



Northern Ireland  
Assembly

Committee for Agriculture and Rural  
Development

# OFFICIAL REPORT (Hansard)

Review of the Implementation of the Welfare  
of Animals Act (Northern Ireland) 2011:  
DARD Officials

24 March 2015

# NORTHERN IRELAND ASSEMBLY

## Committee for Agriculture and Rural Development

Review of the Implementation of the Welfare of Animals Act (Northern Ireland) 2011:  
DARD Officials

24 March 2015

**Members present for all or part of the proceedings:**

Mr William Irwin (Chairperson)  
Mr Joe Byrne (Deputy Chairperson)  
Mr Sydney Anderson  
Mr Thomas Buchanan  
Mrs Jo-Anne Dobson  
Mr Declan McAleer  
Mr Kieran McCarthy  
Mr Oliver McMullan  
Mr Ian Milne  
Mr Edwin Poots

**Witnesses:**

Ms Geraldine Fee	Department of Agriculture and Rural Development
Mr John McConnell	Department of Agriculture and Rural Development
Ms Jackie Robinson	Department of Agriculture and Rural Development

**The Chairperson (Mr Irwin):** I welcome Geraldine Fee, assistant secretary, animal health and welfare; Jackie Robinson, head of animal identification, legislation and welfare; and John McConnell from the animal identification, legislation and welfare branch. Please take up to 10 minutes for your briefing, after which members will ask questions.

**Ms Geraldine Fee (Department of Agriculture and Rural Development):** Thank you for the opportunity to provide the Committee with an update on the review of the Welfare of Animals Act 2011. As you are aware, Minister O'Neill established the review in response to a private Member's motion agreed by the Assembly on 31 March 2014. That motion called for a review of the implementation of the Act, placing specific emphasis on sentencing guidelines and practice. A senior official from the Department of Justice (DOJ) and I are part of the review steering group responsible for overseeing and providing direction for the review. As a first step, we commissioned a number of discussion sessions to take views on the implementation of the Act from a wide cross section of stakeholders, including statutory organisations, welfare charities, rescue and rehoming charities and industry representatives. Those sessions were held last summer. In addition, we set up a delivery body reference group made up of representatives from the councils, DARD policy, the DARD veterinary service (VS), the Department of Justice, the Public Prosecution Service (PPS), the Northern Ireland Courts and Tribunals Service (NICTS) and the Police Service of Northern Ireland (PSNI). The purpose of the group was to support the discussion sessions and advise on the practical implications of working group findings and recommendations.

You are aware that the interim report was published on 26 February, and you received a copy. It was posted on the DARD and DOJ websites and sent to interested individuals and groups. Members of the public and stakeholders are encouraged to submit their views and further evidence during the ongoing eight-week consultation, which will run until Thursday 23 April. The review will then take account of any further evidence as it prepares its final report, which I hope will be published later in 2015. The purpose of issuing the interim report is to show the progress of the review to date and give an opportunity to take further evidence to inform the final report.

I will run through some of the key issues highlighted in the report. The report sets out our emerging thinking and lists 43 recommendations based on our analysis of the evidence to date. In addition, it highlights those areas that require further consideration by the review before final recommendations can be made. The report covers a number of key issues under four themes: sentencing; delivery structures; working together; and serving the public. With regard to sentencing, as you know, concern about the adequacy of sentences imposed by the courts in some high-profile cases gave rise to the private Member's motion. The review looked at penalties available in other jurisdictions and compared those with the statutory maximum penalties for offences committed under the 2011 Act. It also compared the sentencing options available under the Act with those available for similar offence types here. The review recommends that DARD consider increasing the statutory maximum penalties for the most serious offences. In the Magistrates' Courts, the proposal is to increase the maximum prison sentence available to those found guilty from six months to 12 months and the maximum fine from £5,000 to £20,000. For indictable offences, it is recommended that the maximum prison sentence for those found guilty be increased from two years to five years. As I said, this is an emerging recommendation and has not yet been finalised. It is important, however, to point out that, should the recommendation be accepted, it would require primary legislation. Such a change is beyond the scope of the two DARD Bills being brought forward, and the legislative programme for the remainder of the mandate is unlikely to be able to accommodate another Bill. We are, however, liaising with the DOJ to confirm whether it would be within the scope of its forthcoming fines and enforcement Bill. If it is not possible, we will need to look at alternatives, most likely in the next mandate.

