

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ANIMAL WELFARE (SENTENCING) BILL

Second Sitting

Tuesday 23 July 2019

(Afternoon)

CONTENTS

CLAUSES 1 AND 2 agreed to.
New clause considered.
Written evidence reported to the House.
Bill to be reported, without amendment.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 27 July 2019

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The Committee consisted of the following Members:

Chairs: † MR ADRIAN BAILEY, DAME CHERYL GILLAN

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|---|---|
| † Chalk, Alex (<i>Cheltenham</i>) (Con) | † Newton, Sarah (<i>Truro and Falmouth</i>) (Con) |
| † Debbonaire, Thangam (<i>Bristol West</i>) (Lab) | † Pollard, Luke (<i>Plymouth, Sutton and Devonport</i>) (Lab/Co-op) |
| † Duffield, Rosie (<i>Canterbury</i>) (Lab) | † Rutley, David (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>) |
| † Grant, Bill (<i>Ayr, Carrick and Cumnock</i>) (Con) | † Sobel, Alex (<i>Leeds North West</i>) (Lab/Co-op) |
| † Harrison, Trudy (<i>Copeland</i>) (Con) | † Stewart, Iain (<i>Milton Keynes South</i>) (Con) |
| † Hayman, Sue (<i>Workington</i>) (Lab) | † Turley, Anna (<i>Redcar</i>) (Lab/Co-op) |
| † Heald, Sir Oliver (<i>North East Hertfordshire</i>) (Con) | |
| † Hollinrake, Kevin (<i>Thirsk and Malton</i>) (Con) | Rob Page, Adam Mellows-Facer, <i>Committee Clerks</i> |
| † Latham, Mrs Pauline (<i>Mid Derbyshire</i>) (Con) | |
| † McCarthy, Kerry (<i>Bristol East</i>) (Lab) | |
| † Martin, Sandy (<i>Ipswich</i>) (Lab) | † attended the Committee |

Public Bill Committee

Tuesday 23 July 2019

(Afternoon)

[MR ADRIAN BAILEY *in the Chair*]

Animal Welfare (Sentencing) Bill

2 pm

The Chair: I remind everyone to switch electronic devices off or to silent mode, and that teas and coffees are not allowed in the room. We now begin our line-by-line consideration of the Bill. We must proceed in the order set out in the programme order agreed by the Committee this morning.

Clause 1

MODE OF TRIAL AND MAXIMUM PENALTY FOR CERTAIN ANIMAL WELFARE OFFENCES

Anna Turley (Redcar) (Lab/Co-op): I beg to move amendment 1, in clause 1, page 1, line 10, at end insert—

“(2A) After subsection (1) insert—

“(1A) Subsection (1B) applies where the court is considering for the purposes of sentencing the seriousness of an offence under any of sections 4, 5, 6(1) and (2), 7 and 8, and the person guilty of the offence—

- (a) filmed themselves committing the offence, or
- (b) posted online a video of themselves committing the offence.

(1B) The court—

- (a) must treat the fact mentioned in subsection (1A)(a) or (b) as an aggravating factor (that is to say, a factor that increases the seriousness of the offence), and
- (b) must state in open court that the offence is so aggravated.”

It is, as always, a pleasure to serve under your chairmanship, Mr Bailey. Before I move on to the specifics of the amendment, I beg the indulgence of the Committee to say a few words of thanks to everyone who got us to this position. As I did on Second Reading, I thank my constituents, who responded so powerfully to the death of Baby the bulldog in such terrible circumstances with petitions, campaigns, floral commemorations and so on. They really have been moving and inspiring.

The fact that we are here in Committee shows this place at its best. There is a lot of cynicism in politics at the moment—a lot of people are getting angry and shouting at each other, there are threats of violence and so on—and it is very easy for people to feel frustrated and disempowered by the system and to think that the things that happen here do not make a difference. However, the progress of the Bill shows that, when there is a problem that needs fixing, if we are positive, we campaign, we are constructive, we petition and we work together collectively across parties—I am proud of the way we have done that—we can change the law and make things happen.

That sends a powerful message back to the public: “Don’t get angry; get even. Change the law. Work with your politicians—campaign and go and see your MP—and you can really change things for the better.” I thank my constituents for what they have done, and I thank Committee members. My colleagues have supported me so much in this process, but the Government have responded considerably and collaboratively. As an Opposition Back Bencher, I am proud to have been able to work with them to make this happen. I also thank all the organisations that we have received evidence from and that have supported the campaigning over the past couple of years. Collective thanks are due to so many people.

I am very happy with the Bill, but I would never want to miss an opportunity to add an extra couple of thoughts. As much as anything, my intention with the amendment was to stimulate a bit of debate. One of the most overwhelming issues in the case of Baby the bulldog was the fact that the young men involved filmed themselves undertaking the abuse, laughing as they did it. The filming was part of the abuse—part of what made the incident so horrific was that they glorified it and thought it was something worth capturing, saving and possibly even sharing.

