

# Guidance for wildlife rehabilitators (England and Wales)

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## Introduction

The Animal Welfare Act 2006 ('the Act') created legal requirements for people responsible for animals, effectively setting standards for how those animals must be cared for. These rules also apply to all establishments taking in wild animal casualties. The Act became law in England on April 6 2007, and in Wales on March 28 2007. This guidance only covers the law in England and Wales; it doesn't cover the law in Scotland or Northern Ireland.

This guidance is intended as information on certain aspects of the law and outlines the steps wildlife rehabilitators can take to help them comply with it. Because the law can be interpreted in different ways, this guidance shouldn't be seen as the only possible interpretation or as a guarantee of how a court would rule in a specific case. It isn't formal legal advice, and you should seek specific legal counsel for individual situations. Ideally, rehabilitators will aim to go above and beyond these basic legal requirements.

## Wildlife under the Act

The Act doesn't protect wild animals living freely in the wild, as other laws cover them. However, the Act does apply to wild animals in two specific situations:

- 1. Animals under a person's control:** wild animals who have been brought under a person's control or are no longer living in a wild state are protected from specific acts, such as being caused unnecessary suffering and poisoning.
- 2. Animals whom a person is responsible for:** other parts of the Act, including the 'offence' (see below) apply to wild animals for whom a person is responsible.

Under the Act, 'responsibility' includes both permanent and temporary care, as well as simply being in charge of an animal. This means rehabilitators caring for wild animal casualties are legally responsible for them. Additionally, if a child under 16 cares for a wildlife casualty, their parent is considered responsible for that animal.

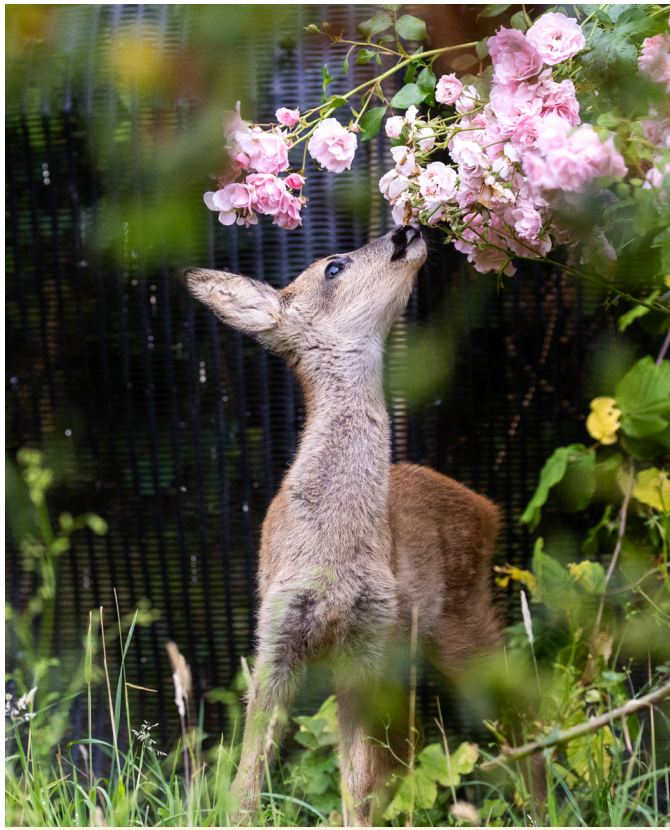
## The welfare offence

According to Section 9 of the Animal Welfare Act:

A person commits an offence if they do not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which they are responsible are met to the extent required by good practice.

This means rehabilitators must take reasonable steps to make sure the needs of animals in their care are met according to 'good practice'. Unlike the offence of 'unnecessary suffering' (cruelty), an animal doesn't actually have to suffer for a welfare offence to occur – failing to provide for their needs is enough.





## The needs

The Act lists five basic needs that must be met for an animal:

1. A suitable environment
2. A suitable diet
3. The ability to exhibit normal behaviour patterns
4. The need to be housed with, or apart from, other animals
5. Protection from pain, suffering, injury and disease

These needs serve as a basic checklist for the care of any animal by a rehabilitator. As well as providing suitable food and water, and accommodation appropriate to the animal's size, this includes, for example: housing prey animals out of sight from predators; giving birds the opportunity to fly (subject to their injuries); and controlling the spread of disease.