As the motion also referred to sentencing practice, the review is considering issues on unduly lenient sentences and consistency in sentencing. Last year, Minister O'Neill wrote to the Justice Minister asking him to agree to include animal welfare offences in the list of offences that can be referred by the Director of Public Prosecutions to the Court of Appeal for being unduly lenient. That issue is under consideration as part of the DOJ review that is currently out to public consultation. As the 2011 Act has been operating for a relatively short time, the review found it difficult to assess the level of consistency in sentencing for offences under it. As you know, sentencing in criminal cases is a matter for the independent judiciary, taking into account a number of sometimes complex factors before determining the appropriate sentence in an individual case. Sentencing guidelines, however, provide judges with starting points for sentencing. Guidelines for animal welfare offences heard in the Magistrates' Courts have been developed by the Lord Chief Justice's sentencing group. However, guideline judgements for welfare cases heard in the Crown Court have not yet been produced, as no asserable cases have yet come before the Court of Appeal. The review recommends that the Department of Justice consult with relevant organisations to consider what further steps can be taken to promote awareness of sentencing guidelines for animal welfare offences.

The second theme of the review relates to how the legislation is delivered and enforced. As you know, the Act is enforced by three bodies: DARD for farmed animals; the councils for non-farmed animals; and the police for wild animals, animal fighting, and when other criminal activities are involved.

I will turn first to how the DARD veterinary service carries out farmed animal welfare enforcement. DARD VS conducts around 700 farmed animal welfare inspections a year using the enforcement powers available under the 2011 Act. The review was generally satisfied with the way in which the veterinary service enforces the legislation, although it has made recommendations on monitoring arrangements and reviewing guidance, particularly to ensure that lessons are learned from cases.

I will turn now to the councils, which enforce the Act for non-farmed animal welfare. The main issues raised by stakeholders about enforcement by the councils were lack of council resources — staff and budget — including for out-of-hours service provision; the timeliness of responses to incidents; and abandoned equines. Some stakeholders expected that the service should be resourced to be proactive as well as reactive.

The review found that the level of funding made available by DARD to councils in the last two years is likely to be needed in 2015-16 if there is to be no reduction in the level of service. That was around

£1.1 million. The review also found that council inspectors adequately follow up on improvement notices and disqualification orders to ensure that conditions have been met. The review found that training and guidance provision for animal welfare officers is of a high quality and that councils see training as a priority. However, it also identified gaps in training provision, and the interim report recommends that those be addressed. There is a requirement, for example, for additional training to deal with vulnerable adults.

Stakeholders also raised a wide range of issues about equines, including the number of abandoned horses; enforcement of the horse passport regime; indiscriminate breeding; access to the food chain; and the introduction of a cull of unwanted horses. Those issues cut across all the enforcement bodies as well as a number of policy areas in DARD. The review found little quantifiable evidence to allow the scale of the issue to be assessed. That, added to the complexity of the issues, means that the review is still considering how such issues might be best addressed. As part of our continuing work, we have specifically asked stakeholders to provide us with any qualitative and quantitative evidence they may have to allow the issue to be properly considered.

With delivery structures, the interim report covers how the PSNI enforces the Act for crime involving animal welfare. The PSNI has responsibility for welfare offences involving wild animals and more serious animal welfare offences such as animal fighting, or when other criminal activities are involved. The PSNI also has the legal responsibility when an animal is found wandering on a road under the Animals (Northern Ireland) Order 1976 and the Roads (Northern Ireland) Order 1993. The review was generally content with PSNI enforcement of the legislation but has made specific recommendations on training and the availability of guidance to officers and call handlers, and for the monitoring of disqualification orders.

The next theme in the interim report covers working together, otherwise styled as facilitating enforcement. The review found that the councils, DARD and the police have been working together when necessary on individual animal welfare cases. PSNI officers and council animal welfare officers also assist each other at local level as required. Similar relations exist between DARD officials and their PSNI and council counterparts.

As a direct result of stakeholder concerns about the length of time some animals are kept in care pending disposal orders, the review looked at ways to speed up the legal process. Recommendations have been made, including regular meetings between the enforcement bodies to share best practice and lessons learned from specific cases, and developing templates for use before the courts when requesting disposal orders to avoid any ambiguity or omissions and to ensure that the resulting order is clear.

The review also considered whether a central database for convictions would be appropriate. Each enforcement body currently has a record of sentences handed down to persons successfully convicted by that body. This is not a central database. It does, however, provide the relevant enforcement body with the information required to monitor compliance as a result of the action that it has taken. DARD has already requested access to the Causeway information-sharing system. This application has been successful and is in the final stages of approval. This permission will allow DARD to access the criminal records viewer and conviction information and will facilitate the generation of a monthly report providing details of all live convictions for animal welfare offences.

