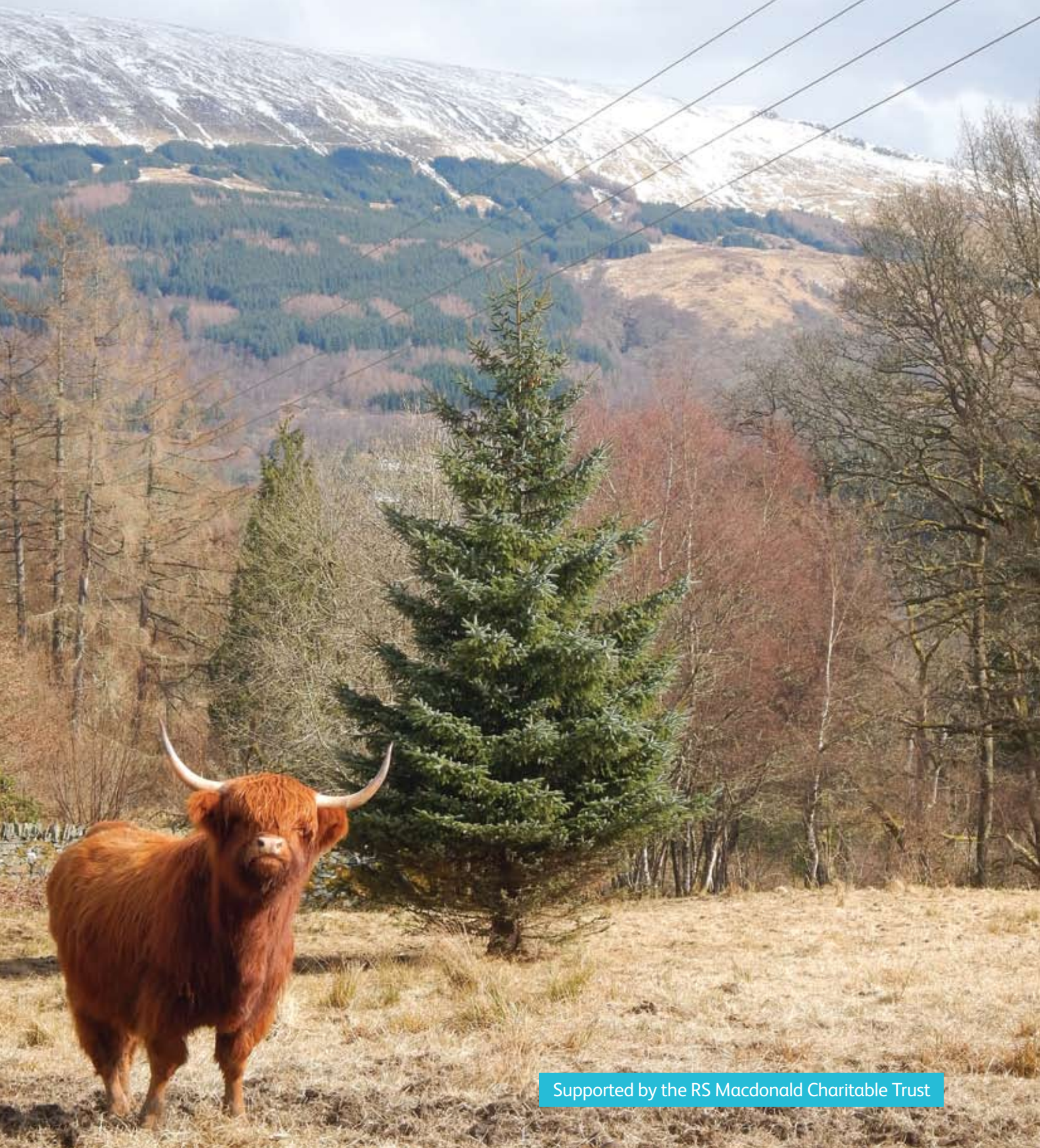




# Animal welfare in Scotland

A review of legislation, enforcement and delivery



Supported by the RS Macdonald Charitable Trust

# ANIMAL WELFARE IN SCOTLAND

A review of legislation, enforcement and delivery

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“Animal welfare means how an animal is coping with the conditions in which it lives. An animal is in a good state of welfare if (as indicated by scientific evidence) it is healthy, comfortable, well nourished, safe, able to express innate behaviour, and if it is not suffering from unpleasant states such as pain, fear and distress.

“Good animal welfare requires disease prevention and appropriate veterinary treatment, shelter, management and nutrition, humane handling and humane slaughter or killing. Animal welfare refers to the state of the animal; the treatment that an animal receives is covered by other terms such as animal care, animal husbandry, and humane treatment.”

World Organisation for Animal Health, Terrestrial Animal Health Code Article 7.1.1

The views expressed in this publication are those of OneKind charity.

OneKind wishes to thank the Scottish Government Animal Health and Welfare Division, COSLA Animal Health and Welfare Strategy Group and the Scottish Society for the Prevention of Cruelty to Animals for their co-operation in the production of this publication. Fiona Cooke designed, carried out and reviewed the stakeholder survey, and Kerry Melville assisted the working group. Libby Anderson wrote the text.

# INTRODUCTION

Research carried out for OneKind in 2010<sup>1</sup> found 9 out of 10 people in a UK sample believed that animals are sentient – that they have the ability to feel and to suffer.

In a separate poll in 2008<sup>2</sup>, we found that a majority of people (58 %) in Scotland would be more likely to vote for a political party that had a clear commitment to act to improve the welfare of animals. In other words, people care about the welfare of animals and want to do something about it.

These aspirations depend on government and policy-makers for delivery. In order to make the case for change – if change is required – it is necessary to understand where we are today and what resources are available. The aim of this document, therefore, is to describe the legislation, delivery mechanisms and resources currently available to protect and promote the welfare of all animals in Scotland – companion animals, farmed animals and free-living wild animals.

Animal welfare is a devolved issue. Responsibility for providing legislation, regulation and resources to promote the welfare of Scotland's animals lies with the Scottish Parliament and Scottish Government. The only exception to this is the regulation of scientific procedures using animals, which is overseen by the UK Home Office. Responsibility for delivering the animal welfare service is spread out across a number of agencies and organisations.

Enforcement authorities such as government, local authorities, Police Scotland and the Scottish SPCA are well aware of the structures, and the strictures, that apply to their work. However the public as a whole, the individuals who turn to these agencies with their concerns about the welfare of animals, are unlikely to be similarly informed. Frustration can arise when justifiably high expectations – we are a nation of animal lovers, after all – cannot be met, sometimes due to a lack of resources for animal welfare services. In other cases, intervention has led to an animal's state of welfare being brought up to the standard permitted by the law - but that legal minimum falls short of what the public would consider good practice.

“Animal welfare” covers a broad range of topics, including legislation and enforcement for companion animals, farmed livestock and free-living wild animals. As far as we are aware, no publication currently exists that illustrates the whole picture in Scotland. We cannot claim to have done this even here, as the area is vast, diverse and occasionally controversial. OneKind hopes, however, that this document will act

as a baseline on which legislators, enforcers, service providers and campaigners will be able to build. As the Scottish Government starts to work with stakeholders on a new Animal Health and Welfare Strategy to start in 2015, we hope that all parties can work together to create a more robust, more comprehensive and more effective regime for animal welfare in Scotland.

## Information gathering

Apart from specific referenced sources, the figures and comments cited in this report are taken from a survey of enforcement authorities, advisory bodies and animal welfare charities carried out on behalf of OneKind by Fiona Cooke BSc MA Law in the summer of 2013. Thirty organisations, agencies or charities responded to the survey. Information has been gathered, as far as possible, to cover the calendar year of 2012.

Where there were gaps in the responses received regarding statutory responsibilities for monitoring livestock markets and transport, licensing animal establishments such as pet shops, dog breeders, boarding kennels and riding stables, and collecting stray dogs, we have used alternative sources to give an idea of the extent of these sectors across Scotland.

Due to the incomplete nature of many of the responses to the survey it was decided not to attempt any form of statistical analysis, as this would not provide a representative overview. The survey did, however, elicit many individual comments of interest, and these are shown throughout the publication. Taken together, these indicate some variations in approaches to enforcement across the different types of legislation and across the country.

