



Cats and the Law

a plain English guide



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The Cat Group is a collection of professional organisations dedicated to feline welfare through the development and promotion of policies and recommendations on the care and keeping of all cats.

www.thecatgroup.org.uk

Member organisations:

- Battersea Dogs and Cats Home
- The Blue Cross
- British Small Animal Veterinary Association
- Cats Protection
- International Cat Care (founder)
- Governing Council of the Cat Fancy
- The Mayhew Animal Home
- People's Dispensary for Sick Animals
- Royal Society for the Prevention of Cruelty to Animals
- Wood Green – the Animals Charity

Foreword

The UK is a nation of animal lovers, but from time to time members of the public need to know the law as it applies to cats and their owners. A variety of circumstances can arise; from people wishing to know their obligations in caring for a cat, to understanding their legal liability for any damage caused by their cat to a neighbour's property. Re-homing institutions and breeders also need to know how the law impacts on their affairs in order to keep within the boundaries of the law. However, it is not always so easy to be sure about what the law requires without a simple reference guide; which is what this booklet aims to provide.

This booklet is a summary of current law relating to cats, primarily the Animal Welfare Act 2006 and its introduction of a positive obligation to promote and observe animal welfare in companion animals. The booklet also summarises the law on keeping and care of a cat, issues relating to the sale or theft of cats and damage either caused by or caused to a cat. We have put into plain language the basic information contained in the Animal Welfare Act 2006, its associated Code of Practice, and other related laws so that anyone can check their key legal obligations and identify their responsibilities under the law without being overwhelmed by legal language.

We have also listed and answered some of the most frequent questions that people ask about cats and their legal status, so that most of what cat owners, breeders and rehoming institutions would want to know is contained within this guide. Inevitably there will be some omissions and the book is not intended to be a substitute for the actual legislation. Nor is it intended to be a substitute for, or intended to be relied upon as, formal legal advice which may need to be sought on the specific circumstances of a query. But subject to the limitations expressed above, the guide should answer most common legal questions facing cat owners, breeders and rehoming institutions.

The guide was commissioned by the Feline Advisory Bureau (FAB) (now International Cat Care (iCatCare)) on behalf of the Cat Group, a number of charities with an interest in cat welfare and the law. While the project originated in Lincoln Law School at the University of Lincoln, the conclusions are, of course, those of the authors.

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Introduction

The main legislation affecting cats in England and Wales is the Animal Welfare Act 2006 which consolidates much earlier legislation and both promotes animal welfare and provides an enforcement mechanism through which punishment may be pursued where there is a breach of animal welfare standards. The basic principle of this Act (and its Scottish and Northern Irish equivalents¹) is that both domestic, stray and feral cats are protected from harm. There is also now a duty on cat owners and others responsible for a cat to ensure that a cat's needs are met.

Part of the law requires a 'responsible person' (see Definitions) to provide for the needs of an individual cat.

This means that those sharing their homes with a cat need to provide a suitable environment and suitable diet; to satisfy the cat's need to be able to exhibit normal behaviour patterns and any need to be housed with or apart from other animals; and need to ensure that their companion animals are protected from pain.

Many cat owners will already be doing this, but some may need to rethink the way they interact with their companion animals and may also need to examine whether the conditions and environment their companions are kept in are causing any discomfort. The new law requires cat owners to consider not just physical discomfort or pain associated with cruelty, but also mental distress by, for example, denying an 'indoor only' cat the ability to exhibit its natural behaviours and the opportunity to properly express itself. This is particularly important, as an 'indoor only' cat may be more likely to show certain medical problems associated with being kept indoors; which if manifest could constitute suffering under the law. Allowing cats to roam unrestrained could equally cause some problems and so the duty to ensure welfare creates a responsibility to monitor and assess the condition of each individual cat.

The UK Animal Welfare Acts intend to prevent harm before it occurs and allow for prosecution of animal welfare offences. The following text aims to provide a straightforward means of checking the legality of action affecting cats. Every effort has been made to ensure its accuracy but the authors and The Cat Group can take no responsibility for any errors or omissions.

¹There is country-specific legislation in Scotland and Northern Ireland; the Animal Health & Welfare (Scotland) Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011. The three animal welfare acts have similar aims of preventing harm and promoting animal welfare although there are some differences in the respective Acts.

Definitions

Code of Practice for Cat Welfare (the Code)

The Department for the Environment Food and Rural Affairs (DEFRA) Code of Practice on the Welfare of Cats gives guidance on keeping cats in a suitable environment. The Code provides detail on what is required of cat owners in caring for their companion and providing a suitable environment for their cat's needs. The Code holds 'advisory' status rather than itself being directly enforceable, which means that cat owners cannot be prosecuted purely for not following the Code. However, a court can consider a failure to provide the necessary cat-friendly environment required by the Act (in accordance with the Code) when considering animal welfare offences.

Companion animal

The term 'companion animal' is used throughout this guide instead of the term 'pet' to refer to domestic cats. This includes not only cats who are clearly linked to or living at a single property and have an identifiable owner, but also those stray and feral cats for which a person may accept some responsibility to provide a certain level of care and comfort.

DEFRA

The Department for the Environment Food and Rural Affairs (DEFRA) is the Government department with responsibility for environmental matters, including wildlife protection and animal welfare. DEFRA has published guidance on the new Animal Welfare Act 2006, in the form of a Code of Practice.

Owner

Throughout this guide, the term 'owner' is used to describe the person who has legal ownership of a cat. This is because under the law, cats are property and effectively 'belong' to somebody even though to many cat owners they simply share their home with their companions; not thinking of themselves as owners. However, in this guide owner means legal owner, which may, or may not, be the person who regularly provides food for the cat, has a place within his home or garden that the cat frequents or, in the case of stray or feral cats, regularly makes food available to the cat so that it frequently returns to the human for food thereby temporarily being in that person's 'possession'.

Responsible person

This term is used to describe a person who accepts responsibility for a cat and its welfare even if they are not the owner. For example, friends who house sit for a cat are responsible for its welfare while they do so. Those who are keepers of a cat that belongs to a rehoming institution because the institution's terms specify this, would also be responsible persons (even though they are not owners) as custodians of the cat.

