



Animal Welfare Law and Chicks Kept in Classrooms

All animals have complex and specific welfare needs, and this is only heightened when dealing with an infant animal. Baby animals are extremely weak and vulnerable, and the risk of harm is increased when they are subject to the classroom setting, which may include loud noises, a busy environment and rough handling. Animal Aid is aware that chicks have died as a result of these conditions.

The Law

The Animal Welfare Act 2006

The centrepiece of animal protection legislation in England and Wales is the Animal Welfare Act 2006 (“AWA”).

The AWA applies to animals in the vast majority of scenarios. The AWA protects certain “protected” animals: essentially, vertebrate animals if they are of a domesticated species and/or if they are under the control of humans. It therefore applies to animals kept in classrooms.

The AWA operates by creating criminal offences which are committed when a person does or fails to do something in relation to an animal. The two main offences are section 4 (causing unnecessary suffering) and section 9 (failing to ensure welfare).

Section 4 creates two separate offences: one is committed by a person whose act or failure to act causes an animal to suffer unnecessarily, and one is committed by a person who is responsible for an animal and permits another person to act or fail to act in a manner that causes an animal to suffer unnecessarily.

The first offence, under section 4(1), will be committed if a person:

*Acts or fails to act in a manner which causes an animal to suffer;
knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or be likely to do so;*

*The animal is a “protected animal” under the AWA (being an animal who is of a species which is commonly domesticated, under the control of man, or not living in a wild state); and
The suffering is unnecessary.*

The second offence, under section 4(2), will be committed where a person:

Is responsible for an animal;

An act or failure to act of another person causes the animal to suffer;

He permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening; and

The suffering is unnecessary.

When determining whether suffering is unnecessary, the court will consider a number of factors as set out in the legislation, including:

Whether the suffering could reasonably have been avoided or reduced;

Whether the conduct which caused the suffering was in compliance with any relevant enactment or any relevant provisions of a licence or code of practice issued under an enactment;

*Whether the conduct which caused the suffering was for a legitimate purpose, such as –
the purpose of benefiting the animal, or*

the purpose of protecting a person, property or another animal;

Whether the suffering was proportionate to the purpose of the conduct concerned;

Whether the conduct concerned was in all the circumstances that of a reasonably competent and humane person.

Whether or not an animal suffered would usually be determined by a veterinary expert. Whether that suffering was necessary or unnecessary would be determined by the court having regard to all the circumstances and the factors mentioned above.

Breach of section 4 is a criminal offence. Section 4 does not apply to the humane killing of an animal, meaning it will apply if the killing is deemed inhumane.

Under section 9 of the AWA, a person commits an offence “if he does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice”. In other words, this creates a positive duty to look after animals properly, not simply a negative one not to cause them harm. An animal’s needs include a suitable environment and diet; the ability to exhibit normal behaviour patterns; housing with, or apart from, other animals; and protection from pain, suffering, injury or disease.

The AWA also creates powers for making regulations and for issuing codes of practice. The relevant code of practice here is the code of practice for egg-laying hens and pullets (The Code) and the relevant regulations are the Welfare of Farmed Animals Regulations 2007. These regulations and The Code would also determine what constitutes good practice for the purpose of section 9 AWA.

Welfare of Farmed Animals Regulations 2007

Whilst the school itself is not a farm, these regulations apply to an animal bred or kept for the production of food, wool or skin or other farming purposes. The chicks would have initially been bred for food. In addition, it is my client's understanding that some of the chicks will be returned to the food production system. As such it is arguable that these regulations will apply.

These regulations place a duty on the keeper to meet all the general requirements in schedule 1, which includes appropriate staffing, daily inspections and record keeping.¹

Code of practice for the welfare of laying hens and pullets (The Code)²

There are general requirements in The Code as to the keeping of hens and pullets, including how to respond to sick and injured birds, such as:

46. Hens that are injured or show signs of illness and are likely to suffer, must receive appropriate treatment without delay, including where necessary separation from the rest of the flock to allow treatment, rest and recuperation, or be humanely culled immediately.

The Code also includes several specific requirements in relation to the rearing of chicks; these include:

157. Chicks start to peck and learn about appropriate food and pecking substrates during the first 24 hours of life. Consideration should be given to providing chicks with both food substrate and water (for example, through the provision of a gel block) as soon as possible after hatching; chicks should not be expected to rely on the egg yolk sac remnants as the sole source of nutrition.

Brooding (0-6 weeks)

158. Chicks are particularly susceptible to heat stress or chilling in their first few weeks of life. The building should be pre-heated for at least a day before litter is placed prior to chick arrival and the litter must be friable and should be dry.

¹ <https://www.legislation.gov.uk/uksi/2007/2078/schedule/1>

² <https://www.gov.uk/government/publications/poultry-on-farm-welfare>

159. The majority of chicks will arrive on the farm as day-old chicks. They need to be provided with additional heat and easy access to water and feed sources. It is important for the chick to learn quickly where feed and water sources are located.

160. The provision of dark brooders (horizontal heat sources with curtains) may improve welfare by providing the opportunity for the young chick to choose the light and temperature to which it is exposed. The chicks under the dark brooders should be inspected frequently.

A breach of The Code indicates a breach of law.

Legal Issues

As you can see from the above there are several legal provisions that are engaged when keeping chicks in classrooms. Any breach of the above law could impose criminal liability on the school, the individual teacher and/or the pupil.

Not only is criminal liability imposed on the person who directly commits the offence, but also the person who is responsible for the animal, which in this case could be multiple parties, such as the company who provides the chicks, the school itself and the teacher. In addition, the potential for criminal liability on a pupil is something the school no doubt has a duty of care to inform the parents about.

As The Code demonstrates, chicks have complicated needs that need to be met under the law. This places an obligation on everyone responsible for the chick to research what those needs are to ensure legal compliance.

Animal Aid has gathered evidence on several cases where the above legal requirements have not been met in classrooms. Such examples include injured birds caused by poor handling by children without supervision, advice from the egg company to allow an injured chick to die through starvation, poor care over weekends, the drowning of chicks during a chick swimming exercise and a chick being squeezed to death.

It is clear that the above happened due to inadequate training and resources. Each of the above could have resulted in criminal prosecutions against those responsible for the non-compliance and the harm caused. One school claimed that the company informed them that the company retained full legal responsibility over the chicks; this is not accurate, there can be many people legally responsible for the welfare of an animal, which could include the school and the teacher; it could also include a pupil, as any person who causes unnecessary suffering to the animal contrary to section 4 of the Animal Welfare Act would be guilty of an offence.

There is also an added consideration, which is that parents and children that follow a vegan lifestyle have a protected belief under the Equality Act 2010. This means they may have the legal right to opt out of any lesson which involves the rearing of an animal, which may become complicated if the chick is always in the classroom. A parent may also have a claim against the school for failing to adequately exercise its public sector equality duty in failing to consider and/or remove the discrimination against them as a result of such an activity.

Next Steps

For all the above reasons, Animal Aid asks that you consider whether you can confidently meet the legal requirements of keeping an animal in the classroom. Animal Aid intends to monitor such programmes and will consider bringing legal action in the event of any breaches of law.