We are very grateful to the individuals and organisations who supported the gathering of information and views for this publication: we stress, however, that the interpretation and opinions expressed in the following pages are those of OneKind charity, and not necessarily those of anyone else connected with the project.

Tables showing more detailed figures for a number of issues discussed are available at [www.onekind.org](http://www.onekind.org) in the Animal Welfare in Scotland section.

1. Opinion Matters public opinion survey for OneKind, September 2010
2. TNS System Three for Advocates for Animals, October 2008.



# THE ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

The main legislation covering the welfare of domesticated animals in Scotland is Part 2 of the Animal Health and Welfare (Scotland) Act 2006.

The animals protected under the Act are vertebrates that are commonly domesticated in the British Isles, or are under the control of man on a permanent or temporary basis, or are not living in a wild state (ss. 16 and 17).

Comprehensive guidance to Part 2 of the Animal Health and Welfare (Scotland) Act 2006 is available on the Scottish Government website<sup>3</sup>.

## Maintaining existing provisions

Prior to 2006, the main anti-cruelty legislation was the Protection of Animals Act (Scotland) 1912, which made it an offence to cause “unnecessary suffering” to an animal. It was illegal to “cruelly beat, kick, ill-treat, over-ride, over-load, torture, infuriate or terrify any animal, to set animals to fight each other or to poison flesh or grain”, to be involved in animal fighting, to administer poison to an animal, and to carry out or procure cruel operations on animals.

Part 2 of the Animal Health and Welfare (Scotland) Act retained the original offence of causing unnecessary suffering (s.19). It applies to any person inflicting cruelty on an animal although most prosecutions under s.19 are taken against responsible persons (defined at s.18). From 2006 to 2011-12, there have been 473 prosecutions under s.19, of which 398 were against responsible persons<sup>4</sup>.

The 2006 Act also retained the previous offences concerning animal fighting (s.23), poisoning (s.22)

and cruel operations (s.21) and added others such as carrying out mutilations (s. 20), selling animals to under-16s (s.30) and offering animals as prizes (s.31). An offence of abandonment (s.29) was also incorporated.

## Duty of care

As well as maintaining and adding to the protection of animals from harm, the Act represented a major shift in emphasis in Scottish animal welfare legislation by, for the first time, making people responsible for their animals and placing a duty of care on them to ensure that their welfare needs are met (s.24). The duty of care is placed exclusively on those responsible for an animal and is intended to prevent poor welfare developing – a clear step forward from simply punishing those who had been involved in causing unnecessary suffering.

## Care notices

Another important innovation was the provision, at s. 25 of the Act, for inspectors to issue statutory care notices requiring improvements to the conditions of animals within a specified period. The notices, which apply only to welfare standards, not unnecessary suffering, are designed to achieve speedy, effective intervention without necessarily having recourse to the relatively slow criminal justice system. Care notices are particularly effective where there is a risk of, rather than actual, suffering. Breach of a care notice is an offence but prosecutions are very rare.

3. <http://www.scotland.gov.uk/Topics/farmingrural/Agriculture/animal-welfare/AnimalWelfare/AHWSAGuidance>

4. Response by Kenny MacAskill MSP to Written Question SW4-11456 by Marco Biagi MSP 22 November 2012

The use of s.25 care notices appears to vary widely across local authorities. Out of those local authorities that responded to our survey, most had not issued any notices in 2012, while others had issued dozens. The highest number reported was 58, resulting in one prosecution for breach of a care notice.

Scottish SPCA Inspectors are authorised by Scottish Ministers under the Act to issue care notices but as part of their authorisation are encouraged not to do so on a regular basis. Inspectors therefore issue Scottish SPCA care notices which cover all the same issues although it is not an offence under the Act to breach these. Compliance generally is estimated at 97 - 98 % and in cases of non-compliance, the Inspector can still issue a statutory notice.

In 2012, Scottish SPCA Inspectors issued 737 Scottish SPCA care notices and 3 statutory care notices, all of which were complied with.

## Taking possession of animals

Another intervention with considerable potential to reduce suffering at an early stage is the provision for inspectors or constables to remove animals immediately if they are suffering, or likely to suffer (s. 32). Subsequently the courts can order that the animals be released (s.33), receive treatment, be sold or destroyed or otherwise disposed of (s.34).

## Penalties and post-conviction orders

The maximum penalties for offences involving cruelty or fighting are up to 12 months' imprisonment, a £20,000 fine, or both; while other offences attract up to 6 months' imprisonment, a Level 5 fine (currently £5,000), or both (s.46).

The Act also provides (ss. 39 – 41) for post-conviction orders. A deprivation order can ensure that the animal in question is removed from the possession of the offender, although in practice this has often happened prior to court proceedings. Courts must also consider disqualification orders on conviction for relevant offences. Disqualification orders were issued in 15.5 % of relevant cases in 2010-11<sup>5</sup>. Breach of disqualification can lead to animals being seized.

## Abandonment

Abandonment of an animal in circumstances likely to cause it unnecessary suffering, or leaving an animal unattended without making adequate provision for its welfare, are specific offences under the Animal Health and Welfare (Scotland) Act 2006 (s.29).

Under the previous Abandonment of Animals Act 1960, abandonment of an animal was equated to a cruelty offence. In the 2006 Act, abandonment is categorised as a failure to promote welfare, subject to lower penalties than unnecessary suffering and animal fighting. Prosecution of an offence of abandonment does not, however, preclude an additional offence of unnecessary suffering.

It can be difficult to say exactly what amounts to adequate provision for the welfare of an animal left unattended, and how long such a situation may safely be allowed. In these days of dog crates, automated feeders and in-vehicle temperature monitors, there may be a move towards leaving animals on their own for longer periods, with likely consequences for their psychological (and potentially physical) welfare. It is for the courts to decide on a case-by-case basis what adequate provisions are, and how long is too long to leave an animal unattended.

Case reports frequently show a connection between animal neglect and animal abandonment: an owner prepared to leave a dog or cat in a flat for days on end without companionship, exercise or adequate food is not likely to have offered a high standard of care beforehand.

Unfortunately, many people who abandon their pets are never subject to prosecution as they simply relinquish responsibility for their animals by dumping them and are therefore difficult to trace – although occasionally there are successes.

The increasing popularity of exotic pets adds another dimension to the seriousness of abandonment. Non-native species are less well-equipped than indigenous animals to maintain a state of good welfare without human care. Nonetheless, some exotic pets released into the environment may establish a population, inter-breed with native species, become a threat to competitor species and end up being the victims of culling or persecution. Ring-necked parakeets, snapping turtles and raccoon dogs have all been reported in locations from in south-east England to Scotland<sup>6</sup>; wallabies introduced to Inchconnachan island in Loch Lomond in the 1940s were scheduled for culling in recent years, a proposal that provoked controversy and local outrage<sup>7</sup>. Some abandoned animals also have to potential to cause distress or injury to members of the public who come across them.

5. Answer by Kenny MacAskill MSP to Written Question S4W-09164 by Paul Wheelhouse MSP, 3 September 2012

6. <http://www.telegraph.co.uk/earth/wildlife/7841796/Scorpions-Brazilian-aardvarks-and-wallabies-all-found-living-wild-in-UK-study-finds.html>

7. Campaign to save Loch Lomond's wallabies gains pace Lennox Herald 26 June 2009 <http://www.lennoxherald.co.uk/dunbartonshire-news/dunbartonshire-news/loch-lomondside-news/2009/06/26/campaign-to-save-loch-lomond-s-wallabies-gains-pace-114557-23954789/>

## Secondary legislation

As an enabling Act, the Animal Health and Welfare (Scotland) Act 2006 gives powers to Scottish Ministers to introduce a wide range of secondary legislation to give full effect to the measures in the Act. A commitment was given for new or updated regulations on pet shops, pet fairs and pet dealing, animal boarding kennels, dog breeding, riding establishments, animal sanctuaries and livery stables<sup>8</sup>. Travelling circuses and electric shock collars were also discussed as potential subjects for secondary legislation.

