

Equality Impact Assessment (EQIA) Record

**Animals and Wildlife
(Penalties, Protections and
Powers) (Scotland) Bill**

October 2019

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	ANIMALS AND WILDLIFE (PENALTIES, PROTECTIONS AND POWERS) (SCOTLAND) BILL	
Minister	Minister for Rural Affairs and the Natural Environment	
Lead official	Andrew Voas	
Officials involved in the EQIA	name	team
	Jonathan MacLure	Animal Welfare
	Rebecca Greenan	Wildlife Management
Directorate: Division: Team	Agriculture and Rural Economy Animal Health and Welfare	
Is this new policy or revision to an existing policy?	Revision to an existing policy.	

Screening

Policy Aim

This Bill will further protect animal welfare in Scotland by;

- increasing the maximum available penalties for the worst animal welfare and wildlife offences and either remove or extend the six month time limit to bring forward prosecutions;
- giving Scottish Ministers the power to make regulations allowing fixed penalty notices to be used in relation to animal health and welfare offences;
- providing improved protection for certain service animals; and
- allowing approved inspectors or bodies to swiftly transfer ownership of animals that have been taken into possession without the need for a court order to do so.

This contributes to the following national outcome;
value, enjoy, protect and enhance their environment.

Who will it affect?

The Bill will only impact on those who breach animal welfare requirements or wildlife legislation and the enforcers of the legislation.

In the last 10 years, there have been 945 convictions for animal welfare and wildlife offences, 63 of which resulted in custodial sentences. No new offences will be created.

The increase in maximum penalties available for animal welfare and wildlife crime has relevance to all protected characteristics as the penalties will apply equally across all protected groups.

These changes will only affect those convicted of an animal welfare or wildlife offence and will only apply to existing animal welfare and wildlife offences, with the standard of proof required remaining unchanged. Therefore, the impact of the amendments is limited and

does not impose any additional impacts on any individuals falling within any of the current protected characteristics when compared to the existing policy.

What might prevent the desired outcomes being achieved?

If this Bill does not proceed, we will have failed to deliver clear Programme for Government (PfG) commitments on legislation that would be welcomed by all parties and make significant improvements to animal welfare and wildlife protection in Scotland.

Stage 1: Framing

Results of framing exercise

An initial framing exercise was undertaken by the Animal Welfare and Wildlife Management teams and justice analysts to gather evidence to inform this Equality Impact Assessment (EQIA).

The policy is not expected to materially increase the number of people convicted of animal welfare and wildlife offences, but will potentially increase the penalty that those people who committed an offence would receive.

It was determined that any protected characteristics of those convicted of these offences should be identified.

Extent/Level of EQIA required

These changes will only affect those convicted of an animal welfare or wildlife offence. These changes will only apply to existing offences and the standard of proof for those is not changing.

It is considered that a concise and focused EQIA is proportionate in these circumstances.

Stage 2: Data and evidence gathering, involvement and consultation

Characteristic ¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken																					
AGE	<p>Total number of animal welfare and wildlife convictions: 945</p> <table border="1" data-bbox="546 300 943 727"> <tr> <td>16-21</td> <td>81</td> <td>8.6%</td> </tr> <tr> <td>22-31</td> <td>245</td> <td>25.9%</td> </tr> <tr> <td>32-41</td> <td>219</td> <td>23.2%</td> </tr> <tr> <td>42-51</td> <td>183</td> <td>19.4%</td> </tr> <tr> <td>52-61</td> <td>130</td> <td>13.8%</td> </tr> <tr> <td>62-71</td> <td>69</td> <td>7.3%</td> </tr> <tr> <td>72-81</td> <td>18</td> <td>1.9%</td> </tr> </table> <p>49.1% of all animal welfare and wildlife crimes are committed by those aged 22-41</p>	16-21	81	8.6%	22-31	245	25.9%	32-41	219	23.2%	42-51	183	19.4%	52-61	130	13.8%	62-71	69	7.3%	72-81	18	1.9%	Criminal proceedings, Justice analyst services, Scottish Government	<p>The data covers financial years 2008-09 to 2017-18.</p> <p>This data reflects the most up to date published figures available for animal welfare and wildlife crimes</p>
16-21	81	8.6%																						
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62-71	69	7.3%																						
72-81	18	1.9%																						
DISABILITY	No data to correlate disability with animal welfare and wildlife offences.																							
SEX	<p>Total number of animal welfare and wildlife convictions: 945</p> <p>Of which</p> <p>Male: 651 (68.9%)</p> <p>Female: 294 (31.1%)</p>	Criminal proceedings, Justice analyst services, Scottish Government	<p>The data covers financial years 2008-09 to 2017-18.</p> <p>This data reflects the most up to date published figures available for animal welfare and wildlife crimes</p>																					
PREGNANCY AND MATERNITY	No data to correlate pregnancy and maternity with animal welfare and wildlife offences.																							
GENDER REASSIGNMENT	No data to correlate gender reassignment with animal welfare and wildlife offences.																							
SEXUAL ORIENTATION	No data to correlate sexual orientation with animal welfare and wildlife offences.																							

