

Submission
No 94

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

Name: Name suppressed
Date Received: 29 November 2019

Partially
Confidential

SUBMISSION TO THE INQUIRY OF THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ANIMAL CRUELTY LAWS IN NSW

I am a clinical psychologist who works predominantly with children, youth and families. In my professional capacity, I have a clear understanding of the specific roles and responsibilities I am entrusted in regards to the Child Protection legislation, and my duty of care. Measures are in place to minimise the emergence of any conflicts of interest or biases in my work. Professionally, I work and advocate for child and youth wellbeing and mental health, and I liaise and collaborate with multiple private, charitable and Government agencies. Each organisation and Government body I collaborate with have their specific roles and responsibilities clearly defined. In my volunteer, unpaid work, I foster rescued animals.

My responses to the Inquiry Terms of Reference are inserted following each section below.

TERMS OF REFERENCE

1. That a select committee be established to inquire into and report on the effectiveness of arrangements for the administration and enforcement of the laws of New South Wales for the protection of animals from cruelty, and in particular:

(a) the effectiveness of the charitable organisations currently approved under section 34B of the Prevention of Cruelty to Animals Act 1979 ("the Act") in achieving the objects of the Act, namely:

(i) to prevent cruelty to animals,

(ii) to promote the welfare of animals by requiring a person in charge of an animal:

(a) to provide care for the animal,

(b) to treat the animal in a humane manner,

(c) to ensure the welfare of the animal

I support charitable organisations focus their efforts, resources and funds on educational programs promoting the welfare of animals, care requirements of rescued and seized animals, their rights to humane treatment and highest welfare standards. I support charitable organisations investing resources into preventative programs, educating communities and sharing the important and vital work that they do in rescuing, rehabilitating and rehoming animals. In regards to the administration of animal cruelty reports, investigations, and enforcement of prevention of cruelty to animals legislation, it is nonsensical and unjust to expect charitable organisations to also allocate public fundraising efforts towards these duties.

(b) the ability of the charitable organisations currently approved under section 34B of the Act (“the approved charitable organisations”) to achieve the objects of the Act, including:

(i) the level of funding provided by government,

(ii) perpetrator and community education about ensuring animal welfare,

(iii) any conflicts of interest or potential conflicts of interest between the investigation and enforcement of the Act, and one or more of the following:

(a) commercial activities of the approved charitable organisations including corporate sponsorship,

(b) industrial proxy membership payments or donations,

(c) private interests of board members, consultants, and senior staff,

The issue is not about the level of funding that the Government gives to organisations that are expected to both investigate reports of animal cruelty (many of which can provoke varying public opinion, some negative and detrimental to fundraising efforts), and provide care and rehabilitation to rescued/seized animals, as well as rehoming and education/preventative programs. Conflicts of interest and biases in the prioritisation of funds will be unavoidable. The system structure is flawed at its core.

Conflicts of interests need to be accounted for and prevented within the system. In the current system, conflicts of interest are unavoidable. A charitable organisation should be entrusted with the responsibility of rescue, rehabilitation, rehoming, and community education. An independent Government funded organisation is required for the execution of independent investigations and legislation enforcement. Until this change is actioned, there will always be conflicts of interest, as well as public scepticism and mistrust.

There are many examples of media articles reporting on farmer associations’ mistrust of RSPCA intentions, as well as animal rights advocates’ mistrust of RSPCA’s capacity for objective and invested investigations¹. The current system will continue to divide communities and force these charitable organisations to invest (“waste”) resources, time and funds towards public relations and public perception “damage control” instead of the protection of animals.

(c) 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,

(d) whether it is effective and appropriate for non-government charitable organisations to be

¹ <https://www.perthnow.com.au/news/wa/rspca-seen-as-anti-farming-by-producers-peak-groups-tell-inquiry-ng-d3ed1d86117ddaf287593410c1d2f647>
<https://www.beefcentral.com/news/where-does-rspca-stand-on-militant-anti-farm-activism/>

granted investigative and enforcement powers for criminal prosecutions under the Act, with regard to their:

- (i) capacity to exercise those investigative and enforcement powers,**
- (ii) ability to exercise those investigative and enforcement powers in relation to commercial premises and intensive farm operations involving high numbers of animals,**
- (iii) ability to conduct cases to test the application of legislative provisions in the Act,**
- (iv) accountability to government and the community,**
- (v) exemption from the provisions of the Government Information (Public Access) Act 2009,**
- (vi) exemption from administrative review under the Administrative Decisions Review Act 1997,**

In my opinion, the current system is neither effective nor appropriate, charitable organisations should not be granted investigative and enforcement powers for criminal prosecutions, while also being expected to allocate publicly raised funds for these actions in combination with rehabilitation, rehoming and education responsibilities. Inherent conflicts of interest are especially evident in the ability to exercise investigative and enforcement powers in relation to commercial premises and intensive farm operations.

(e) whether any limitations and deficiencies of the administration and enforcement of the Prevention of Cruelty to Animals Act 1979 are common to other national or international jurisdictions which use similar models,

In reviewing the Victorian Inquiry into the RSPCA (2017)², I note on page 18 the following statements:

“Stakeholders noted that RSPCA Victoria is in the unique position that it is a registered charity that has enforcement powers. Some considered this to be inappropriate, given that RSPCA Victoria is also an advocacy organisation and not truly independent. The Committee also received anecdotal evidence where RSCPA Victoria inspectors overstepped the boundaries of the MoU to investigate animals in primary production.”