Basic protection afforded to cats

The legal status of cats under the UK Animal Welfare Acts is that of protected animals. UK law generally regards companion animals such as cats as personal property so that any damage or harm to a cat is legally the same as damage to any other piece of property. The law applies not just to cats which are clearly linked to a single property and an identifiable owner, but also to stray and feral cats that may occasionally be fed by humans (see definition of responsible person, page 5).

The protection provided under the law extends to all cats so that both companion and stray or feral cats are protected. The UK Animal Welfare Acts impose a duty to ensure cat welfare, which requires that owners or those responsible for an animal provide for a suitable environment, suitable diet, the need to be able to exhibit normal behaviour patterns, any need to be housed with or apart from other animals and the need for protection from pain. The law covers not only physical discomfort or pain associated with cruelty offences but also mental distress.

The obligation to consider welfare and protect cats from a wider definition of suffering is important as cat owners are required to do more than simply provide a home for their cat. They are required to consider both the interior and exterior environment of their home and to ensure that, so far as is possible, it is suitable for their individual cat. Where they fail to do so,

they may commit an offence under the Animal Welfare Act 2006 which contains provisions aimed at preventing harm before it occurs as well as provisions aimed at promoting welfare including the imposition of a duty to ensure welfare.

This issue is of importance to cat owners as they are responsible for ensuring that their cat's needs are properly considered in a way that effectively gives cats legal protection from being kept in unsuitable conditions. While cats technically remain 'property', the law now requires their needs to be considered and that a suitable environment for a cat is maintained by anybody wishing to be a cat owner and share their home with a feline companion. Cat owners who fail to comply with the requirements can be prosecuted so maintaining a certain standard of care is in the owner's interest.



Sale of cats

Any private sale of cats is likely to form a contract and any business sale will be covered by contractual terms and also regulated by the Sale of Goods Act 1979 (as amended). A cat buyer will have rights as a purchaser but the seller will also have obligations especially when acting as a business (for example, a breeder or pet shop). The Sale of Goods Act 1979 generally requires that goods are of satisfactory quality which means that they must meet the standard that a reasonable person expects. What is considered to be satisfactory in any specific case is determined by any description of the goods, the price (if relevant) and all other relevant circumstances. The law requires that goods should be suitable for the general purpose for which similar products are supplied and their appearance or finish should be free from minor defects, and should be of a certain level of safety and durability.

While considering cats and kittens as 'goods' may be difficult for some people to imagine, applying these principles means that any cat sold should be healthy (ie, free from disease), and be suitable as a family companion as this is what one would normally expect when buying a domestic cat or kitten. If a cat sold by a business (eg, breeder or pet shop) is not of satisfactory quality the buyer has some additional rights because of the additional law which applies to commercial transactions but not to private sales. Unsatisfactory quality is a broad concept but could include a failure to socialise a cat to humans, especially if the cat is sold as being 'suitable as a family pet' when

**Let
the
buyer
beware**

this is not the case. Selling an unsocialised cat would essentially be selling an unsatisfactory cat as a domesticated cat would be required to satisfy the

need for a suitable family pet. Additionally, if a seller misrepresents the cat's condition in this way or, for example, claims that it has been microchipped or that it is a pedigree cat when neither of these claims is true, then the buyer could complain to the seller as they would when purchasing any other defective or unsuitable 'product' with the expectation that their money will be refunded or the goods replaced. In extreme cases a buyer could complain to a court to get their money back from the business.

For example, if a cat is purchased from a business seller or breeder but then experiences health problems that are scientifically known to be hereditary; or should be known by breeders of a particular breed to be so; or could be traced back to the breeder; then the buyer should be able to recover the cost of the cat and any treatment incurred as a result. Breeders of pedigree or specialist breeds should investigate for known inheritable diseases and should take all reasonable steps to avoid them as part of their checks on the suitability of the cat for sale.

This would be the position where an inherited problem is present which the breeder should have known about and for

which there is a reliable test. Buyers would also be able to reclaim any other losses the purchaser and the seller or breeder could have reasonably expected (eg, vets fees, boarding fees, travel costs, etc). But, in the case of a diseased cat, where the disease was undetectable at the point of sale, even though the cat was sold by a business, the buyer may have to simply accept the diseased cat and its consequences. This is because the law allows a certain level of flexibility for sellers who could not possibly have known about and had no hand in the presence of disease in the cat and who, in fact, made no fraudulent (false) statements about the health of the cat. The position would change where the seller made a fraudulent statement about the health of the cat.

The issue of selling cats of a breed at risk of carrying disease such as feline infectious peritonitis (FIP) can cause problems for breeders and purchasers. There may be a claim under the law of negligence if a breeder sells a cat knowing that the development of FIP is reasonably foreseeable as a likelihood and not just a possibility. It could be arguable in such a case that the breeder has a duty of care to the buyer and would be responsible for the buyer's costs if the buyer has unwittingly bought a diseased cat which the seller should or could have known about. However, expert evidence from a vet or scientist might be used by the breeder to rebut any evidence that the disease was a pre-existing condition. The fact remains that in most situations the risk of FIP developing if a cat has

coronavirus infection is generally low. But breeders should be aware of any tendency for particular cat breeds to actually develop the disease (rather than just coming up positive for a test for coronavirus), and need to exercise all reasonable care to prevent its presence in cats they sell (see frequently asked questions section later in this guide).

Where a seller of a cat is operating in the course of a business, whether he intends to or not, and he sells the cat as being fit for a particular purpose for which the buyer makes known he wants the cat, or as being of a particular breed that the buyer wants, then the buyer may have rights against the seller if the cat is not fit for that purpose or not of that breed.

Providing an average domestic cat to someone who saw the cat and independently formed an opinion that it was of a particular breed would not render the seller liable. But if the buyer specifically requested a particular breed and that fact was made known to the seller and the cat sold was not of that

breed, the seller would be responsible for this. The law also accepts that buyers rely on any information provided to them during a sale when making a decision as to whether or not to purchase a product. So fraudulent statements, or well-meaning statements even if these later prove to be untrue, that a cat is healthy and free from a traceable disease, fit for a particular purpose, or of a particular breed, can be relied upon when making a complaint to a seller, to trading standards or when asking for money back or for other expenses to be covered by a seller or breeder.

