



Restorative justice and empathy-based interventions for animal welfare and wildlife crimes



AGRICULTURE, ENVIRONMENT AND MARINE

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Executive Summary

What is the report about?

This review summarises the available evidence on the use of community-based restorative justice and empathy-based interventions in animal welfare and wildlife crimes. These are two types of a range of non-custodial interventions that can be used in combination with other interventions. The Scottish Government set out to explore their use for animal welfare and wildlife crimes following the passing of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020.

What did we do?

The research identified examples and evaluations of restorative justice and empathy-based interventions used for both animal-related and other crimes, highlighting the advantages and challenges that exist for each intervention.

What did we learn?

The direct application of restorative justice and empathy-based interventions for animal welfare and/or wildlife offences is limited. The few examples cited indicate that these approaches can be potentially effective in reducing reoffending, and repairing the harm done to victims and the community. However, there are a number of barriers which would hinder using restorative justice and empathy-based approaches for animal-related crimes. These include who would speak for the animal, who would be involved in the approach, and identifying when to use such interventions depending on the nature of the offence.

What are the next steps?

Although the few cases highlighted in this review appear to be working well, work is underway to have restorative justice services widely available across Scotland by 2023. Their success in animal-related crimes appears under-evidenced, but their use may be appropriate in the future.

1. Introduction

This review explores how specific interventions, involving restorative justice and empathy training, could be used for animal welfare and wildlife crime offences. The research follows the passing of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act on 17 June 2020. The Scottish Government has further committed to making restorative and reparative justice interventions widely available for the Scottish population by 2023, through its Restorative Justice Action Plan.¹

Studies have shown that restorative justice interventions and empathy-based training may reduce reoffending, provide redress for the victims, and repair relationships to the community. The vast majority of these and the related studies, however, focus on crimes between humans. There is limited knowledge of the effectiveness of these forms of interventions in reducing reoffending for animal welfare and wildlife offences. This review summarises the available evidence.

1.1 Non-custodial interventions in Scotland

Non-custodial interventions are sentences or other interventions that do not involve incarceration or imprisonment of the individual involved. Alternatives to custody can include admonishments,² fines or compensation orders, Community Payback Orders, or diversion from prosecution.³ They may incorporate voluntary measures, as well as empathy-based training courses and restorative justice approaches.

As alternatives to prison, non-custodial sentences or interventions have been widely used in Scotland for decades. For over 75,000 convictions between 1 April 2019 to 31 March 2020, only 15% resulted in a custodial sentence.⁴ Research has also shown that community sentences are generally well supported by the public, who appreciate 'the positive value of making offenders return to the scenes of their crimes to repair criminal damage'.⁵

¹ Scottish Government (2019a) Available at:

www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2019/06/restorative-justice-action-plan/documents/restorative-justice-action-plan/restorative-justice-action-plan/govscot%3Adocument/restorative-justice-action-plan.pdf

² Admonishment, under Scots Law, is a warning given to a person convicted of an offence not to commit another crime, but no other punishment is given alongside this warning. The offence is still recorded as a conviction.

³ A diversion from prosecution is used by the Procurator Fiscal, who can choose to divert offenders to a local social work team or other service provider. See Scottish Government (2011) Diversion from Prosecution Toolkit, Available at:

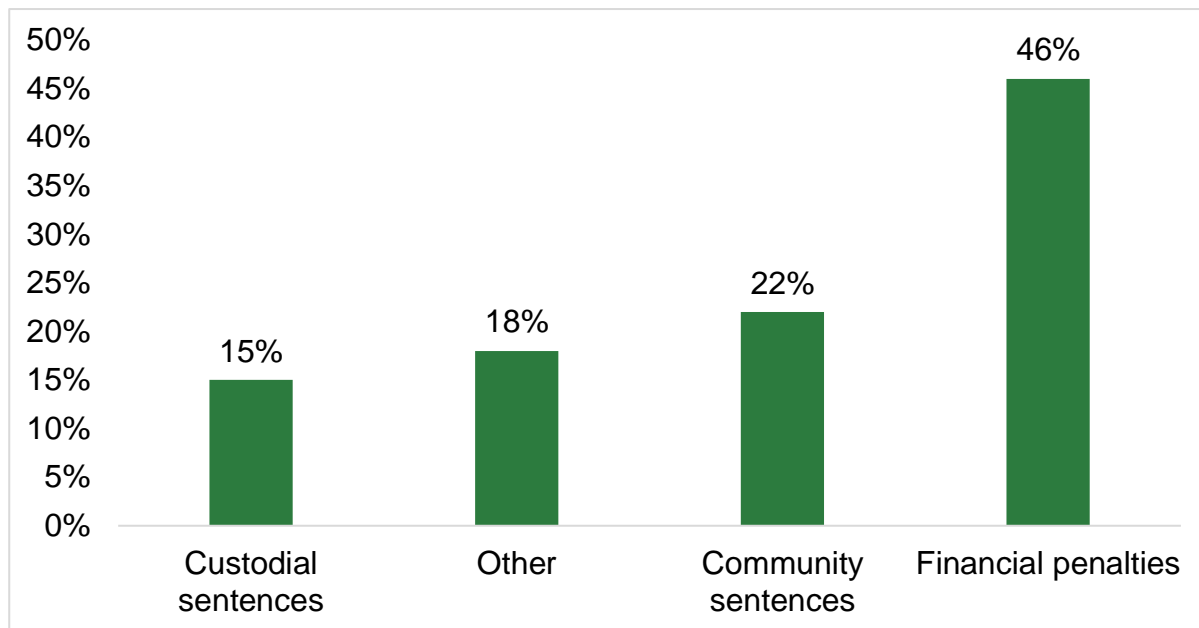
<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2011/06/diversion-prosecution-toolkit-diverting-young-people-prosecution/documents/0118158-pdf/0118158-pdf/govscot%3Adocument/0118158.pdf>

⁴ Scottish Government (2021) Available at: www.gov.scot/publications/criminal-proceedings-scotland-2019-20/documents/

⁵ Scottish Government (2012) p.3 Available at: <https://www.gov.scot/publications/perceptions-summary-criminal-justice-scotland-research-findings/documents/>

Figure 1. The most popular sentence imposed in Scottish courts in 2019-20 was financial penalties

Sentences imposed in courts (2019-20)



Source: Scottish Government (2021) Criminal Proceedings in Scotland, 2019-20

Restorative justice and empathy-based interventions are two types of non-custodial interventions that are often used in combination with other interventions. Restorative justice is a process of independent, facilitated contact, which supports constructive dialogue between a victim and a person who has caused harm (whether this be an adult, a child, a young person or a representative of a corporate or other body) arising from an offence or alleged offence. Empathy-based training usually comprises of classes or courses designed to increase a person's ability to recognise other people's (or potentially beings') emotional state and to see others' points of view.

1.2 Animal welfare and wildlife offences in Scotland

873 criminal cases involving 1,065 persons were reported to the Crown Office and Procurator Fiscal Service (COPFS) by the Scottish Society for Prevention of Cruelty to Animals (SPCA) between 1 January 2011 and 23 July 2019.⁶ The Procurator Fiscal dealt with at least 16.8% of charges by way of alternatives to prosecution, including a warning for 12.2% and a fiscal fine for 4.6%. For charges reported by the Scottish SPCA that resulted in a conviction at court:⁷

- 64% resulted in a disqualification order, which can involve stopping individuals from owning or keeping, selling, transporting, or working with animals
- 41% resulted in a fine

⁶ Scottish Government (2020) Available at: www.gov.scot/publications/animal-welfare-prosecutions-reported-scottish-sPCA-2011-2019/

⁷ Charges can result in an outcome of more than one disposal type.