The other side of the social media aspect is that, because the abuse was videoed and stored on a chip in a mobile phone, which was subsequently found on a supermarket floor, we had evidence that enabled us to bring those young men to justice. There is something very powerful about the role of social media and video in tackling the scourge of this cruelty, as we are seeking to do. That was why I wanted to raise awareness of the role of social media through my amendment. Although we are all outraged at any animal abuse, the use of social media and the sharing of video is a horrible aspect of abuse, which as a society we cannot condone and must not allow to continue. Videos of abuse must not be allowed to be shared and amplified in this way.

My amendment seeks to require courts, where people filmed themselves committing the offence or posted online a video of themselves committing the offence, to treat that as an aggravating factor in sentencing. In explaining the amendment, I want to set out some of the examples I came across in the course of my research that made me more determined to raise awareness. Again, I beg the Committee’s indulgence. We have already heard some horrible evidence—I know we have all had our fill of seeing and hearing about horrific abuse—but I want to demonstrate the severity of what we are dealing with and what social media has done.

Three men in the Forest of Dean were jailed for filming their dogs while they mauled badgers to death. The judge described that as “medieval barbarity”, and there is sickening footage showing the young men in peals of laughter as their dogs slaughtered the badgers. They had a total of 447 video clips of animal cruelty on their phone, but were jailed for just 22 weeks.

A pony was removed by police after video footage showed it being mounted by a man and falling backwards to the ground, which caused widespread outrage on Facebook. That was in Tunbridge Wells in Kent. Two teenage girls in Scotland admitted animal cruelty after a video showing them abusing a snake went viral. A Snapchat video of the couple, who were clearly drunk, showed them laughing as they tortured the reptile, which sparked online outrage. A video was shared on

social media showing a black and white dog being thrown off a cliff into the sea. The dog is then seen swimming back to the shore. That video was shared widely on Snapchat, as we heard this morning. In June this year, another video was circulating online of a man laughing as he violently beats a terrified cat: he smacks it in the face and throws it down on the bed so hard that the video is absolutely horrific to anyone who watches it.

A Sunderland poacher is now behind bars after making shocking videos of his whippet brutally killing wild foxes. He posted graphic photographs and videos of him forcing his dog to chase the foxes, which he claimed was for sport. Three girls were arrested in March after shocking footage showed two kittens being abused and hurled into the air, and a man has been jailed and disqualified for life from keeping animals after appalling videos showed him setting his dog on a cat and a fox. This is happening, and we only have to tap something like “animal cruelty” into a search engine to see an awful lot of those horrendous videos.

It is clear that people are posting this stuff for clicks or likes, or as a way of making themselves notorious. It is awful to see: not content with simply inflicting injury on animals, these people are motivated by the prospect of their films going viral and being shared. It is grotesque and horrific, and demonstrates a greater level of malicious intent, which is why I felt we ought to debate the possibility of a specific deterrent. My amendment would make these crimes subject to an aggravated sentence for those who film themselves undertaking such an attack.

I found the evidence submitted by the Royal Society for the Prevention of Cruelty to Animals very powerful. We heard its representative say during this morning’s Committee evidence that, in 2015, the RSPCA investigated just 27 cruelty complaints related to videos and social media. By 2017, that figure was 167—a fivefold increase over just two years. That shows the scale of this issue and, as ever with legislation, we are struggling. Sometimes, we are on the back foot when it comes to catching up with changes in society and technology. This is our chance to get on the front foot.

Even more strikingly, the RSPCA’s evidence included a statistic from a recent survey showing that 48% of young people have witnessed some form of animal cruelty. Only 3% of those witnessed it directly, but a huge number—23%—had witnessed it on social media. What effect does exposing our young people to this material have on them? Does it have a normalising effect—glamorising, even—or lead to dehumanisation and lack of empathy? What effect will it have on our young people, particularly given the role of social media, with videos, clicks, likes and going viral seen as a means of success and of being popular? I worry that this is enabling and facilitating a nasty streak in society that we would not want to expose our children to, and would not want them to witness.

That is all I wanted to say to share why this deserves to be discussed and debated in this place. It is a great concern to me and, I think, anyone who cares about animal welfare and wants sentencing to reflect the severity and gravity of the action. I just hope that, in the course of this discussion, we get a sense of how serious this is.

I say up front that I do not intend to press the amendment to a vote, because I hope the Minister will reflect on it. He has already been very responsive to my questions. However, when considering such a Bill, it

is important to talk about the context and the role of technology to make sure that when we are drafting it, every “t” is crossed and every “i” is dotted, so that these actions cannot slip through the net and be allowed to happen without any consequence. I appreciate having been given time to speak to the amendment.

Luke Pollard (Plymouth, Sutton and Devonport) (Lab/Co-op): I support the statements of my hon. Friend the Member for Redcar, but I would also like to raise a further matter for the Minister to reflect on in his reply: the possibility of including in the Government’s online harms White Paper elements that would address the online distribution of abuse images and videos.

