

ANIMAL WELFARE SENTENCING IN NI:

# THE CASE FOR CHANGE







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# INTRODUCTION



**Animals are sentient beings as formally recognised in the Animal Welfare (Sentience) Act 2022 which came into force across the UK in 2023. They can experience positive and negative feelings such as pleasure, joy, pain and distress. They are not objects or chattels.**

**Despite this, animals continue to suffer unnecessary and horrific levels of cruelty every day. In Northern Ireland, there are thousands of animal welfare issues reported every year, with 5,916 reported in 2021 and 6691 in 2022<sup>1</sup> to local Councils alone. Cases examined as part of this report include extreme violence and prolonged neglect, causing incredible suffering to animals.**

<sup>1</sup> <https://www.daera-ni.gov.uk/publications/daera-annual-reports-and-accounts>



In many cases, the penalty imposed by the courts on offenders does not reflect the nature and severity of the crime, nor does it act as a deterrent for future offending. The sentences handed down to offenders have in many cases, attracted much criticism and public anger.<sup>2</sup>

Recent figures from the Department of Justice illustrate the low number of custodial sentences given over a five-year period relating to animal welfare cases.

Year	Prosecutions	Convictions	Convictions resulting in a custodial sentence
2018	97	68	5
2019	72	51	5
2020	62	44	7
2021	75	62	7
2022	72	49	9
Total	378	274	33

(Department of Justice, 2024)

Moving towards a society that better protects and values animals requires, among other measures, changes to the current sentencing guidelines in Northern Ireland.

The restoration of the Assembly and Executive in February 2024 is welcome and there is now an opportunity to both implement best practice from other jurisdictions as well as sentencing proposals made in the absence of the institutions.

This report sets out the key changes to sentencing guidance in recent years in England and Wales and calls for an update to current guidance for courts in Northern Ireland. The USPCA believe this will go some way towards protecting the most vulnerable animals in our society and reduce reoffending.

England and Wales are used as the comparative example as the legal framework for animal cruelty offences is broadly similar in each jurisdiction, with some aspects almost identical. Animal welfare offences are prosecuted under section four of the Welfare of Animals Act (Northern Ireland) 2011 and the section four of the Animal Welfare Act 2006 (covering England and Wales).

The USPCA recognises that the criminal justice system and sentencing are complex and nuanced processes. We hope this report will help inform the development of more consistent and clear sentencing guidelines and processes in Northern Ireland for animal cruelty cases that ultimately, will reduce the suffering inflicted upon animals.

<sup>2</sup> Animal cruelty sentences “incredibly difficult to comprehend”, Stormont told - Belfast Live; Concern over lack of jail sentences for Northern Ireland animal abusers | BelfastTelegraph.co.uk; Dog cruelty case: Council seeks legal advice over sentencing (northernirelandworld.com); Mark Carson: Coleraine man who kicked cat to death ‘living like hermit’ while under vigilante death threats - SundayWorld.com.



## CRIMINAL JUSTICE PROCESS IN ENGLAND/WALES AND NORTHERN IRELAND FOR ANIMAL WELFARE CASES

Animal cruelty is generally charged under section four of the Welfare of Animals Act (Northern Ireland) 2011 in Northern Ireland and section four of the Animal Welfare Act 2006 in England and Wales.<sup>3</sup> In both jurisdictions, a person commits an offence under section four where they knew, or ought reasonably to have known, that their act or failure to act would likely cause suffering to an animal.<sup>4</sup>

This act or omission causes suffering to an animal, whether mentally or physically, and the suffering is unnecessary.<sup>5</sup> If the courts determine that the suffering was necessary, the person is not guilty of an offence under section four.<sup>6</sup>

According to statistics from England and Wales, the greatest volume of animal welfare offences falls under section four.<sup>7</sup> While there is an absence of comparable statistics for Northern Ireland, there are strong indications that section four is also the most common offence brought against defendants.

<sup>3</sup> While other offences under the welfare legislation in both jurisdictions exist, most serious offenders are generally tried under section four.

<sup>4</sup> Microsoft Word - c.16 Welfare of Animals Act \_Northern Ireland\_ 2011 EN.doc (legislation.gov.uk); Animal Welfare Act 2006 - Explanatory Notes (legislation.gov.uk); Welfare of Animals Act (Northern Ireland) 2011, s 4; Animal Welfare Act 2006, s 4. A person can commit an offence under section four where they are responsible for an animal, and an act or failure to act of another person causes that animal to suffer where the first person failed to take reasonable steps to prevent unnecessary suffering. Also, this section only applies to protected animals.

<sup>5</sup> Microsoft Word - c.16 Welfare of Animals Act \_Northern Ireland\_ 2011 EN.doc (legislation.gov.uk); Animal Welfare Act 2006 - Explanatory Notes (legislation.gov.uk); Welfare of Animals Act (Northern Ireland) 2011, s 4; Animal Welfare Act 2006, s 4. The Northern Ireland legislation’s explanatory notes state that considering whether the suffering was necessary requires an evaluation of the ‘necessity, proportionality, humanity and competence of the conduct’.

<sup>6</sup> Microsoft Word - c.16 Welfare of Animals Act \_Northern Ireland\_ 2011 EN.doc (legislation.gov.uk)

<sup>7</sup> Animal cruelty sentencing guidelines consultation (sentencingcouncil.org.uk);

The laws governing animal cruelty and neglect are very similar. However, they are separate jurisdictions with some important differences in process and approach. These differences are summarised in table 1:1:

Table 1:1

	Northern Ireland	England and Wales
Animal cruelty charge	Charged under section four of the Welfare of Animals Act (Northern Ireland) 2011	Charged under section four of the Animal Welfare Act 2006 in England and Wales.
Nature of section four offence	Section four is a hybrid offence, meaning it can be tried in either court. The Crown Court can hand out sentences over the Magistrate’s Court limit and will generally hear the most serious crimes. Whether a case is heard in the Crown Court or the Magistrates’ Courts will affect the sentences available to judges and indicates the seriousness with which a case is viewed.	Section four is an either-way offence, meaning it can be tried in either the Magistrates’ Courts or Crown Court. These two courts will hear all criminal trials in the first instance. The Magistrates’ Courts hear summary offences, and the Crown Court hears indictable offences or the most severe either-way offences.  Magistrates’ Courts hear most cases. The Crown Court can hand out more severe sentences.
Importance of trial venue	When the prosecutor chooses the venue for the trial, they must consider whether the sentencing powers available in the Magistrates’ Courts ‘reflect the gravity of the offence.’ The Crown Court has more sentencing powers and is generally reserved for the most severe crimes, where sentencing powers in the Magistrates’ Courts are insufficient.	Magistrates’ Courts decide whether the trial should be in the Magistrates’ Courts or the Crown Court and this is the known as the ‘allocation decision’. <b>Following the Sentencing Council’s allocation guideline is required here.</b>  The allocation decision involves looking at the information on the case and considering whether the sentencing powers of the Magistrates’ Courts would be sufficient to deal with it based on the severity of the alleged offence(s).

	Northern Ireland	England and Wales
		Unless the outcome would clearly result in a sentence beyond the Magistrates’ Court’s powers, cases must be heard summarily. In cases considered severe enough to warrant a sentence above the Magistrates’ Courts’ powers, the Magistrates’ Courts may be able to try the case and then send convicted offenders to the Crown Court for sentencing.
Role of guidelines	Unlike in England and Wales, Northern Ireland judges have more discretion and sentencing ‘is carried out exclusively by full-time judges’. The specific animal cruelty guide contained within the guidelines in is less detailed than the England/Wales guide and there is no requirement to follow it.	Judges in England and Wales must follow the Sentencing Council’s guidelines, unless the court is satisfied that it would be contrary to the interest of justice to do so in all the circumstances of a particular case.
Maximum sentences	The maximum five-year sentence is only available in cases sentenced in the Crown Court.	
Requirement for a licence period	The sentencer has a range of options and factors to consider. There may be a non-custodial disposal, such as a community sentence or fine. Defendants may also receive a suspended custodial sentence or a term in prison. Where the judge believes the custody threshold has been passed they can hand down an immediate custodial sentence.  If the judge hands down an immediate custodial sentence, generally, a minimum of one-half must be spent on licence. While on licence, the offender is conditionally released and supervised in the community.  Therefore, even if a defendant received a maximum five-year sentence, they would likely only spend a maximum of two and a half years in custody if they complied with their licence conditions.	

