

Sentencing Council

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SC(22)SEP04 – Animal Cruelty
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1 ISSUE

1.1 This is the first meeting to discuss the animal cruelty guidelines following the public consultation earlier this year. The Council is invited to consider feedback on the revised animal cruelty sentencing guideline (covering sections 4-8 of Animal Welfare Act: unnecessary suffering, mutilation, poisoning and animal fighting). The proposed guideline, as consulted on, is included at Annex A.

1.2 Responses on the standalone welfare guideline (covering section 9 of the Act, on the breach of duty of person responsible for animal to ensure welfare) and wider equalities issues will be brought to the Council for consideration at a following meeting, with the aim of publishing the definitive guidelines in spring 2023.

2 RECOMMENDATIONS

2.1 That the Council:

- agrees to minor revisions to the harm and culpability factors in the guideline;
- approves the amended sentencing table for animal cruelty;
- agrees to include a small number of additional aggravating factors at step two of the guideline.

3 CONSIDERATION

Background

3.1 In 2021, Parliament increased the statutory maximum penalty for animal cruelty from six months' to five years' custody. The change covered s.4-8 offences and made these triable either way.

3.2 In recognition of this, the Council agreed to revise the sentencing guideline for animal cruelty. A [public consultation](#) ran from 10 May to 1 August and proposed a number of changes to the existing guideline. These included splitting the guideline into two, with the first covering all s.4-8 offences impacted by the increase in statutory maximum, and a

separate guideline for s.9, which remains a summary only offence with a six month maximum penalty.

Consultation responses

3.3 103 respondents, from a range of backgrounds, provided feedback to the consultation. Over a third of respondents were members of the public, and 28 responses were received from sentencers. 17 responses came from the major animal charities or welfare activists/lobby groups, with remaining responses coming from the Justices' Clerks' Society (JCS), the CPS, the National Farmers' Union, Mike Radford, an academic specialising in animal law, and others. A full summary of respondents can be found at Annex B.

3.4 A brief cross-Government response was also received, agreeing with the Council's overall approach, and a response from the CPS, with a few suggestions for changes to aggravating factors and culpability. We are still awaiting a formal response from the Justice Select Committee.

3.5 Road testing exercises were also carried out during the consultation period, with 14 sentencers (seven Circuit Judges and seven magistrates) asked to consider two hypothetical scenarios (A and B) involving causing unnecessary suffering, one in a domestic context and the other involving a poultry farmer. Following consideration of scenario A, brief additional information was shared with sentencers to assess the impact of further factors on the final sentence. A report of the findings can be found at Annex C.

Culpability

3.6 88 respondents answered this question. 30 agreed with the revised factors (including the Criminal Sub-Committee of the Council of Circuit Judges).

3.7 12 respondents (including the RSPCA and the JCS) called for the medium culpability factor of "ill treatment in a commercial context" to be upgraded to high culpability, largely in recognition of the financial gain involved in these cases. West London Magistrates' Bench also suggested that factors across the table reflect differing degrees of financial gain involved in the offending, while the CPS called for an additional high culpability factor of "organised criminal activity". While we believe these aspects are sufficiently covered in the proposed culpability factors, we have considered a new aggravating factor (at paragraph 3.39) to try to capture instances where substantial financial gain is involved, but which might not otherwise fall under the proposed culpability factor.

3.8 Two respondents suggested moving "use of a weapon" from aggravating factors and into high culpability, and called for it to be widened to include weapon equivalents. During road testing, one sentencer also suggested moving the factor. There is a risk, however, that

widening this factor will inflate sentences, particularly if cases such as kicking an animal while wearing heavy boots, or throwing an object at an animal, could be considered the equivalent of a weapon. The parameters of what could be considered a “weapon” in relation to animals may also already be quite broad, covering anything from a hammer to implements otherwise used in the everyday handling of animals, such as cattle prods or riding whips. Retaining this as an aggravating factor, with the wording as proposed in the consultation, retains nuance and will allow sentencers to use more discretion in how they apply the factor and to what extent they aggravate for it.

3.9 The Chief Magistrate argued for all factors focused on force to be removed, and for the culpability table to instead focus on the specific action involved, to avoid double counting with harm. However, it is unclear where the risk of double counting arises, particularly as consideration of the level of force the offender intentionally used seems an important factor in determining their intention to inflict cruelty/suffering to an animal. By contrast, Mike Radford wanted the wording of factors to be limited to causing suffering, removing mentions of cruelty entirely, to focus on the language of the legislation alone. We are not limited to adhering to the wording of the legislation so closely, and believe the cruelty involved is an important consideration in determining the offender’s culpability.

3.10 A number of respondents from animal charities and the legal sector, and sentencers, called for clarification of wording used in the factors, with some asking for examples to be included, to spell out what counts as a commercial context and to set out the difference between “significant force” and “very significant force”, or citing the difficulty in establishing what would be gratuitous cruelty as opposed to sadistic behaviour. In road testing, sentencers also flagged the subjectivity of the language used, singling out the factors on force. While there was a clear push for specific definitions and examples to be added, we do not feel that these would have the intended effect, given how broad the guideline is intended to be. An example that focuses on pets or larger animals might cause sentencers to downgrade cases involving multiple smaller animals such as poultry, for example, and it is not feasible to provide exhaustive examples.

3.11 In recognition of respondents’ and road testers’ comments about the subjectivity of the wording of medium and high factors, we have suggested simplifying some of the medium culpability factors so that these sit apart more clearly from their high culpability counterparts. We recommend removing “gratuitous” from medium culpability, so that that factor simply reads “deliberate attempt to cause suffering”, and have suggested removing mention of prolonged incidents in medium culpability, so that the factor simply reads “repeated incidents of cruelty or neglect”. In addition, to prevent confusion in how high culpability factors are applied, we have suggested splitting the factor of “prolonged and/or repeated incidents of

serious cruelty and/or sadistic behaviour” into two, so that “sadistic behaviour” stands alone. With the other suggested changes, this factor would be still be clearly distinct from anything in medium culpability, and from incidents of prolonged/repeated serious cruelty.

3.12 Six respondents, including Battersea and the Dogs’ Trust, argued for a new high culpability factor to be added, where the offender has coerced, intimidated or exploited others to offend, to mirror the low culpability factor for offenders who have been coerced/exploited, such as victims of domestic abuse or children. As this has been considered a common enough aspect of animal cruelty offending to be included in low culpability, we have suggested adding a mirroring factor to high culpability.

Culpability demonstrated by one or more of the following	
A High culpability	<ul style="list-style-type: none"> ● Prolonged and/or repeated incidents of serious cruelty ● Sadistic behaviour ● Use of very significant force ● Leading role in illegal activity ● Involvement of others through coercion, intimidation or exploitation ● Category B offence may be elevated to category A by: <ul style="list-style-type: none"> ○ the extreme nature of one or more medium culpability factors ○ the extreme impact caused by a combination of medium culpability factors
B Medium culpability	<ul style="list-style-type: none"> ● Deliberate or gratuitous attempt to cause suffering ● Prolonged or Repeated incidents of cruelty or neglect ● Use of significant force ● Ill treatment in a commercial context ● Deliberate disregard for the welfare of the animal (including failure to seek treatment) ● Other cases that fall between categories A or C because: <ul style="list-style-type: none"> ○ Factors are present in A and C which balance each other out, and/or, ○ The offender’s culpability falls between the factors as described in A and C
C Lower culpability	<ul style="list-style-type: none"> ● Well-intentioned but incompetent care ● Momentary or brief lapse in judgement ● Involved through coercion, intimidation or exploitation ● Mental disorder or learning disability, where linked to the commission of the offence

Question 1: Do you agree to amend the culpability factors as recommended?

Harm

3.13 85 respondents answered this question in the consultation. 16 agreed with the harm factors as proposed, including the Criminal Sub-Committee of the Council of Circuit Judges.

3.14 Four respondents (including the RSPCA, Battersea and IVC Evidensia, a veterinary organisation) called for the aggravating factor on a significant number of animals to be considered within harm rather than at step two of the guideline, with some suggesting alternative wording of “multiple animals harmed”, and one sentencer proposed “substantial” rather than “significant” during road testing. In road testing, when assessing harm in a scenario where significant number of animals were injured (scenario B), four out of the 14 sentencers interviewed explained that they felt the case belonged in high harm due to this aspect of the offence rather than solely because of the injuries or condition caused, even though this is included later as an aggravating factor. However, as with the aggravating factor on the use of a weapon, we do not feel there is sufficient cause to move this into harm factors. To do so would fix this within a particular level of harm, limiting sentencers’ ability to apply the factor to cases of varying severity.

3.15 12 respondents (including major animal charities) argued for a new factor to be added on the psychological or emotional harm caused to the animal, even though this is included in the wording on distress within the table. West London Magistrates’ Bench called for more consideration of the suffering caused to humans, whether this was emotional distress or financial loss caused to the owners, or where the offence was committed in front of children. More broadly, the JCS wanted consideration of cases where distress has deliberately been caused to those who witness the cruelty within harm rather than in aggravating factors. While emotive, it seems more appropriate to limit the harm table to focus on the animal(s) in question; we have already proposed an aggravating factor that recognises the distress caused to owners and so do not believe there is justification to add this as a new harm factor. We feel there is value, however, in clarifying, across the harm table, that the pain and suffering intended to be covered is that caused to the animal, rather than to the owners or others, in line with a suggestion from West London Magistrates’ Bench. We have suggested adding the wording “to animal(s)” across the table to remove any ambiguity on this point.