Seven years after the Act, one set of new regulations (Licensing of Animal Dealers (Young Cats and Young Dogs (Scotland) Regulations 2009) has been produced: the enabling powers were also used to implement European legislation in the shape of the Welfare of Farmed Animals (Scotland) Regulations 2010. New Codes of Practice for Welfare for dogs, cats, equines and reared gamebirds have been issued and existing Codes of Recommendations covering cattle, laying hens, pigs and sheep have been revised and re-named Codes of Practice. Other proposed codes, including those for rabbits and primates, have not been progressed.

At the time of writing (November 2013) consultations on the use of wild animals in travelling circuses and the micro-chipping of dogs were expected.

It is clear that, unless significant additional resource becomes available, the full suite of secondary legislation envisaged during the passage of the Act is unlikely to be delivered in the foreseeable future. While animal welfare organisations continue to press for this, campaigners and policy-makers alike will have to make choices as to the areas of greatest and most urgent need. Some local authorities have said that they are waiting for the secondary legislation to be made before reviewing their enforcement priorities and procedures<sup>9</sup>.

OneKind and many other animal welfare organisations believe that a review of pet vending legislation should be a Scottish Government priority for secondary legislation in light of: the growth in internet trading; the increased trade in exotic pets, from meerkats to reptiles, and the associated health, welfare and biosecurity issues; and the increasing intensification of the supply industry (for example, breeding farms for hamsters, guinea pigs and other small species). Developing animal welfare science points to animals in these establishments having very

different requirements than is currently provided by legislation<sup>10</sup>.

Acknowledging that legislation is not the only way to achieve change, animal welfare organisations also look for pragmatic solutions – such as the Minimum Standards for internet classified sites published by the Pet Advertising Advisory Group (PAAG)<sup>11</sup> – and aim to work with government to reinforce these efforts.

## Advisory bodies

Scottish Ministers also have powers under s.36 to establish a Scottish animal welfare advisory body. There is currently no proposal to implement this. The Scottish Government receives advice from the Farm Animal Welfare Committee<sup>12</sup> regarding the welfare of farmed animals on agricultural land, at market, in transit and at the time of killing.

## Enforcement of the Animal Health and Welfare (Scotland) Act 2006

Power to enforce any provision of Part 2 lies with “inspectors” appointed or authorised either by the Scottish Ministers or by a local authority (s.49). In practice, this includes officers of the Animal Health Veterinary Laboratory Agency (AHVLA) and local authority animal health and welfare officers employed in Trading Standards and Environmental Health Departments<sup>13</sup>. Individual inspectors of the Scottish Society for the Prevention of Cruelty to Animals (Scottish SPCA) which is a reporting agency, are also authorised as “inspectors” for the purpose of dealing with animals in distress, and are empowered to issue care notices.

Reporting agencies carry out initial investigations and submit a report to the local Procurator Fiscal who considers the evidence and what action would be in the public interest, whether a direct measure, a prosecution or no further action.

Inspectors and police constables have powers under the Act to enter and search premises, to seize animals in distress, and/or to destroy animals if their condition requires this action (Schedule 1). There are further, limited powers of entry to gather evidence after the event, regarding offences committed under the Act. For the more serious offences of causing unnecessary suffering (s.19); mutilation (s.20); cruel operations (s.21); administration of poisons (s.22); animal fights

8. Animal Health and Welfare (Scotland) Bill: Explanatory Notes, Scottish Executive October 2005 [http://www.scottish.parliament.uk/S2\\_Bills/Animal % 20 Health % 20and % 20Welfare % 20\(Scotland\) % 20Bill/b47s2-introd-en.pdf](http://www.scottish.parliament.uk/S2_Bills/Animal%20Health%20and%20Welfare%20(Scotland)%20Bill/b47s2-introd-en.pdf)

9. Fiona Cooke, pers comm

10. *ibid*

11. [www.paag.org.uk](http://www.paag.org.uk)

12. [www.defra.gov.uk/fawc](http://www.defra.gov.uk/fawc)

13. Guidance on the Animal Welfare Provisions (part 2) of the Animal Health and Welfare (Scotland) Act 2006 Scottish Government 2006 <http://www.scotland.gov.uk/Resource/Doc/972/0040944.pdf>

## Abandoned exotics

In June 2013, a female bosc monitor lizard was found in the disabled toilet of an Asda supermarket in Edinburgh. She was making her way out of a white sack when a member of the public noticed her. In a previous case in September 2011, the Scottish SPCA had rescued a bearded dragon left in a white sack in the male toilets of a Morrison supermarket, not far from where the bosc monitor had been left. It was thought possible that the abandonments were linked. The Scottish SPCA issued warnings about the specialist needs of exotic pets and that abandonment was a criminal offence. Only a month later, a severely ill bearded dragon was found on an industrial estate in Falkirk, with another who had already died. The surviving bearded dragon was very thin and dehydrated and maggot infestations to the carcase of the dead animal indicated that it had been there for at least a week.

Source: Scottish SPCA

(s.23) and obstruction (Schedule 1), police constables can arrest individuals without warrant.

A specific issue regarding evidence-gathering was raised by one respondent to our survey:

*“The Animal Health and Welfare (Scotland) Act 2006 powers section is overly convoluted and at odds with most other legislation enforced by local authorities. In the powers section, whilst allowing officers to inspect agricultural premises it requires that a warrant is obtained once evidence of an offence has been found. This is at odds with most other legislation that allows officers legally on a premises to gather evidence once an offence has been identified.”*

Local authorities were intended to have a primary role in enforcing new and revised licensing provisions but they have no statutory obligation with regard to other direct enforcement. Only 9 of the 15 who responded to our survey referred to some enforcement activity under the Act.

## Court proceedings

Court cases and convictions are not an indicator of either success or failure in achieving good national standards of animal welfare; however, the criminal justice system is, and needs to be, integral to the enforcement landscape. The creation of a specialist team of Procurators Fiscal recognises the importance of prosecutorial expertise in this area. In purely numerical terms, the level of convictions for animal cruelty offences is similar to that for homicide or fire-raising<sup>14</sup>. In 2011-2012, there were 88 convictions for causing or permitting unnecessary suffering (s.19) and 8 for failing to ensure the welfare of an animal (s.24). There were 3 convictions for animal fighting (s.23), and 10 for abandonment (s.29).

See [www.onekind.org](http://www.onekind.org) Animal Welfare in Scotland: Tables for more detailed figures on court cases and convictions under the Animal Health and Welfare (Scotland) Act 2006.

## Scottish SPCA

In practice, the Scottish SPCA is the main reporting agency for animal-related incidents, with a high rate of successful prosecutions.

While statutory enforcement agencies generally work in designated areas such as farming, the Scottish SPCA covers the welfare of all animals in Scotland. The charity combines its enforcement role as a reporting agency to the Crown with a nationwide care and rescue service and an educational outreach programme. In 2012, the Animal Helpline received 195,299 calls and Inspectors attended 57,627 incidents, including investigations, rescues, abandonments and callouts for assistance. Inspectors carried out 8,300 routine visits including farm, stable and boarding establishment inspections.

In 2012, the Scottish SPCA reported a total of 126 cases under the Animal Health and Welfare (Scotland) Act 2006 to the Procurator Fiscal and a total of 109 offences (not necessarily the same cases, due to the time required for the court process) were successfully prosecuted. As the result of Scottish SPCA reports under the Act, one person was imprisoned, 4 deprivation orders and 55 disqualification orders were issued, including 11 life bans, and one seizure order was implemented following a breach of disqualification.

The Scottish SPCA has a policy of not putting healthy animals to sleep and, in 2012, re-homed 6,248 domestic animals from its care, and returned 2,138 wild animals to their natural habitats.

14. Criminal Proceedings in Scotland 2011-2012 Table 2a, Scottish Government November 2012 <http://www.scotland.gov.uk/Publications/2012/11/5336/0>



# COMPANION ANIMALS

The compassionate treatment of companion animals – our family pets – is a high priority for most members of the public.

