

**Submission
No 76**

INQUIRY INTO ANIMAL CRUELTY LAWS IN NEW SOUTH WALES

Organisation: Canary and Cage Bird Federation of Australia Inc.

Date Received: 29 November 2019

27/11/2019

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

As a brief introduction, Canary and Cage Bird Federation of Australia Inc. (CCBFA) represents some 250 bird keeper (avicultural) clubs nationally including in excess of 100 NSW based clubs, all with a stake in this matter. We are continually involved in a range of ongoing legislative and licensing matters in various states, territories and federally.

We are at odds to understand why this inquiry is necessary at a time when animal welfare legislation is under review in its entirety. In a general sense, we see the perceived issues implied by the terms of reference of this inquiry as being largely a result of outdated antiquated legislation, regulations and policies – this is not the fault of the charitable organisations tasked with compliance and enforcement.

CCBFA encourages and supports bird keeping, breeding and exhibiting as a worthwhile past time that not only has health benefits but also contributes to scientific understanding and conservation of wild avian populations. The inquiry must take care to ensure recommendations are based on sound evidence that is shown to improve animal welfare outcomes. Care is needed to avoid over regulation that discourages animal keeping.

We make the following comments and recommendations to the inquiry in regard to the stated terms of reference, 1(a) to 1(g).

1. Many of the current perceived issues implied in the stated terms of reference are issues resulting from the current antiquated animal welfare legislation in NSW, this includes the *Prevention of Cruelty to Animals Act 1979* (POCTAA) as well as the *Exhibited Animals Protection Act 1986* and the *Animal Research Act 1985*.
 - a. We encourage open dialogue with major stakeholders including CCBFA as animal welfare legislation in NSW is reviewed.
 - b. In terms of POCTAA, we recommend an Act focussed on improving animal welfare across the state based broadly on the five freedoms with degrees of offence for each that expand into “plain English” standards and guidelines for species groups and activities.
 - c. There are issues with many of the currently enforceable standards which were developed without suitable consultation with expert stakeholder groups. For instance, the Pet Shop standards for birds are largely bureaucratic, some are irrelevant whilst at the same time some basics of avian welfare are not included.
 - d. Plain English standards and guidelines should underpin a revised POCTAA, to be developed by expert representative organisations (such as CCBFA for birds) and with clearly worded enforceable standards understood by the enforcement charitable organisations.
2. We continue to support both RSPCA NSW and the Animal Welfare League (AWL) in their efforts to achieve the objects of the Act. albeit with the following general comments and recommendations.
 - a. An ombudsman be assigned to handle complaints, perhaps the existing NSW Ombudsman, to ensure charitable organisations approved under POCTAA s.34B are accountable to the people of NSW.
 - b. Enforcement organisations such as RSPCA NSW and AWL should utilise avicultural experts appointed by CCBFA to investigate cases of non-intentional cruelty. Such cases are most effectively dealt with via education, at least in the first instance.

- c. Consideration should be given to better connecting RSPCA NSW and AWL inspectorate functions with those of the NSW Police Prosecutions Command to ensure only cases with sufficient chance of conviction are pursued. A model whereby RSPCA NSW and AWL investigate, and police prosecutors advise and prosecute could be examined.
 - d. To ensure natural justice, those charged with offences should be provided with access to legal aid representation with animal welfare law expertise. There is a perception that defending charges in this space is largely futile and guilty pleas are often the legal advice for solely financial reasons. Fees to maintain confiscated animals often being the decision tipping point when protracted court action is undertaken.
 - e. We understand RSPCA Australia is a federation comprised of state bodies including RSPCA NSW. There needs to be a clearer distinction between these organisations, particularly with regard to RSPCA Australia's activist activities which often conflict with current legislation and hence with RSPCA NSW's inspectorate functions.
3. There are, and will continue to be, limits to government funding of animal welfare compliance and enforcement efforts. Pragmatic decision making must ensure funds are allocated to best improve broad animal welfare outcomes across the state.
- a. It is our experience that charity organisations such as RSPCA NSW and AWL are better positioned to provide value for money to government generally, and particularly in this space.
 - b. Transferring inspectorate activities to a government body will in all likelihood lead to decreased efficiencies, increased costs and lowering of animal welfare outcomes generally.
 - c. Currently, there is only sufficient funds to investigate cases where a complaint is made, often by a neighbour or casual observer. Such cases are likely the tip of the iceberg. The majority of animal welfare issues likely go undetected.
 - d. Cases of deliberate cruelty must be investigated and prosecuted efficiently (refer 2c). Cases of unintentional cruelty are best dealt with via education.
 - e. Care is needed to avoid over regulation where there is no likelihood of funding corresponding sufficient compliance and enforcement operations. Animal rights organisations routinely aim to over-regulate – their major aim is often discouraging animal keeping.
 - f. Funding and resources should be directed to educating the general public so that animal welfare across the population is improved. This area deserves far greater attention and is an area where specialist clubs, such as CCBFA's affiliated network of avicultural clubs can assist.

We welcome the opportunity to contribute further to this inquiry and to the review of animal welfare legislation more generally.

Kind regards

Sam Davis
 President – Canary and Cage Bird Federation of Australia Inc.
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