3.16 As with the culpability factors, respondents made a number of suggestions to clarify the wording used in the harm table, either by rewording certain factors or by adding examples or definitions. Many of these responses focused on the inclusion of pain and suffering in the harm table, with calls for clarification of how pain and distress would be measured. Some respondents, including the Chief Magistrate, wanted further detail on the difference between substantial levels of pain/suffering (in medium harm) and very high levels of pain/suffering (in high harm).

3.17 The issue of subjectivity in categorising harm was also raised in road testing interviews, particularly for factors on pain/suffering and the effect of an injury or condition

caused to the animal. This was reflected by the variation in how sentencers categorised harm for one of the scenarios (A) provided, with just under half of sentencers choosing either high or low harm, rather than medium as expected. These sentencers expressed uncertainty about whether the level of pain was “substantial” or “very high” or were unsure how to place the offence as they felt it sat on the borderline between categories. One sentencer was swayed to place the offence in lower harm due to the full recovery of the animal.

3.18 It is difficult to see how the harm table could be amended to address these concerns short of adding examples, which would bring other risks. The very nature of pain and suffering is that it is subjective, and the language proposed in the consultation was intentionally broad, to allow sentencers to use their discretion. One solution could be to pare the language back to remove these terms altogether, keeping medium harm as a catch all. This would, however, go against recent efforts to always try to include some descriptive factors in this category, after a previous review of guidelines showed that sentencers struggled to place cases in medium harm when it was simply a catch all. If this encourages sentencers to avoid medium harm altogether, there is a risk of sentence inflation if cases are placed in high harm instead. Another approach may be to provide descriptors of the length of time over which the pain has been endured, alongside the intensity of the suffering, though, as some respondents explained, intense pain over a short period of time may be just as cruel, or may cause just as much suffering to the animal, as moderate pain over an extended period of time. This wording may also risk overlapping with the proposed culpability factors on repeated incidents of cruelty/neglect.

3.19 Two respondents, including the League Against Cruel Sports (the League), cited concern about the intensifiers used in the table, arguing that these might create gaps between medium and high harm or cause confusion over how to categorise an offence. Rewording the factor on life threatening injuries to remove the intensifier “particularly”, so that it simply reads “grave or life-threatening injury or condition caused”, may aid in removing ambiguity, and the simplified wording still stands apart from medium harm factors.

3.20 Two respondents also suggested changing the medium harm factor on mutilation so that it mentions “ear cropping”, rather than “ear clipping”, in reflection of the more commonly used term for this type of animal mutilation. As there is nothing in the Act that limits us to specific wording in this regard, we have recommended correcting this in the harm table.

Harm demonstrated by one or more of the following

The court should consider the factors set out below to determine the level of harm that has been caused or was intended to be caused to the ~~victim~~ animal(s).

Category 1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) • Particularly Grave or life-threatening injury or condition caused • Very high level of pain and/or suffering caused to animal(s)
Category 2	<ul style="list-style-type: none"> • Offence results in an injury or condition which has a substantial and/or lasting effect (including cases of tail docking, ear clipping cropping and similar forms of mutilation) • Substantial level of pain and/or suffering caused to animal(s)
Category 3	<ul style="list-style-type: none"> • Little or no physical/developmental harm or distress to animal(s) • All other levels of pain and/or suffering to animal(s)

Question 2: Do you agree to revise the harm factors as suggested?

Sentencing table

3.21 There were 85 responses to the proposals for the sentencing table. 23 respondents agreed, including the various magistrates' benches that responded to the consultation, Mike Radford, the Legal Committee of the Council of District Judges and the Criminal Sub-Committee of the Council of Circuit Judges. As anticipated, however, the majority of respondents disagreed with our proposals, either regarding the table as a whole or specific aspects of it. Five respondents (including the Magistrates' Association and major animal charities) provided alternative sentencing tables for consideration (included at Annex D).

3.22 25 respondents, including the RSPCA, the Chief Magistrate and the Criminal Law Solicitors' Association, called for an increase to the top of the offence range, arguing that it should go to four or five years. A further 23 respondents wanted increases to sentences across the table as a whole.

"The sentence maximum is now 5 years. The maximum suggested sentence in the guideline is 18m. Many cases (especially on a g plea) will therefore be within the increased powers of the Magistrates' Court, leaving a reduced number of cases that will reach the Crown Court. Whilst there may be practical benefits to this in the current climate, the sentencing range Parliament intended to be available could be under-utilised."

Chief Magistrate

"...the category range for 1A offences should be changed to 52 weeks to 4 years. As Magistrates now have the powers to give longer sentences we feel there should be a higher category range for the most serious offences. The starting point for category 1A offences could then be increased proportionally."

RSPCA

3.23 By contrast, two respondents working in the justice system called for sentences to either be lowered across the board (in line with the existing guideline) or to be kept proportionate with assaults on human beings. This was a consideration reflected in road testing interviews, with many sentencers citing a broader need for proportionality with cruelty against humans, and drawing comparisons between animal cruelty and assault guidelines. Some sentencers commented that the starting points felt high when cross-referenced with offences of assault against the person.

“You [are] still sentencing more severely than if we'd seen a section 47 domestic violence attack that had resulted in a fractured skull and or, you know, fractured [pelvis]”;

“there is an element of public horror and opprobrium [in relation to animal cruelty], which I think one shouldn't be led by, but ... be conscious of. It is well known; I mean people do get very upset about cruelty to animals”.

Sentencers in road testing interviews

Two respondents in the charity sector argued in favour of alternatives to custody for less severe offences to help rehabilitate and prevent reoffending.

3.24 On balance, despite some strength of feeling, respondents did not provide new or compelling evidence to justify an increase to the top of the offence range, beyond points the Council has already considered. To maintain proportionality with s.47 actual bodily harm (which has a statutory maximum of five years, and where the offence range is capped at four years) and grievous bodily harm - unlawful wounding (which also has a statutory maximum of five years and where the offence range is capped at 4 years 6 months), and to keep the worst cases of animal cruelty distinct from the worst cases of these types of assault on human beings, the three-year cap for animal cruelty would need to be retained. While we anticipate further criticism on this point, we can use the formal consultation response to robustly set out our rationale for not making a change in this area, and reiterate the need for proportionality against assault offences directed at human beings.

3.25 Anecdotal evidence suggests that, where sentencers have not regularly dealt with an offence (as is likely with animal cruelty, both in magistrates' courts and the Crown Court), they may be more inclined to categorise a case in high or low severity, rather than placing it in the medium category. This lends further weight to the argument to avoid further increasing starting points and ranges in the sentencing table, as sentences may otherwise be inflated.

3.26 In road testing interviews on the animal cruelty guideline, multiple sentencers noted that the type of animal impacted was not accounted for within the guideline. One sentencer

stated, “there is a difference between turkeys and killing 100 dogs”, implying that there should be consideration of whether the animal is domesticated or a farm animal. While the proposed guideline does not mention specific species of animal, the factors do account for whether the offending occurred in a commercial context, which is phrased broadly enough to capture cases as varied as poultry farms or puppy mills. Adding factors weighting specific types of animal more heavily than others would be highly subjective and likely lead to criticism.

3.27 The JCS recommended narrowing the gap between category ranges for boxes 1B and 1C on the sentencing table, to aid in the sentencing of borderline cases. To avoid sentence inflation for these cases, and acknowledging the point flagged by the JCS, we have suggested raising the starting point for box 1C by one degree (from a low to a medium community order) and doing the same for the top of the category range, changing it from a medium to a high level community order. We have also suggested lowering the bottom of the category range for box 1B, dropping it from 18 weeks’ custody to a high level community order, so that the ranges meet.

3.28 To tighten up sentence severity for high harm offences somewhat, we have also suggested increasing the bottom of the category range for 1C by one degree, to a low level community order, to remove fines from scope of these offences. Given the sorts of cases that are likely to fall under high harm, involving death/euthanasia and very high levels of pain/suffering to the animal, this seems justified, even in cases of low culpability. This change may have a small impact on probation resource, though no impact on prison places.

3.29 During road testing exercises, there was more variation in final sentences than anticipated. This is largely thought to be due to the subjectivity of the harm and culpability factors on pain/suffering and sadistic/gratuitous behaviour, particularly in the threshold between medium and high categories, and we have recommended changes earlier in this paper to try to address some of this potential ambiguity. It should be noted that, while half of the sentencers surveyed did not have previous experience of sentencing animal cruelty offences, no particular differences were observed between how these sentencers categorised cases in comparison to those who had dealt with these offences before. This may be due to the fact that sentencers, as a whole, are not likely to have seen many animal cruelty cases.

3.30 Among sentencers that did have previous experience of animal cruelty cases, there was general agreement that the guideline reflected the level of seriousness of cases seen within courts as well as a suggestion that, for the more serious cases, sentencing severity

could increase following the introduction of the guideline. Sentencers did not, however, expect a large increase in the number of cases committed to the Crown Court.

