



Cymdeithas Frenhinol er Atal Creulondeb i Anifeiliaid Royal Society for the Prevention of Cruelty to Animals

Lord Thomas of Cwmgiedd
Commission on Justice in Wales
Crown Buildings
Cathays Park
Cardiff
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14 May 2018

Dear Lord Thomas,

Commission on Justice in Wales - call for evidence

As part of the Commission's call for evidence, we wanted to explore an aspect of the RSPCA that is regularly referenced in society but largely misunderstood - our work to investigate and prosecute offences in relation to animal cruelty. In many respects the unique nature of the RSPCA as a private prosecutor and a non-statutory enforcer means that we are a less understood element of the criminal justice system.

The RSPCA is the leading enforcer of animal welfare legislation in Wales. On average we receive more than 50,000 calls to our National Control Centre (NCC) with reports of cruelty or for advice from people in Wales each year. Last year RSPCA Inspectors investigated more than 10,000 complaints of cruelty and successfully prosecuted 67 individuals for 148 offences - a slight increase from 2016 which represents a four-year high for animal welfare prosecutions in Wales. The full picture of animal cruelty in Wales can only be made once Police and Local Authority prosecutions are taken into account although they make up significantly smaller numbers. Each year we release our prosecution statistics through our Prosecutions Annual Report¹.

As part of the RSPCA's intervention work our Inspectors issued more than 6,500 non-statutory welfare and warning notices throughout 2017 encouraging owners to comply with animal welfare legislation, primarily the five welfare needs as stated under the Animal Welfare Act 2006 and any relevant Codes of Practice issued by the Welsh Government under Section 14 of the Act.

The ability to bring forward a private prosecution has been a crucial aspect to the RSPCA's work since the charity was founded in 1824. As part of the RSPCA's prosecution process, our Prosecution Case Managers (PCMs) work towards ensuring that any prosecution reflects the principles of the Code of Crown Prosecutors and is incorporated into the RSPCA's Prosecution Policy².

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Noddwr Ei Mawrhydi
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Patron HM The Queen

¹ The 2017 report can be accessed online at
<http://politicalanimal.org.uk/wp-content/uploads/2018/04/RSPCA-2017-Prosecutions-Annual-Report.pdf>

² RSPCA's Prosecution Policy can be found online at www.rspca.org.uk/whatwedo/endcruelty/prosecution/howedecide



Cymdeithas Frenhinol er Atal Creulondeb i Anifeiliaid Royal Society for the Prevention of Cruelty to Animals

The two stages within the policy are the 'evidential test' and the 'public interest test'. The PCM for each case, who work in an independent department separate from the RSPCA's Inspectorate, assess if there is sufficient evidence to provide a realistic prospect of conviction against each defendant and on each charge, and where there is sufficient robust evidence, if it is in the public interest to prosecute. If the case file does not meet the two tests than the RSPCA will not bring forward a prosecution.

As the Commission will know, in Scotland, which has retained it's own criminal justice system (pre-dating devolution), private prosecutions are extremely rare. Leave to prosecute must be sought from the High Court of Justiciary and there must be special circumstances surrounding the crime. For this reason the Scottish SPCA (an organisation wholly separate to ourselves) cannot prosecute the offenders they investigate, and instead these cases must be passed to the procurator fiscal. Animal welfare crimes are then left competing with all other prosecutions paid for out of the public purse. The RSPCA was set up during a period before the creation of the modern police force, and before prosecuting crime was a state function. Thanks to public donations, we've continued that work for 194 years, however in order to determine if this aspect of the RSPCA's work is functioning as it should, we commissioned ex-HM Chief Inspector to the Crown Prosecution Service, Mr Stephen Wooler, to conduct a review in 2014. His report³ produced a number of key recommendations, which the RSPCA has accepted and implemented, and he also stated, '*The RSPCA prosecutes approximately 80% of cases relating to animal welfare law. There is no other body which could take on the RSPCA's current role and its contribution is too valuable to be lost*' and for this reason we would hope to see the ability of the RSPCA to prosecute - either through a retained tradition of private prosecutions or through some other means - should the criminal justice system be devolved in Wales.

Since 2006, key aspects of animal welfare has been devolved to Wales⁴ which has lead to a divergence in the law between England and Wales. In the majority of cases the divergence has been limited, for example with the compulsory microchipping of dogs (through the Microchipping of Dogs (Wales) Regulations 2015), which were implemented separately in both England and Wales, the difference is negligible. However, the Welsh Government has gone further than the UK Government in England introducing radical legislation creating a substantial divergence between the two nations for instance in the case of the Animal Welfare (Electronic Collars) (Wales) Regulations 2010 and the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.