According to the Pet Food Manufacturers' Association, 25 % of Scottish households have a dog and 17 % a cat. The next most popular pets are indoor fish (9 %), caged birds (4 %), rabbits (2 %) and hamsters (1 %)<sup>15</sup>. Affectionate relationships with individual pets give people an insight into the sentience of animals, and their welfare needs, that might not always strike them when they think about farmed animals or wildlife.

Part 2 of the Animal Health and Welfare (Scotland) Act 2006 can be used in the prosecution of welfare offences against companion animals, but prosecution under the 2006 Act is by no means the only option for the care, protection and control of companion animals. Local authorities have a wide range of regulatory responsibilities under other legislation, for dogs in particular, and many charities provide care for dogs, cats, rabbits, horses and other species.

Local authorities have responsibility for inspecting and licensing pet shops, breeding and boarding establishments, and riding stables. While a risk-based approach is normal practice in local authority enforcement of animal health and welfare, it appeared from our survey that licensed establishments were visited at least annually in most areas.

See [www.onekind.org](http://www.onekind.org) Animal Welfare in Scotland: Tables for more detailed figures on licensing inspections.

## Dogs: Stray, abandoned and neglected dogs, over-breeding and status dogs

Under s.149 of the Environmental Protection Act 1990, local authorities are required to provide a stray dogs service and must keep any dogs collected for seven days (unless returned to their owner in that time) before disposing of them by re-homing, passing to the care of an animal rescue centre, or putting them to sleep. The police also have powers under the Dogs Act 1906 to seize dogs.

As not all local authorities responded to our survey, we do not have an accurate figure for stray dogs collected by councils in Scotland in 2012. Some authorities provided detailed information – one was even able to give the cause of death for an individual dog that died while in kennels – whereas others gave no figures at all. The service can vary greatly dependent on the local authority and the available resources.

The annual Dogs Trust stray dog survey<sup>16</sup> provides comprehensive figures for the whole of the UK, for dogs collected by councils between 1 April 2012 and 31 March 2013. In Scotland, the number of stray dogs received by local authorities in the period was 3,525, a reduction of 22 % from the previous total of 4,524 dogs.

Most dogs recorded as strays are seized direct by the local authority (70 % in the Dogs Trust UK survey),

15. Pet Population 2013 survey, TNS/PFMA <http://www.pfma.org.uk/regional-pet-population-2013>

16. Dogs Trust Stray Dogs Survey 2012 Report July 2013 <http://www.dogstrust.org.uk/az/s/straydogssurvey/straydog2013.pdf>



with a much smaller number brought in by the general public (16 %) or handed over by the police or other agencies.

In Scotland, some local authorities have their own boarding kennels and facilities for the care and re-homing of strays; some contract this out to private kennels in the area; and others have a contract for the service with the Scottish SPCA, the Dogs Trust or an independent local charity such as the Edinburgh Dog and Cat Home.

The Scottish SPCA, which has ten shelters in Scotland dealing with all types of animals, received 3,347 dogs into its care in 2012, including strays: 603 were reunited with their owners and 1,846 were re-homed. While Scottish SPCA policy is that a healthy animal will never be humanely destroyed, 497 dogs required to be put to sleep on veterinary advice. The Dogs Trust, which has two shelters for dogs in Scotland, received 205 stray dogs from local authorities or police stations and re-homed 130. Altogether, the Dogs Trust re-homed a total of 1,500 dogs in 2012, and put three to sleep on veterinary advice.

See [www.onekind.org](http://www.onekind.org) Animal Welfare in Scotland: Tables for more detailed figures on stray dogs.

## Welfare issues behind the control of dogs

Control of dogs is an issue of major public concern. It may not be an obvious animal welfare problem, but out-of-control or aggressive dogs can also be the victims of harsh training methods and neglect, or subject to extreme psychological stress. Some breeds – so-called “status dogs” – are kept for the purposes of intimidating others and, according to the British Veterinary Association (BVA) “*exposed to environments and situations deliberately to create an uninhibited and aggressive response*”<sup>17</sup>.

In addition, historically, legislation has tended to presume against the dog. Section 1 of the Dangerous Dogs Act 1991 banned the keeping of four specific “types” (only to be circumvented by the development or importation of other equally dangerous types), and imposed penalties which up to 1997 required destruction of a dog found to be dangerously out of control. Even now there is a presumption that the courts will order destruction in certain situations.

In Scotland, some failings of the Dangerous Dogs Act 1991 were addressed by the Control of Dogs (Scotland) Act 2010, which focused on “deed not breed”, and extended the requirement for keeping a dog under control to private, as well as public places<sup>18</sup>. It did not, however, remove the list of “types” considered dangerous. The Act takes a preventative approach by allowing local authority officers to serve dog control notices (DCNs) on persons responsible for out-of-control dogs, or requiring them to do so if ordered by the court<sup>19</sup>.

In the second full year of the operation of the Act, Scottish local authorities carried out a total of 2,080 investigations connected with out-of-control dogs, and issued 147 DCNs. There was a wide variation in enforcement activity: for example, Aberdeen City Council carried out 317 investigations and served 4 DCNs, while Glasgow City Council carried out 5 investigations and issued 1 DCN. The greatest number of DCNs was served by Fife Council, which served 37 notices arising from 159 investigations<sup>20</sup>.

See [www.onekind.org](http://www.onekind.org) Animal Welfare in Scotland: Tables for more detailed figures on the Control of Dogs (Scotland) Act 2010.

Local authorities have recently highlighted some challenges in enforcing the 2010 Act, including the cost of enforcement and the fact that authorised officers in some councils have no knowledge or experience of dog behaviour. Furthermore, while DCNs can include a condition of attendance at training, many local training clubs are reluctant to accept “out-of-control” dogs, meaning that owners may be forced to source individual training. Some may not be able to afford the associated cost.

The Dangerous Dogs Act 1991 is enforced by the police and the Control of Dogs (Scotland) Act by local authorities.

## Micro-chipping

Compulsory micro-chipping of dogs is supported by many animal welfare bodies as an essential tool to address the problems of out-of-control dogs and strays. On a UK basis, the Dogs Trust stray dogs survey reported that 40 % of dogs reunited with their owners were able to do so because they were micro-chipped<sup>21</sup>. The Scottish Government is expected to issue a consultation on the use of micro-chipping by the end of 2013.

17. [http://www.bva.co.uk/public/documents/BVA-BSAVA\\_response\\_to\\_EFRA\\_Com\\_Inquiry\\_final.pdf](http://www.bva.co.uk/public/documents/BVA-BSAVA_response_to_EFRA_Com_Inquiry_final.pdf)

18. <http://www.legislation.gov.uk/asp/2010/9/section/10>

19. <http://www.legislation.gov.uk/asp/2010/9/section/1>

20. Answer by Kenny MacAskill MSP to Question S4W-17160 by Christine Grahame MSP, 25 September 2013

21. Dogs Trust Stray Dogs Survey 2012 Report July 2013 <http://www.dogstrust.org.uk/az/s/straydogsurvey/straydog2013.pdf>

### Lost, stray, neglected or abandoned cats, rabbits and horses

Local authorities do not have any statutory responsibility for stray or lost cats, rabbits or horses.

Services for stray, unwanted and neglected cats are entirely provided by charities including the Scottish SPCA which runs 10 animal welfare centres in Scotland, and Cats Protection which operates through local volunteer branches and an adoption centre in Glasgow. Local groups such as Lothian Cat Protection also provide shelters and neutering programmes.

In 2012, the Scottish SPCA took 2,807 cats into its care, of which it returned 198 to their owners and re-homed 2,099. 420 cats were put to sleep on veterinary advice. Cats Protection re-homed 5,864 cats from its branches around Scotland and its Adoption Centre in Glasgow.

Rabbits are popular pets, commonly sold in pet shops, but their welfare in private keeping can be poor. Animal welfare groups have repeatedly called for a Code of Recommendations for the Welfare of Rabbits to be produced by the Scottish Government.