	High culpability	Medium culpability	Lower culpability
Category 1	Starting point 1 year 6 months' custody	Starting point 26 weeks' custody	Starting point Low Medium level community order
	Category range 26 weeks' custody – 3 years' custody	Category range 18 weeks' High level community order – 1 year's custody	Category range Band B fine Low level community order – Medium High level community order
Category 2	Starting point 26 weeks' custody	Starting point 12 weeks' custody	Starting point Band C fine
	Category range 18 weeks' – 1 year's custody	Category range Medium level community order – 26 weeks' custody	Category range Band B fine – Low level community order
Category 3	Starting point 12 weeks' custody	Starting point Medium level community order	Starting point Band B fine
	Category range Medium level community order – 26 weeks' custody	Category range Low level community order – High level community order	Category range Band A fine – Band C fine

Question 3: Do you agree to revise the sentencing table as recommended?

Aggravating and mitigating factors

3.31 There were 86 responses to proposals for aggravating and mitigating factors. 34 respondents, including the Criminal Sub-Committee of the Council of Circuit Judges, agreed with the factors as drafted, with some citing the aggravating factors on the use of social media to promote cruelty and offending in front of children as being particularly welcome.

3.32 Refuge and the JCS argued for the aggravating factor on distress caused to the owner to be amended to more clearly reflect where this was intentional and part of the motivation for the offending, such as in cases of domestic abuse. We do not recommend amending this factor as these cases would already be captured under the wording proposed in the guideline.

3.33 There were also calls to clarify or define terms used in the aggravating factors, including questions around how many animals would count as a “significant number”, who would be considered to have “professional responsibility” for animals, and what would count as a “significant intervention” required for an animal to recover from an injury or illness. However, as elsewhere, adding examples or definitions may narrow these factors when it is not the Council’s intention for them to be applied in a limited way.

3.34 Following a suggestion from the Legal Committee of the Council of District Judges, and points raised in road testing interviews, we have added a caveat to the factor on professional responsibility, to avoid double counting alongside the medium culpability factor of “ill treatment in a commercial context”.

3.35 The Chief Magistrate also suggested amending factors on the use of technology to record, publicise or promote animal cruelty, and use of another animal to inflict injury/death, to include a caveat to avoid the risk of double counting with the wording of the s.8 offence on animal fighting. This section of the Act explicitly mentions keeping or training an animal for use in connection with an animal fight, and supplying, publishing or showing a recording of an animal fight. However, given that the guideline is framed around the cruelty inflicted on, and the harm suffered by, the animal, and that this is more likely to be exacerbated in cases of animal fighting, it could be argued that there is not an inherent risk of double counting, and, rather, that this is the guideline working as intended.

3.36 The CPS called for a new factor on the deliberate trapping or restraint of an animal, similar to a suggestion from the RSPCA to include a factor on cruelty to wildlife. We have considered these suggestions and feel that it is difficult to justify this addition when the harm experienced by the animal will be the same regardless of whether it is a domesticated or wild animal. Including this as an aggravating factor would suggest a hierarchy, where cruelty inflicted on a rat that has been caught in a trap, for example, would seemingly be worse than an offender who purchases a hamster with the intention of inflicting suffering. On balance, we do not recommend including this as a new aggravating factor.

3.37 More generally, respondents made a number of suggestions for new aggravating and mitigating factors for the guideline, including adding consideration of training animals for fighting even where this was not for commercial purposes, or where an animal professional was registered as such, to reflect a greater breach of trust. The majority of these suggestions are already captured in the broad list of harm or culpability factors and so we do not recommend creating new aggravating or mitigating factors to address these specific scenarios. In the formal response, we will reiterate that the list is not intended to be exhaustive, and sentencers have discretion to consider other factors where they feel these will increase the seriousness of the offence.

3.38 Five respondents, including West London Magistrates’ Bench and the RSPCA, wanted sexualised offending (whether the cruelty was motivated by sexual gratification or involved sexual abuse of the animal) to be added, with some citing the link to child abuse in the context of extreme pornography. Despite the emotive nature of this specific type of cruelty, we do not believe it warrants a standalone aggravating factor. Cases of bestiality will

be charged separately, while cruelty motivated by sexual gratification is likely to be captured by existing factors, chiefly the high culpability factor of sadistic behaviour and the aggravating factor on recording abuse for the purpose of publicising or promoting cruelty. The RSPCA has also explained that they see very few cases of this kind in reality.

3.39 Four respondents, including the League and Mike Radford, called for a factor to be added on offending motivated by commercial/financial gain, with the League citing that the existing culpability factor of “ill treatment in a commercial context” would not necessarily capture activities leading up to an organised animal fight, such as the breeding or sale of dogs for fighting, and betting. The League also flagged that parliamentarians raised the issue of large sums of money changing hands at dog fighting events during the passage of the Act. In light of this, we have suggested a further aggravating factor, “Motivated by significant financial gain (where not already taken into account at step 1)”, to cover cases that may not strictly count as occurring within a commercial context, but where the offender stands to gain a substantial amount of money through the offending behaviour. Adding the caveat at the end ensures that this will not be double counted where it has already been considered at step one of the guideline.

3.40 In road testing exercises, aggravating and mitigating factors were broadly applied to the scenarios as anticipated, with sentencers feeling that the lists of factors were appropriate. The majority of sentencers stated that they believed that “offender under the influence of alcohol” should appear in the guideline, though acknowledged that the lists were not intended to be exhaustive. Though this may have been influenced somewhat by one of the scenarios (A) provided to sentencers, where the offender had been drinking heavily before hitting their dog, it is likely to be a common aspect of animal cruelty cases. We have therefore suggested including it in the list of factors.

Factors increasing seriousness

Statutory aggravating factors

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the owner/keeper of the animal: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors

- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Significant number of animals involved

- Use of a weapon
- Allowing person of insufficient experience or training to have care of animal(s)
- Use of technology, including circulating details/photographs/videos etc of the offence on social media, to record, publicise or promote cruelty
- Ignores warning/professional advice/declines to obtain professional advice
- Use of another animal to inflict death or injury
- **Motivated by significant financial gain (where not already taken into account at step 1)**
- **Offence committed while under influence of alcohol or drugs**
- Offender in position of professional responsibility for animals **(where not already taken into account at step 1)**
- Offence committed in the presence of other(s), especially children
- Animal requires significant intervention to recover
- Animal being used in public service or as an assistance dog
- Distress caused to owner where not responsible for the offence

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability, where not linked to the commission of the offence
- Sole or primary carer for dependent relatives
- Offender has been given an inappropriate level of trust or responsibility
- Voluntary surrender of animals to authorities
- Cooperation with the investigation
- Isolated incident

Question 4: Do you agree to amend the aggravating factors as suggested?

4 IMPACTS AND RISKS

4.1 The suggested revisions to the animal cruelty guideline may have some impact on probation resource, though are not expected to have an impact on prison places beyond what was outlined in the original consultation (where it was anticipated that sentence severity would increase for the most serious cases, but was unlikely to result in increased custodial sentences across the board). A full resource assessment will be shared with the Council alongside the finalised guidelines for sign off.

4.2 There is a risk of criticism from stakeholders and the public as we are not recommending increasing sentences to meet the new statutory maximum. This can be addressed through including careful, thorough wording in the Council's formal response to the consultation, setting out our rationale and reiterating the need for proportionality.

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Animal Cruelty

Animal Welfare Act 2006, s.4 (unnecessary suffering), s.5 (mutilation), s.6 (docking of dogs' tails), s.7 (administration of poisons etc), s.8 (fighting etc)

Effective from: XXXXXXXXX

Triable either way

Maximum: 5 years' custody

Offence range: Band A fine – 3 years' custody

Step 1 – Determining the offence category

The court should determine culpability and harm caused with reference **only** to the factors below. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category.

Culpability demonstrated by one or more of the following

The court should weigh all the factors set out below in determining the offender's culpability. Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.

<p>A High culpability</p>	<ul style="list-style-type: none"> • Prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour • Use of very significant force • Leading role in illegal activity • Category B offence may be elevated to category A by: <ul style="list-style-type: none"> ◦ the extreme nature of one or more medium culpability factors ◦ the extreme impact caused by a combination of medium culpability factors
<p>B Medium culpability</p>	<ul style="list-style-type: none"> • Deliberate or gratuitous attempt to cause suffering • Prolonged and/or repeated incidents of cruelty or neglect • Use of significant force • Ill treatment in a commercial context • Deliberate disregard for the welfare of the animal (including failure to seek treatment) • Other cases that fall between categories A or C because: <ul style="list-style-type: none"> ◦ Factors are present in A and C which balance each other out, and/or, ◦ The offender's culpability falls between the factors as described in A and C

C Lower culpability	<ul style="list-style-type: none"> • Well-intentioned but incompetent care • Momentary or brief lapse in judgement • Involved through coercion, intimidation or exploitation • Mental disorder or learning disability, where linked to the commission of the offence
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Harm demonstrated by one or more of the following

The court should consider the factors set out below to determine the level of harm that has been caused or was intended to be caused to the victim.

Category 1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) • Particularly grave or life-threatening injury or condition caused • Very high level of pain and/or suffering caused
Category 2	<ul style="list-style-type: none"> • Offence results in an injury or condition which has a substantial and/or lasting effect (including cases of tail docking, ear clipping and similar forms of mutilation) • Substantial level of pain and/or suffering caused
Category 3	<ul style="list-style-type: none"> • Little or no physical/developmental harm or distress • All other levels of pain and/or suffering

Step 2 – Starting point and category range

	High culpability	Medium culpability	Lower culpability
Category 1	Starting point 1 year 6 months' custody	Starting point 26 weeks' custody	Starting point Low level community order
	Category range 26 weeks' custody – 3 years' custody	Category range 18 weeks' – 1 year's custody	Category range Band B fine – Medium level community order
Category 2	Starting point 26 weeks' custody	Starting point 12 weeks' custody	Starting point Band C fine
	Category range 18 weeks' – 1 year's custody	Category range Medium level community order – 26 weeks' custody	Category range Band B fine – Low level community order
Category 3	Starting point 12 weeks' custody	Starting point Medium level community order	Starting point Band B fine
	Category range Medium level community order – 26 weeks' custody	Category range Low level community order – High level community order	Category range Band A fine – Band C fine

The court should then consider further adjustment for any aggravating or mitigating factors. The following is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far.

