

CRUEL TO BE KIND? CRIMINALISING ANIMAL HOARDING

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Introduction and Context

Animal hoarding is considered a form of **passive cruelty** wherein large numbers of animals are kept in conditions that are characterised by **malnutrition, a lack of veterinary care, lack of socialization**, and in some cases, **death**. The perception of nonhuman animals as **objects** is one that activists and advocates are constantly battling, with their efforts seemingly undermined by **inadequate animal welfare laws**. Consequently, there is **little practical difference** between the hoarding of inanimate objects such as **newspapers**, and the hoarding of **fifty-eight chihuahuas**, many of which may die or suffer lifelong physical and mental trauma. In theory, the **Animal Welfare Act 2006** protects animals from this kind of harm, most closely linked to **neglect**, but in application this has often not been the case. As the animals are considered the **property** of the hoarder, rescue centres must often **bargain** for the release of only some of the animals in order to treat and rehome them, leaving others neglected with the hoarder in scenarios which could be likened to **hostage negotiations**.



The hoarder is then free to acquire **more and more animals** until the next critical mass, resulting in even more **harm** being done to animals.

What is Animal Hoarding?

An animal hoarder is defined as:

“Someone who has accumulated a **large number** of animals and who **fails to provide** minimal standards of nutrition, sanitation, and veterinary care; and **fails to act** on the deteriorating condition of the animals (**including disease, starvation, or death**) and the environment (**severe overcrowding, extremely unsanitary conditions**) or the negative effect of the collection on their own health and well-being and on that of other family members.”



Recognised in the **DSM-IV**, animal hoarding is rarely treated as a **crime**, instead it is primarily considered and dealt with as an **animal control** or **public health issue**.



Effects on the Animals Involved

Nonhuman animals that are victims of the specific type of **neglect** stemming from hoarding situations, experience both **psychological** and **physiological** issues.

Psychological	Physiological
<ul style="list-style-type: none"> - Excessive fear of strangers - Anxiety - Depression - Aggression - Learned helplessness - Fear of touch - Destructive chewing - Submissive urination - Repetitive behaviours - Difficulties with training - Behavioural associated with attachment issues: <ul style="list-style-type: none"> - Attention-seeking - Separation anxiety - Hyper-attachment to new owner 	<ul style="list-style-type: none"> - Necrosis - Respiratory illnesses - Emaciation - Anaemia - Dehydration - Worms, fleas, ear mites - Mange - Heartworm - Neoplasia - Dystocia - Feline immunodeficiency virus (FIV) - Feline leukaemia virus - Dental diseases: <ul style="list-style-type: none"> - Painful abscesses - Periodontitis

How does the law recognise this kind of harm?

The **Animal Welfare Act 2006** (AWA) is the main statute that aims to ensure the wellbeing of some (companion) animals. In theory, any nonhuman animal as defined in s.1 of the AWA (“**vertebrate other than man**”) is protected from **‘unnecessary suffering’** (s.4 AWA). In order to prevent unnecessary suffering, the burden of care is placed on the human in ‘control’ of the nonhuman animal (s.3 AWA).

Positive obligations based upon the **‘five freedoms’** are at the core of the AWA and are set out in section 9:

- Freedom from **hunger or thirst** by providing a suitable diet and accessible water
- Freedom from **discomfort** by providing a suitable environment
- Freedom from **pain, injury or disease** by prevention or rapid diagnosis and treatment
- Freedom to **express (most) normal behaviour** by providing sufficient space, proper facilities and considering any need the animal has to be housed with, or apart from, other animals
- Freedom from **fear and distress** by ensuring conditions and treatment which avoid mental suffering

Because under s.9 of the AWA the duty imposed is a positive one, there does not need to be an **intent** to commit a crime under the act, simply either **recklessness or an omission** to act.

Under the AWA if an individual is responsible for an animal, then they have a **duty of care** for that animal. In practice, however, any failure to provide such care does not always equate to prosecution or a possible punishment.

The AWA replaced the archaic 1911 Protection of Animals Act, which was flawed and centred around the act of cruelty, rather than its repercussions for (and interest for the welfare of) the animals affected

Legal Responses to Hoarding

Whilst all form of animal cruelty are theoretically covered by anti-cruelty legislation and animal welfare laws, some states in the US have specific laws for animal hoarding:

- The state of Hawaii **explicitly outlaws** animal hoarding (Haw. Rev. Stat. sections 711-1109.6 [2009])
- The state of Illinois created a **legal definition** for animal hoarders (Illinois Companion Animal Hoarder Act 2001)
- Some municipalities across the US **completely ban** hoarding (whether animals or inanimate objects) such as in Alto, Georgia (Alto, Georgia Code of Ordinances, sections 6-2, 6-16, 6-40, 6-41)
- **Pet limit laws** are in effect in Aurora and Banks County (Aurora Colorado, Code of Ordinances, Chapter 14, s. 71; The Code of Banks County, Georgia, Chapter 14)

Other responses to hoarding

Here in the UK, hoarding is not criminalised (other than theoretically as neglect under the AWA), but **home-based interventions** such as **neutering and spaying** hoarded animals does help to curb inbreeding, but does not help existing animals, nor does it stop hoarders from purchasing or rescuing other animals. The prosecuting body, the **RSPCA** are keen to work with the hoarder to remove animals in need of immediate veterinary attention to **alleviate** the pressure, allowing the hoarder to retain control over the rest of the animals who may be suffering severe mental stress.

“This dog was like a few they’d seen - inconsolable, irretrievably enraged. Nothing was going to work with him, and Dr Ashton knew it. This dog could not be socialized. There would be no owner, no new home. He was lost.”

“The odor was overwhelming. The larger dogs seemed relatively active and healthy, but most of the animals were listless and dirty, the coats of the long-hairs matted with mud and feces, the short-hair breeds shivering uncontrollably. More than a few dogs lay dead.”

Conclusion

The **RSPCA’s** current policy of **appeasement** is not effective by itself and allows animal hoarders to **retain** some animals, and potentially **accrue more**. Alongside this, other attempts at interventions such as neutering and spaying some animals has the same flaws. The **recidivism** rates in cases **not prosecuted** are astounding. This suggests that prosecution is necessary, but criminalising what is essentially a mental illness without any assistance is perhaps counterproductive.

An **interdisciplinary approach** therefore needs to be considered in an effort to **facilitate long-term change**:

- In the first instance, animal hoarding needs to be made a distinct, **strict liability offence**
- Addressing the **root cause** through **mental health support**
- Home-based interventions to build **trust, ensure compliance** and **population control**.



References

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