The Scottish SPCA received 747 stray, unwanted or neglected rabbits into its care, of which it returned 43 to their owners and re-homed 557, while 78 were put to sleep on veterinary advice. Small independent charities and shelters such also provide a specialist service for lost, abandoned or neglected rabbits. For example, in 2012, Buddies Bunny Rescue in Midlothian took in 245 rabbits, of which 172 were re-homed. Fifteen rabbits became permanent residents of the sanctuary while 58 were put to sleep on veterinary advice, or died.

The Scottish SPCA also received 58 stray, unwanted or neglected horses into its care, of which it returned two to their owners and re-homed 19. Sixteen were put to sleep on veterinary advice. World Horse Welfare (WHW) received 34 Scottish horses at its Belwade Centre in Aboyne, which also re-homed horses from WHW centres in England. The Scottish Government is currently considering a call for licensing or registration of businesses where horses are boarded.

### Rabbit welfare

In spring 2013, Fairly Beloved Rabbit Care in Glasgow were called by an owner who had bought two rabbits, believing them both to be female. This was not the case and they had bred regularly so that she now had – she thought – 16 rabbits. The rescue found a total of 20 rabbits, all kept in very small housing (mainly hutches between 1.5 and 3 feet long), and decided to prioritise the case despite having a long list of single and paired rabbits awaiting accommodation. Fourteen rabbits were taken in and a plan was put in place to neuter the remaining six and develop a better environment to allow them greater space and exercise. The rescued rabbits were cared for in the rescue's fostering network, and re-homed after vaccination and neutering.

Source: FBRC

### Five year ban for kitten abandonment

A 63-year-old woman tied two 14-week-old kittens in a bin bag and threw them over a bridge in Hawick. They were found by a dog walker and the owner was traced after an appeal to the public for information. She pled guilty to abandoning the kittens in circumstances likely to cause unnecessary suffering, and was fined £150. She was also banned from keeping animals for five years. The kittens, Midnight and Shadow, were re-homed.

Source: Scottish SPCA



## FARMED ANIMALS

With 1.8 million cattle, 6.57 million sheep, 319,400 pigs and a poultry flock of 14.17 million in Scotland<sup>22</sup>, government and local authority enforcement activity is overwhelmingly directed towards farmed livestock, with the emphasis on animal health and disease prevention.

Local authority regulatory service departments (Trading Standards, Environmental Health or joint departments) employ Animal Health Officers<sup>23</sup> for this purpose while the Animal Health Veterinary Laboratory Agency (AHVLA) provides a central veterinary service.

### Control

The health of farmed animals is regulated by the Animal Health Act 1981, as amended by Part I of the Animal Health and Welfare (Scotland) Act 2006, along with disease-specific regulations implemented under this Act. While Part 2 of the 2006 Act on welfare applies to farm animals as it does to other types of animals, the welfare of farmed animals is also subject to specific regulation under the Welfare of Farmed Animals (Scotland) Regulations 2010 (made under section 26 of the 2006 Act). This Regulation also implements EU legislation on the welfare of farmed animals. Separate legislation is in place to protect the welfare of animals during transport, at markets, and at slaughter.

### Local authority enforcement

Livestock markets, sales and assembly centres, slaughterhouses, dealers, agents, ports (excluding Border Inspection Posts) and high risk farms are designated as Critical Control Areas (CCA) for local authority enforcement<sup>24</sup>. At the time of the passage of the Animal Health and Welfare (Scotland) Act 2006, local authorities described their animal health and welfare functions and priorities as follows:

*“Scotland’s 32 local authorities play a major part in monitoring animal health and welfare around the country. Animal health officers are responsible for the enforcement of a range of legislation including the Animal Health Act 1981 and Orders made under it. Animal health officers visit farms and markets to ensure that current animal health legislation is observed, checking animal movement, breeding and transport records. At markets, they ensure that animals are correctly identified, fit to travel and that the correct transport documentation accompanies the animals during transport. Road checks on livestock transporters are undertaken with other agencies such as the police and veterinary officials. Officers advise farmers of good*

22. June 2013 Scottish Agricultural Census, Scottish Government, October 2013 <http://www.scotland.gov.uk/Publications/2013/10/5891/0>

23. NB AHVLA and local authorities both designate their officers as Animal Health Officers, although some local authorities use the term Animal Health and Welfare Officers

24. Animal Health and Welfare Framework Scottish Government, COSLA, AHVLA, SCOTSS, SCOEHS, May 2011 <http://www.scotland.gov.uk/Resource/Doc/278281/0119040.pdf> NB CCA (premises where controls can be applied resulting in the reduction in the risk of the introduction or spread of notifiable disease in Scotland) should not be confused with Critical Control Points (CCP) (premises where animals’ individual numbers are electronically read on behalf of sheep keepers).

*practice in livestock husbandry and attend welfare problems, along with veterinary officials.*

*“Where there are particularly serious problems, it is the duty of animal health officers to make a report to the Procurator Fiscal.*

*“The main aim of most services at present is the effective prevention, control and eradication of injury and disease in farmed animals<sup>25</sup>.”*

## AHVLA enforcement

The Animal Health Veterinary Laboratories Agency (AHVLA) is involved in reactive on-farm welfare work and cross compliance inspections.

Reactive welfare inspections arise from reports, intelligence or concerns that animals may be suffering on a farm. These welfare complaints arise from the public or from information coming from slaughterhouses, markets or other reliable agencies. If a veterinary risk assessment finds a significant risk that animals will be suffering, AHVLA visits within 24 hours. If the intelligence suggests there may be a problem but a low risk of suffering, AHVLA will carry out a targeted inspection according to need and resources. If breaches in welfare legislation are identified, and the keeper is a CAP support claimant, AHVLA submits a cross compliance report to the Scottish Government Rural Payments & Inspections Directorate (SGRPID) to consider a reduction in support payments.

Working in partnership with local authorities and the Scottish SPCA, AHVLA can provide veterinary expertise while local authorities and Scottish SPCA have greater experience in formal enforcement: AHVLA does not normally report directly to the Procurator Fiscal. In 2012, AHVLA made a total of 221 inspection visits to 159 farms in Scotland.

AHVLA also carries out cross compliance welfare inspections relating to Common Agricultural Policy (CAP) support schemes. In order to receive agricultural support scheme payments administered by SGRPID, farmers must meet Statutory Management Requirements (SMRs). SMRs are based on the Welfare of Farmed Animals (Scotland) Regulations 2010 and include specific standards of welfare for all farmed animals, with extra requirements for calves and pigs. Again, a report to SGRPID may result in payment reduction.

For first offences the reduction is usually 3% or 5% but repeat breaches usually lead to a significantly increased payment reduction.

AHVLA officers also carry out welfare inspections at markets, approve and supervise assembly centres, and have a role in regulating the killing of animals outside of the slaughterhouse, such as knackermen and farms slaughtering poultry for local retail trade. Staff trained in fish welfare carry out reactive visits to fish farms. In 2013, AHVLA has been carrying out a programme of inspections to captive game birds (mostly pheasants and partridges during the rearing phase).

AHVLA has a significant role in protecting welfare of animals during transport, being involved in transporter authorisation, authorising and validating returned journey logs for longer journeys and carrying out supervised inspections of livestock being loaded for longer journeys.

See [www.onekind.org](http://www.onekind.org) Animal Welfare in Scotland: Tables for more detailed figures on AHVLA inspections.

## Laboratory support

Regulators are supported by institutions including Scotland’s Rural University College (SRUC) (formerly the Scottish Agricultural College), which carries out post mortem examinations and other tests for AHVLA, Scottish Government, the Scottish SPCA, Police Scotland and other organisations. SRUC is part-funded by the Scottish Government to carry out this work.