- 22% resulted in a Community Payback Order, which may involve offenders requiring to undertake unpaid work; enter into treatment for mental health, drugs, or alcohol; or provide compensation to their victims

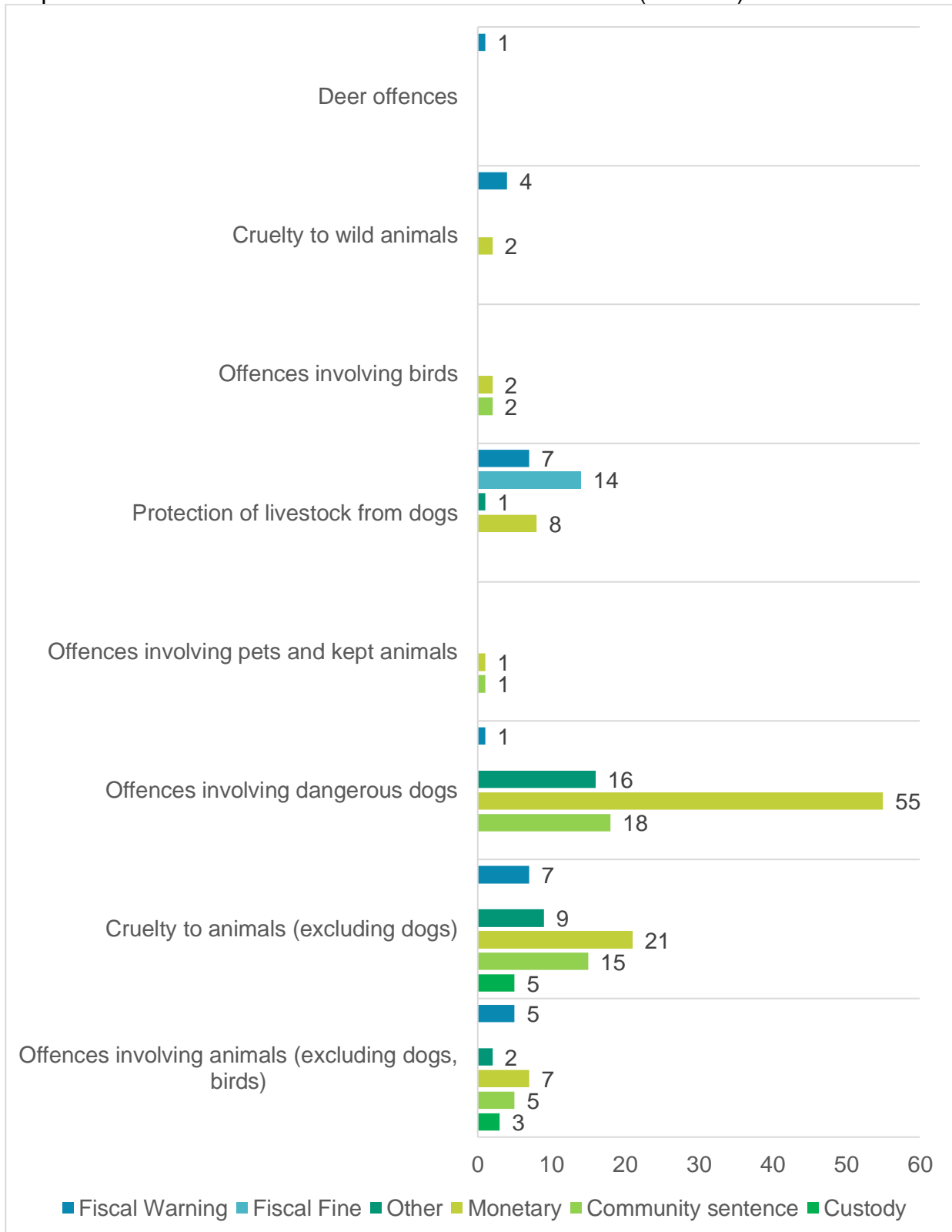
Figure 2 depicts the number of disposals⁸ given in court (custody, community sentence, monetary or other) and number of non-criminal disposals (NCDs) (Fiscal fine or warning) given in 2019-2020, by the main crime or offence committed. Not all NCDs have been included in this figure.⁹ As demonstrated, custodial sentences are rare for either domestic animal or wildlife related offences.

⁸ A disposal is the closure of a case, which can occur either in court or out of court.