The Government have rightly made much effort to tackle online abuse, address mental health concerns and deal with offensive imagery and online behaviours—a critical issue, especially for our young people. However, when I skimmed through the online harms White Paper in advance of this Committee sitting, I found no mention of animal welfare or of the distribution of the kind of images that my hon. Friend mentioned. There is an opportunity for the Minister to reflect on how a conversation between the Department for Environment, Food and Rural Affairs and the Department for Digital, Culture, Media and Sport might help to support the collective Government effort against the sharing of these disgusting images and videos, and create a more comprehensive system.

Alex Chalk (Cheltenham) (Con): I pay tribute to the hon. Member for Redcar. No one has done more than she has to advance this legislation. I entirely endorse the spirit and intention behind what she proposes, and simply want to volunteer some thoughts by way of context.

It is important to note that the recording of an offence is already set out as an aggravating factor in certain other criminal offences such as rape and sexual assault. As we know, the Sentencing Council publishes guidelines that the court is obliged to take into account. It is therefore important to ensure that the Sentencing Council has the widest possible rein to reflect the full spectrum of aggravating features in respect of this offence, as it has done with other offences.

My only question mark relates to whether there is a risk that, if we legislate for one particular aggravating feature, the Sentencing Council might not have as broad a remit as it might like. I say that because its guideline on the Animal Welfare Act 2006 lists “Other aggravating factors”, including “Use of a weapon” and “Use of another animal”. My rhetorical question is whether, in focusing legislation purely on one aspect, however heinous an aggravating feature it is, we risk inadvertently downplaying other aggravating features.

While I respectfully and entirely endorse the hon. Lady’s intention and the spirit of her amendment, I venture to suggest that the Sentencing Council has shown itself well capable of reflecting the issue of degradation through publication, and well attuned to the need to do so. Inevitably, I think it would include that factor, but it would also include other aggravating features such as use of another animal, use of a weapon, or whether the victim—so to speak—was a public service dog. That would ensure that the offending received the condign punishment it deserves.

Sue Hayman (Workington) (Lab): It is a pleasure to serve under your chairmanship, Mr Bailey.

The main thing that I want to make clear is the Opposition's support for the Bill, for which we have waited a long time. We also support the intention behind the amendment of my hon. Friend the Member for Redcar, who has done so much to bring the Bill forward. We believe strongly that increasing the maximum penalty for the worst offences is important in order to send a clear message that society simply will not tolerate the gratuitous cruelty to defenceless animals that she described so vividly on Second Reading—to be honest, it nearly brought us to tears in the Chamber.

We know that perpetrators of such abuse are five times more likely to have a violent crime record and are more likely to engage in domestic violence against women and children. We need penalties to create a very effective deterrent, right at the beginning, when people do these appalling crimes. We do not necessarily expect many more people to be locked up for longer, but the sentence has a deterrent purpose. If people think they will get a maximum of only six months—or only 22 weeks, as has happened in the past—they are less likely to take their crime seriously as a criminal offence.

We need to ensure that the Bill gets a speedy Royal Assent. The Animal Welfare Act was brought in to level the playing field for animal cruelty penalties. That includes domestic pets, farmed animals and other wild animals, so that they all have the same sentence. Unfortunately, it has been only a six-month maximum, which has not acted as a deterrent as it was designed to do. Northern Ireland led the way in 2016 with a maximum five-year sentence for the worst cases. That also applies to causing unnecessary suffering to any animal. The equivalent under the England Wales and Animal Welfare Act is limited to protected animals, commonly defined as domesticated, under the control of man, or not living in a wild state.

2.15 pm

One of our concerns, which I have spoken to the Minister about, is that we will be left with a two-tier penalty regime. Why was it decided that the Bill should not follow the Northern Ireland approach for England and Wales? We know that other issues have been raised, but the main point is for the Bill to reduce animal offences and make sure that the people who commit the most heinous crimes—particularly those described by my hon. Friend the Member for Redcar—are punished.

The Battersea Dogs and Cats Home has published a great book on sentencing—it is worth reading. It shows that the case of Baby, to which my hon. Friend the Member for Redcar referred, is one of the most distressing documented cases. It is made even more distressing because the offender took pleasure in filming it, and not just filming it, but sharing it with his friends and enjoying watching the cruelty over and over again.

It is absolutely right that tougher sentences reflect our abhorrence, and we put different sentencing guidelines around things that are absolutely disgusting. I cannot imagine why anybody would want to watch something like that but, to the best of our ability, those who do watch need to be stopped. As the hon. Member for Cheltenham said, guidelines would normally be set by the independent Sentencing Council. It is very helpful

that the guidelines for animal cruelty offences cover the use of technology to publicise or promote cruelty as an aggravating factor, and that filming an offence is specified for other offences. I hope that that means that it will be a simple matter for the Sentencing Council to take this into account when updating the animal cruelty guidelines after Royal Assent. It would be helpful if, on behalf of the Committee, we could place on record our clear view that filming should count as an aggravating factor.