In the case of a private sale, and in the absence of any contractual terms, buyers of cats and kittens have a certain responsibility to satisfy themselves as to the quality of goods they are buying. Private second-hand car sales are particularly prone to this where the phrase 'caveat emptor' [let the buyer beware] frequently applies. In other words, a seller who buys a second-hand car (or cat) privately, should be careful that what they are buying is free from defects.

Most reputable businesses are aware of their obligations as sellers and the legislation that covers their operations and so should be willing to provide guarantees. But in any case, the law effectively will imply terms into a business sale in order to protect the buyer. Hobby breeders should be aware of this, since the question as to whether they are operating in the course of a business will be one that is decided on the facts of each individual case taking into account such factors as the frequency of sales,

whether advertising was undertaken and receipts kept, how much money was made and how much was spent, etc. As with other 'goods' private sales potentially carry a higher risk for the cat buyer and less opportunity for pursuing complaints where there are problems. If in doubt, and particularly in the case of private sales, getting some form of written guarantee as part of the sale is good practice as this can be relied upon if a problem occurs later on. The fact that the sale is one of a live companion does not mean that the normal rules of the buyer-seller relationship should not be observed and buyers should exercise the same caution as they would when buying other goods from a seller they do not know (see frequently asked questions).

Many more instances of sales and purchases of cats are taking place over the internet, in place of newspaper adverts and sales. Sellers acting in the course of a business, which may include hobby breeders, should be aware of their obligations under the law. A cat buyer must also realise that the cat they are buying is classed in law as a good or product. Whereas they may have some redress if anything goes wrong with a reputable business sale, if they are buying from a private party they should be careful, ask questions and obtain guarantees so that they may be protected under the rules of contract. Otherwise they will not be protected since they are buying under the principle of 'let the buyer beware'.



Liability for cat damage

Cat owners frequently want to know if they are responsible for any damage that their cat does; while those living next door to or near cats owned by others want to know their options if a cat causes damage to their property or becomes a nuisance. This is a complex area of the law but generally cat owners owe a duty of care towards others not to cause injury or damage. This means that they should try to ensure that their cat does not cause harm to others or damage neighbouring property and are expected to take reasonable steps in doing so. The law generally makes the owner or 'responsible person', ie, the keeper, the person responsible for any cat damage, who may need to pay the costs of any damage caused.

The general duty of care mentioned above means that cat owners need to consider the effect of their cats on

neighbours, a term which broadly covers others who may encounter the cat, and should try to prevent their cat from causing any harm to those others. The normal behaviour of individual cats, however, is unlikely to cause problems. But separate from the causing of actual damage there are several different areas where cats can cause a nuisance to neighbours who do not, for example, appreciate them fouling their gardens. They can, for example, be a nuisance in terms of noise and smell, especially if they are kept in unsanitary or overcrowded conditions. The difficulty for most cat owners is in knowing what action is reasonable to take and what types of damage they might be liable for and the circumstances of each individual case need to be considered in order to determine an individual's liability. The following section aims to clarify these issues.

General damage

Cat owners are generally not responsible for the 'normal' behaviour of cats because the law accepts that cats tend to wander into other properties and have instincts which, for example, lead them to prey on small birds. So cat owners should be reassured that the simple fact of their cat trespassing onto a neighbour's land would not make them responsible if, for example, the cat kills a pigeon or garden bird, urinates on plants or flowers, or defecates in a neighbour's soil. These would be 'normal' cat behaviours that would be expected



and, while some neighbours may have strong feelings about the presence of a cat in their garden, the law of trespass and the general civil law would make it unlikely that a claim against a cat owner could be made for these everyday occurrences.

Damage to persons and property

Cat owners or responsible persons must ensure that their cat's needs are met. In doing so they need to also understand the specific characteristics of their cat, for example whether it is likely to be defensively aggressive and/or territorially aggressive to people or other cats, or has a tendency to scratch and destroy furniture. Owners are responsible for 'severe' damage which includes damage to property, including other animals such

as neighbours' cats, but which also potentially includes death or injury to anybody which is caused by their cat; this includes

contracting a disease from a cat or suffering other physical harm (for example severe scratches) or mental harm. The law recognises that some individual cats are prone to cause damage and some are prone to display defensive aggression or territorially aggressive tendencies which could make them dangerous. Where this is the case, owners are more responsible for the damage that their companions cause, so that an owner of an aggressive cat needs to take steps to prevent it from escaping

and damaging neighbouring property or attacking neighbouring cats or humans. If an owner knows that their cat is dangerous; its aggressive nature is unusual for a domestic cat and the owner (and others) know that if the cat escapes it is likely to cause that damage, then the owner is potentially liable for any such damage (see the frequently asked questions section at the end of this guide). As a result, owners of

unusually aggressive or destructive cats are especially advised to control their companions otherwise they may find themselves having to pay for the costs of any damage



caused by their cat. Owners should also be aware that if the cat escapes and becomes a stray they remain responsible for any damage the cat causes until it acquires a new owner or keeper. As a result, abandoning an overly aggressive cat does not automatically prevent the owner from having to meet the costs of any damage the cat causes until it finds a new owner and the owner may commit an offence of failing to ensure the cat's welfare by causing unnecessary suffering.

Car accidents

In the case of a vehicle accident with a cat, the normal criminal offence of failure to stop and give details or report an incident to the police does not apply to incidences which only cause injury to cats, ie, where there has been a collision between a vehicle and a cat. Cat owners may have questions about whether they would be responsible for damage if their companion strayed into the road and caused an accident or injury to others. While in principle the owner of an animal which strayed onto a road, footpath, main road or motorway would be responsible for any damage or injury, the law – which generally

covers animals likely to stray such as horses, cows and sheep, but which would apply to dogs, or even to cats, – is unlikely to make cat owners liable. The nature of cats as companions that cannot realistically be fenced in is a factor, but it is also true that cats generally will not cause the same kind of severe harm in the same manner as dogs.

Except in extreme circumstances, where it could be argued that the likelihood of an accident could be predicted and the owner owed a duty of care to drivers yet did nothing to prevent the accident, it is difficult to see how a cat owner would be liable for a road accident caused by their companion (see frequently asked questions later in this guide).