⁹ Sourced from the Scottish Government Criminal Proceedings Database, which does not publish all statistics. A summary of annual criminal proceedings statistics are available at:
www.gov.scot/collections/criminal-proceedings-in-scotland/

Figure 2. Monetary disposals were the most common disposal given for the majority of animal-related offences, whereas custody was only given for cruelty to animals (excluding dogs) and offences involving animals (excluding dogs & birds).

Disposals in courts and NCDs for animal-related offences (2019-20)



Source: Scottish Government Criminal Proceedings Database, 2021

2. Restorative Justice

Restorative justice seeks to provide communities and individuals impacted by crime, offending and harmful or concerning behaviours and those who have caused the harm with an opportunity to repair the harm that has been caused.¹⁰

Empirical evidence shows that restorative justice has a positive impact on victims¹¹ and can provide victims with a more satisfying justice process.¹²

Restorative justice approaches can include:¹³

- direct communication between the person who has harmed and the victim, for example as a closed face-to-face meeting or through the use of video conferencing
- indirect communication between the person who has harmed and the victim, for example through the use of shuttle dialogue, written, audio or video messages.

While a decision about punishment will still be a matter for the court (or police or procurator fiscal if direct measures are appropriate), communication involving the victim, family member, and/or community member can inform decisions. This can also help improve outcomes outwith decisions on punishment.

Restorative justice has been available in Scotland for several decades, but there are currently limited numbers of restorative justice services available. These services were usually small-scale, and restricted to certain geographical areas and local authorities.¹⁴ Restorative justice provision is mainly limited to youth crime and, for the most part, addresses less serious offences. This may be due to a lack of funding and support for specialist training for practitioners, who must be better equipped to deal with sensitive and complex offences.¹⁵

2.1 Restorative justice for animal-related crimes

On reviewing the evidence, it became evident that there are a number of barriers to using restorative justice in animal-related offences.

¹⁰ Scottish Government (2019a) Available at: www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2019/06/restorative-justice-action-plan/documents/restorative-justice-action-plan/restorative-justice-action-plan/govscot%3Adocument/restorative-justice-action-plan.pdf

¹¹ Scottish Government (2019b) Available at: www.gov.scot/publications/guidance-delivery-restorative-justice-scotland/

¹² Kirkwood (2018) Available at: www.iriss.org.uk/resources/insights/restorative-justice

¹³ Scottish Government (2019b) Available at: www.gov.scot/publications/guidance-delivery-restorative-justice-scotland/

¹⁴ Scottish Government (2019b) Available at: www.gov.scot/publications/guidance-delivery-restorative-justice-scotland/

¹⁵ Kirkwood (2018) Available at: www.iriss.org.uk/resources/insights/restorative-justice

Primarily, restorative justice must be entered into willingly by all individuals involved in the harm.¹⁶ Victim engagement poses a challenge for offences against animals who cannot volunteer themselves. Evidence also shows that restorative justice is most effective as a 'storytelling' device, allowing victims to have their voices heard in the justice process.¹⁷ This is problematic for animal-related crimes, where direct victims are unable to voice their harm. Victims' own views of justice and reparation may also be difficult to understand in crimes where animals cannot 'communicate' what they mean.¹⁸ In cases of environmental crime, 'surrogate victims' representing the harmed community have been used in courts for restorative processes. For example, a representative from an environmental society previously acted on behalf of a river in a restorative conference.¹⁹

Related to the question of who should speak for the victim, is who should be involved in the wider restorative justice process. Broader conceptualisations of victims, of those taking responsibility for harm, and of 'communities', may be necessary. This could include 'communities of care', which consist of those who have a connection with those involved in the harm (for example, family, friends, and others who are directly affected by the harm). Communities of place (both geographic and sense of place) may also be important.²⁰

Finally, it is apparent that understanding the various forms of violence, neglect, and cruelty, and how they relate to each other, will be needed. This is important as routine versus singular offences against animals may be a critical factor in the effectiveness of restorative justice approaches. Potential programmes may need to ask about individuals' 'every day' forms of violence, cruelty, and controlling behaviour towards animals, as well as their 'outburst' behaviours.

