

**Responsible Use of Homeopathy etc.
ALTERNATIVE VETERINARY MEDICINE CENTRE
Information Sheet WS041/07
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**Welfare obligations and Responsible use of Homeopathy
or other Natural Medicines for 'lay' owners**

Introduction

It is a regrettable truth that many owners in the UK have been prosecuted by the [RSPCA](#), who have alleged that 'proper treatment' has not been given to an animal, when owners have taken it upon themselves to treat their animal charges with natural medicine. The problem often arises out of misunderstanding and ignorance of 'alternative' medicines, on the part of the RSPCA but may, of course, in some cases, reflect irresponsible or ignorant practice on the part of the owner, resulting in a genuine case of 'unnecessary suffering' for the animal in question. This modern issue begs our attention, to examine the principles involved and to try to ensure the best blend of 'right to choose', 'animal welfare' and owner 'safety from prosecution'. Having extensive experience of court actions, in this field, and having acted as 'expert witness', I feel it worth making some basic points.

Legal aspects

The law is obviously a good place to start. Firstly, the [Veterinary Surgeons Act 1966](#) permits the prescription for and treatment of an animal by the owner, with certain exceptions (e.g. POM ('Prescription Only Medicines') and invasive surgery). If any person other than the owner is providing advice, diagnosis or prescription, however, then that person **must** be a veterinary surgeon. This applies, whether the medication should be Conventional Drugs, [Homeopathy](#), [Acupuncture](#), [Herbal Medicine](#), [Aromatherapy](#) (Essential Oils), [Bach Flowers](#), [Schuessler Tissue Salts](#) etc. It also applies whether or not a charge is made for prescribing.

Secondly, the [Animal Welfare Act 2006](#) (superseding the [Protection of Animals Act 1911](#)) makes it a criminal offence to cause or to permit unnecessary suffering to happen to an animal, whether by commission or omission and to fail to provide proper care.

Owner's responsibility

If an animal is ill or injured, the obligation is on the owner to provide for proper, appropriate and effective treatment. Clearly, if a prosecution has been brought,

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there is an allegation that the owner has failed in this respect. In most (but not all) past cases of prosecution, up-to-date veterinary advice was not being sought at the time of the alleged offence. While it seems to be commonly assumed by some that, if veterinary advice is not being sought, on an ongoing basis, then there is a *de facto* case against the owner, in the case of an animal showing signs or symptoms of pain or illness (the apparent basis of many recent cases), this may not be provable in court. What has to be proven is ‘unnecessary suffering’, as a result of some omission or commission on the part of the owner. Clearly, such a charge is easier to refute if ongoing veterinary advice has been sought. If that advice is ‘alternative’ in nature, rather than conventional, prosecutions still seem to be a possibility. If the vet has advised and treated appropriately, however, a charge of omission or commission on the part of the owner or the vet is likely to fail.

There is a [‘Code of Practice’](#), to which members of the British Association of Homeopathic Veterinary Surgeons and veterinary members of the Faculty of Homeopathy subscribe and should adhere, in addition to observing the provisions of the Royal College of Veterinary Surgeons *‘Guide to Professional Conduct’*. Adherence to these two codes is likely to act as good protection, for both veterinary surgeon and owner. As far as I know, no special ‘code’ exists for acupuncture vets or those who practise other ‘alternative’ disciplines. The Code's provisions are common sense, however, so can act similarly as a guide to veterinary surgeons using any form of medication or treatment, not just homeopathy.

In the event of prosecution

If an owner has not sought ongoing and up-to-date veterinary advice, or if a vet has not adhered to the codes, any legal action brought against either may stand more chance of success, provided that it can be proven that ‘unnecessary suffering’ has indeed resulted. Any owner who is the subject of prosecution is well-advised to seek the opinion of an expert witness, who should be well-versed in whatever therapies have been used. Expert appraisal of any natural medicine input can then be made and related to the court. This ‘expert’ needs to be accepted by the court, as having the appropriate expertise to help the court sufficiently in its deliberations. Appropriate qualifications or obvious experience and expertise must therefore be demonstrable. A ‘conventional’ expert may also be required, for an effective defence. Since the duty of an ‘expert witness’ is to help the court, the expert’s report and opinion must necessarily be completely impartial and independent, being based upon the facts presented to him or her, and no ‘private’ financial or other arrangement can be made between defendant and expert. The defendant is likely to find an expert’s report supportive, if that expert believes, from the facts shown, that all necessary and appropriate care has been provided.

Avoidance of prosecution

Good intentions are not sufficient to avoid prosecution. The full force of the [Animal Welfare Act 2006](#) can apparently be used against any owner who is alleged to have caused unnecessary suffering. No actual intention to cause suffering needs to be implied. Offences against the Act are criminal offences, so allegations of this

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nature are very serious. While it is a matter of opinion whether many prosecutions are brought within the spirit and intention of the Act, the reality must be faced. The best protection against successful prosecution must be not only to ensure that no unnecessary suffering occurs but also to **make it clear** that no unnecessary suffering has occurred. In other words, justice must not only have been done, it should also be **seen** to have been done, for best safety.