Nuisance

The law on nuisance is intended to deal with circumstances that affect enjoyment of a property. Noise, smell, dust and other forms of pollution can all be classed as a nuisance in respect of which local authorities are able to take enforcement action. This can be a complex area of law but, essentially, the law defines certain activities, those that can cause harm to health or represent an 'unacceptable interference' with the personal comfort and surroundings of neighbours or the nearby community, as a nuisance. The law uses the term 'amenity' to explain how the nuisance law impacts on people; this is an umbrella term for features that are pleasant or agreeable, such as a garden. So a smell that prevents neighbours from spending time in their garden during the summer could be a nuisance. The garden is an amenity and for many is an integral

part of their home, so a smell that makes it unpleasant to be out in the garden could represent an 'unacceptable interference' with that amenity.

Local authorities are required to investigate and detect any statutory nuisances occurring in their area and have wide ranging powers to deal with these. Several parts of nuisance law apply to cats. For example, keeping animals in conditions which cause nuisance to others or which are likely to cause health problems would be a nuisance. This area of the law is intended to deal with 'extraordinary, non-natural or unreasonable action' so general noise of cats (even cats fighting at night) wouldn't cause this problem. However, where the living conditions of

companion animals cause excessive smell, noise or flies this could be a nuisance. If, for example, a large number of cats were kept in a small flat and the number of animals combined with keeping them in poor conditions caused excessive smell (eg, by not emptying litter trays nor allowing them outside so that a smell of urine builds up) then this could become a nuisance. In such a case a local authority could impose restrictions on the number of animals kept. There is a case example of large numbers of cats being kept and allowed to stray with the result that an excessive amount of excrement was deposited on neighbouring property, and this caused a nuisance. While, as mentioned above, the law accepts that cats have a tendency to wander about and defecate where they please, in this example the specific combination of the number of cats, the nature of the property, and the lack of effective control over the cats meant that their presence and behaviour became a nuisance to the neighbouring property.

While the above example is probably not an everyday occurrence, where a nuisance is caused, the law (the Environmental Protection Act 1990) gives a local authority the power to decide what action cat owners should reasonably be required to take in order to deal with a nuisance. The courts have decided that in the case of a business (such as a commercial breeder of cats) they should use the 'best practicable' means to deal with a nuisance. This means that action can be taken to reduce a nuisance (such as putting up a fence in an attempt to prevent cats from escaping into a neighbouring property). It does not mean that the nuisance would have to be completely eliminated, for example by getting rid of all cats or relocating a business.



This is a brief summary of nuisance law which contains provisions, not only on the conditions in which animals are kept, but also specific provisions concerning such things as noise. While nuisance law is unlikely to affect the majority of cat owners, those keeping a large number of cats need to consider the possible effect of their companions on neighbouring properties and whether the conditions in which the cats are kept could lead to

excessive noise, smell or potential health issues due to animal waste. Neighbours who consider that their right reasonably to enjoy their property is affected by the presence of cats are entitled to complain to their local authority environmental health department who have a duty to investigate. Where the local authority considers that cats are causing a nuisance (as the law defines it) they are likely to take enforcement action.

Animal welfare offences

For many cat owners, potential complaints about animal welfare offences are the main issue of concern. When it was first introduced, some headlines suggested that the Animal Welfare Act 2006 would be oppressive and place unnecessary burdens on cat owners. In reality, the Act has perhaps had modest effect on the lives of most cat owners but has clarified what they need to do in order to provide an appropriate level of care and suitable environment for their companions. The Act requires that every cat owner has a duty to ensure the welfare of their companion and should take action to prevent 'unnecessary suffering' to their companion. This means that cat owners should avoid action that deliberately harms a cat but also need to make sure that cats are not harmed because they fail to take action.

The concept of unnecessary suffering includes both mental and physical suffering, so cat owners need to make sure that their companion is not caused unnecessary stress. While it may be

obvious that violent action such as kicking a cat would cause unnecessary suffering, prolonged exposure to hostile action such as screaming, behaving threateningly or withholding appropriate food and comfort might also cause unnecessary suffering.

Cat owners should also be aware that anyone who abandons a protected animal potentially commits a criminal offence under the UK Animal Welfare Acts. The position varies in each of the UK jurisdictions. In Scotland it is an offence for a person responsible for an animal to abandon it without reasonable excuse and in circumstances likely to cause it unnecessary suffering. In Northern Ireland an offence would be committed should a person responsible for an animal abandon it without reasonable excuse. There is no specific offence of abandonment under the Animal Welfare Act 2006; in England and Wales abandonment is included in the duty to ensure welfare and the offence of causing unnecessary suffering.

DEFRA's Code of Practice on the Welfare of Cats

The DEFRA Code of Practice clarifies what cat owners need to do to provide the right level of animal welfare and a suitable environment for their companions. It explains what cat owners need to do under the Animal Welfare Act 2006 in order to ensure that the cat's following needs are provided for:

- Its need for a suitable environment;
- Its need for a suitable diet;
- Its need to be able to exhibit normal behaviour patterns;
- Any need it has to be housed with, or apart from, other animals; and
- Its need to be protected from pain, suffering, injury and disease.

The Code provides practical guidance to cat owners on how to meet their obligations. While a breach of the Code is not an offence, in any action taken for animal welfare offences involving cats, the Court will look at whether or not a cat owner has complied with the provisions of the Code the main detail of which is covered below.

Diet

The Code requires that the dietary needs of cats should be met, specifying the need to ensure that cats do not become underweight or overweight. This aspect of the Code provides minimum standards that owners need to meet. Not only the requirement to provide fresh drinking water at all times and to provide a balanced diet suitable for a cat's individual needs, but also to monitor the amount that the cat eats or drinks and to seek advice concerning the cat's diet as required. The Code specifically refers to

Suitable environment

The Code recognises the territorial nature of cats and that, although classed as companions, domestic cats will spend significant periods of time outside. As a result, while owners are required to provide their cat with a 'safe, comfortable, dry, draught-free, clean and quiet place' where it can rest undisturbed² they are also required to take 'reasonable steps' to protect a cat from hazards indoors and outdoors. The Code does not provide a precise definition of 'reasonable steps' but does say that a cat should have constant access to safe hiding places, where it can escape if it feels afraid. As a result, cat owners need to ensure either that they do not keep a cat in an unsafe or unsuitable environment where the needs specific to a cat's behaviour are not catered for, or that if they do so, they show that they have tried to consider both the needs of their individual cat and the specifics of their home so that they have done as much as they can to minimise any possible harm to the



cat from indoor and outdoor hazards.

