

**Submission
No 75**

INQUIRY INTO ANIMAL CRUELTY LAWS IN NEW SOUTH WALES

Organisation: Dogs NSW

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PATRON:
Her Excellency General The Honourable
Margaret Beazley AO QC,
Governor of New South Wales

TO: Legislative Council Select Committee on Animal Cruelty Laws in New South Wales

DOGS NSW Submission to the Inquiry into Animal Cruelty Laws in NSW

Please find following DOGS NSW Submission to the Legislative Council Select Committee on Animal Cruelty Laws in New South Wales.

If you require further information in relation to this matter, please contact this Office by email via

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Promoting Responsible Dog Ownership



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The current POCTA and the Companion Animals Act do not complement each other. Overall, the NSW laws are adequate but need updating to suit current community expectations and reflect a better understanding of animal behavior. Welfare and the treatment of animals is a very emotive issue and one where the goal posts change over time as community attitudes alter.

There is need for legislation that is strong enough to be enforced and adequately resourced with appropriate education campaigns around POCTA legislation. There is also a need to simplify laws covering animal welfare to enable better understanding by the public of the issues involved.

1. Senate Committee be established to inquire into and report into the effectiveness of the arrangements for the administration and enforcement of the laws of NSW for the protection of animals from cruelty, and in particular:-
 - A) Effectiveness of charitable organisations.
Effectiveness of charitable organisations – this can depend on various issues including adequacy of funding and other major concurrent issues, eg, drought, disease outbreaks, etc.
 - i) To prevent cruelty - for this there needs to be a clear definition of cruelty or, alternatively, what are acceptable codes of practice with the different species involved that are kept. As mentioned above, these definitions change over time to reflect community expectations.
 - ii) To promote welfare – a,b,c – the acceptable parameters for the keeping, housing and standards of welfare are outlined in the Codes of Practice for each species. These Codes should be developed and overseen by a panel of recognised experts in each species. These Codes should be regularly updated and good welfare outcomes should be achievable by the majority of owners of such animals/species.

All this welfare information should be readily available to the general public, particularly to owners of such species.



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- B) The ability of charitable organisations currently approved the objects of the Act. The laws need review but are generally adequate if applied properly and appropriately.
- i) Level of funding/resourcing – there are always high demands on the welfare dollar. Time and funding for investigations and inspections can lag when other major issues such as severe drought quite rightly become paramount. Increased funding will always assist in better outcomes and allocation of resources.
- The activities of the RSPCA are sufficient if supported by adequate funding. They have the expertise, the housing/holding facilities and experience developed over some 90 years, and like other long term institutions, have had to alter their approach over time.
- Any additional enforcement group would be detrimental to animal welfare by duplicating enforcement activity. Police and Councils are not the appropriate agencies, let alone additional funding that would be required.
- The additional level of funding, recruitment, training, development of appropriate infrastructure and legislative changes would prove prohibitive and would have a disastrous effect on forthcoming welfare situations.
- ii) Education – the better the education of good welfare for animals from kindergarten up does much to slowly change community attitudes to animal welfare. This is an essential part of any scheme to promote animal welfare. Education campaigns around public awareness of POCTA to the general public need to increase drastically to impact animal welfare outcomes - most pet owners don't know of the legislation that governs their companion animals; this impacts non-compliance to the current legislation we have.
- iii) Any conflicts of interest between investigation and enforcement - charities are extremely closely monitored for the spending of their time and monies. Any conflicts of interest should be clearly visible in any accounts.
- a) Commercial sponsorship – generally these would only be given where there are acceptable levels of welfare being practiced and they should be very open to public scrutiny.



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- b) Industrial proxy payments, etc, very open scrutiny available in these areas from both sides.
 - c) Private interests of board members, etc, as with any public body, charities must be run under rules which would include information where possible conflicts of interest may be called upon.
- C) Adequacy of the standard of care and kill rates for stray, surrendered or seized animals under the control or supervision of approved charitable organisations.

The adequacy of standard care and welfare should be covered in the Codes of Practices for Pounds. This should be used to set the acceptable minimum standard in any pound/shelter whether charity or local council run.

The kill rates are highly variable depending on the area being looked at. Kill rates are often impacted where the types of dogs prove inappropriate for rehoming as a consequence of the purpose and subsequent training for the activity for which the animal was originally bred for. This is reflected particularly in Country pounds especially in remote areas that have a very high kill rate for those animals that actually get put into a pound. City and suburban areas generally have much lower kill rates and some pounds can achieve nearly zero rates.