## Partnership working

Under the Animal Health and Welfare Framework between Scottish Government, the Convention of Scottish Local Authorities (COSLA), AHVLA, Society of Chief Officers of Trading Standards in Scotland (SCOTSS) and Society of the Chief Officers of Environmental Health in Scotland (SOCOEHs), local authorities are expected to meet minimum standards set out in an animal welfare activity matrix or “*have a clear plan for ensuring that animal welfare complaints and concerns are passed to the relevant organisation to be dealt with appropriately.*”<sup>26</sup>

The local authority activity matrix covering farmed animal welfare complaints is optional. The preamble explains:

*“It is important that local authorities that decide not to authorise Inspectors under part 2 of the Animal Health and Welfare (Scotland) Act 2006 recognise that they still have powers under the Act to prosecute offences under the Act. It is also recommended that*

25. COSLA briefing on the Animal Health and Welfare (Scotland) Bill Stage 1 Debate 23 February 2006

26. Animal Health and Welfare Framework Scottish Government, COSLA, AHVLA, SCOTSS, SCOEHs, May 2011 <http://www.scotland.gov.uk/Resource/Doc/278281/0119040.pdf>

local authorities that decide not to deal with welfare offences under this Act have a contingency plan in place to deal with any complaints that they may receive (eg contact details for local AHDO or SSPCA, or specific arrangements with a neighbouring local authority to do the work.”<sup>27</sup>

Judging by the responses to our survey, partnership is normal working practice, and is found to be effective. Multi-agency roadside transport inspections were cited as a good example, and some local authorities worked on a routine basis (at least weekly) with Scottish SPCA Inspectors. A typical comment was:

*“We have a very sound partnership approach to enforcement with AHVLA at our livestock market. LA officers attend 95% of market days and rely on AHVLA veterinary support for welfare issues. Market meetings take place between ourselves, AHVLA and the operator to agree standards and an enforcement approach. We also work closely on enforcement matters on farms and they rely on us to carry out enforcement in areas where they identify serious contraventions.”*

## Risk-based enforcement

A risk-based approach to enforcement is standard practice among local authorities<sup>28</sup>, with risk scored on categories such as previous compliance and stocking levels. Levels of enforcement activity inevitably vary depending on the presence or otherwise of markets or other animal centres. Referring to the Welfare of Animals at Markets Order 1990, one local authority commented:

*“[Council] has a busy livestock market and abattoir which are identified as Critical Control Points in the Scottish AH&W Framework. It is recognised that these points provide great intelligence on compliance by farmers using these facilities. This is a major driver for our enforcement activities in [Council]. Every year over 100,000 animals are assessed for fitness and disease purposes through these facilities.”*

Another (without a market) said:

*“as animal welfare is not statutory, we do not usually undertake any work in this area, focusing rather on animal health”.*

The number of market visits reported by respondents to our survey varied – from 0 to 208 in the year – with obvious implications for the amount of resource required for the animal health services. Similar variation was noticed in the level of enforcement on farms, where the number of units reported varied from over 2,000 in one council area, to a few dozen in others.

27. *ibid* p 57

28. *ibid* p.11

## Life ban for cattle neglect farmer

In July 2013, a Lanarkshire farmer was banned from keeping livestock for life after he admitted causing his Highland cattle unnecessary suffering. The 66-year-old farmer admitted allowing a bull and a calf to starve to death on his farm in April 2010, by failing to provide the animals with adequate nutrition and veterinary treatment. He also pled guilty to failing to dispose of nine carcasses which were left rotting in the fields where they had died. A Scottish SPCA Inspector said that during questioning, the farmer could not remember the last time he had walked his fields and checked on his livestock and was unable to confirm whether they had all been fed. He was given a life ban on keeping, owning, dealing or working with livestock and fined £250.

Source: Scottish SPCA

As seen above, much of the AHVLA scheduled monitoring and inspection work is also risk-based.

## Slaughter of farmed animals

Welfare in slaughterhouses is overseen by the Food Standards Agency (FSA). The Welfare of Animals at the Time of Killing (Scotland) Regulations, which came into force in January 2013, provide for the implementation of Council Regulation (EC) No 1099/2009 on the protection of animals at the time of killing. The results of the Scottish Government consultation on implementing the Regulation are currently under consideration, and could potentially give rise to further amendments to Scottish legislation. Key welfare issues raised in the consultation included slaughter without pre-stunning and the use of CCTV in slaughterhouses.

The EU Regulation allows Member States to ban the slaughter of animals without pre-stunning at a national level. Other Member States such as Poland have adopted such a ban, but this is not current Scottish Government policy, despite public concern about the issue – although there is no non-stun slaughter in Scottish plants at present.

Another current debate concerns the installation of CCTV in slaughterhouses, which is promoted by animal welfare organisations to protect animals from bad practice or outright abuse. Several retailer assurance schemes such Asda, Morrisons, Sainsbury,

## FARMED ANIMALS

Tesco, Marks & Spencer, Iceland, The Co-operative and Waitrose already require CCTV monitoring of animals at slaughter throughout their supply chains. The Freedom Food animal welfare assurance scheme owned by the RSPCA, which certifies producers in Scotland, also requires CCTV in slaughterhouses and provides technical specifications for its use. The FSA and Scottish Government support the use of CCTV in slaughterhouses as best practice: CCTV can be an effective monitoring tool<sup>29</sup>, given the often limited space in the stunning pen for the Official Veterinarian to have a clear view of the process. The Scottish Government is currently considering a call to move to compulsory CCTV.

### Farm assurance schemes

Non-statutory opportunities to promote the welfare of farmed animals include farm assurance schemes, sometimes considered as an alternative to farm licensing or further regulation. The standards required by many mainstream schemes, including Quality Meat Scotland (QMS), Scottish Finfish Code of Good Practice and Red Tractor are based on the minimum requirements set down in legislation<sup>30</sup>. The Scottish SPCA carries out welfare inspections for Specially Selected Pork under the QMS label. Organic schemes including the Soil Association and the Scottish Organic Producers' Association require animal welfare standards that are higher than the legal minimum<sup>31</sup>.

### Cross Compliance Successes

Between 2003 and 2007 AHVLA and local authority officers carried out sixteen visits to a farm in central Scotland. The welfare problems were never so extreme as to justify a report to the Procurator Fiscal, and the farmer usually improved when asked to do, but failed to maintain improved standards. The problems usually related to overgrazing and there was a strong suspicion that the existing subsidy package based on headage payments was a factor. A cross compliance inspection in 2007 identified problems and a breach was recorded with the farmer warned that subsequent breaches would result in much higher payment reductions. The farmer reduced his livestock numbers resulting in a sustained period of improved welfare.

In 2007, cross compliance inspections identified that a significant proportion of dairy farmers were keeping calves in individual pens without sufficient visual or tactile contact with other cattle. A number of breaches were identified and AHVLA held farmers meetings with SAC to highlight that and other issues. AHVLA also informed veterinary practitioners and through a campaign of raising awareness of the issue and the possible consequences, led to an improvement in calf welfare.

Source: AHVLA

### Life ban for horse neglect

A man from Aberdeenshire pled guilty on 20 June 2012 to an offence under the Animal Health and Welfare (Scotland) Act 2006 for failing to provide necessary veterinary attention to his two Shetland ponies, Haggis and Neeps. The case dated from 2010, when a concerned member of the public contacted World Horse Welfare after seeing the overweight ponies grazing on grassland near Aberdeen. Both had severely overgrown feet which appeared to have been neglected for many months or even years.

The ponies were signed over to the Belwade Rescue and Re-homing Centre at Aboyne, and re-homed from there. Their owner, a 65-year-old man, was banned from keeping all animals for life and fined £750.

Source: World Horse Welfare

29. FSA Board Paper 11/11/09 - 15 November 2011 CCTV for monitoring animal welfare at the time of slaughter <http://food.gov.uk/multimedia/pdfs/board/fsa111109.pdf>

30. Report on the Welfare Implications of Farm Assurance Schemes, FAWC June 2005 <http://www.fawc.org.uk/pdf/fas-report05.pdf>

31. Farm Assurance Schemes and Animal Welfare: How the standards compare OneKind/Compassion in World Farming March 2012 <http://www.onekind.org/uploads/publications/120323-farm-assurance.pdf>



# WELFARE IN THE WILD

Both legal and illegal efforts to manage wildlife have a welfare impact. Like companion animals and farmed livestock, individual, free-living wild animals are sentient individuals with the capacity to suffer due to human actions.

However, the legislative protection for wild animals is very different from that offered to domesticated animals.

Legal traps and snares routinely cause injury and death even though hare-coursing, badger and fox-baiting are all banned. Poisoning of mammals and birds is prohibited but anti-coagulant poisons (described by a UK Pesticides Safety Directorate report as “markedly inhumane”<sup>32</sup>) may still legally be used against rats and mice.