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (David Rutley): I want to put on record our sincere thanks to the expert witnesses who took their time to present to us in the evidence sessions this morning. I think everybody benefited from that and we are all grateful to them. It is a pleasure to serve with you, Mr Bailey, in the chair once again.

Amendment 1 would oblige the court to consider whether the accused filmed themselves committing the offence or posted a video of themselves committing the offence online when establishing the seriousness of the offence. Subsection (1B) means that this consideration would be treated as an aggravating factor and would be stated as such in open court. This would be used by the court to determine the appropriate sentence and result in an upward adjustment of the sentence for those who conducted such filming activity. I am aware of and am horrified by the abhorrent actions of some people who film animal cruelty with the aim of sharing and uploading videos on social media. The hon. Member for Workington highlighted how terrible that was.

I think we all recognise that the hon. Member for Redcar movingly explained her concerns, fears and worries. In the best traditions of the House, she explained the issues in a non-partisan way. As she spoke about the need to introduce guidelines and how to approach this, it was interesting that everybody on both sides of the Committee said: "Good point". That is very unusual in this place, so well done. One of the great things in this place is when we see somebody has a grip on an issue and brings people with them. I congratulate her for doing that.

There are many other great examples of Back-Bench support in the Committee, including the work done on the mighty Finn's law in North East Hertfordshire. There is some really good work going on, and that should inspire people about what can be done in this place.

Sir Oliver Heald (North East Hertfordshire) (Con): I also want to pay tribute to the campaigners for Finn's law, including Sarah Dixon, who was the leader of the campaign in many ways, and who is with us today.

David Rutley: Of course—congratulations, and I thank her. It is such campaigning zeal that enables us to make the case to take this legislation through when there are competing demands. Full credit should go to our team of Committee members today; many of them have served in Committee on other animal welfare legislation. There is a commitment to get this legislation through Parliament, but we can do that because we have made the case collectively and there is common ground. I am thankful for all the campaigning work that has gone on to make it possible.

I believe that any cruelty caused to an animal should be met with a proportionate response. That is why we are here today to encourage the passage of the Bill. Aggravating factors are most often dealt with in the sentencing guidelines, as was highlighted and supported by the witnesses this morning, and not always in statute. The amendment tabled by the hon. Member for Redcar would create a statutory aggravating factor. Statutory aggravating factors are used only for the most heinous criminal offences, such as domestic violence or terrorism. For other offences, it is normal for other aggravating factors to be included in the sentencing guidelines, which the courts are required to follow when determining the appropriate sentence in a particular case.

There are sentencing guidelines for animal cruelty, drawn up by the independent Sentencing Council, and they were last reviewed and updated in April 2017, following a public consultation. Under those guidelines, the use of technology to publicise or promote cruelty is already considered an aggravating factor, as has been referred to. Officials from the Department for Environment, Food and Rural Affairs have been in contact with the Sentencing Council. As the Bill will change the maximum sentence available for animal cruelty, the sentencing guidelines for animal cruelty will be subject to review by the Sentencing Council, which will publicly consult on the updated guidelines.

My hon. Friend the Member for Cheltenham was, I think, concerned about the question of statutory guidance. Our view is that this behaviour will be one of the other aggravating factors. The good news is that it is already included in the Animal Welfare Act guidelines, so, as the hon. Member for Workington said, we hope that it will be more straightforward. The fact that DEFRA officials are speaking to the Sentencing Council gives us real cause for optimism.

The hon. Member for Plymouth, Sutton and Devonport made an interesting point about the online harms White Paper. Based on that suggestion, we will be meeting the Department for Digital, Culture, Media and Sport and talking closely with it about what we can do in that area. It is scary when we see what people—young or old—are watching now. They seem to get relative highs on really disgusting material, animal cruelty being one. That has to stop, and hopefully we can make some inroads on that.

The proposed aggravating factor of filming an offence is already taken into account by the courts when sentencing for certain relevant offences. For example, the sentencing guidelines on “Robbery—sentencing children and young people” includes the following other aggravating factor:

“filming of the offence...or circulating details/photos/videos etc of the offence on social media or within peer groups”.

That is for consideration by the court when sentencing the offender. I assure the hon. Member for Redcar that DEFRA will raise that issue and will continue to engage with the Sentencing Council, which I am sure takes this matter very seriously.

In addition to the guidelines on sentencing, existing legislation provides an offence that covers filming animal cruelty. Section 127(1) of the Communications Act 2003 creates a specific offence of sending grossly offensive, indecent, obscene or menacing messages over a public electronic communications network. It is a matter for the Crown Prosecution Service to decide which charges

to bring, but it is possible that someone filming an act of animal cruelty could be charged with an offence under section 127(1). That would result in a maximum sentence of six months simply for the offence of posting abhorrent or offensive material online. Evidently, there are options to ensure that the offenders who film and upload or distribute footage of their animal cruelty are met with an appropriate response. When this Bill is passed, these pre-existing options could enable courts to impose a higher sentence. It is useful to see what legislation is out there in the round and also what guidelines are there.