<sup>8</sup> \*Allocation guideline (sentencingcouncil.org.uk); Which court will a case be heard in? – Sentencing (sentencingcouncil.org.uk). A defendant may be able to elect a jury trial in the Crown Court.



# THE COURT STRUCTURE IN NORTHERN IRELAND

## THE SUPREME COURT

Final Court of Appeal on points of law for the United Kingdom in civil cases. Final Court of Appeal on points of law for England, Wales and Northern Ireland in criminal cases.

## THE COURT OF APPEAL

Deals with appeals in civil cases from the High Court and with appeals in criminal cases from the Crown Court. Hears appeals on points of law from the county courts and the magistrates’ courts.

## THE HIGH COURT

Hears complex or important civil cases in three divisions and also appeals from county courts.

- > Kings’s Bench Division
- > Chancery Division
- > Family Division

## COUNTY COURTS

(including family care centres)  
Hear a wide range of civil actions and also appeals from magistrates’ courts.

## SMALL CLAIMS COURTS

Hear consumer claims and minor civil cases.

## CORONERS’ COURTS

Investigate the circumstances of sudden, violent or unnatural deaths

## THE CROWN COURT

Hears all serious criminal cases.

## MAGISTRATES’ COURTS

(including youth courts and family proceedings courts)  
Conduct preliminary hearings in more serious criminal cases.  
Hear and determine less serious criminal cases, cases involving youths and some civil and domestic cases, including family proceedings.

## THE ENFORCEMENT OF JUDGEMENTS OFFICE

Enforces money and other judgements.



The Crown Court or Magistrates’ Courts will hear all criminal cases in the first instance. Cases heard in the Crown Court are called trials on indictment. Magistrates’ Court trials are called summary trials. Section four is a hybrid offence, meaning it can be tried in either court. The Crown Court can hand out sentences over the Magistrate’s Court limit and will generally hear the most serious crimes.<sup>9</sup> NI’s highest court is the Northern Ireland Court of Appeal (NICA). Whether a case is heard in the Crown Court or the Magistrates’ Courts will affect the sentences available to judges and indicate the seriousness with which a case is viewed.

Prosecutors decide whether the case is tried in the Magistrates’ Courts or the Crown Court for adult defendants.<sup>10</sup> When the prosecutor chooses the venue for the trial, they must consider whether the sentencing powers available in the Magistrates’ Courts ‘reflect the gravity of the offence.’<sup>11</sup>

<sup>9</sup> Code for Prosecutors (ppsni.gov.uk)  
<sup>10</sup> The Prosecution Process | Public Prosecution Service for Northern Ireland (ppsni.gov.uk); Magistrates’ Court Order (NI) 1981, art 29; Code for Prosecutors (ppsni.gov.uk).  
<sup>11</sup> Code for Prosecutors (ppsni.gov.uk)

Figure 1:1: Court structure in Northern Ireland



# NORTHERN IRELAND LEADING THE WAY

In 2016, the maximum available sentence for breaching section four of the Welfare of Animals Act (Northern Ireland) 2011 was increased from two years to five years when tried on indictment and from six months to twelve months when tried summarily.<sup>12</sup>

This saw Northern Ireland lead the way for maximum sentence length in the UK, with England and Wales following in 2021. The change followed a recommendation made in a review of the implementation of the Act and importantly, was influenced by both the number and severity of animal welfare offences in the period before 2016.

The following cases are examples of this and were important in making the case for longer maximum sentences in Northern Ireland.

<sup>12</sup> The Justice (2016 Act) (Commencement No. 1) Order (Northern Ireland) 2016, explanatory note; <https://www.ppsni.gov.uk/legal-terms-explained>; Welfare of Animals Act (Northern Ireland) 2011 s. 31 (pre-changes); Welfare of Animals Act (Northern Ireland) 2011, s. 31 (after 2016 changes). The level of fine that could be given upon summary conviction was also increased.



# CASE ONE



In an animal cruelty case in Co. Antrim in 2014, the defendant, having moved, allowed a pet dog to starve to death, imprisoned in an empty flat without food or water. When officers entered the premises, they discovered that the starving pet had gnawed on food packaging and drank the toilet bowl dry. They also found the body hanging from the blinds of a window, with the dog having become entangled in a last-gasp effort for freedom.

The animal abuser was given a suspended custodial sentence and disqualified from keeping animals for five years by a disqualification order. This case was heard in a Magistrate's Court, and the maximum sentence available at the time was six months.

Residents in the Co. Antrim estate where the defendant lived expressed their disgust. Hundreds of stakeholders signed a petition in the aftermath of this case, calling for more severe sentences for such crimes. Members of the public made representations to Antrim and Newtownabbey Borough Council about the sentence. The Council's Head of Environmental Health said: '[t]here is huge public interest in this case and many people have been airing their views on the sentence given ... All the agencies involved in bringing this case to court are currently reflecting on the case and the level of sentence handed down.'

Efforts to have this sentence reconsidered were unsuccessful; a sentence for a section four offence after a summary trial is unsuitable for review because it is overly lenient. It was unsuitable in 2014 when this crime occurred. This has not changed. In this case, the defence barrister drew attention to the fact that this was 'passive' animal cruelty. This case may have been deemed 'passive' cruelty which would have informed how the judge and the PPS viewed the case. The 'passive' and 'active' terms in the sentencing guides are set out in table 1:2. They are inappropriate in our view.



# CASE TWO



In another case from 2012, one of the defendants, with no provocation, set Cody, a local family's pet Border Collie, on fire in Co. Antrim. Cody had to be put to sleep subsequently. This act was violent and unprovoked. Cody was a family pet and trusted humans and trusted Mr Stewart. Mr Stewart inflicted immense suffering on Cody.

This case was tried in the Crown Court. The judge in *R v Stewart and Downey* took the starting point at the two-year maximum sentence available on indictment at the time, sentencing Stewart to 20 months (half to be spent on licence). Mr Stewart was disqualified from keeping animals for 30 years. The nature of this crime meant that the judge handed down the maximum sentence available at the time to Mr Stewart, less any mandatory reductions the judge had to make for the defendant's eventual guilty plea.

The judge also took the defendant's age into account in mitigation. The judge recognised the significant attention this case was attracting. There were no guideline decisions for section four offences in 2014 when *R v Stewart and Downey* was decided. This case was later included in the animal cruelty guideline in Northern Ireland.



SENTENCING PROCESS IN NORTHERN IRELAND

Sentencing Process

Table 1:2 sets out how offenders who cause animal suffering are sentenced in Northern Ireland.

Table 1:2.

	Northern Ireland
Sentence starting point	Once the sentence’s starting point is determined judges are generally required to reduce it for a guilty plea. <sup>13</sup> The circumstances of the plea are relevant to the percentage of the sentence’s reduction. To get full credit, the offender must ‘face up to their responsibilities at the earliest reasonable opportunity’. <sup>14</sup> Judges must consider whether any aggravating or mitigating factors should affect the sentence. <sup>15</sup> For example, previous relevant convictions may be an aggravating factor. <sup>16</sup>
Totality principle	Judges must consider the totality principle. <sup>17</sup> Where there are multiple offences, the totality principle requires judges to ‘consider whether the total sentence is just and proportionate to the overall offending behaviour’. <sup>18</sup> Ancillary orders are standard in section four cases. Ancillary orders are orders that judges can make to compel the offender to comply with some condition(s). These can be, for example, an order for compensation. <sup>19</sup>
Disqualification and deprivation orders	Judges are directed to consider disqualification and deprivation orders in all section four cases. <sup>20</sup> In section four cases, disqualification orders allow judges to disqualify offenders from keeping animals for a specified period. Deprivation orders enable judges to order that animal(s) be removed from people convicted of animal cruelty. When a judge decides not to impose a disqualification or deprivation order, <sup>21</sup> they must explain their reasoning. <sup>22</sup>

<sup>13</sup> R v SG [2010] NICA 32; www.judiciaryni.uk/magistrates-courts-sentencing-guidelines-introduction-and-general-principles-0#:~:text=Having%20made%20the%20initial%20assessment%20of%20the%20basic,basic%20offence%20used%20in%20calculating%20the%20starting%20point%29. Maximum discount is generally one third; see R v Maughan (Appellant) (Northern Ireland) [2022] UKSC 13.