Despite having been a devolved competence for more than ten years, the awareness of this substantial body of Welsh law is low especially amongst members of the public and the wider civil society in Wales. Certainly when an animal welfare announcement is made by the UK Government, there is little understanding that this only applies to England (unless it relates to fox hunting or areas which impact upon animal welfare such as as animals used in research experiments) with many media outlets reporting the announcement as though it would affect animals in Wales. Access to this aspect of Welsh law is limited and is rarely updated however, as part of the RSPCA's continuing development of our Inspectors, the RSPCA does update our legal handbooks to reflect the change in laws between the countries in which

³ The independent review of the prosecution activity of the Royal Society for the Prevention of Cruelty to Animals:
<https://www.rspca.org.uk/webContent/StaticImages/Downloads/WoolerReviewFinalSept2014.pdf>

⁴ The Animal Welfare Act 2006 empowered the National Assembly for Wales. In 2011 animal welfare was devolved as a whole policy area.



Cymdeithas Frenhinol er Atal Creulondeb i Anifeiliaid Royal Society for the Prevention of Cruelty to Animals

we operate. We would certainly however welcome a database of Welsh law that had live updates to ensure we are enforcing the correct legislation at all times.

As well as carrying out investigation and prosecution functions, the RSPCA continues to operate intervention schemes to prevent animal cruelty taking place in the first instance. These programs include the traditional educational models of RSPCA staff engaging directly with pupils as well as programmes with initial teacher training at universities to encourage future teachers to provide an animal welfare element in their classes; last year this element has the potential to reach 35,000 school pupils in the future.

Our education specialists having also been working with young people through Youth Offending Teams (YOTs) using our intervention programme 'Breaking the chain', which was developed in conjunction with teachers and YOTs to tackle the issues surrounding young people and animal cruelty. The scheme aims to help young people to understand:

- the important role animals play in our lives
- that animals have feelings and needs
- that people have a responsibility towards animals
- what cruelty to animals is, what triggers animal cruelty and the consequences of cruelty.

This year the RSPCA is trialling a pilot education and intervention programme aimed at adults convicted of an animal cruelty offences against their own pets, as there is currently no structured programmes available for this type of offence. The trial seeks to offer participants, on a one to one basis, the opportunity to improve their understanding of animal welfare and sentience and potentially reduce the risk of them re-offending, as well as contributing to the understanding of animal cruelty offences and how best to educate and prevent them from taking place. For offenders to take part in the trial they need to have been sentenced to a Community Order with a minimum of five Rehabilitation Activity Requirement days or a custodial sentence where the trial will form part of the Post Sentence Supervision. Currently the RSPCA has 18 referrals for the programme across England and Wales with eight referrals coming from Wales.

The RSPCA is a member of the LinksGroup⁵ which aims to raise awareness of the relationship between the abuse of children, vulnerable adults and animals. By exploring these links and with different agencies working together, it may help to prevent related cases from going undetected. Although evidence of the links is mainly drawn from studies in the USA, there is an increasing amount of research taking place in the UK which suggests that there are significant correlations between interpersonal violence and animal abuse. Whilst the evidence is lacking as to whether perpetrators graduate from violence to animals, to violence to humans, there is much to support a generalised theory of deviance and clearly society would benefit from understanding the links more. With this in mind, later this year the RSPCA is due to launch a new prevention strategy to understand the problems better and expand our programmes to tackle the factors that could be leading to animal cruelty and neglect, before they even happen.

Over the last 18 months the RSPCA has been carrying out a methodological exercise to understand the typology of offenders in Wales by using data from the Wales Index of Multiple Deprivation overlaid with RSPCA investigation and prosecution data. This on-going project has identified key areas of Wales which

⁵ <http://www.thelinksgroup.org.uk/>



Cymdeithas Frenhinol er Atal Creulondeb i Anifeiliaid Royal Society for the Prevention of Cruelty to Animals

are hot-spots for animal cruelty but also raised questions around who reports animal cruelty and why. We are hoping that this data can be further utilised with other data markers to help direct the RSPCA's prevention work in the future.

If we can be of any further assistance in providing information about the work of the RSPCA in Wales, please do not hesitate to contact us as we would very much welcome a dialogue with the Commission.

Yours sincerely,

A handwritten signature in black ink that reads "CLawson".

Claire Lawson
Assistant Director - External Relations