Factors increasing seriousness

Statutory aggravating factors

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the owner/keeper of the animal: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors

- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Significant number of animals involved
- Use of a weapon
- Allowing person of insufficient experience or training to have care of animal(s)
- Use of technology, including circulating details/photographs/videos etc of the offence on social media, to record, publicise or promote cruelty
- Ignores warning/professional advice/declines to obtain professional advice
- Use of another animal to inflict death or injury
- Offender in position of professional responsibility for animals
- Offence committed in the presence of other(s), especially children
- Animal requires significant intervention to recover
- Animal being used in public service or as an assistance dog
- Distress caused to owner where not responsible for the offence

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability, where not linked to the commission of the offence
- Sole or primary carer for dependent relatives
- Offender has been given an inappropriate level of trust or responsibility
- Voluntary surrender of animals to authorities
- Cooperation with the investigation
- Isolated incident

Step 3 – Consider any factors which indicate a reduction, such as assistance to the prosecution

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

Step 4 – Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the Reduction in Sentence for a Guilty Plea guideline.

Step 5 – Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

Step 6 – Compensation and ancillary orders

In all cases, the court should consider whether to make [compensation](#) and/or other [ancillary orders](#) including [deprivation of ownership](#) and [disqualification of ownership of animals](#). Where the offence has resulted in personal injury, loss or damage the court must give reasons if it decides not to order compensation ([Sentencing Code, s.55](#)).

- Ancillary orders – Magistrates' Court
- Ancillary orders – Crown Court Compendium

Step 7 – Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 8 – Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

Annex B: Animal Cruelty Guidelines Consultation – Summary of respondents

103 responses in total

Sentencers

Magistrates: 25 (including Suffolk Magistrates' Bench, West London Magistrates' Bench, Magistrates' Association and the Chief Magistrate)

Judges: 3 (including Legal Committee of Council of District Judges (Magistrates' Courts), Criminal Sub-Committee of the Council of Circuit Judges)

Animal charities

11 charities:

- IFAW (International Fund for Animal Welfare)
- Donkey Sanctuary
- The Animal Team
- Rainbow Valley Sanctuary
- Naturewatch Foundation
- RSPCA
- Battersea Dogs' and Cats' Home
- Blue Cross
- Dogs' Trust
- League Against Cruel Sports
- World Horse Welfare

Animal welfare activists or lobbying groups

6 (including FOAL [Focus on Animal Law] Group, The Empathy Project, UK Centre for Animal Law, TAAP [The Animal Advocacy Project], Animal Concern Ltd)

Local authority/local government officials

1

Victims' charities

1 (Refuge)

Vets and other animal professionals

4 (including the Links Group and the National Farmers Union)

Members of the public

38

Legal/CJS professionals

- Justices' Clerks' Society
- Lawyers – 6 (including London Criminal Courts Solicitors' Association and Criminal Law Solicitors' Association)
- Other – 2 (from someone working in the Met Police Status Dog and Canine Welfare Unit and another from someone in the CPS)

Miscellaneous companies

- Hidden-in-Sight and European Link Coalition (both responding on the link between animal and child abuse)

Other Government Departments, etc.

- Cross-Government response
- CPS
- Pending – awaiting response from the Justice Select Committee

Academics

- Mike Radford, University of Aberdeen

Annex C - Animal Cruelty: s.4 Unnecessary suffering road testing

Introduction

The current animal cruelty guideline covers offences contrary to sections 4 (causing unnecessary suffering), 8 (involvement in an animal fight) and 9 (breach of duty of person responsible for animal to ensure animal welfare) of the Animal Welfare Act 2006. In 2021, Parliament raised the maximum penalty for offences subject to sections 4-8 to five years' custody and changed the mode of trial from summary only to triable either way. For section 9 offences, the statutory maximum remains unchanged, with a statutory maximum of 6 months custody, as summary only.

The Sentencing Council consulted on the decision to create two new guidelines. The first covers offences contrary to sections 4-8 and the second, section 9 alone. As the relevant offences were previously summary offences, a limited number of sentencing transcripts are available. Therefore, it was decided that further research was needed to explore the potential impacts of the new guideline on sentencing practice. As the section 9 guideline remains largely similar to the existing guideline, and sections 5-8 have lower offence volumes, the scope of this research was limited to s.4 of the Animal Welfare Act 2006, unnecessary suffering.

The resource assessment estimated that "the increase in the statutory maximum reflected in the guideline may result in an increase in sentence severity for a very small subset of offences at the highest end of severity, for offending contrary to sections 4-8"¹. However, as there are only a small number of these offences and a small proportion of these result in custodial sentences, it was estimated that the guideline was unlikely to have a significant impact on prison or probation places. However, as a result of the changes brought about by the Animal Welfare (sentencing) Act outlined above, it was estimated that there may be an increase in the proportion of cases referred to the Crown Court. It is anticipated that a high proportion of cases would remain within the eligible threshold for a suspended sentence.

Methodology

Participants were randomly selected from the Council's research pool. Fourteen qualitative interviews with seven magistrates and seven Circuit Judges, were conducted via MS Teams. Sentencers considered two hypothetical sentencing scenarios (A and B) relating to s.4, Unnecessary suffering, using the animal cruelty draft guideline. Following the consideration of Scenario A, brief additional information was shared with sentencers to assess the level of severity at which a case would be committed to the Crown Court as well as the impact of additional factors on the final sentence.

Sentencers with experience of animal cruelty cases were asked additional questions, to inform an assessment of the impact that the introduction of the guideline may have on allocation and sentencing severity, as well as whether the guideline reflects the levels of seriousness of cases seen within the courts. Responses are outlined later in this report.

¹ [Animal cruelty consultation stage resource assessment \(sentencingcouncil.org.uk\)](https://www.sentencingcouncil.org.uk/resources/animal-cruelty-consultation-stage-resource-assessment)

Findings

Key findings:

- The draft guideline road tested well, and judges and magistrates found it to be clear and useable.
- Scenario A: Just over half of participants categorised the scenario as expected by policy. Variation occurred primarily in the categorization of harm. Due to uncertainty surrounding the subjectivity of the factors, two sentencers stated the scenario to be borderline of two categories. Following the additional information, the majority of participants categorised harm to be high, rather than medium as expected. Due to this, final sentences appear elevated in comparison to that expected.
- Scenario B: Variation against what was expected occurred in the categorisation of culpability in the scenario, with the majority of sentencers selecting high culpability rather than medium as was expected by policy. Similarly to scenario A, it is due to this that the final sentences appear elevated compared to what was expected. Little variation in harm was observed, however, four sentencers unexpectedly considered “multiple” or “substantial” numbers of animals involved to be a question of harm, rather than aggravation.
- The proposed factors for culpability and harm were largely accepted by participants. A general concern of subjectivity was raised regarding the medium and high factors within culpability and harm. A further point was made by multiple sentencers for increased clarity between factors which appear similar in wording across two categories. For example, “use of very significant force” in high culpability in comparison to “use of significant force” which is in medium culpability (more details can be found on page 17). One sentencer suggested that the aggravating factor “use of a weapon” may be better placed in culpability.
- Aggravating and mitigating factors were applied consistently across the scenarios and were considered to be appropriate and comprehensive. A large proportion of sentencers expressed their surprise that the following factor did not appear in the guideline: “commission of offence whilst under the influence of alcohol or drugs”. However, sentencers acknowledged that the list of factors is not exhaustive.
- The sentencing table was widely accepted. A small number of amendments were suggested which are outlined on page 18 of this report. The theme of a need for proportionality of animal cruelty and the assault guidelines presented across multiple interviews.
- Half of the participants in the exercise had previous experience of sentencing cases of animal cruelty. Amongst these participants, it was generally thought that the proposed starting points reflected the level of seriousness of cases seen in court and that, in the context of the increase in the statutory maximum, sentencing severity for the offence could increase. However, due to the recent increase in magistrates’ sentencing powers it was thought that the majority of cases would remain in the magistrates’ court – reserving the most serious cases to be committed to the Crown Court.
- The majority of sentencers were content that there were not any phrases within the guideline that could contribute to possible disparities in sentencing. Small points were noted surrounding disparity between the private individual and farmer as well as consistency in the application of the guideline for rural and urban cases.

Scenario A

A 25-year-old male with no previous convictions repeatedly punched and slapped his medium-sized pet dog on the head and used his phone to record the incident in a 10-minute video in which he could be heard laughing. The offender had been drinking heavily and the dog was hit with enough force to become dizzy. Immediately after the incident, the offender emailed the video to a friend and made jokes about teaching his dog to be obedient. He then went to bed for the night showing no concern for the dog's health.

The partner of the offender's friend contacted the RSPCA to report her concerns about the dog's welfare. After the dog was seized by the RSPCA, a medical examination showed fractures to its skull.