<sup>14</sup> R v SG [2010] NICA 32.

<sup>15</sup> R v PH [2011] NICA 64; Magistrates’ Courts Sentencing Guidelines Introduction and General Principles | Judiciary NI.

<sup>16</sup> R v SG [2010] NICA 32.

<sup>17</sup> R v PH [2011] NICA 64.

<sup>18</sup> Animal cruelty – Sentencing (sentencingcouncil.org.uk)

<sup>19</sup> This is not an exhaustive list of factors judges may be required to consider.

<sup>20</sup> Welfare of Animals Act (Northern Ireland) 2011, s 33.

<sup>21</sup> Welfare of Animals Act (Northern Ireland) 2011, s 32 (1). Must consider deprivation order when relevant, so when the offender is the owner of animal(s) ‘in relation to which the offence was committed’. Also, generally disqualification orders will order that the owner cannot keep the relevant animal(s) they had.

<sup>22</sup> Welfare of Animals Act (Northern Ireland) 2011, s 32 and 33.

	Northern Ireland
‘Passive mistreatment’ and ‘active mistreatment’	The distinction in the judicial guideline between ‘passive mistreatment’ and ‘active mistreatment’ is important. The guideline advises judges to consider more robust sentences for offences ‘committed by active mistreatment e.g. hitting’) and more lenient sentences for crimes ‘committed by passive mistreatment (e.g. malnutrition)’.
‘Passive mistreatment’ and ‘active mistreatment’	Sentencing will be graduated based in part on the offender’s culpability; however, this distinction seems overly reductive. The perpetrator’s culpability cannot be determined solely based on whether the mistreatment is active or passive. Other factors need to be considered when determining the starting point and range for the sentence. While judges are well placed to balance individual cases’ facts, if the guideline was more sensitive to the gravity of the suffering inflicted on animals, it could improve public confidence and community engagement.

Unduly Lenient Sentences

The Unduly Lenient Sentences (ULS) scheme provides a basis for sentences for some crimes to be reviewed because they are unduly lenient. This scheme was extended to section four cases through Article 2 of the Criminal Justice Act 1988 (Reviews of Sentencing) Order (Northern Ireland) 2016. Cases heard in the Crown Court can be referred to the NICA, where the Director of Public Prosecutions (DPP) considers the sentence ‘unduly lenient’.<sup>23</sup>

Only cases heard in the Crown Court can be reviewed under the ULS scheme.<sup>24</sup> The DPP must apply for a review of the sentence within 28 days from the date the judge handed it down.<sup>25</sup> Referrals must be early to account for this.<sup>26</sup> Anyone can request the Public Prosecution Service (PPS) to consider whether a sentence is unduly lenient.<sup>27</sup> If a case is determined to warrant a review, the DPP ‘must then seek leave to appeal from the NICA’.<sup>28</sup> The NICA will consider various guidance if they review the sentence.<sup>29</sup>

<sup>23</sup> https://www.daera-ni.gov.uk/sites/default/files/publications/dard/media-brief-welfare-of-animals-act-2011.docx (Media Brief) (Welfare of Animals Act (NI) 2011) (13 October 2016 (Version 2))

<sup>24</sup> https://www.daera-ni.gov.uk/sites/default/files/publications/dard/media-brief-welfare-of-animals-act-2011.docx (Media Brief) (Welfare of Animals Act (NI) 2011) (13 October 2016 (Version 2))

<sup>25</sup> Unduly lenient sentences | Public Prosecution Service for Northern Ireland (ppsni.gov.uk)

<sup>26</sup> Slight fall in number of sentences revised up in 2017 after complaints | Sentencing | The Guardian

<sup>27</sup> Unduly lenient sentences | Public Prosecution Service for Northern Ireland (ppsni.gov.uk)

<sup>28</sup> THE LAW ON UNDULY LENIENT SENTENCES: REPORT ON A DEPARTMENT OF JUSTICE Consultation (justice-ni.gov.uk)

<sup>29</sup> The Law on Unduly Lenient Sentences A Consultation Paper (justice-ni.gov.uk); Attorney General’s Reference No. 4 of 1989 Cr. App. R. (S) 517 Lord Lane CJ.





## SENTENCING GUIDELINES IN ENGLAND/WALES AND NORTHERN IRELAND

### Sentencing Guidelines

A critical difference between Northern Ireland and England and Wales is the sentencing guidelines used to determine the severity of punishments handed down at sentencing for animal cruelty offences.

Generally, the Courts in England and Wales follow guidelines set out by the Sentencing Council. The Sentencing Council was established in 2010 and is an independent body responsible for developing sentencing guidelines which courts in England and Wales must follow when passing a sentence.<sup>37</sup>

In Northern Ireland, instead of a structured system such as the Sentencing Council, the key mechanism is the Lady Chief Justice’s Sentencing Group. It was established in 2012 and produces sentencing guidance for Magistrates’ Courts.

The Sentencing Group is an expert body of judges and judiciary representatives that consult, consider, advise, and publish guidance on sentencing. These guidelines are available to judges, lawyers, and the public. They are also accessible to judges in the Crown Court or NICA, in addition to Magistrates’ Courts. Importantly, they ‘do not have the force of law’; however, they are accessible for judges to refer to and to assist judges when deciding on the sentence.

These guidelines ‘are kept under review by the Sentencing Group to ensure they reflect changes in the law and current best practice’.<sup>38</sup> The guidelines aim to improve consistency, transparency, community engagement, public understanding of the sentencing process and a culture of lawfulness.<sup>39</sup>

**The specific animal cruelty guide contained within the guidelines is less detailed than the England/Wales guide and there is no requirement to follow it.**

There is a specific meaning of what is considered *unduly* lenient under the scheme:

An unduly lenient sentence is one that falls outside the range of sentences that a judge, taking into consideration all relevant factors, and having regard to sentencing guidance, could reasonably consider appropriate. In other words, the sentence must not just be lenient but must be unduly lenient.<sup>30</sup>

According to Lord Chief Justice Lane, ‘there must be some error of principle in the judge’s sentence, such that, in the absence of the sentence being altered by the Court, public confidence would be damaged’.<sup>31</sup> The NICA will only change a sentence that is ‘significantly below’ what it should have been.<sup>32</sup> Double jeopardy is the principle that a person should not be tried twice for the same crime.<sup>33</sup>

The NICA will consider that the offender is going through the sentencing process twice.<sup>34</sup> Where the NICA decides that a sentence is unduly lenient, they may consider the double jeopardy principle while determining the *new* sentence.<sup>35</sup> The court will only interfere where the judge has made a ‘gross error’ and ‘in exceptional circumstances, and not in borderline cases’; this is a high threshold.<sup>36</sup>

<sup>30</sup> Unduly lenient sentences | Public Prosecution Service for Northern Ireland (ppsni.gov.uk)  
<sup>31</sup> The Law on Unduly Lenient Sentences A Consultation Paper (justice-ni.gov.uk); Attorney General’s Reference No. 5 of 1989 Cr. App. R. (S) 289 Lord Lane CJ.  
<sup>32</sup> Unduly lenient sentences | Public Prosecution Service for Northern Ireland (ppsni.gov.uk)  
<sup>33</sup> chapter-5—unduly-lenient-sentences-22.10.19.pdf (nidirect.gov.uk)  
<sup>34</sup> Unduly lenient sentences | Public Prosecution Service for Northern Ireland (ppsni.gov.uk)  
<sup>35</sup> chapter-5—unduly-lenient-sentences-22.10.19.pdf (nidirect.gov.uk)  
<sup>36</sup> Attorney General’s Reference No 5 of 1989 11 Cr. App. R. (S) 489 - Lord Lane CJ; R v Edwards, Attorney General’s Reference No 60 of 2012 [2012] EWCA Crim; Unduly Lenient Sentences | The Crown Prosecution Service (cps.gov.uk).

