

**Submission  
No 103**

## **INQUIRY INTO POUNDS IN NEW SOUTH WALES**

**Organisation:** Arthur & Co. Pet Detectives

**Date Received:** 18 August 2023

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18 August 2023

The Hon Emma Hurst, MLC  
Chair  
Portfolio Committee 8 – Customer Service  
NSW Parliament Legislative Council

*Via online submission form*

Dear Ms Hurst,

**RE: Inquiry into pounds in New South Wales**

Thank you for the opportunity to make a submission on the Committee's Inquiry into pounds in New South Wales. Arthur & Co. Pet Detectives is Australia's only comprehensive pet detective service for lost and stolen pets, and regularly interacts with pounds, animal rescue organisations, police, veterinarians, animal welfare organisations, and others in the search for lost and stolen pets.

**Background about Arthur & Co. Pet Detectives**

Arthur & Co. Pet Detectives was founded in 2017 by the author, and combines traditional methods of on-the-ground searching, traps, posters, and flyer drops, along with targeted social media advertising and the use of specialist investigators (including former police), covert surveillance, online forensics and datamining, and technology such as thermal drones, covert trail cameras and remotely operated underground robots.

Through our fact-based and evidence-driven methodology and a comprehensive suite of services, we are able to deploy the appropriate resources as each case evolves. This methodology has resulted in a consistent approximate 80% success rate, a success rate we have maintained each year since 2017.

Throughout our years of operation, we have worked on thousands of cases of missing and stolen pets across Australia, and through this work we have direct, practical experience of how companion animal laws operate both within New South Wales as well as across other jurisdictions.

## **Ensuring fees and penalties are appropriately structured to encourage responsible pet ownership**

Understandably fines and fees may apply in relation to pets that have been held by a pound, however, we believe that these should be revised so as to encourage responsible pet ownership, and better targeting penalising irresponsible pet ownership, whilst ensuring that the most vulnerable people in our community are not placed under undue hardship.

The fines and fees in relation to impounded animals should be graduated such that for the first occasion of impounding there is a minimal fine and/or fee, whereas for repeat occurrences, the fines and/or fees should increase. This would avoid the current experience of a single misfortune for a pet owner resulting in, at times excessive fines and fees to release their pet.

Through our work we see many cases each year where a pet is impounded due to an unfortunate mistake or mishap, and not as a result of owner negligence or neglect. Indeed, many pets who end up impounded are contained safely in their own yards or homes, especially in the case of cats, and through an inadvertent mistake of leaving a door, window or gate ajar, the pet is able to escape. Such a situation is quite different to a person that routinely fails to secure their pet, and accordingly, the fines and fees should reflect this.

In our experience, it can take owners several days to track their pet down, with each day often increasing the fines and fees payable. The number of days that it takes to locate the pet can often be due to (at least in part) inefficiencies in the pound system, such as inaccuracies in information from pound staff and volunteers. For example; when an owner enquires if their pet is at the pound they are told it is not, when in actual fact the pet is at the pound, or the pound takes days to advertise the pet on their social media and websites due to time constraints and understaffing. Each of those delays adds to the number of days that the pet is impounded, and therefore any applicable daily fees, which are then borne by the owner.

The fines and fees to release an impounded animal are at times prohibitive for an owner due to economic circumstances, and we have been informed of anecdotal evidence of some owners telling a pound that the fee is too much and instead they will go and purchase a new dog, which is an appalling result for the impounded dog. We have also experienced owners of an impounded dog waiting until the dog was advertised for adoption, at a much lower amount than the impounding fees, which again is an undesirable outcome for the dog who remained in the pound for longer than they could have and faced increased risk of euthanasia. We have also recently worked pro bono for a lady who is a member of our homeless community and when she tried to recover her dog from a pound was faced with a fee that was over \$1,000 – an amount that would ordinarily mean that this lady was left without her beloved dog of 12 years. Fortunately, our supporters rapidly donated the required funds and we were able to reunite the two, but of course there are many people who will not have access to such support.

Animals, especially companion animals, are sentient, feeling beings capable of feeling and display emotions such as grief, loneliness, boredom, isolation and depression. The system of impounding and the associated fines and fees should be graduated, targeted and incorporate a hardship application process to ensure that companion animals are not needlessly separated from their loving and responsible owners.

## **Repeated microchip scanning**

In NSW, microchipped pets are required to be held for 14 days before they can be sold, adopted, rehomed, sent to rescue or destroyed (see sections 64 and 64B of the *Companion Animals Act*). Often lost pets have inaccurate or out of date details on their microchip at the time they go missing and as we experience, many pounds only perform one, single microchip scan and registry file look up for lost pets who are presented to their facility. By only scanning once and searching the registry file once (usually on presentation to the facility), the contact details for that pet's owner will be only those recorded in the registry at that time.