At arrest, the offender acknowledged that what he did was wrong, admitting that he perhaps "went a little too far" and pleading guilty at the earliest opportunity. A pre-sentence report showed that he accepted responsibility and co-operated fully with the RSPCA in getting the dog rehomed after the incident. It also showed an insight into his offending, including the link with alcohol, and that he was at a low risk of reoffending character. The dog fully recovered from its physical injuries but was left acting withdrawn and anxious around humans; it has since been rehomed with a family and is said to be doing well.

Scenario A was expected to be placed in category B2, with a 12 weeks' custodial starting point. Use of technology to record the cruelty may aggravate the offence, whilst the offenders' lack of previous convictions and cooperation with the investigation may mitigate. The sentence could be one of 12 weeks, reduced to 8 weeks' post application of credit for a guilty plea.

- Eight of the fourteen participants categorised the scenario to be of category B2, as expected. Of those who did not categorise the scenario as expected, there was a level of variation, displayed below:

Offence categorisation	Number of sentencers (6)
B1	1
B1 or B2	1
B2 or B3	1
B3	1
A2	2

- Two sentencers considered the scenario to constitute the highest level of culpability. The first did so on account of the following factors: Prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour and use of very significant force. The second sentencer considered the following factors: leading role in illegal activity and use of very significant force.
- The sentencer who regarded the scenario to be of a high level of harm did so on account of the assessment of injury to be particularly grave or life-threatening and possibly a very high level of pain and/or suffering caused. The sentencer who selected high/medium harm did so due to uncertainty about whether the level of pain was 'substantial' or 'very high'. Those who selected the lowest category of harm did so because they thought the case was borderline between categories two and three due to the full recovery of the animal.

- Aggravating factors were applied fairly consistently by sentencers. The majority of sentencers stated that they believed that ‘offender under the influence of alcohol’ should appear in the guideline. The following factors were applied: use of technology, use of a weapon, animal requires significant intervention to recover. As the list of aggravating factors in the guideline is not exhaustive, the factors applied broadly reflect those anticipated by the policy team. In a similar nature, mitigating factors were applied fairly consistently. Factors applied included: no previous convictions, remorse, good character, voluntary surrender of animals to authorities, cooperation with investigation, isolated incident, age and/or lack of maturity.
- Final sentences for Scenario A (post application of credit for guilty plea) ranged between a Community Order (HLCO) and 28 weeks custody. The variation in sentence compared with that expected by policy is predominantly thought to be a direct result of the small inconsistency in offence categorisation.
- Overall, participants thought their final sentence using the draft guideline was appropriate and as expected. Two sentencers thought the sentences “*ended up on the low side*”: one, due to not being able to reach the top of the selected category range and the second as the statutory maximum is five years, whereas “no categories go above 3 years”.

Scenario A – Additional information

The video also showed the dog being thrown against a brick wall. The medical examination later showed that this had shattered its pelvis.

With the additional information, aggravating and mitigating factors were expected to remain consistent with that expected for Scenario A. An elevation was expected of culpability from medium to high account for an increased level of force. Therefore, the offence categorisation would rise from B2 to A2. A slight increase in the level of harm was expected however, due to the broad scope of injuries that may fall within the medium harm category it was anticipated that the additional information would not be categorised as high harm. The final sentence was expected to increase in response to the increased categorisation: 26 weeks’ custody, reduced to 18 weeks’ following the application of credit for guilty plea entered at the earliest opportunity.

Most sentencers did not categorise the extension of Scenario A as expected by policy, with the majority increasing the categorisation of harm. Nine sentencers determined the offence category to be A1, rather than A2 as expected. The categorisation is as follows:

Offence categorisation	Number of sentencers (14)
A1	9
A1 or A2	2
A1 or B1	1
B1	1
B2	1

- One sentencer who categorised culpability as medium did so based on prolonged and/or repeated incidents of cruelty or neglect. The second, did not consider there were any additional harm or culpability factors to be applied over and above those already applied

for the main scenario; however, they stated that they would aggravate the offence. One sentencer considered the classification to be borderline between medium and high culpability.

- The majority of sentencers (11) regarded the additional information for Scenario A to constitute a high level of harm due to the following factors: particularly grave or life-threatening injury or condition caused and a very high level of pain and/or suffering caused. One sentencer applied the factor of death (including injury necessitating euthanasia), as the injuries were likely to lead to euthanasia.
- The majority (13) of final sentences (post application of credit for guilty plea) for the extension of Scenario A ranged between 18 weeks and 1 year and 6 months custody. However, one judge (number five in Table 1) thought there to be justification to go outside the guidelines: *“I would probably take [multiple incidents] as reason to take me outside the guideline. I would probably be going up from the starting point in the guideline right up to the top of the range, if not beyond before adjustment for any mitigating factors”*. The judge imposed a final sentence of 3 years. Two magistrates stated that they would commit the case to the Crown Court for sentence.
- After sharing the additional information, the majority of sentencers increased the categorisation of culpability (12) and harm (10), by one category. It should be noted that the two sentencers who did not increase the category of culpability had already assessed the scenario as high culpability prior to receiving the additional information. As a result, thirteen sentencers increased the final sentence imposed previously for Scenario A. Two magistrates believed that the additional information increased the sentence beyond their powers and would therefore commit the case to the Crown Court. The sentence of five participants also increased such that it now crossed the custody threshold: three increased their sentence from a community order to immediate custody, one increased their sentence from a fine to custody, one from a community order to a suspended sentence order. One sentencer also changed their sentence from a suspended sentence to an immediate custodial sentence. Five sentencers imposed immediate custodial sentences for Scenario A and all increased the length of the sentence after considering the additional information; the extension in relation to the additional information ranged between 8 weeks and 2.5 years. Full details of the sentencing of judges and magistrates’ can be seen in Table 1, below.
- Overall, participants thought their final sentence using the draft guideline was appropriate and as expected. Yet, a few sentencers thought that although the sentence was not considered too high in isolation however, when compared to offences involving assault and similar against humans, “it does seem higher”.

Table 1: Scenario A

September 2022

	Culpability	Factors:	Harm	Factors:	Starting point	Aggravation	Mitigation	Pre-GP sentence	Final sentence
Expected ²	B	<ul style="list-style-type: none"> Deliberate disregard for welfare of animal Deliberate/gratuitous attempt to cause suffering Prolonged incident of cruelty 	2	<ul style="list-style-type: none"> Offence results in an injury or condition which has a substantial and/or lasting effect 	12 weeks'	<ul style="list-style-type: none"> Use of technology 	<ul style="list-style-type: none"> No previous convictions Cooperation with the investigation 	12 weeks'	8 weeks'
	A	<ul style="list-style-type: none"> Use of very significant force 	2	<ul style="list-style-type: none"> Substantial level of pain and/or suffering caused 	26 weeks	No additional	No additional	26 weeks	18 weeks
Circuit Judges									
1 ³	B	<ul style="list-style-type: none"> Deliberate or gratuitous attempt to cause suffering Prolonged and/or repeated incidents of cruelty or neglect Deliberate disregard for the welfare of the animal 	2	<ul style="list-style-type: none"> Substantial level of pain and/or suffering caused 	12 weeks'	<ul style="list-style-type: none"> Use of technology <i>Under the influence of alcohol</i> 	<ul style="list-style-type: none"> No previous convictions Cooperation with the investigation 	12 weeks'	HLCO (UPW and curfew)
	A	<ul style="list-style-type: none"> Use of very significant force 	1	<ul style="list-style-type: none"> Offence results in an injury or condition which has a substantial and/or lasting effect 	1 year, 6 months	No additional	No additional	1 year	35 weeks'
2* 4	B	<ul style="list-style-type: none"> Deliberate or gratuitous attempt to cause suffering Prolonged and/or repeated incidents of cruelty or neglect Use of significant force 	2	<ul style="list-style-type: none"> Substantial level of pain and/or suffering caused <i>Distress at the time of offence</i> 	12 weeks'	<ul style="list-style-type: none"> Use of technology <i>Under the influence of alcohol</i> 	<ul style="list-style-type: none"> No previous convictions Remorse <i>Insight into offending shown</i> 	16 weeks'	11/12 weeks'
	A/B	<ul style="list-style-type: none"> Use of very significant force 	1	<ul style="list-style-type: none"> Particularly grave or life-threatening injury or condition caused 	26 weeks	<ul style="list-style-type: none"> Use of a weapon (possibly include) 	No additional	44 weeks – 1 year	30 – 35 weeks
3	B	<ul style="list-style-type: none"> Prolonged and/or repeated incidents of cruelty or neglect 	2	<ul style="list-style-type: none"> Offence results in an injury or condition which has a substantial and/or lasting effect 	12 weeks'	<ul style="list-style-type: none"> <i>Under the influence of alcohol</i> 	<ul style="list-style-type: none"> Remorse <i>Insight into offending shown</i> 	MLCO (1 year 6 months) (Ban on ownership)	Fine (UPW)
	A	<ul style="list-style-type: none"> Prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour (probably) 	1	<ul style="list-style-type: none"> Particularly grave or life-threatening injury or condition caused 	1 year 6 months	No additional	No additional	1 year 6 months	1 year 6 months