²Section 1, DEFRA Code of Practice for the Welfare of Cats

the special dietary requirements of certain cats (including cats that are ill) so that owners need to actively consider whether their cat should be provided with a special diet in order to ensure the cat is properly cared for.

Housing

Section 4 of the Code requires cat owners to ensure that their cat has appropriate company. In keeping with other provisions of the Code, Section 4 requires owners to consider the individual needs of a cat and its individual sociability towards people, other cats and other animals. The Code indicates that 'a cat may suffer if it cannot avoid other cats it does not like'³ indicating that failure to provide appropriate housing free from interaction with other animals could constitute unnecessary suffering. However, the Code also indicates that owners should provide regular contact with people even when they are away, for those cats that like people.

Section 4 of the Code requires owners to consider the socialisation needs of a particular cat which could mean that they should either avoid having a second cat or other companion animal (eg, a dog) if doing so would cause problems for their cat, or that if they do have another animal they must gradually introduce the new animal into the home or try and minimise contact between animals that do not like each other. This includes providing extra resources (toys, beds, litter trays and hiding places) to allow cats to get away from each other and also to ensure that they can access

Normal behaviour

The Code reflects the fact that cat behaviour varies according to a cat's age, personality and past experiences. Section 3 of the Code says that cats must be



everything they need without having to pass one another too closely. This guidance means that cat owners need to carefully consider, on the basis of an individual cat's needs, any decision to have more than one cat or any other animal. Failure to do so could result in the causing of unnecessary suffering even though this is done unintentionally.

Cat owners also need to consider the possible stress to cats in hot weather and on bonfire night. DEFRA has published specific guidance on this together with the Blue Cross which at time of writing is available from the DEFRA website (see Useful Addresses at the end of this booklet).

³Section 5, DEFRA Code of Practice for the Welfare of Cats

Protection from pain

The Code also requires owners to monitor their cats for signs of injury or illness and to ensure that somebody else does this when the owner is away. While most cat owners will naturally keep an eye on their animal's health, the Code is specific that owners must do this and should seek veterinary (or other appropriate) advice as soon as possible in the event of cat injury or illness.



The Code also indicates explicitly that owners are required to ensure that cats are provided with safe toys and receive enough mental, social and physical stimulation to satisfy individual behavioural needs. Given the Code's obligation to provide for an

appropriate environment, housing and materials to allow a cat to exhibit normal behaviours, this raises a question concerning the training of cats to fit within a pre-existing home environment. The Animal Welfare Act 2006 suggests that instead, homes would need to be modified to suit the needs of the individual cat which has implications for cat training methods. Cat owners in Wales are banned from using electronic training aids

by the Animal Welfare (Electronic Collars (Wales)) Regulations 2010 (SI 2010/934) (the 2010 Regulations). This includes collars to keep cats within a garden boundary. However, at present it is not an offence to use electronic training aids on cats in England.

provided with enough 'mental, social and physical stimulation' to meet the individual needs of a cat. The reference to individual needs means that the owner of an extremely active cat may need to do something particular (eg, by buying special or additional toys) to make sure their cat is properly stimulated. While the Code requires that a cat is able to exhibit scratching behaviour and refers to a cat being provided with somewhere to scratch, for example a sturdy scratching post, for an active cat which is confined indoors several scratching posts may need to be provided to accommodate this. The Code is clear that owners should

know how their cat behaves when fit, healthy and happy, which suggests owners must be aware of and monitor their cat's behaviour and notice any changes in it. Failure to do so could be a breach of the Code and result in 'unnecessary suffering' which might lead to prosecution.

This is a brief summary of the main provisions of the Code. Full copies and additional guidance are available online from the DEFRA website with links to further guidance available from member organisations of The Cat Group (see Useful Addresses section).

Rehoming

There are thousands of cats, all over Britain, waiting to be rehomed. Rehoming involves passing responsibility for a cat from one person to another. As the law now requires persons with responsibility for a cat to provide appropriate standards of animal welfare, rehoming organisations have this duty while a cat is in their care and usually pass it on to the new owner. But in some circumstances they may remain the owner so that the person getting a cat from the rehoming organisation is a 'keeper' or 'responsible person' (the phrase 'custodian' is sometimes used). This potentially complex arrangement means that both rehoming organisations and those taking cats from rehoming organisations need to be clear about and understand what their legal responsibilities are and these are summarised as follows:

- Where the rehoming organisation retains ownership of the cat throughout its life, this is usually explained in the contract accepted by the prospective 'owners'. In such cases the term 'custodian' will be employed. Rehoming organisations which do retain ownership then remain both responsible and potentially liable for the cat's welfare and actions.

The Companion Animal Welfare Council (CAWC) in a 2011 Report advised that responsibility for the animal's welfare and behaviour lies with the keeper and the owner, who may not be the same person. Where the owner of an animal is the rehoming organisation, which can choose to take back an animal, the rehoming organisation should ensure that the keeper – the adopter – is given



sufficient advice on the required standard of animal care and management. This includes advice on training and behaviour and sources of help. Failure to provide this written information could result in court action, since the rehoming institution, as owner, still falls within the definition of responsible person under the Animal Welfare Act 2006.

- The CAWC recommends that new owners are told about possible problems following rehoming as rehomed cats can be quiet and may not eat well for a day or two, which might be followed by more boisterous behaviour within a couple of weeks as cats feel more confident in their new environment. Rehoming organisations must give new owners vital information regarding the cat's history, temperament and health so that they can meet the cat's needs and meet

their obligations under the law to do so. Information must also be given on expense, insurance, neutering, microchipping and the fact that cats are completely dependent on their owners for protection, an adequate environment, food and stimulation.

- Abandonment of any companion animal is both cruel and illegal. Rehoming organisations should emphasise this in any information given to a prospective cat owner.

The CAWC's June 2011 report on rescue and rehoming can be found at its website.