Committing animal cruelty is repugnant and filming it to share with others is beyond comprehension. As mentioned, we will discuss this matter further with the Sentencing Council. When they review the guidelines, we will ensure that this point is raised during the public consultation. On that basis, I ask the hon. Lady whether she would be kind enough to consider withdrawing her amendment.

Anna Turley: I appreciate the Minister’s thoughtful and considered response, which was very helpful. I thank his civil servants for their work in responding to my amendment. I am pleased to hear that the sentencing guidelines will have a big role in deciding aggravating factors and it was interesting to hear that we tend only to put things on the statute books when they are major issues, such as terrorism. I was also particularly interested to hear about the fact that those responsible for animal cruelty films could already be prosecuted under the Communications Act 2003. As we move towards Royal Assent, in terms of the promotion of, and education and awareness about, the issues we have discussed in the Bill, I hope that that will be pushed further. I am particularly pleased to hear that as a consequence of the Bill the Sentencing Council has confirmed that it will have a public consultation and update the guidelines with reference to filming and sharing. I appreciate the Minister’s consideration and beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

David Rutley: Before I discuss clause 1, I want to comment on and welcome the widespread support that the Bill has received, across the House and beyond. It was clear on Second Reading that the Bill has strong backing across the House, which was unified in its view that there is no place for animal cruelty in this country and that we must deal with it in the strongest possible terms. I welcome the spirit in which our discussions today have taken place. I am sure that that is part of our collective view that the United Kingdom should continue to be a world leader on animal welfare.

The Government committed to increasing maximum sentences for animal cruelty offences in September 2017 and I am pleased to see hon. Members who have supported this measure here today. I know that some hon. Members will feel that we should have moved faster, but collectively we have moved quickly in recent weeks to see much animal welfare legislation move forward and I am grateful for that.

As was made clear on Second Reading, under the Animal Welfare Act 2006 the current maximum penalty for animal cruelty offences is six months imprisonment

[David Rutley]

and/or an unlimited fine. This Bill amends the Animal Welfare Act to extend the maximum penalty available to five years imprisonment and/or an unlimited fine for the worst animal cruelty offences relating to animal welfare in England and Wales. We heard this morning just how important it is that this Bill reaches the statute book as soon as possible.

Clause 1 is the Bill's main clause and outlines the mode of trial and maximum penalty for certain animal welfare offences. As it is proposed that the maximum custodial sentence is extended to five years, these offences will become triable either in the magistrates court or the Crown court, depending on the severity of the offence. Specifically, clause 1(2) changes the maximum custodial sentence for the most serious offences under the 2006 Act. These are: causing unnecessary suffering to a protected animal; carrying out a non-exempted mutilation; docking the tail of a dog, except where permitted; administering a poison to an animal; and involvement in an animal fight—a dog fight or something similar, as we talked about earlier today.

Under the Animal Welfare Act 2006, which this Bill amends, all protected animals are covered. In its legal definition, a protected animal is a vertebrate animal of a kind commonly domesticated in the British Isles. Animals not commonly domesticated, such as wildlife, are “protected animals”, but only to the extent that they are under the control of man or are not living in their wild state.

2.30 pm

Clause 1(3) relates to the mode of sentencing. Under section 78 of the Powers of Criminal Courts (Sentencing) Act 2000, magistrates courts do not have the power to impose penalties greater than six months. Section 154(1) of the Criminal Justice Act 2003 increased the maximum custodial sentence imposable by a magistrates court to 12 months. However, to date this section has not been commenced and the clause reflects that position. In practice, that means that the existing maximum penalty of six months or an unlimited fine is retained if the offender is summarily convicted through a magistrates court. However, with the passing of the Bill, offenders may now receive a higher penalty of up to five years imprisonment or an unlimited fine if they are convicted on trial by indictment in a Crown court.

This country has some of the highest animal welfare standards in the world, but among the lowest maximum penalties. Clause 1 will ensure that in those rare but shocking cases that we have heard about too often today offenders will be properly punished. The new maximum sentence will also send a clear signal to any future potential offenders that animal cruelty will not be tolerated.

Sue Hayman: As I said before, we are pleased to support the Bill and the increase in sentences. It is good finally to see it here and I hope we can get it on the statute book shortly. As I said on Second Reading, we have no intention of voting against it, but would rather seek to improve it where we can through amendments such as that tabled by my hon. Friend the Member for Redcar.

As I mentioned, we are concerned about the scope of the Bill and its narrowness, because it applies only to the Animal Welfare Act 2006, and therefore does not apply to wild animals. I will come on to that in more detail when we reach new clause 2.

I will not say much, because it is important that the Bill moves forward as swiftly as possible. We welcome the fact that it will increase maximum sentences to five years and the fact that that brings England and Wales more into line with the rest of the UK. The Minister mentioned that Northern Ireland has moved on to five years. Scotland, as we know, has been consulting on doing the same. It is important we are not left behind in England and Wales.

