

**INQUIRY INTO USE OF BATTERY CAGES FOR HENS IN
THE EGG PRODUCTION INDUSTRY**

Organisation: Animal Welfare Lawyers

Date Received: 22 July 2019



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22 July 2019

Legislative Council Select Committee
on the use of battery cages for hens in the egg production industry

Dear Committee Members

Introduction

We refer to consultation in relation to the use of battery cages for hens in the egg production industry. We welcome the leadership shown by the NSW Government in initiating this inquiry.

About us

As our name suggests, we are a group of lawyers with an interest in the welfare of animals. Many of our members are also members of the Law Council of Australia. Some are also members of State law bodies. Our purposes are

- (a) to provide advocacy on animal welfare issues; and
- (b) to promote community awareness of animal welfare; and
- (c) to promote changes to the law that will benefit animals and/or advocacy by animal welfare advocates.

Submission

In the time available we are not able to comment on all aspects of the terms of reference and so submission focuses on the issues raised in the terms of reference paragraphs (a) and (b).

First, by way of background, in relation to paragraph (i) we refer to the RSPCA review "*The welfare of layer hens in cage and cage-free housing systems*", August 2016 and the Victorian Government commissioned '*Farmed Bird Welfare Science Review*', October 2017 and Voiceless, *Unscrambled: The hidden truth of hen welfare in the Australian egg industry*, May 2017 (reviewed by Voiceless Scientific Expert Advisory Council).

It is clear there are welfare issues with all systems, but to us the most compelling observations are those of RSPCA in the above report:

There are advantages and disadvantages to hen welfare in each type of housing system. The main risks to hen welfare in cage-free systems are, at present, highly variable. However, the disadvantages in cage-free systems may be addressed and improved by good management practices, genetic selection, and further research. Conversely, the welfare issues in battery cages are inherent to the system, and are



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*therefore largely not affected by management and thus cannot be avoided.
Furnished cages offer welfare advantages over both systems but do not allow full
behavioural expression. (para 3.4)*

The evidence is overwhelming that battery cages in the egg production industry is associated with poor animal welfare outcomes or is accompanied by poor animal welfare practices. It is not possible to change this by better management as poor animal welfare is inherent in the system. Accordingly, the answer to the question of what legislative measures should be taken to prevent poor animal welfare outcomes is clear - the use of battery cages must be banned (or at least phased out over a short time). We also submit that the same approach should be adopted for furnished cages.

If this is taken as the starting point, then additional welfare measures to ensure the appropriate management of issues arising from cage-free environments can be developed (eg stocking density, canopy cover for free-range etc) through consultation.

We extract below our submission on the Proposed draft Australian Animal Welfare Standards and Guidelines for Poultry, 25 January 2018, which expands on our concerns in more detail, also referencing community, industry and international developments.

Thank you for considering our submission.

Yours sincerely

Alan Shaw for Animal Welfare Lawyers



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25 January 2018

Animal Welfare Standards Public Consultation

PO Box 5116

Braddon ACT 2612

By email: publicconspoultry@animalhealthaustralia.com.au

Dear Sir/Madam

PROPOSED DRAFT AUSTRALIAN ANIMAL WELFARE STANDARDS AND GUIDELINES FOR POULTRY

Thank you for the opportunity to make a submission.

Overview

This submission addresses housing systems. We submit that the use of cages should be banned, or at least phased out over the next several years (within 10 years). The proposed standards validate a system that is cruel and both unnecessary and inappropriate in Australia.

Having caged laying hens is out of step with international developments.

Who we are

We are a group of legal practitioners with an interest in promoting animal welfare. Various committees established in State law societies,¹ share similar objectives. Some of us are associated with them.

Our submission is made in the personal capacity of each of us.