<sup>37</sup> The Sentencing Council was established by Parliament to be an independent body, but accountable to Parliament for its work which is scrutinised by the Justice Select Committee. Justice Ministers are accountable to Parliament for the Sentencing Council’s effectiveness and efficiency, for its use of public funds and for protecting its independence. Judicial Council members are appointed by the Lord Chief Justice with the agreement of the Lord Chancellor. Non-judicial council members are appointed by the Lord Chancellor with the agreement of the Lord Chief Justice.  
<sup>38</sup> Sentencing Group Biennial Report (December 2016).pdf (qub.ac.uk)  
<sup>39</sup> Sentencing Group Report (December 2012)(Final) (3).pdf (judiciaryni.uk); https://www.judiciaryni.uk/sentencing-guidelines-magistrates-court; Lady Chief Justice’s Sentencing Group | Judiciary NI



## DEVELOPMENTS IN ENGLAND AND WALES

In England and Wales, the guidelines produced by the Sentencing Council for animal cruelty have been updated since they were first introduced, driven both by legislative change and the Council’s statutory duty to undertake research and analysis to monitor the impact of its guidelines.<sup>40</sup> Guidelines were first updated in 2017 and again in 2023.<sup>41</sup>

### Recent changes include:

- In 2023 a new ‘Animal cruelty’ guideline was published by the Sentencing Council. This gives judges and magistrates in England and Wales guidance for sentencing the most serious animal cruelty offences, including causing unnecessary suffering, tail docking and animal fighting.
- The Council developed the guideline after the Animal Welfare (Sentencing) Act 2021 increased the maximum penalty for these offences from six months to five years’ custody.
- A second guideline, published at the same time, ‘Failure to ensure animal welfare’, revises elements of the Council’s existing animal cruelty sentencing guideline and applies to offences under section 9 of the Animal Welfare Act 2006: breach of duty of person responsible for animal to ensure welfare.
- This revised guideline, which applies in Magistrates’ Courts only, includes new aggravating factors for a significant number of animals harmed, the offender having a professional responsibility for the animals and offences motivated by financial gain.

It is too early to determine if the updates to guidelines in England and Wales will see sentences increase for the most serious offences. Sadistic or extreme cases or cases involving prolonged incidents of serious cruelty will be assessed at the highest culpability. Cases involving multiple incidents, or the use of significant force will also increase an offender’s culpability.

Updated guidance published by the Sentencing Council in 2023 around culpability factors does not use the terms ‘passive mistreatment’ and ‘active mistreatment’. This is important as the perpetrator’s culpability cannot be determined solely based on whether the mistreatment is active or passive. Other factors need to be considered when determining the starting point and range for the sentence.

Where an offender’s actions have caused an animal to die or sustain life-threatening injuries, or have caused substantial pain or suffering, this may also attract a higher sentence than before. Where a case affects a significant number of animals, involves images of the cruelty being shared on social media, or is committed in the presence of children, these will now be treated as aggravating factors.

<sup>40</sup> <https://www.sentencingcouncil.org.uk/news/item/animal-cruelty-offences-new-sentencing-guidelines-published/>

<sup>41</sup> The current sentencing guideline for animal cruelty, applies to offences contrary to the following sections of the Animal Welfare Act 2006: section 4 (causing unnecessary suffering), section 8 (involvement in an animal fight) and section 9 (breach of duty of person responsible for animal to ensure welfare).

The USPCA believe that the current guideline in England and Wales is more appropriate to improve consistency, transparency, and public understanding. These improvements have the potential to lead to increased public confidence when it comes to animal welfare offences. The language in the England and Wales guideline is relevant to the offence’s specific nature, yet it is not overly complex, and the prescribed steps are set out logically and are intuitive to follow.<sup>42</sup>

## NORTHERN IRELAND

For a comprehensive understanding, it is helpful to begin by briefly looking at enforcement in Northern Ireland. Local Councils, the Police Service of Northern Ireland (PSNI) and the Department of Agriculture, Environment and Rural Affairs (DAERA) enforce the Welfare of Animals Act (Northern Ireland) 2011.<sup>43</sup>

- DAERA enforce animal welfare laws regarding farmed animals.
- Local Councils handle non-farmed animals (pets) and equines.
- The PSNI is the body responsible for law enforcement for crimes against wildlife and cases of serious animal cruelty.

Officers for these bodies have various measures at their disposal in dealing with welfare concerns, from simply advising to taking animal(s) into their possession and starting prosecution proceedings.<sup>44</sup>

### Starting prosecution

Where one of these bodies considers that there has been a breach of section four, they can begin the prosecution process. There are several steps in this process. To start the prosecution process, the enforcement agency must gather evidence of a section four offence and send it to the PPS.<sup>45</sup>

The PPS then decide whether the evidence is strong enough to make conviction a reasonable possibility.<sup>46</sup> If the PPS believes the evidence is strong enough, prosecutors must consider whether prosecution would be in the public interest.<sup>47</sup> If the prosecutors decide to prosecute, they will determine what charges to proceed with.<sup>48</sup>

Sentencing Guidelines are accessible to judges in the Crown Court or the NICA as well. As previously mentioned, they ‘do not have the force of law’; however, they are accessible for judges to refer to and to assist judges when deciding on the sentence.

<sup>42</sup> <https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/animal-cruelty>

<sup>43</sup> Enforcement and recent prosecution cases | Department of Agriculture, Environment and Rural Affairs (daera-ni.gov.uk)

<sup>44</sup> Enforcement and recent prosecution cases | Department of Agriculture, Environment and Rural Affairs (daera-ni.gov.uk)

<sup>45</sup> The Prosecution Process | Public Prosecution Service for Northern Ireland (ppsni.gov.uk)

<sup>46</sup> The Prosecution Process | Public Prosecution Service for Northern Ireland (ppsni.gov.uk)

<sup>47</sup> The Prosecution Process | Public Prosecution Service for Northern Ireland (ppsni.gov.uk)

<sup>48</sup> The Prosecution Process | Public Prosecution Service for Northern Ireland (ppsni.gov.uk); Code for Prosecutors (ppsni.gov.uk).





These guidelines are kept under review by the Sentencing Group to ensure they reflect changes in the law and current best practice. The guidelines aim to improve consistency, transparency, community engagement, and public understanding of the sentencing process.

In Northern Ireland, the animal cruelty sentencing guideline first developed by the Lord Chief Justice’s Sentencing Group in 2012 and has not been updated. It does not reflect the nature of animal cruelty offences we continue to see perpetrated and the subsequent penalties handed down.

We have included the most recent NI Magistrates’ Courts sentencing guideline for animal cruelty for reference in Appendix One.<sup>49</sup>

The distinction in the judicial guideline between ‘passive mistreatment’ and ‘active mistreatment’ is concerning.<sup>50</sup> The guideline advises judges to consider harsher sentences for offences ‘committed by active mistreatment (e.g. hitting)’ and more lenient sentences for crimes ‘committed by passive mistreatment (e.g. malnutrition)’.<sup>51</sup>

<sup>49</sup> Cruelty to Animals - Nov 2018.pdf (judiciaryni.uk). Could be used for reference in all criminal courts in NI. (most recent as of 20/9/23)

<sup>50</sup> Cruelty to Animals - Nov 2018.pdf (judiciaryni.uk).

<sup>51</sup> Cruelty to Animals - Nov 2018.pdf (judiciaryni.uk).

Sentencing will be graduated based in part on the offender’s culpability; however, this distinction seems overly reductive. The perpetrator’s culpability cannot be determined solely based on whether the mistreatment is active or passive. Other factors need to be considered when determining the starting point and range for the sentence.<sup>52</sup> While judges are well placed to balance individual cases’ facts, if the guideline was more sensitive to public concerns, it could improve public confidence and community engagement.

The Sentencing Council did not use these terms in the culpability factors in the new guideline for England and Wales published in July 2023. A judge has even pointed out the problems with this distinction. Consider the following interaction from a 2022 case as reported in the Belfast Telegraph:

In court today, defence solicitor John McAtamney argued that, rather than a case of active cruelty,

“there were far too many dogs in the property... They were not properly cared for and that is accepted.”

District Judge Trainor told the solicitor, however:

“You are rather understating it. They’re sat in a house persistently watching animals suffer — what’s the difference between that and striking them?” asked the judge, who answered his own question: “It’s the same thing. It’s the neglect of harmless, defenceless animals.”<sup>53</sup>

This interaction succinctly illustrates the issue.

