

**DATE** 25 September 2023

### **Questions on notice**

**1. Have you prosecuted people that have been engaging in that work (restricted acts of veterinary science by lay people) for offences of cruelty to animals?**

RSPCA NSW has authority to investigate and prosecute offences committed contrary to the *Prevention of Cruelty to Animals Act 1979* (NSW) (POCTAA). Occasionally whilst investigating cruelty complaints, an Inspector may be told, or form their own view, that the person of interest has also committed offences contrary to a range of other legislative regimes, including, for *the Crimes Act 1900* (NSW), the *Biosecurity Act 2015* (NSW), the *Veterinary Practice Act 2003* (NSW) and/or the *Poisons and Therapeutic Goods Act 1966* (NSW).

Where RSPCA NSW has no legislative authority we may determine to record the allegation for intel, or information only, alternately we may determine to refer the complaint or information to the relevant authority. Usually, however there is some POCTAA overlap, so where that is the case, Inspectors have a range of enforcement options available to them, in increasing levels of seriousness, including where necessary providing informal education.

Where a complaint is received within RSPCA NSW remit then standard operating procedure, taken together with appropriate legal advice, may require POCTAA enforcement powers to be exercised, for example:

- By issuing Section 24N POCTAA written directions;
- Issuing Penalty Infringement Notice/s; or
- Commencing proceedings in the Local Court of NSW for offences contrary to POCTAA.

RSPCA NSW does not specifically record statistics on overlapping POCTAA / VPB matters, however there are example of allegations that an owner or person in charge has performed a restricted act of veterinary science,

Examples include:

- A medical doctor stitching a wound closed in their own animal;
- Another medical doctor performing wound maintenance and hoof care on their own horses;
- Farriers performing equine foot treatments requiring sedation (with or without sedation) on chronically laminitic or otherwise lame horses

Of course in such examples, with one exception, the restricted act is performed by the owner of the animal. There is no Veterinary Practice Act offence committed in such a circumstance, according to section 9(2)(a) and as a result, RSPCA NSW ordinarily prosecutes in respect of the failure to provide timely or appropriate veterinary treatment.

As might be clear from the foregoing, the inability of the various legislative instruments to speak cohesively to each other, to set for example, a hierarchy of enforcement options in respect of these matters has complicated matters. There are rules for example preventing a Court from sentencing a defendant for two offences committed by the same act – double jeopardy may apply to such a matter. That means that if for example the VPB were to prosecute for committing a restrict act of veterinary science, where the conduct also causes an act of cruelty to be committed, there may be impediments to RSPCA NSW also commencing a prosecution for offences contrary to POCTAA.

**2. How much (of the pet insurance premium) goes to funding veterinary services? I am just interested in whether the pet insurance model you have at RSPCA is profitable? Is it something that is adequately funding your staffing?**

The RSPCA pet insurance website states that “portion of first-year premiums go to support the great work of the RSPCA, helping them protect other Australian animals in need.”

RSPCA NSW receives 20% of the first year’s total premium when someone signs up through the RSPCA NSW website or clinics, if the policy holder retains the policy for at least three months. RSPCA member states also receive a licensing fee for use of the RSPCA brand apportioned based on where all policy owners live. This accounts for the majority of the income received.

RSPCA NSW receives on average \$523,287 per annum, from the RSPCA Australia Pet Insurance partnership. Specifically, we received \$647,304 in FY23. These funds are allocated to our overall operational budget which in FY23 was \$67.5million. This represents less than 1% of our annual income budget which supplements our entire operation, including shelters and veterinary clinics.