4*	B	<ul style="list-style-type: none"> Deliberate or gratuitous attempt to cause suffering Momentary or brief lapse in judgement 	2 or 3	<ul style="list-style-type: none"> Offence results in an injury or condition which has a substantial and/or lasting effect 	MLCO (1 year)	<ul style="list-style-type: none"> Use of technology <i>Under the influence of alcohol</i> 	<ul style="list-style-type: none"> No previous convictions 		CO 1 year (ATR; 80hrs UPW)
	A	<ul style="list-style-type: none"> Use of very significant force 	1 or 2	<ul style="list-style-type: none"> Particularly grave or life-threatening injury or condition caused Very high level of pain and/or suffering caused 	12 weeks	No additional	No additional	1 year	8 months'
5	A	<ul style="list-style-type: none"> Prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour Use of very significant force 	2	<ul style="list-style-type: none"> Offence results in an injury or condition which has a substantial and/or lasting effect 	26 weeks	<ul style="list-style-type: none"> Use of a weapon <i>Under the influence of alcohol</i> 	<ul style="list-style-type: none"> Remorse Cooperation with the investigation Isolated incident 	42 weeks	28 weeks
	A	No change	1	<ul style="list-style-type: none"> Very high level of pain and/or suffering caused (<i>on more than one occasion</i>) 	5 years	<ul style="list-style-type: none"> Animal requires significant intervention to recover 	No additional	3 years	
6	B	<ul style="list-style-type: none"> Deliberate or gratuitous attempt to cause suffering Prolonged and/or repeated incidents of cruelty or neglect Use of significant force Deliberate disregard for the 	1 or 2	<ul style="list-style-type: none"> Very high level of pain and/or suffering caused OR Substantial level of pain and/or suffering caused 	12 or 26 weeks	<ul style="list-style-type: none"> Use of technology <i>Under the influence of alcohol</i> 	<ul style="list-style-type: none"> Cooperation with the investigation 	20-26 weeks	12-15 weeks SSO (1 year)
	A	<ul style="list-style-type: none"> Use of very significant force 	1	<ul style="list-style-type: none"> Very high level of pain and/or suffering <i>anticipated</i> 	1 year 6 months	<ul style="list-style-type: none"> Animal requires significant intervention to recover 	No additional	1 year 6 months	1 year

² Shaded rows display additional sentencing factors considered for Scenario A after the following additional information had been shared with the sentencer: "The video also showed the dog being thrown against a brick wall. The medical examination later showed that this had shattered its pelvis."

³ Text in italics refers to factors not included within the animal cruelty draft guideline.

⁴ * denotes sentencers with experience of sentencing cases of animal cruelty. However, no particular difference was observed in sentencing practice was observed between those with and those without experience.

7	B	<ul style="list-style-type: none"> Deliberate or gratuitous attempt to cause suffering Prolonged and/or repeated incidents of cruelty or neglect Use of significant force Deliberate disregard for the welfare of the animal 	2	<ul style="list-style-type: none"> Substantial level of pain and/or suffering caused 	12 weeks	<ul style="list-style-type: none"> Use of technology <i>Under the influence of alcohol</i> 	<ul style="list-style-type: none"> No previous convictions Remorse Voluntary surrender of animals to authorities Cooperation with investigation 	18 weeks	12 weeks SSO (1 year) (100hrs UPW; Deprivation of ownership and prohibit ownership for 5 years)
	B	No change	2	No change (would aggravate)	22 weeks	No additional	No additional	30 weeks	20 weeks SSO (1 year) RAR/ 150hrs UPW
Magistrates'									
8 ⁵	B	<ul style="list-style-type: none"> Prolonged and/or repeated incidents of cruelty or neglect 	2	<ul style="list-style-type: none"> Offence results in an injury or condition which has a substantial and/or lasting effect 	12 weeks'	<ul style="list-style-type: none"> Use of technology 	<ul style="list-style-type: none"> No previous convictions Remorse Cooperation with investigation Age and/or lack of maturity <i>Low risk of re-offending</i> 	12 weeks'	MLCO
	A	<ul style="list-style-type: none"> <i>A deliberate act</i> 	1	<ul style="list-style-type: none"> Particularly grave or life-threatening injury or condition caused Very high level of pain and/or suffering caused 	1 year 6 months	<ul style="list-style-type: none"> No additional 	<ul style="list-style-type: none"> Remorse⁶ 	26 weeks	18 weeks
9*	B	<ul style="list-style-type: none"> Deliberate or gratuitous attempt to cause suffering Use of significant force Deliberate disregard for the welfare of the animal 	1	<ul style="list-style-type: none"> Particularly grave or life-threatening injury or condition caused Very high level of pain and/or suffering caused (possibly include) 	26 weeks	<ul style="list-style-type: none"> Animal requires significant intervention to recover <i>Under the influence of alcohol</i> 	<ul style="list-style-type: none"> No previous convictions Remorse Cooperation with investigation 	18 weeks	12 weeks
	A	<ul style="list-style-type: none"> Prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour 	1	<ul style="list-style-type: none"> Death (including <i>injury which may necessitate euthanasia</i>) 	26 weeks	<ul style="list-style-type: none"> <i>Sustained assault</i> 	No additional	Commit to the Crown Court	Commit to the Crown Court

⁵ Text in italics refers to factors not included within the animal cruelty draft guideline.

⁶ Text with a strikethrough indicates factor(s) considered for Scenario A that were not thought to be relevant following knowledge of the additional information.

10 *	B	<ul style="list-style-type: none"> • Prolonged and/or repeated incidents of cruelty or neglect • Deliberate disregard for the welfare of the animal 	2	<ul style="list-style-type: none"> • Offence results in an injury or condition which has a substantial and/or lasting effect • Substantial level of pain and/or suffering caused 	12 weeks	<ul style="list-style-type: none"> • Use of technology • Animal requires significant intervention to recover 	<ul style="list-style-type: none"> • No previous convictions • Remorse • Good character • Voluntary surrender of animals to authorities • Isolated incident 	12 weeks	12 weeks SSO (12 months) (UPW, banned from ownership for 5 years)
	A	<ul style="list-style-type: none"> • Use of very significant force 	1	<ul style="list-style-type: none"> • Particularly grave or life-threatening injury or condition caused 	1 year 6 months	<ul style="list-style-type: none"> • No additional 	<ul style="list-style-type: none"> • No additional 	2 years	Commit to the Crown Court.
11 *	A	<ul style="list-style-type: none"> • Use of very significant force • Leading role in illegal activity 	2	<ul style="list-style-type: none"> • Offence results in an injury or condition which has a substantial and/or lasting effect 	26 weeks		<ul style="list-style-type: none"> • No previous convictions • Remorse 	26 weeks	1 year 6 months' SSO (2 years)
	A	<ul style="list-style-type: none"> • Prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour 	1	<ul style="list-style-type: none"> • Very high level of pain and/or suffering caused 	1 year 6 months	<ul style="list-style-type: none"> • No additional 	<ul style="list-style-type: none"> • No additional 	1 year 6 months	1 year 6 months SSO (2 years)
12	B	<ul style="list-style-type: none"> • Deliberate or gratuitous attempt to cause suffering • Prolonged and/or repeated incidents of cruelty or neglect • Use of significant force • Deliberate disregard for the welfare of the animal 	3	<ul style="list-style-type: none"> • <i>Full recovery</i> 	26 weeks	<ul style="list-style-type: none"> • Use of a weapon • Use of technology 	<ul style="list-style-type: none"> • No previous convictions • Remorse • Good character • Age and/or lack of maturity 	MLCO (UPW 80 - 100hrs)	MLCO (UPW 53-67hrs)
	A	<ul style="list-style-type: none"> • Prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour 	1 or 2	<ul style="list-style-type: none"> • Not stated 	26 weeks	<ul style="list-style-type: none"> • No additional 	<ul style="list-style-type: none"> • No additional 	24 weeks	26 weeks SSO (1 year)
13 *	B	<ul style="list-style-type: none"> • Deliberate or gratuitous attempt to cause suffering • Use of significant force • Deliberate disregard for the welfare of the animal 	2	<ul style="list-style-type: none"> • Substantial level of pain and/or suffering caused 	12 weeks	<ul style="list-style-type: none"> • Use of technology • <i>Under the influence of alcohol</i> • <i>Lack of remorse, except for after the event</i> 	<ul style="list-style-type: none"> • No previous convictions • Voluntary surrender of animals to authorities • Cooperation with investigation • <i>Accepted responsibility</i> 	21 weeks	12 weeks

	A	<ul style="list-style-type: none"> • Use of very significant force 	1	<ul style="list-style-type: none"> • Particularly grave or life-threatening injury or condition caused 	1 year 6 months	<ul style="list-style-type: none"> • No additional 	<ul style="list-style-type: none"> • No additional 	1 year 6 months	1 year
14*	B	<ul style="list-style-type: none"> • Prolonged and/or repeated incidents of cruelty or neglect • Use of significant force 	2	<ul style="list-style-type: none"> • Substantial level of pain and/or suffering caused • <i>No long-term implications</i> 	12 weeks	<ul style="list-style-type: none"> • Use of a weapon • Use of technology • Animal requires significant intervention to recover • <i>Under the influence of alcohol</i> 	<ul style="list-style-type: none"> • No previous convictions • Cooperation with investigation • Isolated incident 	12 weeks	8 weeks
	B	<ul style="list-style-type: none"> • No additional 	1	<ul style="list-style-type: none"> • Particularly grave or life-threatening injury or condition caused • Very high level of pain and/or suffering caused 	26 weeks	<ul style="list-style-type: none"> • No additional 	<ul style="list-style-type: none"> • No additional 	26 weeks	16 weeks

Scenario B

The offender, a 47-year-old male with no previous convictions, was found to have caused the death and suffering of turkeys on his poultry farm.