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

RACE	No data to correlate race with animal welfare and wildlife offences.		
RELIGION OR BELIEF	No data to correlate religion or belief with animal welfare and wildlife offences.		
MARRIAGE AND CIVIL PARTNERSHIP (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)	N/A		

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			x	<p>Those aged 22-41 are shown to commit almost half of all animal welfare and wildlife offences. While this age group commits the highest volume, the increased penalties will be applicable for all people convicted of animal welfare and wildlife crimes, regardless of age, and is therefore seen to have an equal impact across all groups.</p> <p>Ultimately, it is still a matter for the courts to decide the appropriate sentence to impose, after taking into account all the evidence and mitigating factors presented to them. We do not expect that all individuals convicted of an offence will be awarded the maximum sentence.</p>

Advancing equality of opportunity			x	
Promoting good relations among and between different age groups			x	

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			x	<p>There is no information to confirm the impact on disabled people as a result of this policy change.</p> <p>The increased penalties will be applicable for all people convicted of animal welfare and wildlife crimes, including disabled offenders, and is therefore seen to have an equal impact across all groups.</p> <p>Ultimately, it is still a matter for the courts to decide the appropriate sentence to impose, after taking into account all the evidence and mitigating factors presented to them. We do not expect that all individuals convicted of a welfare or wildlife offence will be awarded the maximum sentence.</p>
Advancing equality of opportunity			x	
Promoting good relations among and between disabled and non-disabled people			x	

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	<p>While the majority of those prosecuted are male; the increased penalties will be applicable for both male and female offenders. This policy change is seen to have an equal impact across all groups.</p> <p>Ultimately, it is still a matter for the courts to decide the appropriate sentence to impose, after taking into account all the evidence and mitigating factors presented to them. We do not expect that all individuals convicted of a welfare or wildlife offence will be awarded the maximum sentence.</p>
Advancing equality of opportunity			x	
Promoting good relations between men and women			x	

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	<p>There is no information to confirm the impact on pregnancy and maternity as a result of this policy change. The increased penalties will be applicable for all people convicted of animal welfare and wildlife crimes, including pregnant offenders, and is therefore seen to have an equal impact across all groups.</p> <p>Ultimately, it is still a matter for the courts to decide the appropriate sentence to impose, after taking into account all the evidence and mitigating factors presented to them. We do not expect that all individuals convicted of a welfare or wildlife offence will be awarded the maximum sentence.</p>

Advancing equality of opportunity			x	
Promoting good relations			x	

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	<p>There is no information to confirm the impact on transsexual people as a result of this policy change.</p> <p>The increased penalties will be applicable for all people convicted of animal welfare and wildlife crimes, including offenders who have undergone gender reassignment, and is therefore seen to have an equal impact across all groups.</p> <p>Ultimately, it is still a matter for the courts to decide the appropriate sentence to impose, after taking into account all the evidence and mitigating factors presented to them. We do not expect that all individuals convicted of a welfare or wildlife offence will be awarded the maximum sentence.</p>
Advancing equality of opportunity			x	
Promoting good relations			x	