### Out-of-date elements of the NI guideline

Note four in the guideline still needs to be updated with the 2021 changes in England and Wales.<sup>54</sup> The version of the guideline in the Magistrates’ Courts Bench Book does not include the 2016 NI changes to sentencing under section four either.<sup>55</sup> The guideline is outdated, which goes against its goals of improving transparency and public trust.<sup>56</sup>

<sup>52</sup> The NI guidelines’ own stated principles require assessment of culpability in terms of recklessness, intention, and negligence. Passive cruelty could be caused by recklessness or negligence. It may be possible to argue that passive cruelty could be intentional. So, whether active or passive mistreatment causes the harm is insufficient information to indicate culpability effectively without considering other factors about the offence, see Magistrates’ Courts Sentencing Guidelines Introduction and General Principles | Judiciary NI. Also see <https://www.sentencingcouncil.org.uk/droppable/item/culpability/>.

<sup>53</sup> Siblings who subjected pet dogs to ‘a litany of the most horrible acts’ given probation and community service orders | BelfastTelegraph.co.uk

<sup>54</sup> As of 13/9/23.

<sup>55</sup> As of 13/9/23. MC Bench Book complete - Oct 2017.pdf (judiciaryni.uk)

<sup>56</sup> The currently unimplemented sentencing review may have impacted the work of the Sentencing Group and the sub-committee. Any criticism of the currently available guidelines should acknowledge this.



## The ‘relevant cases’ section in the guideline

Both Northern Ireland cases cited, *R v Kirkwood* and *R v Downey and Stewart* predate the 2016 legislation changes.<sup>57</sup> **The sentencing framework could benefit from a more recent guideline judgment.** Research conducted by the USPCA has determined that no cases from Northern Ireland have been designated guideline cases that were decided since the legislation changed in 2016. However, there is potential for this in the future.

A relevant quote from a NICA case comes to mind when considering the need for a new guideline decision: ‘[a]n increase in the statutory maximum renders pre-existing sentencing authorities of much less assistance’.<sup>58</sup> Since these cases were decided, the sentencing framework for section four cases has changed significantly. **Much more guidance is available now, particularly throughout the rest of the UK. A new guideline judgment would offer more clarity.**

Therefore, despite leading the way in 2016 with the increase to maximum sentences, Northern Ireland has fallen behind other UK jurisdictions in how it sentences those who inflict cruelty to animals.

Efforts to update the guidelines for animal cruelty and keep pace with other jurisdictions have been impacted by the absence of the Assembly and Executive between 2017-2020 and 2020-2022.

In 2019, the Department of Justice consulted on its Sentencing Policy Review. The subsequent ‘Way Forward’ document in 2021 set out the areas in which the then Minister for Justice Naomi Long MLA agreed to take forward.<sup>59</sup>

In relation to sentencing, these include setting the following out in legislation:

- the remit of the NICA to provide guideline judgments or review guideline judgments, including a power for the NICA to identify and issue such judgments as the need arises or for specific offences or categories of offence;
- power for the Attorney General or Director of Public Prosecutions to apply for a guideline judgment; the specific persons or bodies the Court should consider hearing from in regard to the need for a guideline judgment or its review;
- potential contents of a guideline judgment;
- power for the NICA to take account of relevant information on sentencing where it considers that is warranted.

<sup>57</sup> The English cases referred to in the guidelines essentially provide guidance on the imposition of ancillary orders. *R v Kirkwood and others* [2014] NICC 5; *R v Downey and Stewart* [2014] NICC 19.

<sup>58</sup> *R v Balmer and Wilson* [2015] NICA 40

<sup>59</sup> <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/sentencing-review-policy.pdf>

The Minister also agreed to:

- build on the current administrative sentencing guidance mechanism to address the matters raised by consultees which could improve transparency, understanding and confidence in sentencing in Northern Ireland.
- a statutory duty be placed on the relevant judiciary to require them to “have regard” to sentencing guidelines or relevant guideline cases unless satisfied that to do so would be contrary to the interests of justice;
- the court should be required to give its reasons for departing from relevant guidance.

Naomi Long MLA has since returned as Minister of Justice and has indicated she intends to introduce a Sentencing Bill by the end of 2025 (subject to Executive business), which would give legislative effect to these proposals.

The USPCA believes that current guidance is leading to unduly lenient sentences for animal welfare crimes, which subsequently do not act as a deterrent to those intent on inflicting unbearable pain and suffering on defenceless animals. The case of Jasper illustrates the disconnect between public and societal attitudes to animal cruelty and the sentence handed down to offenders, which also undermines public confidence in the judiciary.





In 2023, the defendant was sentenced to three months’ imprisonment for kicking a neighbour’s pet cat, Jasper, to death in a ‘sustained’ attack. The judge described the violence as ‘gratuitous’. The offender let Jasper lie there and suffer until he died from his injuries. An autopsy concluded that Jasper had sustained a ‘traumatic injury’, which would have caused immense suffering to Jasper in his last moments.

This case was heard in the Magistrates’ Courts. It is unclear why prosecutors believed that a maximum sentence of twelve months would be suitable in this case. We could not access a full transcript for more information on this sentence. However, while access to further information for more clarity would be beneficial, this case is comparable to *R v Downey and Stewart* regarding the culpability of the principal offenders and the harm caused. Mr Stewart received a 20-month sentence for burning and killing Cody. Cody’s suffering was partially a factor in precipitating the legislation change. We are sceptical that these two sentences, when considered together, exhibit consistent sentencing for animal cruelty. We believe that the seriousness of the offence in Jasper’s case should have warranted a starting point harsher than the Magistrates’ Courts limit.

Jasper’s killer subsequently received death threats. Five hundred residents in Coleraine signed a petition appealing to the judge to ‘make an example’ of him. There was obvious disgust among the public. Society’s rejection of this type of behaviour is unequivocal.

If we look at Jasper’s case as hypothetically falling under the remit of the new Sentencing Council guide in England and Wales, this offender could have been facing a starting point of two years if sentenced at the Crown Court. We believe this hypothetical starting point would be more consistent with the decision in the case of *R v Downey and Stewart*, in which judges are directed to for assistance by the Northern Ireland animal cruelty guideline.

Another example is the sentence handed down by Newry Magistrates’ Court in 2022, where a man who kicked a puppy to death was given community service.<sup>60</sup> While we could not access full transcripts of these cases, the case further highlights the need for updating and redrafting sentencing guides for section four crimes.<sup>61</sup>

Other animal cruelty cases are set out in Appendix Two. They highlight the inconsistency in sentencing.

<sup>60</sup> Dog killer sentence branded ‘disgraceful’: Brute football coach kicked tiny pup to death in garden | BelfastTelegraph.co.uk  
<sup>61</sup> The research for this report could not find a full transcript of these cases. Perhaps there is further information that can better explain the sentences here and the decision to try these cases summarily. These cases could not have been appealed on the grounds that the sentence was too lenient as they were heard in the Magistrates’ Courts. See section 6 for more information on why.



## COMMUNITY IMPACT STATEMENTS

In addition to the Guidelines, stakeholders also have the option to consider the use of community impact statements in section four trials.<sup>62</sup> These statements go before the judges when deciding on the sentence and are a way for a community to submit their views to the judge in a legitimate way pre-sentencing.

They provide stakeholder groups with an important voice; however, they are often not used, or not used correctly. For example, the case of Luna, an American Bull Terrier dog, who was buried alive in 2023, resulted in several organised public demonstrations.<sup>63</sup> Given the low awareness on community impact statements, this was not utilised as part of this particular case.