Cat thefts and injury to cats

The law recognises cats as property, so that when somebody steals a cat from its owner this would be theft under the Theft Act 1968. Those involved in taking a cat might also be charged with handling stolen goods or obtaining property by deception. If money or favours are demanded for the return of a stolen cat this could be classed as bribery. Neither should the cat's lawful owner advertise a reward stating that no questions will be asked for information leading to the return of the cat, which in itself is an offence. If a cat is stolen, owners should call the police as the illegal removal of their companion should be treated the same as any other theft. The potential difficulty with cat theft is proving that somebody has deliberately removed a companion. A cat, may, for example, seek food from several homes or simply find comfort in another home without the new 'owner' having done anything that would make their adoption of the cat theft or of having any idea of who the 'rightful' owner was. Having some clear means of identifying a cat as belonging to a

particular home is vital if a complaint of theft is to be pursued.

The criminal law also covers harm caused to a cat by a third party (somebody other than the owner). The law makes it an offence to kill or injure companion animals (see definition at page 5) so that if a person harmed or killed a cat belonging to another they could be prosecuted. Ownership of the animal does not have to be proved as the law recognises domestic cats as protected animals. So, in the event of the death or injury of a cat caused by a third party (even where ownership of the animal cannot be established) the Crown Prosecution Service (CPS) may consider a charge of criminal damage, although there are sometimes difficulties with having enough evidence to prosecute these cases. In addition causing unnecessary suffering to another's cat is a crime under the Animal Welfare Act 2006 so that animal abuse cases (eg, kicking, burning, placing cats in rubbish bins) can be prosecuted under the criminal law.



Questions frequently asked about cats and the law

The following list consists of those questions currently identified as causing problems for cat owners and breeders, either because there does not seem to be a definitive answer to the question or because the question raises an issue falling outside the experience of the breeder or owner. Questions also relate to areas where, previously, guidance has not been available for owners and breeders. Where several queries have been received concerning the same topic we have combined these into single questions to deal with the main issue causing concern.

Q I am a cat breeder who sold a kitten which later developed feline infectious peritonitis (FIP). Other cats in the buyer's home are now suspected of having FIP and the buyers are attempting to claim their vet fees from me, even though while the kitten may have been coronavirus seropositive it didn't appear to be ill at the point of sale. Am I liable (responsible) for their costs?

A It is unlikely that the seller would be responsible for the costs even though the kitten was sold by a business and the Sales of Goods Act 1979 would mean there are implied conditions and warranties. Unless specific promises or assurances were given or false statements made about the kitten's health by the seller, then the buyer of the diseased kitten accepts it 'as it is' then and for the future.

However, if the seller knew about or deliberately concealed a condition of illness or contagion by claiming that the kitten was 'free from disease' then this would be misrepresentation. If there was a reasonable risk that the kitten could be carrying the disease and the seller ignored this possibility this would also be a factor. Otherwise the seller has no liability although, dependent on the precise nature of the buyer-seller relationship, he or she may wish to consider whether, in the circumstances,

offering the buyer some compensation or their money back would be appropriate as good customer service. It should be noted that FIP may result from a mutation of an existing coronavirus infection, and that causation is also difficult to establish. Much will depend on the individual cat(s) concerned. But if a breeder is aware that a particular line of cats is actually developing the disease (rather than just coming up positive for a test for coronavirus), then they should exercise all reasonable care as the development of the disease may also be affected by the husbandry and cleanliness of the premises and this is something that breeders would be expected to do something about. It is advisable to consult The Cat Group information sheet on FIP (www.thecatgroup.org.uk) which explains the difficulties with this disease.

Q I am a cat breeder and have had buyers attempt to return cats as 'not of satisfactory quality or as unfit for purpose' when a problem was discovered with the cat that the buyer had not been told about. Where do I stand with this?

A This differs from the first question as it relates to selling a cat as being suitable for certain circumstances when this is not the case. There are two separate issues here, namely the cat being of satisfactory quality, and of it

being fit for a purpose which the buyer made known to the seller.

Typical issues are the breeder failing to disclose a relevant and detectable inherited problem which is well known within the breed (the breeder should have knowledge of this) and where there is a test readily available; or a breeder selling a cat which is very fearful because it has not been socialised properly or exposed to everyday sounds and experience in its early weeks of life. This is really a sale of goods issue about selling a product that is not of satisfactory quality or with a specific defect or condition which had the buyer known about could have altered his purchasing decision. So, if a cat is sold as suitable as a family companion but is either very nervous or fearfully aggressive or has a detectable health issue that makes it unsuitable as a companion, then a buyer would be entitled to return the cat and demand a refund in the same way they would for other sales.

Additionally, breeders need to be careful that where a potential owner identifies specific requirements, then these are considered as part of the sale. For example, selling a cat which is unsuitable to live in an indoor-only environment as suitable for an elderly relative who lives on the top floor of a block of flats, invites the return of the cat as 'not fit for purpose'. Hobby breeders should also be alert to this issue.


Q I am a hobby breeder of cats but have had some problems with the local authority who say I am running a business. Where do I stand?

A Whether a cat breeder is operating a business, depends on the facts of each case and how decisions of the courts apply to the facts, rather than just applying the law on business licensing.

The scale of the operation may be an issue in determining whether a breeder is a hobby enthusiast or a commercial breeder. There is also a risk that inadvertently presenting a business as a hobby misleads consumers and avoids pet shop licensing restrictions that subsequently come to the attention of Trading Standards.

First, money from the sale of cats constitutes income which should be declared to the Inland Revenue for tax purposes. Breeders earning an income of more than £5,885 per year (Inland Revenue's published income threshold in 2014) from the sale of cats would be classed as self-employed and eligible to pay class 2 national insurance contributions on their 'hobby' income. The activities of many breeders would fall within the definition of 'operating in the course of a business', and breeders who earn above this relatively small amount should realise this and get tax and business advice in order to avoid Inland Revenue investigations in the short term and calls for regulation of cat breeders in the long term. Breeders operating at this level should also keep sale records.

In addition, consumers should understand the relationship that they are entering into and the nature of any contractual arrangements, whether explicit or implied, before making their purchase. Non-governmental organisations (NGOs) have been critical of commercial breeders misrepresenting themselves as hobby breeders in other contexts. For example, as part of their (2002) campaign against the reptile trade, UK-based NGO Animal Aid wrote to the Inland Revenue noting that 'many of those who trade animals at 'one-day events' and may make significant sums of money, do not operate formal businesses but front their trading activities as an



elaborate hobby'. Concern was expressed that traders may use this mechanism either to sell 'surplus' items and shift high volume, low value stock, or as a means of selling animals outside of the scrutiny of animal welfare, pet licensing or wildlife trade regulations. In the case of complaints, trading standards and enforcers take the view that traders are more than likely aware of the illegality of their actions and that such methods of sale represent a deliberate trading tactic. Breeders who are effectively running a business should be careful not to misrepresent the nature of their operation.