As we have heard, public consultation was an important part in getting the general public and animal welfare organisations to support the work that the Government are doing. I know that Battersea Dogs and Cats Home, the Dogs Trust, the RSPCA and many others have worked with us and the Government to support the Bill and enable it to come forward. I know that a lot of people have worked very hard to get us to the place we are at now. I thank all those who have worked on this Bill.

The Environment, Food and Rural Affairs Committee's 2016 report on animal welfare referred to the increasing disparity in sentencing powers on a range of offences relating to animals. That report also included the recommendation to increase the maximum sentence for cruelty offences against animals to five years.

Sir Oliver Heald: Does the hon. Lady agree with me and the evidence we heard this morning that one great advantage of increasing the sentence is that in the horrible cases where there is torture, where a service animal is attacked, or where a number of animals are killed or badly treated, it is possible to mark that if the maximum sentence is five years, so those aggravated features can be reflected in the sentence?

Sue Hayman: The right hon. and learned Gentleman makes an extremely important point. One thing that has been quite difficult when looking at the evidence is some of the extraordinary cruelty against animals of which people are capable. The work he did with other colleagues on Finn's law was really important, because service animals put themselves in front of their police officers or whoever they are working with to protect them. It is important that that has now been recognised.

It is important that we are finally giving judges the tools they need to start handing out the kind of sentences that are required if we are to have not only a punishment that will act as a deterrent, but a punishment that is right for the crime. We do not have that at the moment. In conclusion, the Opposition will support the Bill, and I thank everyone for their work on it.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

EXTENT, COMMENCEMENT AND SHORT TITLE

Question proposed. That the clause stand part of the Bill.

David Rutley: Clause 2 provides the extent, commencement and short title of the Bill. Clause 2(1) provides for the Bill's extension to England and Wales only. Animal welfare is a fully devolved matter, but in this case the Welsh Government have confirmed that the maximum penalty will apply in Wales. The Bill is drafted on that basis. The Welsh Government are preparing a legislative consent motion so that the Bill can be extended and applied in Wales, which is excellent news.

Clause 2(2) provides the date and commencement of the Bill. The Act will come into force two months after Royal Assent. The clause also ensures that the application of revised maximum penalties is not retrospective and is not applied to offences committed before the Bill comes into force. It specifies the short title of the Bill, that being the Animal Welfare (Sentencing) Act 2019.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

New Clause 2

REPORT ON EFFECTS

'(1) The Secretary of State must publish a report on the effects of the provisions of this Act.

(2) The report must include assessments of—

- (a) trends in sentencing practice;
- (b) the effects of this Act on animal welfare;
- (c) the extent to which this Act has had a deterrent effect on animal welfare offences;
- (d) the coherence and adequacy of animal welfare legislation in aggregate in the light of the operation of this Act.

(3) The assessment under subsection (2)(d) must include consideration of—

- (a) the welfare of animals that are not "protected animals" under section 2 of the Animal Welfare Act 2006;
- (b) sentencing for offences under—
 - (i) all sections of the Animal Welfare Act 2006;
 - (ii) the Wildlife and Countryside Act 1981;
 - (iii) the Deer Act 1991;
 - (iv) the Protection of Badgers Act 1992;
 - (v) the Wild Mammals (Protection) Act 1996; and
 - (vi) the Conservation of Habitats and Species Regulations 2017 (S.I.2017/1012).

(4) The report must be laid before Parliament within two years of this Act coming into force.—(*Sue Hayman.*)

This new clause would require the Secretary of State to lay before Parliament, within two years of the Act coming into force, a report on the effectiveness of the Act, including specific assessments of its effect on animal welfare, the overall coherence of animal welfare legislation, and other matters.

Brought up, and read the First time.

Sue Hayman: I beg to move, That the clause be read a Second time.

New clause 2 would provide for an assessment of the effectiveness of the Act, and for a report to be laid before Parliament. I hope the Minister agrees that it is good practice for our legislation to be reviewed, and for Parliament to have the opportunity to consider the extent to which it is achieving its objectives, and indeed to consider whether any adjustments might be needed. Within that, we believe that there is a specific need to examine the level of penalties available to the courts for cruelty offences across animal welfare legislation as a whole.

The Bill improves the deterrence impact of penalties for cruelty under the Animal Welfare Act 2006, but introduces a two-tier system—maximum penalties for cruelty offences under the legislation listed in new clause 2 remain at six months. It is clear that offenders do not discriminate between wild and domestic animals in inflicting cruelty. The RSPCA has a shocking catalogue of offences, just a few of which I will mention: a wild rabbit hit with a log and stabbed with a pen; a sheep beaten to death with a gold club; a goldfish's eye cut out; a squirrel set on fire; a cat choked and suffocated; and two hens beaten to death. I find it extraordinary that anyone can behave like that.