<sup>62</sup> <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/cis-faqs.pdf>  
<sup>63</sup> <https://www.derryjournal.com/news/people/utterly-despicable-derry-man-peter-toland-jailed-for-9-months-in-luna-dog-cruelty-case-4445626>





# RECOMMENDATIONS

- 1. The Northern Ireland guideline for animal cruelty as set out by Lord Chief Justice's Sentencing Group must be updated in line with:**
  - A. Current best practice**
  - B. Recent updates in other jurisdictions, specifically England and Wales, and their relevance to Note 4 of current Northern Ireland guideline.**
- 2. Agreed actions to be taken forward by the Minister of Justice following the Sentencing Policy Review should be legislated for and implemented without delay.**
- 3. Continued monitoring of sentencing and sentencing frameworks in other jurisdictions is recommended to ensure Northern Ireland is best placed to protect defenceless animals.**
- 4. Community impact statements should be used in section four trials.**

- 5. Disqualification and deprivation orders should be used as standard practice in sentencing section four offenders in a consistent way. This means that animal abusers will generally be disqualified from keeping animals, and judges must consider removing animals in their care.**
- 6. The sentencing framework in Northern Ireland would benefit from a more recent guideline judgment from the highest criminal court. A greater level of guidance is available now, particularly throughout the rest of the UK, and judges in Magistrates' Courts are still directed to consider cases that were decided before the law around maximum sentencing was changed in 2016.**
- 7. While separate to sentencing, future research on enforcement is recommended as there is a large discrepancy between the number of reports of welfare issues in Northern Ireland and the number of cases being prosecuted.**
- 8. Further research into the PPS decision-making on where section four cases are heard is also required. Numerous recent examples show that cases are being sent for trial in the Magistrates' Courts in NI, with a maximum sentence of 12 months that the USPCA believe are serious enough to warrant trial at the Crown Court with greater sentencing powers.**



ACRONYMS AND ABBREVIATIONS

TERM	DEFINITION
Criminal justice policy	The policies and theories put in place or designed to deal with criminal behaviour.
Criminal justice system	The systems in place to deal with criminality, including enforcement agencies, courts, prisons, and probation services.
Defendant	A criminally accused person (in this context).
Disposals	How cases are dealt with by the courts.
Double jeopardy	The legal principle that defendants or offenders generally should not be tried more than once based on the same conduct.
Either-way offence	A crime in England/Wales that can be sentenced in either the Magistrates’ Courts or Crown Courts.
Hybrid offence	A crime in Northern Ireland that can be tried in either the Crown Court or the Magistrates’ Courts.
On indictment	A trial on indictment is a trial at the Crown Court.
Offender	A person guilty of an illegal act.
Section four offence	The crime of causing unnecessary suffering to an animal in both jurisdictions considered here.
Sentencing Council	The body responsible for drafting, implementing, and monitoring sentencing guidelines in England and Wales.
Sentencing framework	The processes, customs, systems, guides, and laws in place that govern sentencing.
Stakeholder(s)	In this context, this means person(s) or organisation(s) with an interest in promoting animal welfare and deterring the commission of animal cruelty crimes. Stakeholders include any actors, from representatives of valued organisations like the USPCA to individual members of the public and politicians, for example.
Summary trial	Trial in the Magistrates’ Court.
Totality principle	The principle that sentences should reflect the overall offending behaviour where an offender is sentenced for more than one offence.

CPS	Crown Prosecution Service (England and Wales)
DAERA	Department of Agriculture, Environment and Rural Affairs
DPP	Director of Public Prosecutions
EWCA	England and Wales Court of Appeal
NICA	Northern Ireland Court of Appeal
PPS	Public Prosecution Service (Northern Ireland)
PSNI	Police Service of Northern Ireland
ULS	Unduly Lenient Sentences Scheme

APPENDICES





Appendix One | Northern Ireland Sentencing Guidelines

CRUELTY TO ANIMALS																					
<p><b>Welfare of Animals Act (NI) 2011-</b></p> <p>4. - (1) A person commits an offence if—</p> <p>(a) an act of that person, or a failure of that person to act, causes an animal to suffer,</p> <p>(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</p> <p>(c) the suffering is unnecessary.</p> <p>(2) A person commits an offence if—</p> <p>(a) that person is responsible for an animal,</p> <p>(b) an act, or failure to act, of another person causes the animal to suffer,</p> <p>(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</p> <p>(d) the suffering is unnecessary.</p>																					
<p><b>Maximum Sentence:</b></p> <p><i>Welfare of Animals Act (NI) 2011, s.31(1)</i></p> <p><i>Indictment:</i> 5 years imprisonment and/or an unlimited fine</p> <p><i>Summary:</i> 12 months imprisonment and/or £20,000 fine [for offences committed on/after 1 August 2016]</p> <p>6 months imprisonment and/or the statutory maximum fine (£5,000) [for offences committed before 1 August 2016]</p>																					
<p><b>Assessment of Offence</b></p> <p><i>(Starting points and ranges based on 1st time offender convicted following contest)</i></p> <table><tr><th colspan="2">Nature of Offence</th><th>Starting Point</th><th>Sentencing Range</th></tr><tr><td rowspan="2">The animal survived the mistreatment</td><td>The offence was committed by passive mistreatment (e.g. malnutrition)</td><td>Community Order + Deprivation Order + Disqualification Order</td><td>Fine to Community Order + Deprivation Order + Disqualification Order</td></tr><tr><td>The offence was committed by active mistreatment (e.g. hitting)</td><td>3 months Custody + Deprivation Order + Disqualification Order</td><td>Community Order to 6 months Custody + Deprivation Order + Disqualification Order</td></tr><tr><td rowspan="2">The animal died from the mistreatment or had to be humanely ‘put-down’ due to the mistreatment</td><td>The offence was committed by passive mistreatment (e.g. malnutrition)</td><td>3 months Custody + Disqualification Order</td><td>Community Order to 6 months Custody + Disqualification Order</td></tr><tr><td>The offence was committed by active mistreatment (e.g. hitting)</td><td>6 months Custody + Disqualification Order</td><td>3 - 12 months Custody + Disqualification Order</td></tr></table>				Nature of Offence		Starting Point	Sentencing Range	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
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Examples of Possible Aggravating Factors of Offence	Examples of Possible Mitigating Factor of Offence
<div>1. Offence committed in respect of multiple animals</div> <div>2. Animal survived but serious or long term injury caused/ requires significant intervention to recover</div> <div>3. Gratuitous violence towards the animal (e.g. setting animal on fire, drowning, swinging by the tail)</div> <div>4. Use of weapon</div> <div>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</div> <div>6. Offender in a position of special responsibility towards the animal (other than ownership simpliciter)</div> <div>7. Offender involves children in the offending</div> <div>8. Offence committed for commercial gain</div> <div>9. Offender ignored previous advice/warnings regarding the treatment of the animal</div> <div>10. Mistreatment over prolonged period of time</div> <div>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.*</div> <div>12. Distress caused to owner where not responsible for the offence</div> <div>13. Failure to comply with current court orders</div> <div>14. Allowing person of insufficient experience or training to have care of animal(s)</div> <div>15. Use of technology to publicise or promote cruelty</div> <div>16. Use of another animal to inflict death or injury</div> <div>17. Animal being used in public service or as an assistance dog</div>	<div>1. Ignorance of appropriate care</div>



Relevant Cases:	
<i>NI Cases:</i> R v Kirkwood and others [2014] NICC 5 R v Downey and Stewart [2014] NICC 19	<i>English Cases</i> R (RSPCA) v Chester Crown Court (2006) 170 JP 725 <u>Barker et al. v. RSPCA</u> [2018] EWHC 880 (Admin)
<b>Notes:</b>  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: <div><div>(a) from owning animals,</div><div>(b) from keeping animals,</div><div>(c) from participating in the keeping of animals, and</div><div>(d) from being party to an arrangement under which that person is entitled to control or influence the way in which animals are kept.</div><div>(e) from dealing in animals.</div><div>(f) from transporting animals, and</div><div>(g) from arranging for the transport of animals.</div></div> 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).	

Appendix Two | Recent Animal Welfare Court Cases

Date	Location	Offenses	Result	Sentence	Details
19/2/2021	Derry/L'Derry	Causing unnecessary suffering to a dog.  Failing to meet the needs of two dogs.  Abandoning animals	Guilty	Four months' imprisonment, suspended for two years; given 26 weeks to pay boarding costs, veterinary costs and legal costs totalling just over £2,600.	<p>Mother and son were jointly charged with causing unnecessary suffering to a dog, failing to meet the needs of two dogs and abandoning animals on or before January 19, 2018.</p> <p>A representative from Derry City and Strabane District Council read out the prosecution facts. She said an animal welfare officer called to a house on January 23, 2018 after a neighbour had raised concerns about barking dogs. On entering the property the council worker discovered that the floor was covered in faeces and urine. She also observed a few pieces of dry dog food.</p> <p>A terrier dog was discovered lying dead on the floor; his coat was matted and the worker could feel his ribs, hip bones and spine. Another dog – a black and tan terrier – could be heard barking from under the table. The council officer managed to coax the dog out and he was found to be emaciated. The dog, known as Toby, was given some water.</p> <p>A vet determined that the surviving dog would suffer if his circumstances didn't change and he was taken into the care of the council. A post-mortem was carried out on the dead dog and found him to be</p>