Wild animals are not considered to be protected animals under the Animal Health and Welfare (Scotland) Act 2006, except where they have come under the control of man. Animal fighting and baiting is covered by the 2006 Act, as is the welfare of animals caught in traps and snares, with the person who set the trap having responsibility for the welfare of the trapped animal.

Some legislation, such as the Wild Mammals (Protection) Act 1996 and the Protection of Wild Mammals (Scotland) Act 2002, has a direct focus on welfare, while other laws focus on species and habitat conservation but have an indirect effect on welfare.

A welcome recent development is a proposal by Scottish Natural Heritage (SNH) to develop a set of

wildlife welfare principles. These will consider ethical issues along with biological evidence and the extent to which wild animals can adapt to circumstances.

## Wildlife Crime

The primary enforcers of wildlife legislation are Police Scotland, and each of its 14 regional divisions has a Wildlife Crime Liaison Officer (WCLO). According to the Scottish Government’s first wildlife crime report<sup>33</sup>, police forces in Scotland recorded a total of 307 wildlife crimes in 2011-2012, including 31 of hunting with dogs, 26 of cruelty to wild animals, 11 offences involving badgers, 15 poaching offences, 47 deer offences, 101 salmon or freshwater fisheries offences and 17 “other” wildlife offences.

In November 2013 the Scottish Government launched an iPhone app to enable people to record and report suspected cases of wildlife crime directly to Police Scotland<sup>34</sup>.

The Scottish Minister for Environment chairs the Partnership Against Wildlife Crime (PAW Scotland), which currently comprises 28 bodies concerned with the prevention and tackling of crimes against wildlife. It includes Scottish Natural Heritage, Police Scotland and prosecutors as well as conservation, land management and sporting interests, and animal welfare organisations.

32. Guiding principles in the Humane Control of Rats and Mice, UFAW November 2008 <http://www.ufaw.org.uk/documents/GuidanceonhumanecontrolofrodentsFeb2509V19.pdf>

33. Wildlife Crime in Scotland: 2012 Annual Report, Scottish Government, September 2013 p.29

34. Scottish Government news release 5 November 2013 <http://news.scotland.gov.uk/News/App-lying-the-law-5cf.aspx>

## WELFARE IN THE WILD

The UK National Wildlife Crime Unit (NWCU), which has its headquarters in Livingston, specialises in intelligence-gathering and analysis and assists police forces and partners across the UK. Pro-active NWCU work focuses on nationally agreed priorities which are: badger persecution; bat persecution; CITES (trade in illegal species); fresh water pearl mussel removals; poaching; and raptor persecution.

The Crown Office and Procurator Fiscal Service (COPFS) Wildlife and Environmental Crime Unit (WECU) began operation in August 2011, with a team of specialist prosecutors who investigate, mark and manage the prosecution of all cases involving crimes against wildlife and the environment in Scotland. Their remit also includes the full range of animal welfare cases. Altogether, 118 wildlife cases were reported to COPFS<sup>35</sup> in 2012.

The Scottish SPCA also receives reports on suspected wildlife crime from members of the public, police officers, other enforcement agencies such as SEPA, and interested NGOs. Between 2007 and 2012 the Scottish SPCA dealt with 188 wildlife crime cases. 155 of these were handled solely by the Scottish SPCA and in the other 33 cases the Scottish SPCA assisted the police. 37 cases resulted in a successful prosecution (14 assisting the police and 23 solely Scottish SPCA). One notable case involved a man found with over 70,000 images of baiting badgers and deer with dogs<sup>36</sup>.

For 2012, the Scottish SPCA told us that they had received 61 reports of possible illegal snaring and 21 reports of possible illegal use of other traps. There were 232 reports of air gun attacks on animals, 55 reports of poaching, nine reports of badger baiting, six reports of fishing tackle injuries, two reports of raptor shooting and three of raptor poisoning.

### Bodies of protected bats found in Fife

Twelve pipistrelle bats were found dead at the foot of a tree in Guardbridge, Fife in June 2013. A post-mortem examination confirmed that the bats had suffered trauma and it was thought possible that someone had interfered with a roost or tried to dispose of bats found on their property. A police investigation ensued, as all such actions are illegal. The Bat Conservation Trust pointed out that it was very important for that bat roosts should not be disturbed, especially in summer when mother bats were raising their young in maternity roosts. *“If a mother bat is killed the baby will die too, as a baby bat depends on its mother for milk.”*

Source: Police Scotland

### Snared badger

An injured badger was found hanging from a fence by a snare. A Scottish SPCA inspector freed the badger and took it to a vet for treatment. Following investigation, a local man admitted setting a snare in a manner likely to cause unnecessary suffering to an animal by wholly or partly suspending it, contrary to the Wildlife and Countryside Act 1981, and failing to ensure the welfare of the badger after it became caught in the snare, contrary to the Animal Health and Welfare (Scotland) Act 2006. He was fined £160. Following treatment and rehabilitation, the badger was released back into the wild.

Source: Scottish Government Wildlife Crime Report 2012

35. Wildlife Crime in Scotland: 2012 Annual Report, Scottish Government, September 2013 p.33

36. *ibid* p.31



# GENERAL VIEWS ON ANIMAL WELFARE IN SCOTLAND

This section summarises responses to the general questions about the state of animal welfare in Scotland in our survey.

With the exception of two charities and one industry body, these comments were made by enforcement and regulatory authorities and service providers. The focus on livestock and animal health is notable and reflects the extent to which these areas are currently prioritised. It does, however, raise the question of whether sufficient resourcing and attention are available for the enforcement and regulation specifically of animal welfare, covering pets and wildlife as well as farmed animals.

## Positive progress

There was general support for partnership working and for a forthcoming Memorandum of Understanding between local authorities, the AHVLA and the Scottish SPCA. Partnership working with SGRPID and AHVLA was described by one respondent as:

*“effective in encouraging farms that receive rural payments to improve”.*

*“[Council] routinely uses experts in veterinary practice with specialisms in different animal types to support its licensing activities in zoos, riding establishments etc. This practice works well and is soundly established with contact provision and annual review. In addition, the [Council] dog warden service uses SSPCA facilities for the stray animals it collects. This is a well established and effective service.”*

The Animal Health and Welfare Framework Agreement, which covers livestock health, with animal welfare as an optional activity (see page 12) was also popular – one local authority described it as *“promoting consistency and advocating minimum, good and better standards of enforcement provision”.*

*“The implementation of the Scottish Animal Health and Welfare Framework in Scotland is a great step forward and will lead to a more consistent and thought out approach to AH&W enforcement in the Agricultural sector over the forthcoming years.”*

The Animal Health and Welfare (Scotland) Act and its preventative function also received overwhelmingly

positive comments, although the issue of resourcing for delivery remained a concern.

*“AHWSA 2006. Power to serve notice, power to intervene before actual suffering, powers to seize animals (although compromised by the failure to assign SG funding to the LA to deal with it – fine for seizing a cat, not so good for a flock of 1,000+ sheep.)”*

## Current concerns for animal welfare in Scotland

The two most commonly identified concerns were endemic disease of farmed animals, in particular liver fluke – a parasite of grazing animals that causes weight loss, diarrhoea, lethargy, anaemia and, in some cases, death – while sheep scab and lameness were also mentioned; and the effect of the economic downturn, coupled with colder winters and wetter summers.

*“Some animal health issues are a big concern for welfare, such as liver fluke which is on the increase and focus is needed to help find effective control measures. Removal of treatments and extending withdrawal periods for many parasitic treatments may also contribute to welfare problems as treatment becomes more difficult.”*

*“Sheep scab and BVD (bovine viral diarrhoea) are still issues. The loss of effective medicines to tackle sheep scab and liver fluke is an emerging issue. There is only one active sheep dip product and triclabendazole resistance is a serious issue for the control of liver fluke. Restrictions on the use of flukicides to treat dairy cows will make zero grazing the norm in many parts of Scotland.”*

*“Economic conditions and recent poor winters are making it harder for people to properly care for their animals, whether domestic or livestock.”*

*“It is foreseeable that some farmers may experience difficulties ensuring adequate feeding of livestock, given the high feed costs and economic climate. Where possible, farmers facing such difficulties are encouraged to reduce their stock and given guidance on their feed plan. Where farms are in receipt of rural payments can be influential in resolving matters. Loss of a rural payment could exacerbate problems a farmer may be experiencing if the underlying problem is financial instability.”*

## GENERAL VIEWS ON ANIMAL WELFARE IN SCOTLAND

Several authorities mentioned the growth of animal sales on the internet, along with illegal imports of pet animals, associated with puppy farming. The Scottish SPCA also highlighted these issues along with the continued lack of a ban on snares.

