

Consultation on penalty notices for animal health and welfare offences

Response from Wildlife & Countryside Link: July 2023

[Wildlife and Countryside Link](#) (Link) is the largest environmental coalition in England, bringing together 75 organisations to use their strong joint voice for the protection of nature.

Introduction

We welcome this consultation from the Department of the Environment, Food and Rural Affairs, and support the introduction of penalty notices as an additional way to enforce animal welfare laws.

Throughout our response we emphasise that the new penalties should not substitute for other sanctions when animal cruelty offences have taken place. The introduction of penalty notices for technical offences, where animal welfare is not compromised, is welcome. Whenever cruelty towards an animal has taken place prosecution should remain an enforcement option.¹

Responses to questions

Q4. Should penalty notices be an available enforcement tool to deal with current and potential promotion of animal welfare related offences?

No, only some.

The introduction of penalty notices can provide a time and cost-effective means of addressing a technical animal welfare offence. Penalty notices have the potential to deter further technical breaches.

We would disagree that a penalty notice would be the appropriate option for some of the examples given in the consultation. The first example of 'an animal kept in poor living condition due to lack of appropriate bedding or shelter' describes a situation of animal neglect and cruelty, as does 'transporting an animal unfit for the journey' which should be taken to court. Transport is often a very stressful experience for animals, capable of causing considerable suffering.²

Penalty notices should also not be used for offences under the Wild Animals in Circuses Act 2019. It is widely accepted that circus environments do not meet animal welfare needs. Offences under the Act will compromise animal welfare and should be subject to more robust sanctions than that provided by a penalty notice.

Penalty notices should be used for technical offences, when the welfare of the animal/animals concerned has not been directly compromised. Prosecution should remain the primary enforcement option for

¹ <https://committees.parliament.uk/writtenevidence/119277/pdf/>

² <https://www.ciwf.org.uk/media/7432109/ciwf-oct-2017-live-transport-common-problems-and-practical-solutions.pdf>

animal cruelty offences. There is one exception to this - we can see value in using penalty notices for minor offences listed under Section 9 of the Animal Welfare Act 2006, under certain circumstances.

We would support the use of penalty notices for some "minor" offences listed under Section 9 of the Animal Welfare Act, but not unless and until: a) enforcement bodies – local authorities specifically – employ or have access to sufficiently trained, knowledgeable and confident dedicated animal welfare officers (as recently proposed by APGAW), and b) after a reasonable period has elapsed and an evidence-based decision can be made as to their effectiveness in their purpose.

Given the declining numbers of dedicated animal welfare officers employed enforcement bodies, specifically local authorities, large numbers of officers are currently not be sufficiently trained, knowledgeable or confident to differentiate between "minor" and "serious" Section 9 Animal Welfare Act offences. These skills shortfalls must be addressed if penalty notices are to be considered for Section 9 offences.

We also question whether penalty notices would indeed be an effective tool to change behaviour considering the effectiveness of improvement and warning notices.

Across the board, the implementation of penalty notices will need very careful monitoring to ensure that each individual situation is appropriately resolved. It is important that attending officers with the power to issue penalty notices are appropriately trained to understand animal welfare, and are encouraged to remain vigilant and look to identify when seemingly low-level offending should warrant further investigation.

Q5. Should penalty notices be an available enforcement tool to deal with current and potential animal licensing related offences?

No, only some.

We would support penalty notices as a proportionate additional option for enforcement if advice and guidance has been ignored, in cases of technical license related offenses that do not directly compromise animal welfare.

The breaching of a license can cause harms to animals in some cases. As such the officers attending must have the correct skills to assess the welfare impact and identify when it crosses the line into animal cruelty.

In cases where cruelty has occurred a penalty notice offers too weak of a sanction and should not be the primary enforcement tool used. We feel strongly that license withdrawal and prosecution and should remain the primary enforcement options for licensing offences involving cruelty.

Q6. Should penalty notices be an available enforcement tool to deal with current and potential pet identification related offences?

Yes, penalty notices are the appropriate option for technical breaches such as this.

Q7. Should penalty notices be an available enforcement tool to deal with current and potential livestock identification related offences?

Yes.

Q8. Should penalty notices be an available enforcement tool to deal with current and potential equine identification related offences?

Yes.

Q9. Should penalty notices be an available enforcement tool to deal with current and potential animal health related offences?

Yes. However, the example given of 'Incorrect administration of veterinary medicines to animals' must be further thoroughly investigated, as this could create the potential for animal welfare to be directly compromised.

Q10. Should penalty notices be an available enforcement tool to deal with current and potential import of live animals, POAO and ABP related offences?

Offences connected to the import of live animals can cause animal suffering, as can the import of unauthorised veterinary medicines.³ As such the use of penalty notices could be inappropriate in some instances – each case must be considered on the basis of whether direct suffering to an animal has been caused.

Similarly, given the serious consequences of biosecurity breaches⁴, penalty notices could be insufficiently robust sanction.

We feel strongly that prosecution and an unlimited fine should remain the primary enforcement option for import offences resulting in animal suffering and/or biosecurity risks.

Q11. To what extent do you agree or disagree with the following statement: Where an individual has already been issued advice and guidance, an improvement notice or similar and they have failed to comply, it would be reasonable to escalate enforcement action of which, a penalty notice could be a suitable next step.

We agree that penalty notices could be a suitable next step for offences that do not directly compromise animal welfare.

12. To what extent do you agree or disagree that an individual should be allowed to receive a maximum number of penalty notices for committing the same or similar offence within a three-year period (similar to speeding) before an alternate enforcement action is taken?

³ <https://vmd.blog.gov.uk/2022/04/14/importing-unauthorised-veterinary-medicines-is-criminal/>

⁴ https://www.wcl.org.uk/docs/Prevention_is_Better_than_Cure_Report_2020.pdf

In most cases the maximum number of penalty notices for committing the same or similar offence within a three-year period, before an alternate enforcement action is taken, should be one.

For example, when breeders or other commercial organisations have breached a license, the <£5000 fine alone may not provide enough of a deterrent for these offenders who have significant money to gain from continuing their animal operations. The promise of conviction or an unlimited fine for a repeated offence is more likely to result in a change of behaviour and strengthened animal welfare.

For technical animal welfare breaches, offenders should receive a single penalty notice for committing the same or similar offence within a three-year period before it proceeds to prosecution. This approach gives a single chance for correction and emphasises that animal welfare offences will not be tolerated. If animal cruelty has taken place the offender should be liable for immediate prosecution. Allowing further chances to reach a penalty notice threshold before prosecution could constitute a license to continue animal cruelty.

We are open to the possibility of a points-based regime to determine whether it's appropriate to issue subsequent penalty notice(s) in relation to "minor" Section 9 Animal Welfare Act offences. A greater number of points may be given for serious offences and weighted on risk to welfare. However, given the complexities and nuances, we do feel greater consideration should be given to this point if and when penalty notices are "switched on" for "minor" S9 AWA offences and each case should be considered separately. Clear guidance on the type of offence and points given will be vital to ensure consistency and points will be different depending on whether the offence is in a commercial context.

Q13: Guidance could be given on additional matters that could be taken into account when deciding an amount to be specified in the penalty notice. We have identified examples which could be considered.

We have not provided scores but would stress again that in most cases we do not support issuing penalty notices more than once for the same or similar offences.

This response is supported by the following Link members:

Born Free
FOUR PAWS UK
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Whale and Dolphin Conservation

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