“A number of stakeholders who provided submissions for this Inquiry called for the establishment of an ‘independent office of animal welfare’ to remove responsibility for animal welfare from RSPCA Victoria and the Minister for Agriculture. However, the Committee considers there is no reason to suggest that RSCPA Victoria is unable or unwilling to fulfil its Inspectorate function.”

² https://www.parliament.vic.gov.au/file_uploads/EIC_Inquiry_into_the_RSPCA_jk5k41vH.PDF

“As the Comrie review found, ‘no other organisation in Victoria is as well-equipped in terms of experience and capability as the RSPCA to deal with animal cruelty reports’”

The growing public concern that has resulted in the current inquiry is longstanding and valid. Allocating extra funds to a broken system is not going to solve the core problems in the long term. In the Victoria Inquiry it is implied that because the RSPCA has the longest and currently the most experience in dealing with animal cruelty reports, therefore it should continue. In my opinion, maintaining a broken structure and system in order to avoid the challenges associated with creating and transitioning to a new and improved system, is short sighted and will not resolve the issues. At some point, this inadequate system will require a complete restructure. In light of the current inquiry, now is the time to take action and instead of attempting ineffective bandaid strategies, it is time to choose to put time and effort into creating a more effective, adequate and just system for the administration and enforcement of animal cruelty laws.

(f) whether the Government should establish a specialist unit to investigate animal cruelty complaints and enforce animal protection laws, either as part of the NSW Police Force or as a separate statutory enforcement agency, and

Most certainly. I support the establishment of an independent animal welfare body to investigate animal cruelty complaints as soon as possible. Whether this specialist unit is part of the NSW Police Force or a separate agency, all reports of animal cruelty need to be investigated by an organisation that is not required to also raise donations and provide the rehabilitation and rehoming of rescued/seized animals.

I have two personal experiences that took place in the past 20 months, which I would like to detail in my submission.

1. The animal rescue organisation I volunteer for, received a message from a concerned citizen about animals who were being neglected at the property she rented a granny flat on. This person made a report to the RSPCA. She reported that these animals were starved for large periods of time, dying from starvation and exposure to the elements, and when they were fed and given water, the food was inadequate nutrition wise. No action was taken. There was no follow up from the RSPCA or a property visit. So, after some time, this person contacted the not for profit, charity animal rescue organisation I volunteer for. With our assistance and guidance, she was able to negotiate with the property owner to hand over care of the animals. Once in our care (my care specifically), these animals were taken to a specialist vet the following day, where the gross abuse and neglect these animals had endured was apparent. They were severely malnourished and had developed lifelong bone abnormalities as a consequence. I volunteer for NSW Hen Rescue and the initial report made to the RSPCA was about the abuse and neglect of 12 chickens. By the time we were contacted and able to take the animals into our care, only five had survived. All five suffered from severe malnourishment and bone deformities.

2. Some months later, NSW Hen Rescue received an email from concerned citizen stating that she had come across around 30-50 chickens in the middle of a road on the outskirts of Sydney – Lakesland. She had decided to escort the chickens back up a hill to the shed she could see from the road. When she approached the shed, she saw many corpses strewn across the grass. Upon arriving at the shed, she saw that the chickens were overcrowded, the shed was in a dilapidated state, the chickens had inadequate protection from predators and the elements, and there was no food or water. This event occurred on a Sunday. That same day, this young adult made a report to the RSPCA. No action was taken for TEN days. I am aware that the senior RSPCA investigator assigned to the case and who interviewed the perpetrator of this animal cruelty, was not aware of the initial report that had been made – by the time he first arrived at the property to investigate – 11 days prior (by which time many more chickens had suffered and died of starvation and dehydration). He only learnt that a report had been made 11 days prior, post his interview with the alleged perpetrator. In actual fact, he learnt about this report, post his inspection of the property and interview of the perpetrator, and he learnt about the report while on the phone to the RSPCA NSW CEO, who stated that yes, he has listened to the original report, and more could have been done.

This senior inspector's allocation to this investigation was in reaction to social media pressure. Had there not been public outrage and pressure, the initial two investigators would not have attended the day prior. Ten days after the report, two officers were assigned to inspect the property. They arrived close to dusk. By the time they entered the shed, it was almost dark. They confirmed the food and water systems had been turned on, then they checked the crops of approximately six chickens (out of 4000-5000) to see if they had accessed food, then they left. Knowing that these chickens had been deprived of food and water for many days, it would logically follow that many chickens may no longer have the capacity to make their way to the food and water dispensers. The urgent safety and welfare of these chickens was not assessed. Checking six out of thousands of chickens is a failure of duty of care and protection. What should have happened in this case? Priority of a charitable animal rescue and welfare organisation should be given to allocating resources to assess immediate wellbeing and administer treatments as needed, with an independent and separate entity conducting an investigation.

(g) any other related matter.

Completed 29/11/2019

Name and details provided in submission lodgement.