

**Submission  
No 3**

## **INQUIRY INTO ANIMAL CRUELTY LAWS IN NEW SOUTH WALES**

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# INQUIRY INTO ANIMAL CRUELTY LAWS IN NEW SOUTH WALES

Thank you for the opportunity to make a submission to this inquiry.

## Introduction

I am the president of a voluntary branch of the RSPCA NSW. I provide this information to set the context of my comments. Those comments, however, are my own and, in making this submission, I am not claiming to represent the views of either the branch or the broader organisation.

## Comments

### Section 1(a)

One of the key points of this committee's terms of reference, section 1(a), relates to the effectiveness and appropriateness of non-government charitable organisations being granted investigative and enforcement powers for criminal prosecutions under the *Prevention of Cruelty to Animals Act 1979* (POCTA) and their capacity to exercise those powers.

Why, indeed, should governments not be responsible for enforcing their own laws? On the other hand, in an era when a whole raft of activities and responsibilities which have traditionally been the sole preserve of government have been, and continue to be, handed to the private sector, is the situation regarding POCTA such an anomaly? I leave that to the committee to judge. As an individual who has always loved animals and is now privileged, in my retirement, to offer my services as a volunteer in helping animals, I am not here to argue the case either way. I do wish, however, to make the following observations.

In my experience, the RSPCA does an extremely successful job in enforcing the provisions of POCTA. As a volunteer in a local branch, interaction with RSPCA inspectors is inevitable, and it is the observations I have made during that interaction that give me confidence to assert my belief in the effectiveness of the current arrangements.

It has long seemed to me quite extraordinary, however, that this work, undertaken on behalf of the government of the day, has not been properly remunerated. I mentioned earlier the trend towards privatisation of all sorts of "public" activities and services, and the fact that the oversight and enforcement of POCTA, seen in that light, does not perhaps seem so strange. However, in all the other instances one can think of, such as transport, health, education and electricity, the private providers are involved because they expect to profit from providing those services and facilities. In the case of the RSPCA, the cost of running its inspectorate, according to the 2017-18 annual financial report, was \$6,825,823. For the same financial year, total government grants to the organisation were \$1,074,421. This means the

RSPCA was out of pocket \$5,751,402, or, to put it another way, this animal welfare charity donated \$5.8 million to the Government.

Under these circumstances, RSPCA inspectors investigated 15,451 cases of cruelty, and rescued 757 animals. Before asking how effective the RSPCA has been, I suggest the committee should ask how much more could have been done if the enforcement of POCTA had been undertaken by RSPCA on behalf of the Government on a cost recovery basis?

As a volunteer in a regional area, I know how hard RSPCA inspectors work, how efficient they need to be in meeting the demands placed on them, and how their jobs are in fact a 24/7 commitment. I would simply say to the committee: don't recommend they be replaced, just recommend they are properly resourced.

In considering this issue, I would like to stress to the committee that any proposal that the NSW Police, even a dedicated arm of the police force, be given the role of enforcement of POCTA rather than RSPCA and Animal Welfare League inspectors, should be dismissed. My experience as an RSPCA volunteer has shown that the police, at least in regional areas, are extremely busy dealing with matters they consider as higher priorities than animal welfare. Animals should not have to compete with humans for police attention; they deserve their own protectors, their own group of people dedicated to them alone. It is my belief that society expects no less.

Another important aspect of this inquiry, when considering the ability of charitable organisations to achieve the objects of the Act, would be to examine the very basic nature of what the Act requires the owner of an animal to do in order to be judged to be providing sufficient care.

For example, not "tethering an animal for an unreasonable length of time" is, I understand, interpreted in some court cases as untethering the animal daily for a matter of minutes.

In an age when science clearly recognises that dogs and cats experience a wide range of emotions, the requirements for their care, as set out in POCTA, are woefully inadequate. Dogs can be imprisoned in a yard, left for hours without proper shelter or water, fed a barely subsistence diet, and, perhaps most cruel of all, denied the company, warmth and feeling of belonging that, as pack animals, they need and crave. And the law says that's providing for the animal's needs.

Is that the best we can do in 21<sup>st</sup> century Australia, a rich country, that prides itself on values of kindness, respect, tolerance and equality?

I know, through my volunteering role, how horrified people are to learn that the dog next door, which is tied up all day, never walked, fed poorly, and spends lonely days with no comfort or relief, is out of the reach of the help of the RSPCA because no laws are being broken.

I would ask you, then, members of this committee, in considering the effectiveness of the RSPCA in achieving the aims of POCTA, including "ensuring the welfare of ...

animal[s]”, to look closely at the Act itself. I feel sure you will agree that it needs work, a great deal of work.