One charity cited pet shop licensing and a lack of interest in cat welfare as problems, while a horse charity raised issues to do with horse passports and identification.

Things that were thought to hinder service delivery and progress included the slow court process:

*“Courts are terribly inefficient and the time taken and numerous and various delays are very wasteful.”*

*“The court process. Here animals are seized and not relinquished by the owner. The animals are basically held as productions. It can take many months before a case will be called to court and even longer if set for trial. Cases that involve live animals being held should be given court priority. This is not the fault of any particular party, it is simply the system.”*

*“If targeted fast-tracking could be developed, some cases would benefit and the resources spent on monitoring during proceedings (often two years) could be better used,”*

A number of authorities also found that freedom of information requests took up a good deal of time and distracted from delivery:

*“FOI requests. These are frequently standard repeat inquiries by single issue groups. There is no evidence that the information used contributes to any useful outcome (I have followed up a number of these requests in my own time by checking websites and publications). They are very time-consuming!”*

### List of legislation

Legislation relevant to the protection of animals in Scotland includes:

#### **Pets, farmed animals and other animals under human control**

Dogs Act 1906, Performing Animals (Regulation) Act 1925, Pet Animals Act 1951, Animal Boarding Establishments Act 1963, Riding Establishments Act 1964, Dangerous Wild Animals Act 1976, as modified 1984, Breeding of Dogs Acts 1973 and 1991, Animal Health Act 1981, Zoo Licensing Act 1981, Environment Protection Act 1990, Welfare of Animals at Markets Order 1990, Dangerous Dogs Act 1991, Animal Health and Welfare (Scotland) Act 2006, Welfare of Animals (Transport) (Scotland) Regulations 2006, Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009, Control of Dogs (Scotland) Act 2010, Welfare of Farmed Animals (Scotland) Regulations 2010, Welfare of Animals at Time of Killing (Scotland) Regulations 2012

#### **Codes of Practice for the Welfare of Animals**

Codes of Practice made under the Animal Health and Welfare (Scotland) Act 2006 (s.37) cover:

Cattle, Equidae (horses, ponies, donkeys and hybrids), Laying Hens, Meat and Breeding Chickens, Pigs, Sheep, Gamebirds, Cats, Dogs, Animal Health and Biosecurity

#### **Wild animals**

Wildlife and Countryside Act 1981, Protection of Badgers Act 1992, Conservation (Natural Habitats & c) Regulations 1994, Wild Mammals Protection Act 1996, Protection of Wild Mammals (Scotland) Act 2002, Nature Conservation (Scotland) Act 2004, Spring Traps Approval (Scotland) Order 2011, Wildlife and Natural Environment (Scotland) Act 2011

### Abbreviations used

AHDO – Animal Health Divisional Office  
AHVLA – Animal Health Veterinary Laboratories Agency  
CAP – Common Agricultural Policy  
CCA – Critical Control Areas  
CCP – Critical Control Points  
CCTV – Closed circuit television  
COPFS – Crown Office and Procurator Fiscal Service  
COSLA – Convention of Scottish Local Authorities  
DCN – Dog Control Notice  
EU – European Union  
FOI – Freedom of Information  
FSA – Food Standards Agency  
NWCUC – National Wildlife Crime Unit  
PAAG – Pet Advertising Advisory Group  
PAW Scotland – Partnership Against Wildlife Crime Scotland  
PFMA – Pet Food Manufacturers' Association  
QMS – Quality Meat Scotland  
RSPCA – Royal Society for the Prevention of Cruelty to Animals  
Scottish SPCA – Scottish Society for the Prevention of Cruelty to Animals  
SEPA – Scottish Environment Protection Agency  
SGRPID – Scottish Government Rural Payments and Inspections Directorate  
SMRs – Statutory Management Requirements  
SNH – Scottish Natural Heritage  
SRUC – Scotland's Rural University College  
WHW – World Horse Welfare  
WECU – Wildlife and Environmental Crime Unit  
WCLO – Wildlife Crime Liaison Officer  
SCOTSS – Society of Chief Officers of Trading Standards in Scotland  
SOCOEHs – Society of the Chief Officers of Environmental Health in Scotland

# CONCLUSIONS AND RECOMMENDATIONS

## Animal health and animal welfare

In the allocation of central and local government resources, animal welfare is usually grouped with animal health. Significant effort and effective partnership working are devoted to protecting Scotland's animal and human populations, and human economic interests, from the potentially devastating effects of disease.

Clearly, an animal's state of health is intrinsic to its welfare: for example, a number of respondents to our stakeholder survey cited liver fluke as a current and future animal welfare concern. However an individual animal, or a flock, herd, or shoal, may be disease-free and still not enjoying a good state of welfare. The concept of animal welfare includes many factors other than health and it would be reasonable to ask whether the significant efforts regarding disease control in farmed animals indirectly reduce the attention paid to the other aspects significantly affecting the welfare of the individual.

In terms of enforcement and prosecutions, the Scottish SPCA is the only reporting agency with a dedicated animal welfare (not animal health) remit. However, the pursuit of offenders is not the only mechanism available and most stakeholders and the public would prefer to see animal suffering prevented, rather than addressed after the event.

**OneKind believes that the relationship between animal health and animal welfare should be reviewed in preparation for the new Scottish Animal Health and Welfare Strategy. This should include proposals for maximising the resource and attention for animal welfare, consideration of whether health and welfare should be dealt with separately, and place a strong emphasis on prevention.**

## Secondary legislation under the Animal Health and Welfare (Scotland) Act 2006

The information available to us about the use of care notices, whether statutory or under the Scottish SPCA scheme, along with prosecutions and orders under the Animal Health and Welfare (Scotland) Act 2006, indicates that the primary provisions of the Act are well used. Once an animal has suffered, or has reached a state where suffering is likely, the Act provides robust mechanisms for intervention.

It would obviously be preferable to prevent poor welfare in the first place. A modern regime for monitoring all the main types of operations that keep, work with or trade in animals is essential. Licensing and registration schemes require to be reviewed and to reflect cultural and commercial changes such as the universal use of the internet.

**At the time of the 2006 Act, commitments were given to consider the introduction of regulations covering pet shops, pet fairs and pet dealing, animal boarding kennels, dog breeding, riding establishments, animal sanctuaries and livery stables. Scottish Ministers have powers under the Act to introduce this secondary legislation and OneKind hopes to see progress in this area as soon as possible.**

## Equal recognition of welfare needs

Companion animals, farmed animals and free-living wild animals are all treated differently as far as protection of their welfare is concerned. Human health, hygiene and economic interests and cultural attitudes are all factors that understandably influence policy – but even within these constraints OneKind believes that more attention could be paid to the sentient individual and its welfare needs.

Differentiating levels of protection between animals that are fundamentally the same but live in different, often human-directed environments, may make sense from the human point of view but is not consistent with scientific assessments of their needs. Pet rabbits, farmed rabbits, wild rabbits and laboratory rabbits ideally should enjoy equally good states of welfare, based on what we know about their natural behaviour. Opinions will vary as to how far human interests should be allowed to affect these, but animals should not suffer because policy makers are unaware of their needs. One important protection would be to place a more stringent requirement on wildlife managers to demonstrate the necessity for controls such as culling, trapping or snaring.

**OneKind believes that the welfare of free-living wild animals should be the subject of an independent advisory panel, working with Scottish Natural Heritage to further its development of wildlife welfare principles and providing government with regular reviews of scientific evidence and welfare developments.**



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