2.2 Existing examples

Although restorative justice has been established as an effective and adaptable approach for reducing reoffending, there are comparatively few examples of restorative justice services used for animal-related offences. However, there are a small number of examples of restorative approaches used in environmental crimes involving animals. This includes requiring individuals found guilty of crimes to pay compensation to organisations who provide restorative work with the victimised

¹⁶ Scottish Government (2019a) Available at: www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2019/06/restorative-justice-action-plan/documents/restorative-justice-action-plan/restorative-justice-action-plan/govscot%3Adocument/restorative-justice-action-plan.pdf

¹⁷ Braithwaite (2016) Restorative justice and responsive regulation: the question of evidence. RegNet Working Paper No. 51, School of Regulation and Global Governance (RegNet)

¹⁸ Braithwaite (2002) Restorative Justice and Responsive Regulation. Oxford: Oxford University Press

¹⁹ McElrea (2004) The Role of Restorative Justice in RMA Prosecutions. Resource Management Journal, 12(3)

²⁰ Zehr (2015) The Little Book of Restorative Justice. UNICEF

wildlife.²¹ There are also the following two examples of recent uses of restorative justice in animal welfare contexts.

Animal cruelty and neglect conferencing in Ireland

Ireland's Department of Justice funds research into restorative justice, and collects a number of case studies from their partner agencies, where restorative practices were used in offences. In a recent example, the Restorative Justice and Victim Services Unit, a part of the Irish Probation Service, was used for a case of animal cruelty and neglect.²² The offender had accepted full responsibility for their part in the crime and agreed to take part in a restorative justice service. Consequently, a conference was set up, involving the offender, their probation officer, a representative from an animal welfare charity, a member of the Restorative Justice Unit, and a support person for the offender. The conference was seen as effective, with the offender voicing his remorse for his actions, and offering to donate money to an animal welfare charity. The offender was also supported by his probation officer to write a reflective piece on the restorative process.

Animal abuse court case in the United States

In 2012, restorative justice was used with two juveniles charged with aggravated animal abuse in the United States. As an intervention, the boys were presented with a 'talking circle', involving their parents, community members, and the coordinator of a local wildlife rehabilitation centre. This intervention was said to be an effective way of keeping the youths out of a formal detention facility. A study into its effectiveness states that the boys reported experiencing a 'personal transformation' and a 'feeling of empowerment' from both the talking circle and their voluntary work at a rescue centre.²³

²¹ Preston, B.J. (2011) The use of restorative justice for environmental crime. *Criminal Law Journal*, 35: 136-161. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1831822

²² Restorative Justice: Strategies for Change (2021) <https://restorativejustice.ie/animal-cruelty-and-neglect-restorative-conference/>

²³ Wolff (n.d.) Available at: www.scmmediation.org:80/wp-content/uploads/2016/11/RJustice-JuvAnimalAbuse-PaperRevised8-13-14PDF.pdf

3. Empathy-based training

Empathy-based training involves classes or courses designed to increase a person's ability to recognise other people's emotional states, and to see others' points of view or take their perspective.²⁴ Discussions between the victim, their family members, community members, and the offender present opportunities for the offender to experience such 'perspective taking'. The various forms of conferencing or conversation used in restorative justice approaches are where empathy training and restorative justice are linked.

Evidence suggests that there is a relationship between low empathy and offending, particularly for violent crimes.²⁵ Other literature provides evidence in support of empathy-based interventions for cases of harmful, but not criminal, behaviour.²⁶ However, evidence suggests that there is also a need to establish better measures of empathy, and particularly of the long-term trends in empathy and offending, before definitive proof of these links can be provided.²⁷

3.1 Empathy and animal-related offences

For empathy-based training to be used with offenders of animal-related crimes, evidence suggests it is important to consider a number of factors. Primarily, one should consider the nature of the offence, which may impact the effectiveness of the chosen intervention. Factors may include which type of animals were involved, for example pet, stray animal, or wild animal, and whether the offence was a one-off or a repeat occurrence.