How do we work out what maximum penalty should be available to the court in each of those cases? If a person kicks their pet rabbit, it should be clear that, under the Bill, the maximum penalty would be raised to five years, but what if the poor animal that has been kicked to death is a wild rabbit in the middle of a field? The nature of the offence is arguably identical, and most people would agree that the offender should face the same penalty, but would they? What about the case we heard about from the hon. Member for Southend West (Sir David Amess) on Second Reading, of a driver who put down chips in a road to attract wild birds so that he could then run them over? Should wild birds, squirrels or hedgehogs be regarded as under the control of man in a situation such as that, and would they come under this penalty? What about people putting out poisoned foods at a wild bird feeding station? What if wild chickens are taken and tortured? Is it different if chicks are taken from a hedgerow or from a garden nest box? These are genuine questions and I find the definitions confusing.

My hon. Friend the Member for Bristol East spoke on Second Reading about cruelty committed against game birds that are specifically reared for shooting before being released in the wild. Where does that sit within an offence of cruelty? What concerns me is that guilty offenders might well seek to persuade a court that a lesser sentence should be imposed if the victim could be classed as a wild animal.

We heard in evidence from Mr Schwarz that the two-tier approach could end in confusion for both the judiciary and prosecutors. We need to consider carefully whether the Bill's good intentions to deter the worst acts of cruelty could unintentionally lead to offenders targeting more wild animals. The Opposition are pretty clear that all animals are equal and deserve to be treated with respect and kindness. As our animal welfare plan stated:

"Our vision is one where no animal is made to suffer unnecessary pain and degradation and where we continue to drive up standards and practice in line with the most recent advances and understanding."

Our preference would be for the Bill to set a maximum sentence according to the level of cruelty in the offence, rather than whether the animal is domestic or wild, which I have discussed with the Minister. New clause 2 offers the option of looking into that and giving Parliament an opportunity to consider it once the Act has taken effect. As I have said, we do not want to delay the Bill—we want it on the statute book quickly, which is why we are asking for a review. I hope the Minister considers it and I look forward to his response.

Sandy Martin (Ipswich) (Lab): It is a pleasure to serve under your chairmanship, Mr Bailey. I believe that the evidence we heard this morning from both the Royal Society for the Prevention of Cruelty to Animals and the lawyer and police officer made it fairly clear that there was confusion about which offences come under the Bill. Clearly, there are questions about whether an offence relates to a feral cat or a domestic cat, or a wild rabbit or a tame rabbit, but there are also questions about organised crime. We heard from the police officer about dog fighting, which would come under this Act. Serious and organised cases of cruelty can now be prosecuted and a sensible and serious sentence incurred, yet the equally serious and equally organised crime involved in hare coursing probably would not.

All sorts of issues need to be tested in the courts. Very often in this place we seek to tie all the knots, cross all the t's and dot all the i's, but it is not always effective. We need to test these issues in the courts, but if they are to be tested in the courts, we need to review the result in order to establish whether the Act is doing what we intended it to do.

We heard from Mike Schwarz that serious issues will be aired by members of the public as a result of the sentences that will be handed down if, as we suspect, the sentences for domestic and wild animals are suddenly, obviously and publicly very different. We have heard on several occasions from the Minister that the Bill needs to be passed as soon as possible. We could not agree with him more. In fact, we could not have agreed with him more if he had said that 18 months ago, when we could have passed it. There is no good reason why, if we accept proposed new clause 2, that would add a single minute to the length of time it takes for the Bill to pass into law.

I urge us to accept the amendment and ensure that, whatever the results in the courts, we review them swiftly and effectively with a view to ensuring that we get consistent sentencing for consistent levels of cruelty.

2.45 pm

David Rutley: New clause 2(1) and (2) would create a statutory obligation for the Government to report to Parliament on the effectiveness of the Act within two years of it coming into force, including specific assessments of its effect on animal welfare and the overall coherence with animal welfare legislation, including sentencing under specified Acts relating to wildlife.

It is important to note that the Animal Welfare Act 2006 was subject to review by the Select Committee on Environment, Food and Rural Affairs in 2010 and informally through its domestic animals inquiry in 2016.

The 2010 assessment concluded that there was broad agreement that animal welfare had been improved as a result of the 2006 Act by bringing together diverse legislation and adding a preventative measure that allows action to be taken without animals suffering unnecessarily. The 2016 inquiry encouraged the Bill and the proposed increase in maximum penalties.

New clause 2(3)(a) would commit the Government to including an assessment of the welfare of animals that are not protected animals under section 2 of the Animal Welfare Act 2006. Subsection (3)(b) would commit the Government to look at sentencing for offences under various pieces of legislation pertaining to wildlife.

Wildlife legislation that protects animals in a wild state is a separate matter and, as we know, not in the scope of the Animal Welfare Act 2006. All animals that come under the control of man, whether domesticated or wildlife, will be subject to the maximum penalty. Indeed, there are separate pieces of legislation that focus specifically on wildlife, with appropriate sentences and penalties.