Detail of submission

There is now considerable recognition of the economic and general importance of better animal welfare. Indeed, the teaching of Animal Law is growing, with some 14 law schools now offering or proposing courses,² many published texts, and even an Animal Law lecture series.³

We acknowledge that, while the economic value of farm animals is determined by their productivity⁴ and therefore at least partly by their treatment, intensive farming such as caged laying hens can produce more for a given cost.⁵ However, this ignores:

¹ NSW (Young Lawyers' Animal Law Committee, the Law Society of New South Wales), SA (Animal Law Committee, Law Society of South Australia) and Vic (Animal Welfare Working Group, Law Institute of Victoria)

² Source: Voiceless website, accessed 25 June 2017: <https://www.voiceless.org.au/animal-law/study-animal-law>

³ Voiceless

⁴ The Welfare of Layer Hens in Cage and Cage-free Housing Systems, Aug 2016, RSPCA, para 4.1

⁵ The Productivity Commission enquiry into agriculture said:
Good animal management practices are an essential part of commercial livestock operations. Many welfare improvements increase the productivity and profitability of livestock operations, and producers have an incentive to improve animal welfare to meet changing consumer demands for higher welfare products. However, some welfare measures, such as those



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- (a) changing social attitudes to the treatment of animals, leading to a shift in consumer behaviour. The increasing sales of free-range eggs is a prime example. In our submission the proposed standards will not meet community expectations about the humane treatment of these farm animals. For example, on 26 November 2017 the RSPCA Australia issued a media release of research showing that *“The number of Australians concerned about the welfare of battery-caged layer hens has grown to 3 in every 4, and an overwhelming 8 in 10 of us want to see battery cages phased out.”*
- (b) appropriate treatment of the animals. As the RSPCA website states: “The overwhelming consensus among animal welfare experts is that the welfare of hens in battery cages is severely compromised.”⁶
- (c) international developments. Caging of hens is being phased out in New Zealand and Canada.⁷ Caging of hens is banned in the EU, UK and Switzerland and parts of the USA and
- (d) State and territory developments. The ACT banned battery cages and Tasmania has banned new battery cages.

We acknowledge the drafting group’s earlier statement that *“Positive states are more readily achieved for many behaviours in non-cage systems but implementation of less confinement will not alone guarantee an improvement in bird welfare”*⁸ and accept that there are different risks in open systems. But we submit that it does not follow that caging is justifiable. This is evident, as extensive scientific literature⁹ makes it clear that conventional systems prevent birds performing basic movements essential for good health, and furnished cage systems permit a broader range of behaviours but are unlikely to fully satisfy behavioural needs.

In short, as the RSPCA has pointed out, the welfare issues in battery cages are inherent to the system, are largely not affected by management, and thus cannot be avoided.¹⁰

that reduce the intensity of production processes, may increase costs without offsetting gains to the business. Productivity Commission, Regulation of Australian Agriculture, 28 March 2017, final report, p20

⁶ http://kb.rspca.org.au/What-is-the-RSPCAs-position-on-battery-cages_103.html

⁷ Conventional cages are now being phased out in New Zealand (by 2022). As of 1 April 2017, no new conventional cages will be constructed in Canada, with a 15 year phase-out period:
http://agriculture.vic.gov.au/_data/assets/pdf_file/0019/370126/Farmed-Bird-Welfare-Science-Review-Oct-2017.pdf p21

⁸ Poultry Welfare Standards and Guidelines – Non-Cage Systems, Supporting Paper Public Consultation Version, Poultry Standards and Guidelines Drafting Group, Oct 2016, p2

⁹ See Victorian Department of Economic Development, Jobs, Transport and Resources independent science review, *Farmed Bird Welfare Science Review*, October 2017, fn 7

¹⁰ RSPCA Australia 2016 publication, *The Welfare of Layer Hens in Cage and Cage-Free Housing System*, p6



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Nor in our submission do the economics justify continuing the practise in any form. Notwithstanding that some 63% of egg production is by caged birds, the economies of scale that apply to caged egg production will also apply without the cages once all production is shifted across. And as is evident elsewhere (eg, Walmart in the USA), many large retailers have decided not to stock caged hen eggs, so there is already a definite shift in the economics. Some Australian retailers are or will be doing likewise, including cafes (eg, Subway, Grill'd and Ikea and, this year, Hungry Jacks and McDonalds) and supermarkets (Coles no longer sells caged eggs under its brand; Woolworths has pledged to end the sale of caged eggs by 2018, and ALDI stores will be cage-free by 2025).¹¹

Australia considers itself enlightened. However, contrasted with the United Kingdom and New Zealand, Australia was assessed with an overall ranking of "C" for protection of animals used in farming in an international survey.¹² In our submission, there is no place in a country with the wealth and modern outlook of Australia, not to mention standing, for treating production animals poorly. The world is changing, and we are falling behind.