The review recognises that provision of similar information to the councils would be beneficial to them in their enforcement role and, therefore, recommends that, once DARD has access to the criminal records viewer, it investigate options for providing relevant council staff with similar access information on convictions. During stakeholder discussion sessions, some rehoming charities and others with an interest in animal welfare sought access to information on animal welfare convictions. They advised that this information would assist their assessment of people's suitability when rehoming animals. While the review recognises some of the potential benefits of this, a significant number of issues remain. These relate mainly to data protection and how access to such information could be managed. The review has undertaken to examine the issue further to see what steps, if any, can be taken to assist animal rehoming organisations.

The final theme of the report relates to serving the public. Stakeholders expressed concerns about the extent to which the public had been made aware of the enforcement arrangements and who to contact if they have an animal welfare concern. The review found that there was merit in this criticism and recommends that enforcement bodies take further steps to ensure that the public are aware of their role. It specifically recommends that a joint awareness campaign be undertaken to ensure that the public are aware of who to contact if they are concerned about the welfare of animals; that DARD

host a single animal welfare website and create a series of short species-specific leaflets to explain the responsibility of owners and how to report an animal welfare concern; and that an annual report be produced by DARD and made available on the new website dedicated to animal welfare, setting out information that is relevant to the public from each of the enforcement bodies. That would allow stakeholders to assess the effectiveness of the work being done to implement the 2011 Act.

That is a very quick run-through of the interim report. As you know, the consultation closes on 23 April. We hope that, by that time, we will have received further evidence that may help to inform the final recommendation. As I said, we hope to publish the final report later this year. We are now happy to answer any of the Committee's questions.

**The Chairperson (Mr Irwin):** You mentioned that a lot of horses have been abandoned over the last number of years. They are kept in sanctuaries. Do the councils pay for that? Who pays to keep those horses?

**Ms Fee:** Sanctuaries are not directly subsidised by the councils.

**Ms Jackie Robinson (Department of Agriculture and Rural Development):** I will expand on that a wee bit. When councils or the PSNI seize horses, they can send them to sanctuaries, and they have contracts in place for that. To some extent, the answer is yes and no. When a contract is in place between a council or the PSNI and a sanctuary, the sanctuary is paid to keep animals. In other cases, if a sanctuary itself has taken animals in, it is not paid.

**The Chairperson (Mr Irwin):** So charitable organisations have to raise money in other ways.

I declare an interest as a farmer. I will put a simple illustration to you. If you have an animal that has a swollen foot and is suffering, before you treat it, the obvious thing to do is to bring it to the factory and kill it for beef. The difficulty for farmers is that they can be fined, even if they bring that animal to the factory on a bedded trailer. The animal suffers more by being kept on and treated for weeks on end to try to cure the problem. If you were allowed to transport that animal to the factory on a bedded trailer, its suffering would be over in a few hours. With the other way, it is prolonged for weeks on end. I have seen that problem. I am not sure whether that is within your remit, but all I am saying is that it is an issue.

**Ms Fee:** It is a question more for the clinical judgement of a vet as to what the appropriate course of treatment is. The legislation is quite clear, however, that, if the prohibition is causing any unnecessary suffering to the animal —

**Mr John McConnell (Department of Agriculture and Rural Development):** I should just add that the welfare and transport rules are made in Northern Ireland under European legislation. They derive from European regulations, whereas most of the rules that we are talking about in the review come from the Welfare of Animals Act 2011, which is Northern Ireland legislation. The details on the rules that vets have to interpret are in European law on the transport side.

**The Chairperson (Mr Irwin):** Do you understand where I am coming from?

**Mr McConnell:** Absolutely, yes.

**The Chairperson (Mr Irwin):** It seems crazy that that animal cannot be put on a bedded trailer rather than suffer and be treated for weeks on end and still have to be put down eventually.

**Mr Byrne:** There are three categories: farmed animals, non-farmed animals and wild animals. Who is the lead body if there is a suspicion that an animal is being mistreated or neglected?

**Ms Fee:** It depends on the animal. If it is a farmed animal, it is the DARD veterinary service; if it is a non-farmed animal, a domestic pet or a horse, it is the council; and if it is a wild animal, it is the police. DARD has overarching responsibility for making policy on the welfare of animals, but the operational responsibilities are split between the three enforcement agencies.

**Mr McConnell:** The interim report includes recommendations on that issue. A memorandum of understanding (MOU) has been drafted and agreed in principle among the three bodies, but it is not yet in place. The recommendation in the review is that the MOU should be put in place by the three

bodies. Further protocol should be established for the bodies to ensure that they work together successfully in cases in which there are questions as to who is responsible for leading a case.