It is important to consider how to facilitate the perspective taking aspect of empathy training. Role-play appears to be a common element across many empathy-based programmes, as it allows individuals to 'take' the perspective of each other.²⁸ However, understanding the perspective of animals may be difficult when they are unable to voice their experience. Creating an environment to facilitate perspective

²⁴ Day, Casey & Gerace (2010) Interventions to improve empathy awareness in sexual and violent offenders: Conceptual, empirical and clinical issues. *Aggression and Violent Behavior*, 15(3), 201-208.

²⁵ Joliffe & Farrington (2004) Empathy and offending: A systematic review and meta-analysis. *Aggression and Violent Behavior*, 9(5), 441-476.

²⁶ McMahon & Washburn (2003) Violence prevention: An evaluation of program effects with urban African American students. *Journal of Primary Prevention*, 24(1), 43-62; Sahin (2012) An investigation into the efficiency of empathy training program on preventing bullying in primary schools. *Children and Youth Services Review*, 34(7), 1325-1330.

²⁷ Joliffe & Farrington (2004) Empathy and offending: A systematic review and meta-analysis. *Aggression and Violent Behavior*, 9(5), 441-476.

²⁸ See for example Bas-Sarmiento, Fernández-Gutiérrez, Baena-Baños & Romero-Sánchez (2017) Efficacy of empathy training in nursing students: A quasi-experimental study. *Nurse Education Today*, 59: 59-65; Suarez, A., Lee, D. Y., Rowe, C., Gomez, A. A., Murowchick, E. and Linn, P. L. (2014). *Freedom Project: Nonviolent Communication and Mindfulness Training in Prison*. London: SAGE Open.

taking may involve similar scenarios as suggested for restorative justice, such as using proxy actors.

Finally, studies suggest there is a strong link between empathy and attitudes towards animals. For example, effective educational and therapy programmes have used dogs to teach traits such as empathy, kindness and cooperation in children.²⁹ However, the use of animals to increase empathy may be inappropriate for offenders who previously displayed harmful tendencies towards (other) animals. As such, the form of the programme, and the best methods, must be carefully considered.

3.2 Existing examples

As with restorative justice, there are relatively few examples of empathy-based training programmes being used specifically for offenders of animal-related crimes. However, the following case studies present the limited available evidence of empathy-based training, or programmes which involve certain aspects of empathy-based training, for animal-related offences. It is important to note that some of these programmes are not necessarily tied into the criminal justice system. The few examples cited indicate that these approaches can be effective, particularly when used for young offenders.

Animal Guardians - Youth education programme in Scotland

The Scottish SPCA runs an education programme titled 'Animal Guardians' for children aged around 5 to 12 years who have been cruel or are deemed at risk of being cruel to animals.³⁰ The underlying aim of this programme is to encourage early intervention, as an essential factor in tackling problematic attitudes towards animals. The Animal Guardians programme, established in 2018, teaches children what animals need, how to keep them healthy and happy, how to be responsible around animals, how to interact with them safely, and that animals have emotions. The ultimate aim of the programme is to reduce the risk of harmful behaviour by generating positive child-animal relationships and nurturing levels of empathy and compassion towards animals.

Breaking the Chain - Education programme for young offenders, who have harmed animals in England and Wales

'Breaking the Chain' is run by the Royal Society for the Prevention of Cruelty to Animals (RSPCA), and focuses on empathy training with young offenders.³¹ The project was established in 2010 to rehabilitate young people who have harmed animals. The RSPCA identify that when an individual is cruel to an animal, punishment may not always be the most appropriate course of action to prevent reoffending. The aim of the programme is to enable a greater level of empathy

²⁹ Sprinkle (2008) Animals, Empathy and Violence: Can Animals Be Used to Convey Principles of Prosocial Behavior to Children. *Youth Violence and Juvenile Justice*, 6(1), 47-58.

³⁰ Scottish SPCA Animal Guardians programme www.scottishspca.org/animal-guardians

³¹ RSPCA Young Offenders: Understanding why kindness matters www.rspca.org.uk/whatwedo/education/offenders

towards animals through techniques delivered by youth offending managers. The feedback from the use of empathy training within this project suggests that techniques (interactive online courses, in-person handling of animals and group activities) have had a noticeable, positive effect on the young people's attitudes towards animals.³²

Paws for Progress - Education programme using animals in Scottish prisons

Paws for Progress³³ is a programme developed at the University of Stirling in 2011. The non-profit organisation runs a variety of services, primarily involving training courses on dog care for offenders in prisons. In their flagship course, young men are taught how to train and rehabilitate rescue dogs for re-homing. The programme greatly benefits both the people and the dogs, reportedly having a positive effect on behaviour, kindness and respect. Similarly, the courses positively impact prisoners' well-being, confidence, and social skills.