Date	Location	Offenses	Result	Sentence	Details
					<p>‘in very poor condition’. Assessing the environment which he described as ‘a picture of neglect’, the vet found that there were ‘shocking levels of filth’ in the property and no food or water for the pets.</p> <p>The vet believed the dead dog was ‘out-competed’ for food by his companion and the animal ‘suffered in its final days’.</p>
25/2/2021	Larne	Theft of a Dog & Causing Unnecessary Suffering	Guilty	3 Months Imprisonment (Granted Bail Pending Appeal)	<p><b>An individual</b> beat a dog to death because he was annoyed by his barking. Pleaded guilty to the theft of the chihuahua, and causing him unnecessary suffering . A prosecuting lawyer told the court how police were called to an address in Larne “over a report of a dog being killed” and when they spoke to the dog’s owner, she told them how he had been in her flat “in an angry state”.</p> <p>“The dog was barking and he lifted the dog and left the flat,” said the lawyer adding that two witnesses contacted police to report they saw the defendant with the body of a “limp, dead dog”.</p> <p>The court heard that a post-mortem examination determined the cause of death was due to a subdural haematoma which was caused by blunt force trauma.</p>

Date	Location	Offenses	Result	Sentence	Details
27/11/2020	Ballymena	Causing unnecessary suffering to 2 dogs	Guilty	150 hours of unpaid work; £1000 costs.A two-month suspended prison sentence.Both were banned from keeping animals for five years (expires November 2025).”	<p>A Couple starved and neglected their pet dogs. They pleaded guilty to causing unnecessary suffering to a boxer dog named Keela and a Jack Russell known as Tara. The charges were brought against them by Mid and East Antrim Borough Council. The couple were prosecuted after animal welfare officers visited their property in September 2019 and found their dogs living in filthy conditions.</p> <p>Keela was found to be in poor health and clearly malnourished. As well as being “excessively thin”, she had a one-inch ingrown dew claw embedded into her leg, an infection and sores from being forced to lie on a hard surface. Tara was in good body condition, but her living conditions were assessed by a vet as unsuitable.</p> <p>Both dogs were removed and later rehomed following their recovery.</p>
19/11/2020	Armagh	Causing unnecessary suffering and failing to meet the needs of the unnamed dog	Guilty	Sentencing: two four-month prison sentences, suspended for 12 months. Disqualified from keeping animals for 10 years.	<p>Refused to take his seriously ill Akita to the vet; dog was seized by welfare officers and euthanised on humane grounds.</p> <p>Belfast City Council brought the prosecution against Leckey for causing unnecessary suffering and failing to meet the needs of the unnamed dog on 14 March 2018.</p>



Date	Location	Offenses	Result	Sentence	Details
					The Council’s animal welfare team seized the dog under veterinary advice after Leckey had refused to take her for a veterinary check, as directed by an animal welfare office on 12 March 2018.The dog had to be euthanised as she was deemed to be suffering.
11/11/2020	Larne	Causing unnecessary suffering to a Pomeranian called Poppy and a Jack Russell cross known as Odie	Guilty	Financial penalties totalling £500, and ordered the defendant to pay £500 towards Council’s veterinary and kenneling costs and £400 towards legal costs.  An application by Council to disqualify the defendant from keeping of animals was refused by the Court.	<p>Neglected two dogs and failed to get treatment for their conditions.</p> <p>In an animal welfare prosecution case brought by Mid and East Antrim Borough Council, a part-time teaching assistant pleaded guilty to causing unnecessary suffering to a Pomeranian called Poppy and a Jack Russell cross known as Odie. Poppy had a ten centimetre diameter tumour growth on her abdomen. This was rupturing and required emergency surgery. Her nails were grossly overgrown due to lack of wear and fleas were found on her coat.</p> <p>The breed of the second dog, Odie, was at first difficult to determine as he was suffering severe chronic hair loss and his entire body was affected by a skin condition known as Lichenification. This condition, which is marked by thick, blackened skin similar to that of an elephant, is allergy-based and often caused by fleas. Both dogs were taken into the Council’s possession and given the necessary treatment. The examining vet concluded that</p>

Date	Location	Offenses	Result	Sentence	Details
					<p>both of these dogs were suffering. The court heard there had been kennelling and veterinary costs of £2,109 and the defence lawyer said that was because of delays in the case caused by the pandemic. There were also legal costs of £400 and court costs of £152 and the lawyer said the defendant was not in a position to pay it all.</p> <p>Sentencing; £900 towards costs. No ban or other penalties.”</p>
9/11/2020	Craigavon	Causing unnecessary suffering and failing to ensure the welfare of her unnamed Jack Russell terrier	Guilty	12-month probation order; costs of £340.  Banned from keeping animals for five years.	<p>Starved and neglected her dog and was prosecuted after a council animal welfare officer found the female dog in a room that was heavily littered with canine fecal matter and soaked in dog urine. No water had been provided for the dog, who was also malnourished.</p> <p>The dog was seized after a veterinary assessment was carried out and was taken in the care of the Council. She was subsequently re-homed after the owner voluntarily signed her over.</p>
25/6/2020	Belfast	Causing unnecessary suffering to an animal	Guilty	10-month jail sentence.Five-year ban on keeping an animal.	<p>Physically abused a dog, was seen grabbing a Staffy-type dog by the scruff of the neck and throwing him over a garden wall.</p> <p>He then lifted the dog up a second time and threw him down on his back</p> <p>The dog is believed to be dead.</p>



Date	Location	Offenses	Result	Sentence	Details
8/3/2021	Portrush	Causing unnecessary suffering to the dog	Guilty	A total of £500 in costs and fines.  Disqualified from keeping all animals for five years (expires March 2026).	<p>For neglect and starvation of her pet Rottweiler dog.The charges were brought against Tweed by Causeway Coast and Glens Borough Council under the Welfare of Animals Act (NI) 2011.A council animal welfare officer visited her previous property in 2019 and summoned a vet to examine Archie, who was clearly underweight and being kept in dirty, unhygienic conditions.</p> <p>The vet certified that Archie should be removed from the property, and he was taken into the council’s care. The vet concluded that the dog was suffering, and was found to be very hungry when fed at the clinic.After a month in care Archie’s weight increase by 60%. Soon after he was rehomed and has maintained a healthy weight ever since.</p>
12/2/2020	Belfast	Causing unnecessary suffering to an animal	Guilty	Six months in jail; fines totalling £264. Banned from keeping animals for 10 years.	<p>Beat an injured dog to death with two hammers.The horrific incident took place on 23 November 2017.</p> <p>Officers went to Boyle’s house after being called by a concerned neighbour who had seen him with the ailing pet and who was worried he would not seek proper care for her injuries.</p> <p>When questioned about the whereabouts of the pup, he said a friend had taken her away to a farmhouse in the countryside. But when his house and yard were searched,</p>

Date	Location	Offenses	Result	Sentence	Details
					<p>the body of the dog and two bloodied hammers were discovered.</p> <p>He then admitted killing his pet and said he couldn’t afford to take her to the vet.</p> <p>A spokesperson for Belfast City Council said: “This was a particularly extreme and harrowing case. “Belfast City Council brought the prosecution after animal welfare officers followed up on a report that a dog had been knocked down by a car and injured,” they explained.“He took a hammer and killed the dog, placing it in a wheelie bin.</p>
21/8/2019	Belfast	Failed to seek vet treatment for her pony’s broken leg.Update December 2020. Following a second prosecution by Belfast City Council, Burns was convicted of five counts of causing unnecessary suffering to animals, and a further 14 of failing to ensure their needs were met.”	Guilty	Five-month suspended prison sentence. Ordered to pay costs totalling £600. Banned from keeping or having any involvement with animals for ten years.  Update December 2020. Received a seven-month suspended sentence and was banned from keeping any species for 15 years.	<p>Failed to seek vet treatment for her pony’s broken leg. Burns was banned from keeping animals for ten years after she was convicted of causing unnecessary suffering to a pony. The charges under the Welfare of Animals Act (Northern Ireland) 2011 date back to 2015. The vet determined that the animal should have received veterinary treatment long before it was discovered, but unfortunately the pony had never been cared for accordingly. Following a second prosecution by Belfast City Council, she was convicted of five counts of causing unnecessary suffering to animals, and a further 14 of failing to ensure their needs were met. Belfast City Council</p>



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					officers, who had visited her home, heard barking and detected a strong smell of urine coming from inside the property. It was found she had rooms full of dogs, exotic birds, snakes and other reptiles who were in a severely dehydrated state. An African grey parrot was found to be nearly bald while a tortoise could only drag its legs due to muscle wastage. The charges involved six corn snakes, seven bearded dragon lizards, three tortoises, 12 chihuahuas, eight hamsters, five parrots and two love birds, amongst others. Stairs in the house were covered in faeces while no food or water was available for the animals. Many of the creatures were found to be living in dirty cages stacked on top of one another.
10/7/2019	Lurgan	Filmed himself bludgeoning a 12-week-old puppy to death with a hammer	Guilty	15 months in jail.  Banned from owning any animal for 30 years.	Male filmed himself bludgeoning a 12-week-old puppy to death with a hammer; broadcast the killing on social media.  Sparky’s body was found in a bin in Lurgan in February 2018. A post-mortem examination confirmed the dog sustained fractures as well as severe brain trauma. Arrested and interviewed, claimed he had “no memory of anything which occurred over the weekend.