QI run a cattery and have had a cat in care for several years which was taken out of the cattery for a few weeks but then returned while the owners were moving house. The owners have paid part of their bill but still owe several thousand pounds. We have given them every opportunity to pay, even initially discounting the bill, but we are unable to get the owners to pay despite several efforts to obtain payment. We have several people who use the cattery who would be willing to rehome the cat and we're now querying whether we are able to rehome it?

AThis seemingly common question concerns whether animals left in a cattery by owners, who appear not to want the animal returned, can be re-homed and what mechanisms are open to chase the owners for unpaid bills. There is an issue of ownership of the animal where an owner appears to have given-up ownership.

First, the cattery has to take all reasonable steps to locate the cat's owners and pursue the outstanding fees. If the owners can be located, fees under £5,000 can generally be pursued through

the small claims court which does not require lawyers, just the court document fee and submitting evidence for the court to consider. Part of the process involves notifying the third party of the claim against them and this could include notifying the owner that, as part of the settlement of the claim, they may wish to formally relinquish their ownership so that the cat can be rehomed if they no longer wish to be owners and are unable or unwilling to meet the cattery's fees. The notification could suggest a time limit in which the owner must provide some sort of undertaking in respect of future fees otherwise court action will be pursued. Should the matter go to court, even as a small claim, the court can be requested to look at the evidence as to whether the owners have undertaken to relinquish ownership.

If the owners cannot be located, the issue of fees cannot be resolved. It could be argued that the cat has been abandoned due to a lack of responsible ownership by the cat's owners. The Animal Welfare Act 2006 and the Code of Practice for Cats make mention of the person responsible for the cat. Where the owners have effectively defaulted on their financial obligations and the cattery has assumed care, then the cattery has become the responsible person. However, under the law, formal ownership would rest with the first owners for a limited period of 6 years, after which time the cat could then be owned by another.

QWho is the owner of a stray cat taken to a rehoming institution by a member of the public concerned to find it wandering the streets for days and nights on end? After having had 'Millie' microchipped, neutered and vaccinated, the rehoming institution secured a loving home for Millie within 14 days. Millie's original owner reappeared after 21 days

on holiday, having gone on holiday seemingly for 7 days and having left some food for their cat for this shorter period but no additional human contact.

ACats are property and so a person finding a stray cat and feeding and taking care of it essentially becomes responsible for it and is also obliged to take reasonable steps to find the owner and make them aware of the cat's location. However, the finder of a stray is also its keeper and its temporary owner unless or until the 'proper' owner demands its return.

In this example, if the rehoming institution had taken reasonable steps to trace Millie's owner (which would have been difficult given the fact that Millie was not originally microchipped and had no collar) and if the organisation clearly sells cats on the terms that it owns them, then based on some court decisions the rehoming institution may be Millie's owner and, entitled to rehome her.

The finder of a stray cat can become its owner if the original owner intentionally abandons it; for example by failing to provide food or care as is the case in this example. If a cat is accidentally lost but is then found, the owner can reclaim possession. Lack of responsible ownership, arguably, would be a factor taken into account by the authorities and here Millie's original owner has effectively abandoned his cat and by failing to provide food or care for 21 days has caused unnecessary suffering under the Animal Welfare Act 2006.


Nevertheless, legally ownership would remain with the original owner for a term of 6 years. It is recommended good practice and a sign of responsible ownership to microchip a cat, which would help to prevent this situation arising, although would not be proof of ownership.

QWhen a person lives next door to an aggressive cat, who is liable for any aggressive cat attacks and what options does a person have when they are suffering from cat attacks and aggressive behaviour that either cause stress and harm to neighbouring cats or, in extreme cases, where the aggressive cat scratches humans or causes property damage?

AThis question has been raised in relation to what seems to be the systematic behaviour of some Bengal cats that attack other cats, sometimes even entering into the neighbour's home to do so. But it also applies to other territorial cats that are unusually defensively aggressive towards other cats in the area.

Extreme cat behaviour could be dealt with as nuisance behaviour, although for simple keeping of animals to be classed as a nuisance some 'extraordinary, non-natural or unreasonable action' is required. As mentioned earlier in this guide the law specifies nuisance as being 'the unacceptable interference with the personal comfort or amenity of neighbours or the nearby community'. A civil trespass action would be unlikely to succeed for cats entering into property and causing damage, but abnormally aggressive cat behaviour that results in property damage (including damage to the resident cat) or harm to children could be the subject of enforcement action. The local authority could serve an abatement notice forcing the owners to take steps to prevent the nuisance being caused by their cat. Failure to comply with this notice is a criminal offence.

There would also be the potential to take legal action for negligence against the cat's owner, who owes a duty of care to his neighbour not to cause harm which



is foreseeable. This applies to any harm which the owner knew or ought to have known his cat would be likely to cause.

Additionally, if the owner knew that his cat was inclined to cause damage and had done so in the past then potentially he is responsible for the cat's damage whether or not it could be predicted in these circumstances. It would be advisable, therefore, to inform the owner of an abnormally aggressive cat as the law, in this instance, requires prior knowledge on the part of the cat owner.

(Separate from the legal issues and subject to appropriate cover being in place, there may also be potential to pursue a claim against a cat owner via their cat insurance. The parties involved would need to seek advice on this possibility.)

Q Who is liable for road traffic accidents caused by cats? For example, if a driver is forced to swerve his car to avoid a cat, does the cat owner have any liability for the accident and any damage caused?

A This is a potentially complex question which rests on a) whether an owner is responsible for the actions of his cat to the extent that he is responsible for the damage that happens in an accident caused by his cat; and b) whether the cat owner has a duty of care to road users and whether there was a breach of that duty. While in theory you could argue, for example, that a cat owner who is aware that his cat may run over or cross the road, thus presenting a danger to motorists, is liable for the accident if he fails to act to prevent such action, in practice it's unlikely that cat owners have this level of duty of care. Generally where a person has a duty of care they are only required to take such steps as are reasonable in all the circumstances, and cats are exempt from trespass rules.