Relevant points are being made here and, of course, we want to respond to them. I do not think we know the general consensus but we need to move forward with the Bill. We do not want to let the perfect be the enemy of the good. We have heard that before but it certainly applies to the Bill. Notwithstanding that the courts will have to make some interpretation, as is always the case, I reinforce the fact that any act of serious cruelty against a wild animal would most likely, by its very nature, entail that animal being under the control of man, and so would be caught by the Animal Welfare Act 2006.

Some of the deeply upsetting cases we heard about this morning, such as putting an animal in a microwave—if one could ever consider somebody doing that—could be committed only if the animal were under control of man. Although I understand the concerns, and that there are lawyers in the room, I am sure that courts will be well able to identify the most serious acts.

Sir Oliver Heald: I do not know whether the Minister would agree with me on a point that may need further consideration. If an animal is under a person's control, does that not give that person a duty towards that animal? In those circumstances, is it not part of the wrongdoing that, having control of an animal, a person abuses it?

David Rutley: As I said, we have distinguished lawyers in the room for a reason—they make important points such as that one, which only my right hon. and learned Friend could make with such eloquence. I completely agree that there is an added responsibility. It is a privilege to be able to look after animals and, when we do, we should expect higher standards of ourselves. There are laws that are relevant to other wild animals but, when these animals are in the control of man, a higher standard needs to be adhered to.

I do not really want to mention these cases, but I am trying to provide clarification and confidence to members of the Committee. We heard the example of a rabbit being kicked in a very serious way. Whether a rabbit is wild or not, rabbits are commonly domesticated, and that would be covered by the Bill. Similarly, if other animals were mistreated under the control of man, they would be covered. I understand that there are concerns, but I reassure members of the Committee that the courts will be in a better position, as a result of this legislation, to hold people to account and put the right sentences in place. They will be able to make judgments that will help domesticated animals and, in many cases, wild animals too—I will come to the point about wild animals more broadly in a second.

A review of wildlife legislation has already been conducted. At the request of the Department for Environment, Food and Rural Affairs, the Law Commission commenced in 2011 its wildlife law project to develop proposals for a modern, simpler and more flexible

framework. The commission published its report and draft Bill in November 2015, and recommended that the existing pieces of wildlife legislation be replaced with a single statute.

Exit from the EU provides an opportunity to re-examine our regulatory framework and how it works so that it is fit for purpose to meet our national needs in the future and to fulfil our international obligations. As hon. Members may be aware, much of our wildlife law stems from EU directives. That is why EU exit would provide an opportunity to take that wider look. We will need to consider the implications of EU exit for our approach to wildlife policy before deciding whether and how to implement the Law Commission proposals.

In addition to the existing reviews of the Animal Welfare Act 2006, the Ministry of Justice regularly publishes criminal justice statistics. Under the 2006 Act, data on prosecutions, convictions and sentencing speak to the impact of higher penalties on animal welfare.

In summary, I completely understand the point made by the hon. Member for Workington, but the Bill focuses on the most heinous crimes involving animals, including wildlife, under the control of man. The penalties for wildlife crimes that focus on animals in their wild habitat are separate from this legislation. Welfare groups have long called for an increased maximum sentence for the serious crimes under the 2006 Act. It is important

that we get this change of an increased maximum penalty on to the statute book as soon as possible and without amendment.

I would be happy to commit to meeting the hon. Lady in the very near future to discuss different maximum sentences for Animal Welfare Act offences and offences relating to the welfare of wildlife. In line with our normal, standard procedure, we will look at the impact of the Bill in three years' time. On that basis, and with a commitment to hold an early meeting, I ask the hon. Lady to consider withdrawing her new clause. I hope she can support the passage of this important Bill at this stage without amendment.

Sue Hayman: I thank the Minister for his considered response. He will probably think that I am a bit odd, but I have a copy of the report and the proposed legislation from the Law Commission by my bed. [HON. MEMBERS: "Hear, hear!"] Thank you.

I would very much appreciate a meeting to discuss how we take this matter further. Some of the Law Commission work is excellent, and it would be good to see how we move forward. On that basis, I am happy to beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Bill to be reported, without amendment.

2.54 pm

Committee rose.

**Written evidence to be reported to the
House**

AWSB01 RSPCA

AWSB01(a) RSPCA (further written evidence)

AWSB02 Mark Randell

AWSB03 Mike Radford, Reader in Animal Welfare
Law, University of Aberdeen

AWSB04 Dogs Trust

AWSB05 Animal Equality

AWSB06 UK Centre for Animal Law (A-law)

AWSB07 Forensic Access Limited

AWSB08 John McKenna

AWSB09 Battersea Dogs and Cats Home

AWSB10 Viva!

AWSB11 Naturewatch Foundation

AWSB12 Wildlife and Countryside Link

AWSB13 Conservative Animal Welfare Foundation

AWSB14 The Self Help Group for Farmers, Pet Owners
and Others experiencing difficulties with the RSPCA
(The SHG)

AWSB15 Martina Stuart, Veterinary Surgeon