

I absolutely recognise the importance of the Court's discretion, as cases can vary in severity and there are always other facts to consider. I agree with the comment that there is evidence of a lack of consistency in sentences handed out by the Courts. The penalties outlined in legislation are there for a purpose, and whilst I appreciate that discretion is important, it is the Court's duty to correctly interpret this into the decisions they make. Mr Flynn mentioned that he cannot recall anyone having received the maximum sentence within his 29 years of service. Having read about some of the horrific acts of cruelty that have taken place in Scotland, I am shocked to learn that the maximum sentence has never even been put into practice. In this case, I suppose it boils down to whether the general public agree with how the courts are operating.

Comments in response to the Scottish Government.

I am delighted that the Government already recognises the links between mental illness and animal abuse, and it is fantastic that there is a system in place.

I am aware of the Codes of Practice and appreciate that this is a good method of education. The only issue here is that a lot of the public are not aware of these Codes of Practice. If I hadn't have been pointed towards this due to doing an Animal related course during my time at college, I would also be unaware.

Mr Lochhead makes a good point about the courts having never applied the maximum sentence under the Act, so it is reasonable to say that it would be silly to increase a maximum sentence which is never used in the first place. However, I am inclined to go back to my previous point about legislation being in place to prevent crime. Whilst the courts should maintain their discretion, I believe that increasing the sentence would still send out an appropriate message that the crime is serious and not to be tolerated, whether the courts decide to take it to that level or not.

Mr Lochhead also mentions that most convictions under this crime are due to ignorance or negligence, and by people who genuinely feel remorse. Whilst I appreciate this, I would like to point out the vast population of dog fighting rings in this country is certainly not ignorance or negligence; it is active abuse. There is a huge problem with dogs being abducted from gardens/outside shops, as well as strange people lurking around residential areas knocking on doors and sighting out the properties which have dogs. Whilst we have statistics for those who have been convicted under the Animal Health and Welfare (Scotland) Act 2006, we are unable to obtain those of the guilty whom have not been caught. It is therefore extremely important to be vigilant of the horrendous crimes which are not accounted for. Furthermore, 'ignorance' has never been an excuse to break the law, so why is this overlooked when it comes to animal abuse? It is doubtful that an individual would get away with other crimes such as drink driving and speeding because they were ignorant of the crime.

Mr Lochhead also mentions that the Scottish penalties are in line with those in the rest of Great Britain. With all due respect, this does not provide any evidence that it is right. As I have mentioned times before, the man in Fife who stole the dog and burned it alive received a 9 month prison sentence, and from what I have gathered, was the only person to receive a prison sentence under the Act of that year. I suppose it's beginning to come down to personal opinion whether this is a proportionate sentence. I, for one, as well as many of the general public believe that nobody has the right to take a life in such a sadistic and cruel manner. Had this been a human being he had burned alive, we all know that the sentence would be much, much harsher. It boils down to whether the Scottish Government can adequately recognise the quality of an animal's life. It is very apparent that pets inflict a great deal of joy and companionship into people's lives, and they should be treated better within the justice system.

The intention of this petition was not about making sure people who are cruel to animals 'pay for what they have done'. Prevention is always better than punishment, and that is why the maximum sentence needs to be increased in order to convey a message and deter the crimes. As Mr Lochhead said, a lot of animal abuse is due to

ignorance and negligence, and consequently, many people are not aware that this is a crime at all. Increasing the sentence will give the legislation the attention it needs, and deter this ignorance and negligence in the first instance.

Yours Sincerely,

Olivia Robertson