Prosecutions often arise out of reports of possible suffering, made to the RSPCA by well-intentioned passers-by or neighbours. The RSPCA Inspectorate becomes involved and it is down to the individual judgement and discretion of each inspector at the time (and how he or she conveys the situation to headquarters), whether or not an animal is seized. Sadly, few inspectors have knowledge or understanding of natural therapies and some may even believe that the use of natural therapies amounts to 'no treatment'. Some conventional vets may support this view. It is hoped that proportionality and common sense will prevail in each case, when seizure decisions are made, but it distils down to a matter of opinion at the time. The legality of such seizure is variable in each case, but once seizure has occurred, prosecution is more likely to follow, with great difficulty for the defendant to gather evidence in his or her defence, without access to the animal. The evidence difficulties are often compounded by the all-too-common death of the animal in RSPCA custody.

If a statement under caution is demanded, it is down to each owner to decide whether or not to make such a statement and how much detail to provide. It must be remembered that emotions run high at such times and any statement made at the time could be tainted with the prevailing emotions and with temporarily failed memory. It is recommended that **no statement should be made** without legal advice.

Legal aspects both of evidence seizure and of retention of the animal (i.e. the 'evidence') should be thoroughly explored. The welfare of an animal is not always best served away from home and return of the animal may be a possibility, before harm can ensue. Defence evidence is also more easily gathered, with full access to the animal.

In order to make seizure less likely and to make a possible defence much stronger, my best advice to any animal owner, when faced with injury or illness in an animal, is to adhere to the following policy:

- 1.** Seek the timely advice of a veterinary surgeon with appropriate expertise for the species involved. While there is no legal obligation to seek veterinary advice, there is a legal obligation to provide appropriate care. Veterinary help is often needed, to assess what is appropriate.
- 2.** If natural medicine is desired, seek proper veterinary advice from a vet who is well experienced in the relevant natural therapy or therapies.
- 3.** If that veterinary surgeon is not local or has no full emergency service out-of-hours, a referral from your local practice is necessary, with appropriate communication between local and 'specialist' vets.

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4. Ensure that veterinary advice is sought at intervals appropriate to the illness or injury.
5. Adhere to any resultant advice.
6. Co-operate with recommended tests or surgical interventions, if their purpose is properly explained, if they are likely to help in the treatment and welfare of the animal, if no less invasive option is available and if their likely benefit outweighs their likely welfare cost. Seek a second opinion, if in doubt.
7. Do not rely on prescriptions or advice provided by pharmacists, retailers, manufacturers, lay practitioners or other non-veterinary sources. The [Veterinary Surgeons Act 1966](#) does not endorse their activities and, in the case of alleged resultant unnecessary suffering, both owner and practitioner may be liable to prosecution. Manufacturer-designed, pseudo-legal or quasi-legal labelling of proprietary medicines, giving medical indications, will not provide a valid defence, as to their suitability.
8. If home-prescribing, in cases whose seriousness does not warrant full veterinary involvement, ensure a proper knowledge and understanding of the therapies used and keep full and proper notes, with medication, reasoning, dates and observations recorded. Farmers have to keep notes of all medication used on their animals; why should individual owners not do likewise? Retrospective reconstruction of events, actions and justifications is much more difficult. Of itself, a good contemporaneous record or diary can demonstrate a high degree of care.
9. If due progress or success does not follow home-prescribed or vet-prescribed treatments, further efforts must be made. If other specialist referrals are necessary to the animal's welfare, they must be sought. Just because a local vet does not recommend a particular referral, the owner's obligations to seek optimum welfare are not waived.
10. In intractable cases, in which life becomes a burden as a result of distressing or painful symptoms and in which prospects for recovery are too slim or non-existent, [euthanasia](#) must be considered. Veterinary help is likely to be needed in considering such a fateful decision. Each case is unique in this regard and any decision must be based on a wide view. For a court, looking back on a case history and trying to determine whether such a decision should have been made can be very difficult. Transparent processes, which have been well-recorded, will help the court in its deliberations.
11. In the event of prosecution, any course of action taken or any omission will have to be justified in court, in front of magistrates or judges. They only have the evidence presented, the assertions made by prosecuting and defending counsels, the advice given by experts and their own instincts and common sense to guide their judgement. It is therefore necessary to have active and well-reasoned justification for any action or omission, at the time those actions or omissions are made. In other words, every step of the way, any action or inaction should be guided by full consideration and reasoning at the time, in full knowledge of all the options that could be followed. Good notes of the thought processes and actions are advisable. Only in that way can you be sure that you are doing the best for your animal at the time and only then will you be able to justify retrospectively (and with any degree of certainty) your actions in any possible subsequent court action.

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Only then are you also likely to be assured of a favourable expert report, since experts only have the papers given to them to guide them in formulating their opinions.

12. It must be stressed that a belief in the benefits of natural medicine and a mistrust of conventional medicines is a very poor defence of itself. Believing in and using natural medicine does not entitle an owner to disregard the potential value of veterinary skill and contribution or to ignore clear welfare problems. Our animals depend upon us for their welfare needs and they deserve the best that we can provide.

See also: [Code of Practice](#) : [Veterinary Surgeons Act 1966](#) : [Protection of Animals Act 1911](#) : [RSPCA](#) : [Animal Welfare Act 2006](#) : [Basic Animal Care](#)

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