The offender is a poultry farmer with over 25 years' experience. He had previously been visited by the RSPCA after a neighbouring farmer reported ongoing concerns about the neglected appearance of parts of the farm. RSPCA inspectors visited the farm three times over the 12 months prior to the final arrest. On these visits, they had noted cramped and dark housing for the turkey flock and low-quality feed and gave warnings about the wire debris littering the floors of the turkey housing. At each visit, inspectors had offered the offender advice regarding the potential detrimental impact of the environment on animals' health and had suggested ways to improve conditions. Each time, the offender made little attempt to heed any of the advice, instead becoming argumentative and defensive, and complaining about the potential cost of any improvements to the housing. RSPCA inspectors also noted that the offender's flock of 200 chickens, housed in a separate building in much better condition, seemed healthy and well cared for.

The offender was arrested after the neighbouring farmer reported turkey carcasses on the farm. When the RSPCA arrived, they found that 50 turkeys had died over a period of two months, with the surviving flock showing signs of severe stress and heat exhaustion. The offender had dumped the carcasses in a pile behind the turkey housing, making no attempt to dispose of them or to prevent the surviving turkeys from going near the pile. Of the surviving turkeys, 50 were weak and suffering to the point where they had to be euthanised.

When arrested, the offender admitted he could have addressed the risks on his farm but chose not to save money and pleaded guilty at the earliest opportunity. The surviving turkeys have since been moved to neighbouring farms and have fully recovered. The offender has continued to care for his remaining flock of chickens.

Scenario B was expected to be placed in offence category B1 with a 26 weeks' custodial starting point. The following factors were anticipated to aggravate the offence: significant number of animals involved; ignores warning/professional advice/declines to obtain professional advice; and offender in position of professional responsibility for animals. The only expected mitigation was the offenders' lack of previous convictions. The sentence could be that of 48 weeks' custody reduced to 32 weeks' following application of credit for guilty plea.

- Four sentencers selected the expected offence category of B1. Of those who did not, the categorisation is as follows:

Offence categorisation	Number of sentencers (10)
A1	9
B2	1

- The majority of sentencers considered Scenario B to be of high culpability on account of one or more of the following factors: prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour; leading role in illegal activity; ill treatment in commercial context; and the extreme nature of one or more medium culpability factors, as follows: deliberate or gratuitous attempt to cause suffering; deliberate disregard for

the welfare of the animals; use of significant force. A breakdown of sentencing decisions can be seen within the tables on pages 13 - 16.

- Little variance in the categorisation of harm was observed. Sentencers predominantly assessed harm to be high, as expected and applied the following factors: death (including injury necessitating euthanasia), very high level of pain and/or suffering caused, and particularly grave or life-threatening injury or condition caused. However, one sentencer considered the scenario to reflect medium harm, applying the following harm factors: offence results in an injury or condition which has a substantial and/or lasting effect. When outlining their reasoning for the categorisation of harm, four sentencers mentioned cruelty to multiple animals which appears as an aggravating factor ('significant number of animals involved'), rather than harm.
- Final sentences (post application of credit for guilty plea) for Scenario B ranged from a Medium Level Community order to 1 year 4 months' custody. Table 2 displays the sentences imposed. The majority of sentencers were content with the sentence reached through application of the draft guideline. Two sentencers felt that the sentence was too high and two felt that the final sentences were slightly too low.

Table 2: Scenario B

September 2022

	Culpability	Factors:	Harm	Factors:	Starting point	Aggravation	Mitigation	Pre-GP sentence	Final sentence
Expected	B	<ul style="list-style-type: none"> • Prolonged and/or repeated incidents of cruelty or neglect • Ill treatment in a commercial context • Deliberate disregard for the welfare of the animal 	1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) 	26 weeks	<ul style="list-style-type: none"> • Significant number of animals involved • Ignores warning/professional advice/declines to obtain professional advice • Offender in position of professional responsibility for animals 	<ul style="list-style-type: none"> • No previous convictions 	48 weeks	32 weeks
Circuit Judges									
1	A	<ul style="list-style-type: none"> • Deliberate or gratuitous attempt to cause suffering • Prolonged and/or repeated incidents of cruelty or neglect • Ill treatment in a commercial context • Deliberate disregard for the welfare of the animal 	1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) 	1 year 6 months	<ul style="list-style-type: none"> • Significant number of animals involved • Offender in position of professional responsibility for animals 	<ul style="list-style-type: none"> • No previous convictions • Voluntary surrender of animals to authorities (possibly include) 	1 year 9 months	1 year 2 months
2⁷*	B	<ul style="list-style-type: none"> • Prolonged and/or repeated incidents of cruelty or neglect • Ill treatment in a commercial context • Deliberate disregard for the welfare of the animal 	1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) 	26 weeks	<ul style="list-style-type: none"> • Ignores warning/professional advice/declines to obtain professional advice 	<ul style="list-style-type: none"> • No previous convictions 	1 year	35 weeks
3⁸	A	<ul style="list-style-type: none"> • Prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour 	1	<ul style="list-style-type: none"> • <i>Multiple</i> death(s) (including injury necessitating euthanasia) 	1 year 6 months	<ul style="list-style-type: none"> • Ignores warning/professional advice/declines to obtain professional advice • Offender in position of professional responsibility for animals 	<ul style="list-style-type: none"> • No previous convictions 	1 year 6 months	1 year SSO
4*	A	<ul style="list-style-type: none"> • Prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour 	1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) 	1 year 6 months	<ul style="list-style-type: none"> • Significant number of animals involved • Ignores warning/professional advice/declines to obtain professional advice 	<ul style="list-style-type: none"> • No previous convictions 	1 year 6 months	1 year
5	A	<ul style="list-style-type: none"> • Deliberate or gratuitous attempt to cause suffering • Ill treatment in a commercial context 	1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) 	1 year 6 months	<ul style="list-style-type: none"> • Significant number of animals involved • Ignores warning/professional advice/declines to obtain professional advice 	<ul style="list-style-type: none"> • Voluntary surrender of animals to authorities 	2 years	1 year 4 months

		<ul style="list-style-type: none"> Deliberate disregard for the welfare of the animal Extreme nature of one or more medium culpability factors 				<ul style="list-style-type: none"> Offender in position of professional responsibility for animals Animal requires significant intervention to recover 	(possibly include)		
6	B	<ul style="list-style-type: none"> Prolonged and/or repeated incidents of cruelty or neglect Ill treatment in a commercial context Deliberate disregard for the welfare of the animal 	1	<ul style="list-style-type: none"> Death of a <i>substantial number of animals</i> (including injury necessitating euthanasia) 	26 weeks	<ul style="list-style-type: none"> Significant number of animals involved Ignores warning/professional advice/declines to obtain professional advice Animal requires significant intervention to recover 	<ul style="list-style-type: none"> No previous convictions Voluntary surrender of animals to authorities Cooperation with investigation 	44 weeks SSO (1 year 3 months)	26 weeks SSO (1 year)
7	A	<ul style="list-style-type: none"> Prolonged and/or repeated incidents of cruelty or neglect Ill treatment in a commercial context Deliberate disregard for the welfare of the animal 	1	<ul style="list-style-type: none"> Death (including injury necessitating euthanasia) 	1 year 6 months ⁷	<ul style="list-style-type: none"> Significant number of animals involved Ignores warning/professional advice/declines to obtain professional advice 	<ul style="list-style-type: none"> No previous convictions Good character 	2 years	1 year 4 months ⁷ SSO (2 years) Deprivation order, disqualification of 15 years. Minimum provision for appeal set to 10 years.
Magistrates'									
8	A	<ul style="list-style-type: none"> Prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour Ill treatment in a commercial context (possibly include) 	1	<ul style="list-style-type: none"> <i>Multiple</i> death(s) (including injury necessitating euthanasia) Very high level of pain and/or suffering caused 	1 year 6 months	<ul style="list-style-type: none"> Significant number of animals involved Ignores warning/professional advice/declines to obtain professional advice Offender in position of professional responsibility for animals <i>No evidence of remorse</i> 	<ul style="list-style-type: none"> No previous convictions 	1 year 6 months	1 year
9*	B	<ul style="list-style-type: none"> Prolonged and/or repeated incidents of cruelty or neglect 	1	<ul style="list-style-type: none"> <i>Multiple</i> death(s) (including injury necessitating euthanasia) 	26 weeks	<ul style="list-style-type: none"> Significant number of animals involved 	<ul style="list-style-type: none"> No previous convictions 	26 weeks	17 or 18 weeks

⁷ * denotes sentencers with experience of sentencing cases of animal cruelty. However, no particular difference was observed in sentencing practice was observed between those with and those without experience.

⁸ Text in italics refers to factors not included within the animal cruelty draft guideline.