AniCare - Treatment programme in the United States

AniCare is an intervention programme for those who have caused harm towards animals in the United States. According to research, 'AniCare in its original format emphasized helping offenders accept accountability for their behavior and challenge internalized beliefs that justify abuses of power'.³⁴ Since its first iteration in 1999, the programme has incorporated other elements such as cognitive-behavioural, attachment, trauma-based, and psychodynamic approaches.³⁵

'AniCare is not a manualized intervention, but instead guides clinicians in making a thorough assessment of the factors underlying animal abuse (severity, culpability, motivation/ psychodynamics, attitudes/beliefs, emotional intelligence, family history, and mitigating circumstances) and choosing appropriate intervention tools based on that assessment. These may involve clarifying values and attitudes about animals and acquiring empathy and other interpersonal skills.'³⁶

There is also a version of AniCare for children, which developed a separate set of guidelines adapted to the age and developmental stage of the child.³⁷

³² RSPCA Breaking the Chain intervention programme
<https://education.rspca.org.uk/education/youthintervention/resources>

³³ Paws for Progress CIC <https://pawsforprogress.co.uk/>

³⁴ Gupta, Lunghofer & Shapiro (2017) Interventions with Animal Abuse Offenders. In The Palgrave International Handbook of Animal Abuse Studies. London: Palgrave Macmillan. 497-518.

³⁵ Shapiro & Henderson (2016) The identification, assessment, and treatment of adults who abuse animals: The AniCare approach. New York: Springer.

³⁶ Gupta, Lunghofer & Shapiro (2017) Interventions with Animal Abuse Offenders. In The Palgrave International Handbook of Animal Abuse Studies. London: Palgrave Macmillan. 497-518.

³⁷ Shapiro, Randour, Krinsk & Wolf (2014) The assessment and treatment of children who abuse animals: The AniCare child approach. New York: Springer.

4. Conclusions

This review has explored evidence around the use of restorative justice and empathy-based interventions in animal welfare and wildlife crime offences, and the effectiveness of such approaches.

This review has shown that there are very few identifiable examples where empathy-based interventions or restorative justice have been used for animal welfare and wildlife offences. Of the examples explored above, only AniCare is a dedicated programme incorporating restorative approaches specifically for animal welfare and wildlife offences. Other restorative justice approaches appear to have been used on an ad hoc basis. The few examples cited here indicate that these approaches could be useful in reducing reoffending for animal-related crimes, and repairing the harm done to victims and the community. This may be particularly true for young offenders.

However, this review has raised a number of questions regarding restorative justice or empathy-based approaches being used in a Scottish context. These include:

- Who should speak for the animal?
- Who should be involved in the intervention?
- Which intervention would be most suited for which animal-related offence?

How to access background or source data

The data collected for this social research publication:

may be made available on request, subject to consideration of legal and ethical factors. Please contact stephanie.weir@gov.scot for further information.



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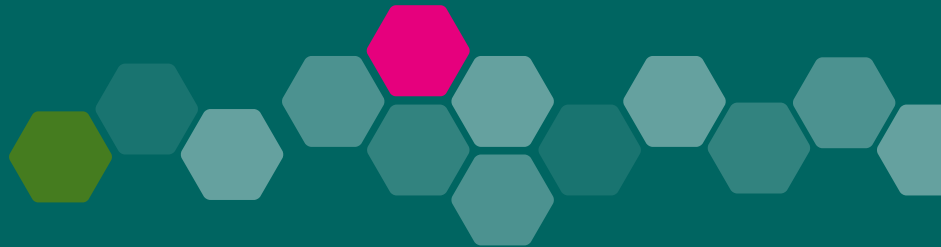
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