

**Submission
No 124**

INQUIRY INTO ANIMAL CRUELTY LAWS IN NEW SOUTH WALES

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Submission regarding the Inquiry into animal cruelty laws in NSW

To the Select Committee on Animal Cruelty Laws in New South Wales,

Thank you for the opportunity to offer this submission and for your inquiry into animal cruelty laws in NSW.

As per information on the NSW Parliament website, please find below submission.

Terms of Reference

1. (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

Having previously worked for both RSPCA NSW and Animal Welfare League NSW I perhaps have more insight than some. I believe that both organisations try to promote the care of and educate the general public on animal care and welfare, which in itself is done with the aim of reducing cruelty by providing information. Whilst persons directly in contact with these organisations either through their own instigation or through cruelty complaints followed up by these organisations definitely benefit from the guidance and knowledge provided, I do not believe that this addresses issues in the general community not accessed by these services. Although there are some schools and social groups that access the services provided by these groups, again it is through their instigation and does not address all pet owners.

It would seem more beneficial to have a scheme whereby anyone who gets a new pet should have to have information both verbally and in writing from the seller/person giving away the animal, addressing legal obligations of a pet owner with regard to animal welfare.

- (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

Government funding to the approved organisations is at best inadequate and although these organisations do garner income through donations because of their powers under the *POCTAA*, the cost to the government would be substantially higher if these organisations did not exist to enforce these laws. Government should most certainly increase funding and ensure that these organisations are adequately funded to enforce their legal obligations.

There are potential conflicts of interest for both organisations with their current and potential future connections. RSPCA NSW has a long-standing relationship with Petbarn as the most notable and although they are more of a retail outlet, they also have some animals that are not RSPCA sourced sold through their outlets. Likewise, AWL NSW has a current relationship with PetStock and also with Kellyville Pets, both of whom rehome through their outlets animals not sourced through the AWL. Although these 2 bodies will often refer between each other to minimise any conflict of interest if there is a complaint received, an independent body would be better placed to ensure there are no conflicts for these organisations.

There have most certainly been concerns through both organisations with regards to Board members and senior staff with relationships that may be seen as a conflict of interest. Again, an independent body would be beneficial.

I would however say that it would be beneficial for both of these organisations to continue and build on their current role with regards to animal cruelty as there is a level of trust within the general community that I do not believe would be achieved through a wholly government body.

(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,

Again, these organisations generally do what they can within their resource capabilities and how well the animal themselves cope within a clinic and/or shelter environment. Whilst there is some effort to include home foster care, this brings with it more concerns when the animal is in custody and there is court action being taken. If there was any chance of a perpetrator or relation/friend of the perpetrator finding out where the animal was located offsite this would potentially be a risk to the foster home provider. There is also a sometimes unrealistic expectation that all animals can be rehomed. The decision on euthanasia should not be judged as necessarily a bad thing as for some animals it is the best possible outcome to end their suffering.

If a government body was appointed, then part of their duties should include review of the policies and procedures within these organisations to ensure that best practice is being maintained and improved whenever possible.

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

Again, there are restrictions on what these organisations can do with current resources. The ability to deal with potential large seizures for hoarder situations or large livestock seizures provides multiple concerns and will most certainly restrict the capabilities of these organisations to enforce the Act in some circumstances. If a government agency were to be formed then consideration would most certainly need to be given to dealing with these sorts of issues and housing and providing appropriate care for animals whilst they are in care awaiting potential court action.

I don't believe that there should be any exemption regarding information, although there may be some instances where names should be withheld in cases of prosecution for both informants and those prosecuted.

(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,

I believe that there are always improvements to be made and consistent and regular reviews in line with legal and community expectations should be conducted.

(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

As previously noted, I believe there should be an independent government body established. However, as there are already funding concerns and concerns within the NSW police force and most government bodies, this should be well-prepared and consider all facets prior to becoming operational; there is no quick fix to any of these issues.

(g) any other related matter

I believe there should also be a linked database for all agencies providing services under the law. The research and documentation of the likelihood of animal cruelty offenders also being involved in human-related crime and other legal breaches is undeniable but there is currently no cooperation between enforcement agencies to be aware of each other's, past or current concerns. This effectively means that the RSPCA, AWL and Police in NSW could all be investigating the same perpetrator without knowing that there is another agency already involved. This is grossly inadequate. For each of these agencies, it would be beneficial to be aware of prior and current concerns to reduce risk to the enforcement officers and also to correlate ongoing concerns to be addressed, particularly if court action is required to be taken.