

## Prison Reform Trust response to draft Animal Welfare (Sentencing and Recognition of Sentience) Bill – January 2018

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families.

[www.prisonreformtrust.org.uk](http://www.prisonreformtrust.org.uk)

### Response

The Prison Reform Trust welcomes the opportunity to respond to this consultation. We have chosen to focus our response on questions 17 and 18, the proposal to increase the maximum penalty for specified animal welfare offences from six months to five years' imprisonment.

We do not deny the severity of some of the serious offences for which people have been convicted. However, there is no evidence of an appetite among sentencers for such a large increase in the maximum sentence available for animal welfare offences. Nor is there any evidence that it will reduce the number of animal cruelty offences or act as an effective deterrent. Furthermore, there is a real risk that such a move will drag up sentence lengths for people convicted of less serious offences in this category, and also create pressure to increase sentence lengths for separate but comparable offences. This is at a time when sentence lengths overall have been increasing, placing significant pressure on an overcrowded and under resourced prison system.

The accompanying policy background within the draft bill states:

*“There have been a number of recent cases related to these offences in which judges have expressed a desire to impose a higher penalty than that currently provided for under the Animal Welfare Act 2006.”<sup>1</sup>*

However, the latest available sentencing data from the Ministry of Justice shows that the overwhelming majority of people sentenced by the courts to custody for animal cruelty offences, are sentenced to lengths well below the current maximum of six

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<sup>1</sup> Animal Welfare (Sentencing and Recognition of Sentience) Draft Bill

months, with only five people (less than 1% of those convicted) in 2016 receiving such a sentence.

The majority of people found guilty of committing animal cruelty offences currently receive a non-custodial disposal. With 37% of those sentenced in 2016 receiving a community sentence, 24% receiving a fine, and 19% receiving a suspended sentence. Trends over the last decade show that the proportion of people receiving community sentences for animal cruelty offences has actually increased, from 28% in 2006 to 37% in 2016. Suspended sentences have seen a similar increase, rising from 5% to 19% over the same period. Furthermore, both the number of people proceeded against and the number of people sentenced for animal cruelty offences have fallen markedly from their peak in 2012, and are now at levels below those seen a decade ago, without a change in the sentences available to the courts.

These trends are not indicative of a situation whereby crimes are increasing in either frequency or severity, and therefore it is unclear why an increase in the maximum penalty is needed on the basis of deterrence.

Current sentencing powers also allow the imposition of unlimited fines and preventing an individual from owning animals in the future, to prevent future harm. It is unclear how simply increasing the maximum available sentence alone would reduce risk of future harm to animals and prevention. Rather than spending the additional £465,000 per year that this sentencing change has been estimated to cost, the money would be more helpfully targeted in education and prevention of animal cruelty, rather than pretending that there is evidence that an increase in the maximum penalty will have any effect. Indeed, as the National Audit Office has highlighted, there is no evidence that on average prison is more cost-effective at preventing reoffending than community sentences.<sup>2</sup>

Battersea Dogs and Cats Home, in its report *Sentencing for animal cruelty in England and Wales*, states that the existing maximum penalty available to the courts “compares badly with five years for fly tipping or seven years for theft.”<sup>3</sup> Whilst it is entirely understandable that comparisons with other sentences are made, we are concerned that a piecemeal approach to our sentencing framework over the last 20 years has allowed sentence lengths across all offences to be gradually ratcheted upwards. Significantly increasing the maximum penalty available for this offence will set a new benchmark, against which the penalties for other offences are judged. Choosing to increase the maximum penalty for animal cruelty, will inevitably create pressure to re-examine the existing penalties available for other cruelty or violence based offences such as those committed on human beings.

We remain concerned that any increase to the maximum penalty will not only allow courts to send people convicted of the most serious cases to prison for longer, but will also drag up sentence lengths for people convicted of less serious offences, as sentences are brought in line to ensure consistency with the new maximum. As with previous assessments of changes to maximum penalties, the draft bill repeats the incorrect assumption that there will be no change in sentence distribution, and that changes in sentencing will only be seen near the very top.<sup>4</sup> Previous sentencing

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<sup>2</sup> National Audit Office (2010) *Managing offenders on short custodial sentences*, London: NAO

<sup>3</sup> Battersea Dogs and Cats Home (2017) *Sentencing for animal cruelty in England and Wales*, London: Battersea Dogs and Cats Home

<sup>4</sup> Ministry of Justice (2016) *Driving offences and penalties relating to causing death or serious injury*, London: Ministry of Justice

framework changes have shown that this is not the case. In order to avoid dragging up all sentences for animal cruelty offences, if this proposal goes ahead the government should explicitly state, either within the bill, or in subsequent guidance that any changes are intended to be reflected in the sentencing of those convicted of only the most serious offences.

The growth in the average length of prison sentences has been both incremental and accidental. In only ten years, the average sentence length for an indictable offence has grown by nearly two years, currently averaging 56.6 months. At the same time, the number of people sentenced to a period in custody of between four and 10 years has increased by nearly 50%, and the number sentenced to periods of over 10 years has risen by 270%.<sup>5</sup>

The startling increase in sentence lengths for serious crime in recent years has been the single biggest factor in ensuring that the size of the prison population consistently outstrips our ability to resource a system capable of delivering a decent or effective service. Our prison population is now 82% larger than it was 30 years ago.<sup>6</sup> England and Wales is out of step with other jurisdictions. The impact of this imbalance is this highest rate of imprisonment in western Europe. 146 people for every 100,000 in England and Wales are in prison, compared with 107 in France, 77 in Germany, and 57 in Finland.<sup>7</sup>

Our over reliance, and dependence, on custody as a means to punish and rehabilitate people who break the law has created a system that both fails victims and those who are sent there. The balance we strike between retribution and mercy has changed fundamentally, but through successive and largely opportunistic statutory interventions. A continuing fixation across the political spectrum with ever longer sentences for an ever longer list of misdemeanours is hard to understand in the absence of any evidence that longer sentences have any impact on either deterring crime or securing better post custody outcomes.

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<sup>5</sup> Ministry of Justice (2017) Criminal justice statistics quarterly June 2017, London: Ministry of Justice

<sup>6</sup> Ministry of Justice (2017) Offender management statistics, Prison population 2017, and HMPPS (2017), Population and capacity briefing, 24 November 2017, London: Ministry of Justice

<sup>7</sup> International Centre for Prison Studies website, available at [http://www.prisonstudies.org/highest-to-lowest/prison\\_population\\_rate?field\\_region\\_taxonomy\\_tid=14](http://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=14)