For instance, I would like to see clearer requirements around tethering, so that a few minutes’ release each day is never interpreted as acceptable. I also think that provision for adequate exercise, socialisation and environmental enrichment should be included in the legislation.

Another example would be prohibiting the breeding of animals with parents and siblings. Again, in my volunteer role, I have come across instances of male and female dogs being kept together as pets, undesexed, producing offspring, which are then left to breed indiscriminately with the animals they are living with. One particularly sad case involved a beautifully natured young dog, surrendered via the local pound, whose deformities due to inbreeding made it impossible for her to be rehomed and have any quality of life. On vet advice, we had to euthanase that sweet animal before she was 12 months old. Why are there no penalties for the people responsible?

I know that the Government is in the process of implementing its *Animal Welfare Action Plan*. That plan includes a commitment to ensuring that research and scientific practices are used to develop policy and legislation. I applaud that commitment and say that changes cannot come quickly enough. We need to apply the scientific knowledge we already have about the needs of companion animals to the provisions of POCTA.

The plan also says that research is being undertaken now to understand community expectations in relation to animal welfare. I can tell you that my work with the local RSPCA branch indicates that people expect better standards than are currently legislated, and they become angry and frustrated to learn the limitations that the law places on those entrusted to enforce it.

I am not suggesting that hundreds of new prosecutions be undertaken as a result of changes to the Act. I am saying that a legal requirement to meet what most people would consider to be the normal needs of an animal provides the opportunity for educating and perhaps helping an owner improve the life of their pet. If there is no legal basis for starting such a conversation, then nothing can be done. However, if a person is committing an offence, then that gives an authorised person the right to investigate the matter, suggest ways it might be addressed, and, at least in the case of the RSPCA, possibly offer temporary financial assistance to fix the issue. Resort to legal avenues can be, and is, a last resort.

The Government’s recent introduction of requirements to tighten laws around advertising of animals for sale has been a welcome advance which appears to be widely understood. However, the longstanding requirement for companion animals to be microchipped and otherwise identified is frequently ignored, and no penalties are imposed that I have observed. This makes a joke of the laws and complicates the process of rehoming. Government resources should be put into educating people about the benefits of pet identification, and there should be consequences for those

who fail to comply with this simple and sensible requirement. A law on the books, largely unenforced, is next to useless.

### **Section 1 (c)**

The committee's terms of reference, section 1(c), refer to "the adequacy of the standard of care and kill rates for stray, surrendered or seized animals under the control or supervision of the approved charitable organisations".

Representatives of RSPCA NSW can, and will, I am sure, provide the committee with detailed information on these points. I can advise you, however, that, at a local branch level, animals are cared for in foster homes and an adopter is found for every animal suitable for rehoming. There is no "too hard basket", and disabled, disfigured and elderly animals are never turned away on that basis.

I would like the committee to be aware, however, that each year, "kitten season" inundates animal welfare organisations with thousands of furry bundles born because of failure to desex cats. Those passing through the doors of my local RSPCA branch are all rehomed healthy, socialised, microchipped, desexed and vaccinated. However, many others, not handed to animal welfare bodies, are passed on undesexed, and so the cycle goes on.

There is a limit to the capacity of any community to absorb cats which are the result of negligent breeding. That is a point I feel the committee should take into account when considering the rehoming success rates of animal welfare organisations.

In regard to this issue, I note the new requirements under the *Companion Animals Act 1988* for cats to be desexed by four months of age, or for an annual permit to be applied for, and I hope that this initiative will have an impact on the large numbers of unwanted cats and kittens in the community. At the moment, however, there is no clarity around how it will be enforced or who will be responsible for enforcing it.

### **Summary**

- I feel strongly that the starting point of the committee's considerations should be the *Prevention of Cruelty to Animals Act* itself, rather than the effectiveness or otherwise of its current enforcement. If a law is faulty, or has not kept pace with changes in community standards and expectations, the question of its enforcement becomes somewhat irrelevant. I would like to see the committee make recommendations about strengthening the requirements of POCTA, in regard to what is judged to be sufficient care of an animal, as a first step, followed by any recommendations it wishes to make regarding enforcement.
- In regard to the latter point, I reiterate my view that the RSPCA has clearly demonstrated its ability and commitment to effectively enforce the law on animal cruelty, but that it should be properly resourced to do so. If the committee's view is that the enforcement of POCTA should be handed to

another body, I would stress that it must be a dedicated, separate group, with animal welfare as its sole purpose.

Finally, I hope that the committee will use this opportunity to put forward recommendations about how we can do much better for the animals that enrich our lives, comfort us in illness and sadness, give us unconditional love and forgive all our failings.

Louise Webb

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