What we often experience is that many pet owners have not updated their registration details at the time their pet has gone missing. A common occurrence is that pets are still microchipped in the name of their breeder at the time they go missing. If this has not been updated by the time the pound has already performed the single attempt at a microchip scan, the update to that registration is, sadly, futile.

Pounds should scan and search the registry for each impounded pet at least on presentation, at 7 days, 10 days and 14 days, before the lost pet can be advertised for adoption, sent to foster care, sent to a rescue organisation or euthanised. This process of repeated scanning should improve the frequency of pets being reunited with their owners through the pound, microchip and registry system.

Repeated attempts at scanning will also address the potential situation in which on one scan a pet's microchip is unable to be detected. Whilst this may occur rarely, subsequent scans will improve the chance that the microchip is detected successfully.

## **Multi-database / multi-jurisdiction microchip scanning**

Another aspect in relation to microchip scanning and registry searches is that across Australia there are several different microchip registries. Whilst in NSW, pet owners are required to be registered on the NSW Pet Registry operated by the Office of Local Government, due to the prevalence of other, commercial registers, we often find that pet owners have registered on one of these registries instead of the NSW Pet Registry.

In addition, due to the fragmented nature of these registries across Australia, we often see pets taken across state borders, particularly in the case of pet thefts, as the pet is more likely to escape detection in another state with a different registry system in place.

Accordingly, we recommend that pounds should be required to routinely search across the various registries to enhance the prospects of an impounded pet's owners being found.

## **Routine enforcement of fines for offences**

Unfortunately, we routinely encounter disinterest from police and others with responsibility for enforcement of laws relating to companion animals. For example, in the case of stolen pets, if the pet has been returned home, even on the basis of payment of money to restore the pet (which in NSW is an offence in relation to dogs: *Crimes Act 1900*, section 133), police will almost always determine that the matter is closed. Similarly, many of the searches on which we are engaged involve a pet that has escaped the control of its owner, and is therefore reliant on the person that finds and seizes that pet under the authority of

the *Companion Animals Act* to comply with the requirements of that Act, namely as found in section 62:

- (1) A person who seizes an animal under the authority of this Act must cause the seized animal to be delivered as soon as possible—
  - (a) to its owner, or
  - (b) to a council pound, or
  - (c) to any approved premises.

Maximum penalty—30 penalty units.

- (2) In the case of an animal that has been seized by a person who is not an authorised officer, subsection (1) is complied with by the person if the person, as soon as possible after seizing the animal, makes an arrangement with an authorised officer for the animal to be delivered by the officer to its owner, a council pound or approved premises.

We are aware of only one matter reported in two separate but related proceedings in the NSW Supreme Court and in the Administrative Decisions Tribunal in which there was an allegation of an offence against section 62, in which the owner of two dogs sought to restrain a council from disposing of the dogs through an application that in part alleged non-compliance by the council with section 62. In the Supreme Court proceeding, it was held that section 62 did not apply to the actions of the council ranger, as he had not seized the dogs, and instead had attended to collect them from staff members of a resort that had seized the dogs (see *Klewer v Coffs Harbour City Council* [2003] NSWSC 637 at paras 30-31, per Simpson J). Similarly, in the Administrative Decisions Tribunal, it was noted that the resort staff had complied with section 62 as they had contacted the council for the ranger to collect the dogs (see *Klewer v Coffs Harbour City Council* [2003] NSWADT 170 at para 18, per Judicial Member Higgins).

We have encountered in numerous investigations persons that have not complied with section 62, however, a lack of enforcement of these offences leaves this legal requirement ineffective in achieving the purpose for which it was legislated. In order to ensure that that pets that are found are able to find their way back to their owners through the microchip and registry system, these laws in the *Companion Animals Act* need to be routinely enforced. As was stated in relation to the Australian Securities & Investments Commission's at times lax approach to enforcement in the Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry: "that the law must be applied and its application enforced, requires no development or explanation. It is a defining feature of a society governed by the rule of law."<sup>1</sup>

Thank you for consideration of this submission. We remain at your service if you would like to discuss any aspect in more detail.

Yours sincerely,

[Signed]

**Anne-Marie Curry**  
Owner & Founder | Arthur & Co. Pet Detectives

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<sup>1</sup> The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry *Final Report*, Volume 1 at page 12, per Commissioner Hayne.