Although a cat owner who knows his cat routinely runs across the road and does nothing to prevent it potentially owes a duty of care where there is a likelihood of an accident being caused (eg, busy street, road near a school with high traffic), this does not impose an obligation or liability on all cat owners. It should be added that the Animal Welfare Act 2006 provides an increased obligation to understand the needs and behaviours of the individual cat and to consider the interior and exterior environment. A greater number of cat owners living in busy urban streets should now heed the requirements under the Code to consider the behaviour of the individual cat, which would also require considering the implications of keeping a cat indoors all the time.

Generally, a cat owner would not be responsible for damages in road traffic accidents caused by their cat.

Q We are fed up with cats coming into our garden. We have tried shouting at them and now want to try some form of proper cat repellent. Are these legal?

A Generally, legally marketed cat repellents which do not harm the cat, such as sonic repellents or those based on an odour unpleasant to cats, can be used. However, the use of barbed wire, bait laced foods or other poisonous chemicals that will induce vomiting or otherwise harm a cat must not be used. Using any of these products which harm or cause sickness in a cat would potentially result in unnecessary suffering being caused to cats which would be an animal welfare criminal offence. There is also a specific criminal offence of administering poison.



Useful addresses

A number of organisations are actively involved in cat welfare and the following list identifies some of the main organisations of likely interest to cat owners and re-homing organisations.

Association of Lawyers for Animal Welfare (ALAW)
PO Box 67933
London NW1 8RB
UK

Website www.alaw.org.uk

ALAW is a charity which brings together lawyers and legal academics with an interest and experience in animal protection law. ALAW members provide advisory services and research on effective implementation of animal protection law and developing a better legal framework for the protection of animals. ALAW also campaigns for better animal protection law and publishes the Journal of Animal Welfare Law, a legal journal dedicated to animal welfare topics.

Battersea Dogs and Cats Home
4 Battersea Park Road
London SW8 4AA
UK

Website www.battersea.org.uk

Battersea Dogs and Cats Home is a rescue and rehoming centre for dogs and cats which have been abandoned. The animal welfare organisation also reunites lost dogs and cats with their owners through its Lost Dogs and Cats Line or cares for them until new homes can be found.

Blue Cross
Shilton Road
Burford
OXON OX18 4PF
UK

Website www.bluecross.org.uk

The Blue Cross is an animal welfare charity which finds homes for unwanted cats, dogs, small pets and horses across the UK. The Blue Cross also has animal hospitals, an animal adoption service and an animal education service.

British Small Animal Veterinary Association (BSAVA)
Woodrow House,
1 Telford Way
Waterwells Business Park
Quedgeley
Gloucester GL2 2AB
UK

Website www.bsava.com

The BSAVA is a professional body which serves veterinary surgeons who treat companion animals. It does not deal with enquiries from members of the general public but publishes extensively on veterinary medicine and organises professional training for its member veterinary surgeons.



Cats Protection

National Cat Centre
Chelwood Gate
Haywards Heath
Sussex RH17 7TT
UK

Website www.cats.org.uk

Cats Protection is a feline welfare charity with a network of over 260 volunteer-run branches, 29 adoption centres and one homing centre. The charity provides a homing service, a neutering service and publishes information to improve people's understanding of cats and their care.

Department for the Environment Food and Rural Affairs (DEFRA)

Nobel House
17 Smith Square
London SW1P 3JR
UK

Website www.defra.gov.uk

DEFRA is the UK government department with responsibility for environmental issues, including: animal welfare, climate change, wildlife crime, sustainable development and rural communities. DEFRA published the Code of Practice on the Welfare of Cats and has responsibility for Government policy on animal welfare. DEFRA is also responsible for the Partnership for Action on Wildlife Crime (PAW), the body that co-ordinates UK wildlife crime policy via a partnership between government and NGOS.

Governing Council of the Cat Fancy (GCCF)

5 King's Castle Business Park
The Drove, Bridgewater
Somerset TA6 4AG
UK

Website www.gccfcats.org

The GCCF is the governing body of the Cat Fancy in the UK and premier registration body for pedigree cats.

International Cat Care (iCatCare)

High Street
Tisbury
Wiltshire SP3 6LD
UK

Website www.icatcare.org

International Cat Care is the only charity that deals with all aspects of cat health and welfare internationally. It has worked for over 50 years to raise the standard of treatment and care provided to cats by vets, breeders, boarding cattery proprietors, rescue facilities and owners by providing the best possible practical solutions for improving the welfare of unowned cats.

People's Dispensary for Sick Animals (PDSA)

Whitechapel Way, Priorslee
Telford
Shropshire TF2 9PQ
UK

Website www.pdsa.org.uk

The PDSA is a veterinary charity providing veterinary care services and pet health advice.

The Mayhew Animal Home

Trenmar Gardens
Kensal Green
London NW10 6BJ
UK

Website www.themayhew.com

The Mayhew Animal Home is a rescue and rehoming centre based in London. It also delivers a number of community based outreach programmes including TNR, education and collaboration with other organisations.

The Royal Society for the Prevention of Cruelty to Animals (RSPCA)

Wilberforce Way
Southwater
Horsham
West Sussex RH13 9RS
UK

Website www.rspca.org.uk

A UK-based charity that works to prevent cruelty to, the causing of unnecessary suffering to and the neglect of animals in England and Wales. A uniformed Inspectorate investigates cruelty offences, while a plain-clothes and undercover unit called the Special Operations Unit (SOU) deals with more serious offences and low-level organised animal crime.

The full Research Report on Cats and the Law is available at both the University of Lincoln and Middlesex University Research Repositories and can be accessed via each author's name and respective University. This document contains legal concepts and an in-depth analysis of the law.

The Scottish Society for the Prevention of Cruelty to Animals (SSPCA)

Kingseat Road
Halbeath
Dunfermline KY11 8RY
UK

Website www.scottishspca.org

The Scottish counterpart to the RSPCA, the SSPCA works to prevent cruelty to, the causing of unnecessary suffering to, and the neglect of, animals in Scotland.

Wood Green – the Animals Charity

King's Bush Farm
London Road
Godmanchester
Cambridgeshire PE29 2NH
UK

Website www.woodgreen.org.uk

Wood Green is an animal welfare charity providing animal rehoming, veterinary and animal welfare advice services.

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