Concern that councils are trying to limit dogs per property, this will increase kill rates. Concern that removal of breeders would be detrimental in preventing genetic illness, eg, deafness, poor hips, etc. Many breed rescue groups funded by Breed Clubs also help to reduce kill rates. Charities aim at minimal rates, and can often achieve them with good rehousing plans and assistance.

There is also a strong and pressing need for a change in attitude in law towards dogs in public and the need for more pet friendly services such as dogs on trains, use of school grounds (outside of school hours) to exercise pets, dogs in pubs, etc.

- D) Is it effective and appropriate for non-government charitable organisations to be granted investigative and enforcement powers for criminal prosecutions under the Act, in regards to:-



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These welfare charities, both locally and internationally, have been doing a very good job for a very long time. They understand the many and varied contributing factors that make up both good and bad welfare situations. Equally they have the ability to properly house and care for seized animals that may require fairly long periods of care while cases are prosecuted.

- i) Their capacity to exercise those investigative and enforcement powers – the welfare charities are there to ensure adequate welfare is the norm. It is, therefore, very appropriate that they investigate and apply enforcement notices, etc, in regards to breaches of the Codes of Practice or the Act.
- ii) Ability to investigate and enforce in relation to commercial and intensive operations involving high numbers of animals. Again, these charities have the experience and ability to house or arrange adequate housing for large numbers of animals. Equally commercial entities have quite strict rules and regulations for the housing and feeding of intensively farmed animals and are subject to inspections.

High density puppy farming are far more problematic, as they generally operate secretly, have developed sophisticated measures to avoid exposing their activities and have proven to be very difficult to locate.

- iii) The ability to conduct cases to test the application of legislative provisions in the Act – the Act is like many laws, reasonably open to interpretation where prosecution may occur. With sufficient evidence of failure to adequately care for the animals in their case, prosecutions can go forward.
- iv) Accountability to Government and Community. This is the area that is currently not covered and causes the most anxiety.

The majority of Government institutions have a series of checks and balances, so that the process is open and accountable.



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An open system of accountability supporting natural justice is an imperative. Currently there is no avenue of appeal or the ability to obtain a second opinion, for example, from a Veterinarian in regard to the actual health of a particular animal, or regarding the correct procedures and interpretation of the standard and guidelines that are being applied in any particular instance.

The appointment of an Ombudsman as an independent watchdog is self-evident. Offering protection to both the reputation of enforcement bodies and those accused of welfare infringements. Members of the general public often are unable to afford litigation procedures.

IE: There is a need for greater transparency in every aspect and the innate right of appeal and a due process to enable fair and reasonable outcomes in the natural justice process for persons facing penalty or prosecution.

Other areas of concern is where inspectors can make their own interpretation of POCTA requirements, again an appeal process can investigate these concerns.

- v) Exemptions from provisions of Government Information (Public Access) Act – We cannot see why they should be exempt apart from a time limit to the conclusion of any ongoing prosecutions or investigations.
 - vi) Exemption from administrative review under the Administrative Decisions Review Act – as there is government funding, I cannot see why, unless there are very specific reasons re ongoing issues, that they should be exempt from review.
- E) Whether any limitations or deficiencies of the administration of POCTA are common to other national or international jurisdictions which use similar models.

There are two issues here. Each State RSPCA is reasonably autonomous, so cannot apply judgement equally across Australia, NSW RSPCA is more reasonable than most. Internationally, the best models to look at would be the UK and Canada (we believe) as they have similar systems.



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There should be consultation with and real consideration of the views of stakeholders/animal groups impacted by POCTA. Valid points raised by these groups should be acted upon enabling a fair and reasonable Act for all animal species. There is a real need for the RSPCA to develop working relationships with breeder groups and transparency of their compliance rules

- F) Whether the Government should establish a specialist unit to investigate animal cruelty complaints and enforce protection laws, either as part of NSW Police or as a separate statutory enforcement agency.

No, this would add a third layer to an already very complex system. The Police neither want, nor have, the time, expertise or funding to cover this very large area. The Police inform welfare agencies when they see gross neglect as do council officers. There should be better communication between these groups and welfare agencies.

- G. Any other related matter – the welfare acts (and Codes of Practice) while they need updating, are generally fairly good, comprehensive and adequate, if applied properly.

The system works, however, checks and balances need to be established to allow the community/individuals the right of reply and to see the openness and (hopefully) fairness in the system.

In summary, welfare outcomes could be vastly improve with:-

- A Government supported, potent, on-going, educational initiative.
- The appointment of an Ombudsman to ensure accountability.
- Adequate funding to support the foregoing and all welfare enforcement agencies in their activities.