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	<p>There is no information to confirm the impact on people because of their sexual orientation as a result of this policy change.</p> <p>The increased penalties will be applicable for all people convicted of animal welfare and wildlife crimes,</p>

				<p>regardless of their sexual orientation, and is therefore seen to have an equal impact across all groups.</p> <p>Ultimately, it is still a matter for the courts to decide the appropriate sentence to impose, after taking into account all the evidence and mitigating factors presented to them. We do not expect that all individuals convicted of a welfare or wildlife offence will be awarded the maximum sentence.</p>
Advancing equality of opportunity			x	
Promoting good relations			x	

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	<p>There is no information to confirm the impact on people because of their race as a result of this policy change.</p> <p>The increased penalties will be applicable for all people convicted of animal welfare and wildlife crimes, regardless of their race, and is therefore seen to have an equal impact across all groups.</p> <p>Ultimately, it is still a matter for the courts to decide the appropriate sentence to impose, after taking into account all the evidence and mitigating factors presented to them. We do not expect that all individuals convicted of a welfare or wildlife offence will be awarded the maximum sentence.</p>
Advancing equality of opportunity			x	
Promoting good race relations			x	

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	<p>There is no information to confirm the impact on people because of their religion or belief as a result of this policy change.</p> <p>The increased penalties will be applicable for all people convicted of animal welfare and wildlife crimes, regardless of religion or belief, and is therefore seen to have an equal impact across all groups.</p> <p>Ultimately, it is still a matter for the courts to decide the appropriate sentence to impose, after taking into account all the evidence and mitigating factors presented to them. We do not expect that all individuals convicted of a welfare or wildlife offence will be awarded the maximum sentence.</p>
Advancing equality of opportunity			x	
Promoting good relations			x	

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination				N/A

² In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

<p>Have positive or negative impacts been identified for any of the equality groups?</p>	<p>No positive or negative impacts have been identified. This policy change will potentially affect anyone convicted of an animal welfare or wildlife offence, regardless of protected characteristic.</p> <p>It has been identified that statistically the policy change will likely have the biggest impact on the protected characteristics of sex and age due to the fact that males and those aged between 22-41 are the most likely to be prosecuted for these offences.</p>
<p>Is the policy directly or indirectly discriminatory under the Equality Act 2010³?</p>	<p>This policy is not directly or indirectly discriminatory.</p> <p>The increased penalties will be applicable to all people convicted of animal welfare and wildlife crimes, and is therefore seen to have an equal impact across all groups.</p> <p>Ultimately, it is still a matter for the courts to decide the appropriate sentence to impose, after taking into account all the evidence and mitigating factors presented to them. We do not expect that all individuals convicted of a welfare or wildlife offence will be awarded the maximum sentence.</p>
<p>If the policy is indirectly discriminatory, how is it justified under the relevant legislation?</p>	
<p>If not justified, what mitigating action will be undertaken?</p>	

Describing how Equality Impact analysis has shaped the policy making process

The EQIA demonstrated that these changes will only affect those convicted of an animal welfare or wildlife offence and will only apply to existing animal welfare and wildlife offences, with the standard of proof required remaining unchanged. Therefore, the impact of the amendments is limited and does not impose any additional impacts on any individuals falling within any of the current protected characteristics when compared to the existing policy.

It did not highlight any equality issues that needed to be mitigated against.

³ See EQIA – Setting the Scene for further information on the legislation.

Monitoring and Review

The Scottish Government will monitor the development of this policy change and its application in practice.

The Scottish Government Justice Analytical Services provide evidence, analysis and insight to support safer communities and justice policy in Scotland. They produce annual bulletins on recorded crime and criminal proceedings in Scotland, detailing national statistics on crimes and offences.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the Animals and Wildlife (Penalties, Protections And Powers) (Scotland) Bill and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Sheila Voas

Position: Chief Veterinary Officer (Scotland) and Deputy Director of the Animal Health & Welfare Division

Authorisation date: 26th September 2019



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