**Mr Byrne:** There have been examples in the media recently of farmers neglecting the welfare and upkeep of animals. It seemed to go on for a long time and ended up with a big court case and a lot of media coverage, but the sad thing about it was that the animals were neglected, and DARD did not seem to know about them until they were in such a state that they had to be put down. There was a big media show trial. It appeared to me that there should have been an earlier intervention by DARD to salvage the animals, irrespective of how they were being managed by the farm. It begs the question: who was unsighted or not doing the job that they should have been doing in the interests of the animals?

**Ms Fee:** I am aware of the case that you are referring to, which was dealt with by DARD VS. We are happy to write to you setting out the detail, but, in that case, there were numerous inspections. In 2012, three welfare inspections were carried out on that farm, and, between February and April 2013, DARD veterinary officers visited the farm on nine separate occasions.

**Mr McConnell:** One important point in that case is that, during the summer when grass was there, it was found that the situation improved a great deal, so they had worked in successive winters to address the case, and, as Geraldine said, it was inspected regularly. The case was not continually bad. It became very bad towards the end, which required DARD to act to euthanise many animals. During the progress of that case, the situation fluctuated, if that is a fair enough term to adopt.

**Mr Byrne:** In another example, a number of horses on Clogher mountain were neglected for a long time, and one or two people reported it to DARD and the councils, but nothing was done until the animals died, when it became another media story, and, all of a sudden, things began to move.

**Ms Fee:** As I said, the councils are responsible for the enforcement of the legislation for equines. As we pointed out, we are aware that there are ongoing issues with equines, but it is hard for us to get a real perspective on the scale of the problem. Before we can come up with a solution — if we thought, perhaps, that a legislative amendment was required — we need to be sure that that is proportionate, so we are encouraging anybody who can provide us with further detail as to the scope and scale of the problem to come forward as part of the review.

**Mr Byrne:** Have lessons been learned about how those things were mishandled by the authorities?

**Ms Fee:** I do not accept that the first case was mishandled, and I cannot comment sufficiently on the Clogher case. A key recommendation of the review is that, for all the enforcement bodies, case reviews are held after an incident and lessons learned are built into ongoing training. In that way, problems can be addressed, and there can be continuous improvement.

**The Chairperson (Mr Irwin):** The Welfare of Animals Act has some important secondary legislation. Nearly all the regulations were put through the Committee in recent times. Were any specific issues raised during the review on the docking of dogs' tails or on breeding establishments?

**Ms Fee:** Some high-level issues were raised about breeding establishments but not in any detail. We are keeping that area under review as part of the ongoing work going forward to the final report. We are aware that there is public concern. We have no evidence that councils are not fulfilling their duties under the legislation. In fact, there is evidence to confirm that, when issues are drawn to councils' attention, they proceed to bring forward prosecutions. We have always acknowledged that, with puppy farming, legislation and regulation alone will not do it. Therefore, as part of the awareness campaign concerning the rights and responsibilities of owners, we want to highlight that. We encourage anyone who has concerns about a breeding establishment or how puppies are being sold to draw that to the attention of the relevant authorities.

**Mr Buchanan:** If an injured animal was found wandering on a road and I put it into my field and the vet was brought out to see it, who is responsible for that animal?

**Ms Fee:** That is one of the complex issues. If we deal with it in relation to horses, animals on the road are the responsibility of the police. If an animal goes into someone's field, it is that person's responsibility. If the animal is suffering or is likely to suffer, the council animal health and welfare officer can seize the animal and take appropriate action. If the animal is not suffering — the

arrangements date back to 1976 — it becomes the landowner's responsibility. You can put up notices, and, after 14 days, you can claim the animal. That area needs some consideration. That legislation existed at a time when the person who took possession of the animal may have benefited from selling it. That is probably no longer the case in current market conditions. We are aware that there are issues. I have outlined the broad statutory position.

**Mr Buchanan:** If the animal is injured, the person who owns the land is not held responsible for the injury to the animal.

**Ms J Robinson:** If the animal is injured, the person should call DARD if it is a farmed animal and their council animal welfare officer if it is a non-farmed animal. They will take the necessary steps. If the animal is injured, it is the responsibility of DARD or the councils.

**The Chairperson (Mr Irwin):** I seek agreement that the Department returns to the Committee following the analysis of the consultation on the interim report. Are members content?

*Members indicated assent.*

**The Chairperson (Mr Irwin):** Thank you very much.