Two recent international examples demonstrate how Australia is falling behind in animal welfare standards: Canada and New Zealand. In 2012, a minimum standard was implemented in New Zealand in that all layer hen cages were to be phased out by 2022, as under its animal welfare code.¹³ This was despite the fact that battery cage eggs accounted for more than 80% of the country's egg production.¹⁴ This standard was set to allow hens to be able to "*express a range of normal behaviours*", such as "*nesting, scratching, ground pecking, and dustbathing*".¹⁵ The current caged housing systems in Australia constrain these normal bird behaviours. As stated above, extensive literature in Australia has revealed that the ability to perform basic movements is essential to bird health. In February 2016, Canada implemented a phase-out of conventional battery cages, even though about 90% of Canadian layer hens were kept in battery cages.¹⁶ This change was made to support hen welfare needs and to provide layer hens with "*greater freedom of movement and more opportunities for engaging in natural behaviour*".¹⁷

¹¹ https://www.rspca.org.au/sites/default/files/2016-08%20The%20welfare%20of%20layer%20hens%20summary%20web.pdf?utm_source=Email+Campaign&utm_medium=email&utm_campaign=27921-41407-EDM+-+End+the+battery+cage+23%2F08%2F16

¹² https://api.worldanimalprotection.org/sites/default/files/api_australia_report_0.pdf

¹³ *Animal Welfare (Layer Hens) Code of Welfare 2012* (New Zealand) Minimum Standard No. 11.

¹⁴ RSPCA Australia, *Layer Hen FAQ* (10 January 2018) RSPCA Australia <<https://www.rspca.org.au/layer-hen-faq>>

¹⁵ *Animal Welfare (Layer Hens) Code of Welfare 2012* (New Zealand) Minimum Standard No. 11.

¹⁶ RSPCA Australia, above n 14.

¹⁷ *Code of Practice for the Care and Handling of Pullets and Laying Hens 2017* (Canada) s 2.5.



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Caging of hens, even with the improvements that the guidelines may secure, treats the animals poorly. In short, even furnished cages do not guarantee that all natural behaviours and comfort actions are available.

We are also concerned about other welfare aspects, such as standards on beak-trimming, standards on stunning and slaughter, and the lack of standards (guidance is unenforceable) on perches.

Conclusion

Our primary submission is that all forms of battery farming of hens should be phased out over the next several years, including furnished enclosures. Accordingly, we support a modified Option D in the Consultation Regulatory Impact Statement (RIS),¹⁸ without furnished cages as an option and with phasing out to occur within 10 years (not up to 20 years as referred to).¹⁹

We support National Standards, or at least State and Territory Governments adopting nationally consistent standards.²⁰ National standards promote commercial certainty and reduce the costs of business. Nationally consistent standards would remove the (unjustified) case of lower animal welfare standards in a particular jurisdiction.

It is telling that WA does not support the proposed standards, saying “*There is clear community support for better conditions for egg-laying chickens.*”²¹

We generally support the RSPCA Australia recommendations in their FAQs.²² .

¹⁸ Option D is to vary the proposed standards (option C) to phase out conventional cages for chicken layers over 10 or 20 years in favour of alternative systems ‘typical’ free range/barn/aviary or furnished cages. (nest/perch/space/forage)

¹⁹ This is not to suggest that aspects of Options E, F and G compatible with our primary submission are rejected; as noted in the RIS, they are not mutually exclusive

²⁰ However, a national approach must not align regulatory arrangements to the lowest common denominator, a risk mentioned by the Productivity Commission (p212)

²¹ <https://www.mediastatements.wa.gov.au/Pages/McGowan/2017/11/Proposed-poultry-standards-fall-short.aspx>

²² <https://www.rspca.org.au/campaigns/end-the-battery-cage-public-consultation/formal-submission>