## Reasonable steps in the circumstances

Confinement of an animal at a rehabilitation establishment may unavoidably compromise their needs to some extent. For example, an animal may be confined in a small space to help an injury heal, which temporarily prevents them from behaving normally. As long as the temporary confinement doesn't affect the animal's ability to survive on release, it's generally considered legal. It should also be permissible to balance the needs of all the animals in the rehabilitator's care, dividing available resources accordingly, provided every animal receives adequate welfare.

While an animal's welfare might be slightly compromised for their own good, they mustn't suffer because of their confinement. Any compromise to their welfare must be justified as a 'reasonable' step to help the animal eventually survive in the wild. If confinement significantly lowers the animal's chance of survival, it may be hard to argue that their needs were met.

It's considered good practice in wildlife rehabilitation to euthanase an animal if there's little chance of them surviving in the wild and they're unable to have a good quality of life in captivity. Doing this in a proper, humane way is not a welfare offence.

To make sure, and demonstrate, that reasonable steps are taken to safeguard the welfare of animals it's recommended to:

- follow protocols or standards for animal care
- create a care plan for every animal and discuss these plans with a vet as required
- keep records of these plans and any veterinary advice received.



## Release

Releasing an animal who has become dependent on the rehabilitator and is unable to survive alone in the wild is likely to be a welfare offence. It could also be a cruelty offence if the animal suffers as a result. To avoid this, it's advisable to use a rehabilitation programme that gradually gets the animal used to the wild again. For the majority of that programme, the rehabilitator will be responsible for the animal and should provide suitable food and water. Their obligations end only when the animal is free to roam at will and doesn't depend on them for food and water.

When releasing an animal, it's important to choose a site that's appropriate for the species, where they're likely to find suitable food, water, and a place to rest. You should also consider anything else that's relevant in the circumstances, such as the presence and density of predators and competitors in the area.

## Periods of pressure

Particular thought should be given to periods of time when resources at the rehabilitation establishment may become strained and the standard of care given to animals could be affected.

Rehabilitators should:

- review their capacity and availability of resources for seasonal peaks of animals, such as when many young animals are brought in
- plan for emergencies, such as staff shortages or unexpectedly large numbers of animals requiring care.

## Care in the field

Temporary responsibility for an animal's needs may arise when care is given 'on the spot' to wild animals in the field, such as untangling a bird from a net. In these cases, it's unlikely the responsibility would extend beyond providing the immediate assistance required.

## Good practice

The law requires rehabilitators to meet the standard of 'good practice'. However, the Act doesn't define exactly what this means, so it can be subjective. Until courts provide more clarity, rehabilitators should do the following:

- Assume 'good practice' is the level of care that most experts in the field would agree is appropriate. Note that this standard may change as expert knowledge develops.
- Create and follow written good practice protocols for all species cared for. One example of such guidelines are those produced for badgers by the Department for Environment, Food and Rural Affairs, The Badger Trust and Secret World Wildlife Rescue. Guidelines should be compiled from existing evidence in the public domain and good-quality data on rehabilitative success. Meeting or exceeding these helps ensure rehabilitators are following the law.
- Follow any official Codes of Practice issued by the government, such as the Welsh Government's [\*\*Code of Best Practice for Animal Welfare Establishments\*\*](#), which explains what rehabilitators need to do to meet the standard of care the law requires. While failure to follow a code isn't an offence on its own, it could be used as evidence in court. On the other hand, following a code may reduce the risk of being held liable for an offence.

## Liability

If a welfare offence occurs, the person, or people, responsible for the animal's care will be held liable. Depending on the situation, this could include the animal care staff, as well as managers or administrators of the centre.

Taking the following steps would seem likely to help rehabilitators avoid liability:

- adopting standards for the care of different species and following good practice guidelines
- following care protocols for all animals that come into the establishment and seeking veterinary advice where appropriate
- keeping detailed records of standards, care plans, veterinary advice, and any treatments provided
- keeping (and if required, providing) reports regarding the welfare of animals in the care of the rehabilitator.

## Regulation of sanctuaries

In addition to the Act, the government is considering introducing additional regulation for animal welfare establishments (including rescue centres and sanctuaries). This regulation might require rescue centres to periodically register with, or obtain a licence from, the local authority. Rescue centres may also have to undergo inspections by local authority inspectors on request. The government's latest proposals are outlined in the [Animal Welfare Strategy for England](#) and the [Animal Welfare Plan for Wales](#).



## RSPCA.

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