		<ul style="list-style-type: none"> • Ill treatment in a commercial context 		<ul style="list-style-type: none"> • Very high level of pain and/or suffering caused 		<ul style="list-style-type: none"> • Ignores warning/professional advice/declines to obtain professional advice • Offender in position of professional responsibility for animals 			
10*	B	<ul style="list-style-type: none"> • Prolonged and/or repeated incidents of cruelty or neglect • Ill treatment in a commercial context • Deliberate disregard for the welfare of the animal 	1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) • Particularly grave or life-threatening injury or condition caused • Very high level of pain and/or suffering caused 	26 weeks	<ul style="list-style-type: none"> • Significant number of animals involved • Ignores warning/professional advice/declines to obtain professional advice • Offender in position of professional responsibility for animals • Animal requires significant intervention to recover 	<ul style="list-style-type: none"> • No previous convictions 	1 year	34 weeks (surrender of chickens)
11*	A	<ul style="list-style-type: none"> • Prolonged and/or repeated incidents of serious cruelty and/or sadistic behaviour • Leading role in illegal activity 	1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) 	1 year 6 months	<ul style="list-style-type: none"> • Failure to comply with current court orders (possibly include) • Ignores warning/professional advice/declines to obtain professional advice • <i>Impact on surviving animals</i> • <i>No regard for incorrect treatment</i> 	<ul style="list-style-type: none"> • No previous convictions 	1 year 6 months	Commit to the Crown Court.
12	B	<ul style="list-style-type: none"> • Deliberate or gratuitous attempt to cause suffering • Prolonged and/or repeated incidents of cruelty or neglect • Ignored advice • <i>Offender aware of the impact</i> 	2	<ul style="list-style-type: none"> • Offence results in an injury or condition which has a substantial and/or lasting effect 	26 weeks	<ul style="list-style-type: none"> • Ignores warning/professional advice/declines to obtain professional advice • Animal requires significant intervention to recover 	<ul style="list-style-type: none"> • No previous convictions • Good character (possibly include) • Age (no previous convictions in this time) 	26 weeks	MLCO (UPW 80hrs, prosecution costs)
13*	A	<ul style="list-style-type: none"> • Deliberate or gratuitous attempt to cause suffering • Deliberate disregard for the welfare of the animal • The extreme nature of one or more medium culpability factors 	1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) • Particularly grave or life-threatening injury or condition caused 	1 year 6 months	<ul style="list-style-type: none"> • Significant number of animals involved • Ignores warning/professional advice/declines to obtain professional advice • Animal requires significant intervention to recover 	<ul style="list-style-type: none"> • No previous convictions 	2 years	1 year 4 months

14 *	A	<ul style="list-style-type: none"> • Leading role in illegal activity • Prolonged and/or repeated incidents of cruelty or neglect • Ill treatment in a commercial context • The extreme nature of one or more medium culpability factors 	1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) 	1 year 6 months	<ul style="list-style-type: none"> • Significant number of animals involved • Ignores warning/professional advice/declines to obtain professional advice • Offender in position of professional responsibility for animals 	<ul style="list-style-type: none"> • No previous convictions 	Commit to the Crown Court (2 years)	Commit to the Crown Court (1 year 4 months)
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General comments on the guideline:

- The guideline was considered clear and useable and was one sentencer commented it was *“as helpful as can be”*. Concerns were raised about the possibility of double counting with the combination of factors of ‘ill treatment in a commercial context’ in medium culpability and ‘offender in position of professional responsibility’ in aggravation. Clarity was asked for on the issue of totality relating to whether a case involving more than one animal should be considered as multiple separate offences or as one offence then aggravated to reflect multiple animals.

Culpability and harm:

- A point of subjectivity was raised by multiple sentencers on the following factors of culpability and harm:
 - ‘Use of very significant force’ in comparison to ‘use of significant force’.
 - ‘Particularly grave or life-threatening injury or condition caused’ in comparison to ‘offence results in an injury or condition which has a substantial and/or lasting effect’.
 - ‘Very high level of pain and/or suffering’ and ‘substantial level of pain and/or suffering’.
 - ‘Serious harm’.
- It was suggested by one sentencer that the factor ‘use of a weapon’ may be better placed in culpability, rather than as a factor increasing seriousness: *“[the] sentencer might be slightly misdirected and get the wrong culpability figure if they’re not considering use of a weapon until a further stage”*. Another sentencer thought that the aggravating factor could be amended to the following: ‘use of a weapon or any instrument e.g., crooks or cattle prods’.
- Wording of the header of the harm table was noted to refer to ‘the victim’, rather than ‘the animal’.
- It was suggested by one sentencer that there was a cause for concern around a slight duplication of the two factors ‘prolonged and repeated incidents of cruelty’ and ‘deliberate or gratuitous attempt to cause suffering’.

Aggravating and mitigating factors:

- Aggravating factors were considered appropriate and comprehensive. Sentencers acknowledged that the list of factors is not exhaustive and therefore other factors may be considered. The majority of sentencers, particularly in the context of Scenario A, expressed surprise that the factor ‘commission of offence whilst under the influence of alcohol or drugs’ was not present in the draft guideline and suggested that this should be included. There was a consensus that the proposed mitigating factors were appropriate and complete.
- One sentencer suggested an additional aggravating factor relating to an offence committed against an emergency services animal: *“a police horse or a police dog by way of example. And people do that – football supporters and demonstrators, the more aggressive ones, do injure emergency service animals”*.

Starting points:

- The sentencing table was widely accepted. One sentencer expressed their surprise at the lower starting point for A1 in relation to the statutory maximum of 5 years for the offence. In addition, a small number of amendments were suggested as follows (each point was mentioned by only one sentencer):
 1. Culpability could be labelled as A, B or C to “make it easier at a glance” within the sentencing table.
 2. A1 should be “at least 2, if not 2.5 years”.
 3. B2 could be increased to 2 years and the sentencing table graduated accordingly.
 4. 2A should be increased to ‘30 or 36 weeks’.
 5. B1 and 2A *‘feel quite tight’*. As there is a *‘huge range of criminality in both categories’*, the range of B1 could be increased to 18 months.
- A broader issue of need for proportionality with cruelty against humans was raised during discussion in many of the interviews. Many sentencers drew comparisons between the proposed animal cruelty and assault guidelines. Comments included: the starting points felt high across all categories, especially when cross-referenced to assault against the person offences in general: the sentencing table felt disproportionate when compared to assault directed at humans - *“You [are] still sentencing more severely than if we’d seen a section 47 domestic violence attack that had resulted in a fractured skull and or, you know, fractured [pelvis]”*; there should not be a difference in terms of the sentence between the animal equivalent of a s.20 GBH. It was acknowledged that *“there is an element of public horror and opprobrium [in relation to animal cruelty], which I think one shouldn’t be led by, but ... be conscious of. It is well known; I mean people do get very upset about cruelty to animals”*.
- It was noted by multiple sentencers that there is an issue of the nature or type of animal as the victim of a case which is not accounted for within the guideline. One sentencer noted: *“there is a difference between turkeys [as demonstrated in Scenario B] and killing 100 dogs”*, implying that there should be consideration to whether the animal is domesticated or a farm animal.

Half of the participants had experience of sentencing cases of animal cruelty or unnecessary suffering. This subgroup of participants was therefore asked the following additional questions regarding whether: the proposed starting points reflected the level of seriousness of cases seen in court, whether sentencing severity may increase, decrease or stay the same, and whether they thought that the draft guideline could lead to more cases being committed to the Crown Court for sentence.

There was general agreement that the guideline reflected the level of seriousness of cases seen within courts as well as a suggestion that, for the more serious cases, sentencing severity could increase following the introduction of the guideline. However, this was noted within the context of the increase in the statutory maximum. It was thought that most cases could be dealt with in the magistrates’ courts, especially following the recent increase in magistrates’ sentencing powers, reserving the most serious cases to be committed to the Crown Court. In turn, sentencers largely thought that there would not be a large increase in the number of cases committed to the Crown Court for sentence.

Equality and Diversity

The majority of sentencers were content that there were not any phrases in the guideline that could contribute to possible disparities in sentencing. A few broader points were noted surrounding the following: ensuring consistency in sentencing between rural and urban cases given the differing prevalence and types of cases seen within the court; differences between the type of animal (as outlined above); due to subjectivity, use of the word 'prolonged' within high and medium culpability could risk disparity between the private individual and the farmer: *“One has to be careful that one is not more penalized than the other. The way these great guidelines have [been] drafted, there's still scope for the farmer who has incompetent care [and the private individual]. I don't see any apparent unfairness with it”*.

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Annex D: Animal cruelty consultation – alternative sentencing tables

We would offer the below specific recommendations on starting points:

Category 1 – High culpability should be 2 years

Category 1 – Medium culpability should be 9 months

Category 1 – Low culpability should be high level community order

Category 2 – High culpability should be 9 months

Category 2 – Medium culpability should be 18 weeks custody

Category 2 – Low culpability should be medium level community order

Category 3 – High culpability leave at 12 weeks

Category 3 – Medium culpability leave at medium level community order

Category 3 – Low culpability leave at Band B fine

Magistrates' Association

Battersea, the Dogs' Trust and the Links Group drew from sentencing guidelines for dangerous dogs and ABH for their suggested sentencing table. IVC Evidensia's suggestions mirrored these exactly:

	High culpability	Med. culpability	Low culpability
Cat 1 harm	SP: 36 months Cat. range: 30 months – 48 months	SP: 18 months Cat. range: 6 months – 30 months	SP: 36 weeks Cat. range: High CO – 18 months
Cat 2 harm	SP: 24 months Cat. range: 12 months – 36 months	SP: 6 months Cat. range: High CO – 18 months	SP: Medium CO Cat. range: Low CO – 36 weeks
Cat 3 harm	SP: 36 weeks Cat. range: High CO – 18 months	SP: Medium CO Cat. range: Low CO – 36 weeks	SP: Band C fine Cat. range: Band B fine – Low CO

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