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1/6/2019	Bessbrook	Causing unnecessary suffering to a dog and for failing to take reasonable steps to ensure the welfare needs were met	Guilty	Fines of £250 on each charge. Five-year disqualification order.	<p>Male left a starving husky to suffer in her own faeces in corner of room. He who failed to appear in court for a third time, was convicted in his absence of animal cruelty.</p> <p>The case was brought by Newry, Mourne and Down District Council following a complaint received in March 2018 concerning a dog who was being kept in unsuitable conditions. He was charged with the offence of causing unnecessary suffering to the animal and for failing to take reasonable steps to ensure the welfare needs of the animal were being met.</p> <p>Following a report from a member of the public, the Animal Welfare Officer visited the property on March 28, 2018 and found a dog in the corner of a room surrounded by substantial amounts of faeces and household rubbish.The dog appeared to be very thin with her ribcage and hipbones clearly visible. A veterinary surgeon examined the dog at the property and deemed her to be suffering. The animal was taken into the possession of Newry, Mourne and Down District Council by the Animal Welfare Officer.</p>



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28/3/2019	Ballymena	Causing unnecessary suffering to her German Shepherd dog contrary to section 4 of the Welfare of Animals Act (NI) 2011.	Guilty	120 hours of community service. Costs of £268.	<p>Female left her elderly German Shepherd dog to become emaciated while suffering from a large untreated cancerous tumour. She pleaded guilty to causing unnecessary suffering to her German Shepherd dog contrary to section 4 of the Welfare of Animals Act (NI) 2011.</p> <p>The charge was brought by Mid and East Antrim Borough Council related to findings following an investigation by Animal Welfare Officers regarding concerns over the welfare of the dog, known as Bruno.</p> <p>Animal Welfare Officers found Bruno in an emaciated, dehydrated state, suffering from a large untreated cancerous tumour, and was unable to stand.</p>
1/2/2022	Larne	<p>Fine and costs totalling £622.</p> <p>Three-year ban (expires January 2025).</p>	Guilty	<p>Fine and costs totalling £622.</p> <p>Three-year ban</p>	<p>Female failed to ensure the welfare of her ailing pet dog. She pleaded guilty to failing to ensure the welfare of the border collie, known as Harley, who was found in very poor condition at her home. The charges were brought by Mid and East Antrim Borough Council under the Welfare of Animals Act (NI) 2011. Proceedings followed an investigation by Council's Animal Welfare Officer who visited Orr's property in March 2021. A warrant was executed after Harley had been taken to a vet and concerns raised regarding his condition, in</p>

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					<p>particular, the need for the dog to be euthanised was not adhered to.</p> <p>Harley was examined by Council's vet who advised the dog had a putrid smell coming from him, with large matts of hair that smelled strongly of urine and faeces, plus an infection around his backend.</p> <p>The area under his tail was examined and the left anal gland was grossly enlarged with a nodular appearance. It had abscessed and leaked a lot of infected material. This painful and chronic lesion was causing suffering to the dog.The decision was made to euthanise the dog in his best interest.Sentencing: fine and costs totalling £622. Three-year ban (expires January 2025).</p>
14/12/2023	Derry/Londonderry	Burying a dog alive	Guilty	Nine months imprisonment.	<p>Banned from keeping animals for life.</p> <p>Male beat his dog and buried her as she lay dying. On March 15, 2023, the American bulldog known as Luna, was brought to a veterinary clinic by police officers after she was found partially buried and under a stone by a member of the public in Ballyarnett Country Park. She had a facial haematoma as well as fractures which had been caused by blunt force. These were recent, possibly only hours old, and had been caused by a wide object. Her ears were packed with mud which had been forced into her ears. She had a body mass of two out of nine, meaning she</p>



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					<p>was severely emaciated with no muscle mass present. Her canine teeth were broken and her pulse was exposed. The dog was put to sleep on humane grounds. In his police interview he said he'd owned the dog for two years. He said he'd gone to Donegal on March 15 and when he returned home he noticed Luna was missing. He told the police Luna had "dropped a full litter of pups the previous October" but said that he'd never taken the dog to a veterinary clinic nor registered any of his dogs with any clinic. When the police searched his home they found three other dogs in the enclosed rear garden. There was no water for them, bedding was inadequate, and the yard contained a considerable amount of faeces. The barrister said the police had failed to properly investigate the incident. They'd neither looked for CCTV footage nor organised an identity line-up for the member of the public who'd found the dog and who had seen two men at the scene. The District Judge said either the dog got out of the back yard and somebody partially buried her or somebody took the dog from the back yard and did it. "It is appalling and despicable that this animal was found as it was found. To think that somebody could bury the animal alive is just incomprehensible.</p>

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5/12/2023	Belfast	Fraud by false representation	Guilty	Four months imprisonment Three-month sentence (suspended for a year )	<p>Two men sentenced over involvement in illegal puppy smuggling racket between NI and England.. The court heard that one of the two men convicted was stopped on August 2, 2022, by a DAERA official (Department of Agriculture and Rural Affairs) at the Duncrue inspection centre which is part of Belfast Port. It was the prosecution case that he ran a legitimate business called All Star Pet Transport and under EU laws he was required to produce transport certificates for each animal he ferried between Northern Ireland and mainland Britain. The official found 58 dogs in his van along with a cat which were being transported to England.</p>
26/2/2024	Dungannon	Two charges of causing unnecessary suffering to animals	Guilty	Eight months imprisonment and activated the existing suspended sentences bringing the total Swift will serve to 10 months. He also received a lifetime ban of keeping animals.	<p>"Tyrone man who witnessed dog's ""slow death"" after it ate ecstasy tablet jailed. Judge says ""These dogs died horrible and potentially prolonged deaths"". The police have welcomed jail time handed to a man who witnessed a dog's ""slow death"" after it ate an ecstasy tablet dropped on the floor. "Police first received a report on Tuesday 14th November 2023, that the decomposed body of a dog had been</p>



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					<p>found hidden in a bag. Police recovered the animal and following a post-mortem, confirmed that the small Maltese dog had consumed a Class A drug from his home. “It is also understood that he witnessed the dog’s slow death, providing no thought to veterinary attention at the time. He then placed the dog in a bag, before dumping it. “When officers searched his property, they located a second dog, a Staffordshire Bull Terrier, which was dead inside his property. The post-mortem conducted on the second dog, identified it had suffered blunt force trauma and severe liver damage.” It has also emerged that the defendant was under investigation for the death of a third dog which was found with “horrific injuries” several months beforehand. He admitted causing unnecessary suffering to a dog on October 5, then another dog on November 12 last year. Dungannon Magistrates Court heard he was arrested over a bail breach on November 11, 2023 and because police knew he owned a dog they attended his home to ensure it had food and water. Officers found faeces</p>

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					<p>everywhere and when the dog didn’t appear, they began checking rooms. The dog was discovered dead on a pile of rubbish in a cupboard, a chain tightly wrapped around its neck, cutting into the skin. Then on 15 November 2023 police learned there was a second dead dog hidden in a hedge near Swift’s home. A search revealed the decomposing body of a small dog, wrapped in a blanket and placed in a bag. Swift’s partner, the court heard, confirmed the small dog was hers and she had brought it to his home on September 23, 2023 while staying with him.</p>



