

Submission  
No 2

**INQUIRY INTO 2023 INQUIRY INTO THE OPERATION  
OF THE APPROVED CHARITABLE ORGANISATIONS  
UNDER THE PREVENTION OF CRUELTY TO ANIMALS  
ACT 1979**

**Organisation:** Animal Defenders Office

**Date Received:** 21 February 2024

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# Animal Defenders Office

Using the law to protect animals

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The Animal Defenders Office is accredited by Community Legal Centres Australia Inc.

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Director, Inquiry into the approved charitable organisations under the *Prevention of Cruelty to Animals Act 1979*  
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Dear Sir/Madam

Thank you for the opportunity to contribute to the 2023 Inquiry into the operation of the approved charitable organisations under the *Prevention of Cruelty to Animals Act 1979* (**Inquiry**).<sup>1</sup>

### **About the Animal Defenders Office**

The Animal Defenders Office (**ADO**) is a not-for-profit community legal centre that specialises in animal law. The ADO provides pro bono animal law services to the community. The ADO is a member of Community Legal Centres NSW Inc., the peak body representing community legal centres in NSW.

Further information about the ADO can be found at [www.ado.org.au](http://www.ado.org.au).

### **Submissions**

The ADO's submissions on the Inquiry's terms of reference are set out below.

We acknowledge that inquiries of this nature are to be undertaken on a regular/annual basis, which provides an opportunity to consider whether progress has been made since the last review. To that end, the ADO's submissions take into account the ADO's responses to the 2022 inquiry into the same subject (the operation of the approved charitable organisations under the *Prevention of Cruelty to Animals Act 1979* (NSW) (**POCTA Act**)) (**2022 Inquiry**).

The ADO also acknowledges the incredible hard work and dedication by volunteers and staff of the approved charitable organisations (**ACOs**), and their commitment to helping animals. Like many in the community, the ADO is grateful for the work they do in protecting animals.

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<sup>1</sup> <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=3025#tab-termsofreference>.

## **TOR 1(a). Matters contained in the annual reports of the approved charitable organisations, including financial statements**

The ADO remains concerned about matters that are not contained in the annual reports of the ACOs as published on their websites.<sup>2</sup> These documents are crucial in enabling the community to evaluate how well (or not) our animal protection laws are operating and to identify issues for reform and areas requiring additional funding.

In reviewing both the annual reports and our previous submissions to the 2022 inquiry, the ADO submits that there has not been much progress on providing transparency on key aspects of the operation of the ACOs.

The annual reports should provide general information on the following matters during a reporting period.

### **Complaints**

- The type of animals that are the subject of complaints, regardless of whether the complaints are followed up. By way of example, the AWL Annual Report refers to ‘complaints regarding companion animals to livestock’ (p 8), but more specific data would be insightful.
- The number of complaints that lead to follow-up action and the number of complaints that are not followed up.
- The general outcomes of complaints. For example, RSPCA NSW reports there were ‘18 official cautions, 799 written directions, 111 penalty infringement notices issued’ but provides no further information such as the offences or animal types/species the penalty infringement notices or written directions were issued in relation to.<sup>3</sup>
- The number of complaints not pursued due to a lack of resources or for other reasons (ie ‘turn aways’).

### **Inspectorates**

- The number of inspectors employed by the ACOs. RSPCA NSW reports that its Inspectorate consisted of ‘over 40 Inspectors’ but again, more precise data would be useful.<sup>4</sup>
- Investigations not pursued due to a lack of resources.
- The cost of running the inspectorates<sup>5</sup>, what percentage of the total expenses that represents, and how much was funded by the NSW Government.

### **Prosecutions**

- Data about the prosecutions finalised in a reporting period, including:
  - the types and/or species of victim animals

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<sup>2</sup> RSPCA NSW *Your Year in Review 2022/23*: [https://www.rspcansw.org.au/wp-content/uploads/2023/12/A5\\_RSPCA\\_Annual\\_Report\\_2023\\_WEB\\_F.pdf](https://www.rspcansw.org.au/wp-content/uploads/2023/12/A5_RSPCA_Annual_Report_2023_WEB_F.pdf) (**RSPCA Year in Review**) and Animal Welfare League NSW *Annual Report 2022-2023*: <https://www.awlnsw.com.au/wp-content/uploads/2023/12/Animal-Welfare-League-NSW-Annual-Report-2022-2023-1.pdf> (**AWL Annual Report**).

<sup>3</sup> RSPCA Year in Review p 11.

<sup>4</sup> RSPCA Year in Review p 11.

<sup>5</sup> For example this information was difficult to find in the AWL Annual Report.

- the offences (ie which offences under the POCTA Act and Regulations)
- outcomes eg charges dismissed, verdict, sentences, court orders.
- The number of cases *not* prosecuted due to a lack of resources.
- Where successful outcomes at first instance were overturned on appeal, and why.

### **Stock welfare panels**

The use of, and outcomes from, stock welfare panels, including their duration, their outcomes, and the fate of all animals involved (including those who do not survive).

### **TOR 1(b). The exercise by the ACOs of their compliance and enforcement functions under POCTAA**

The lack of meaningful data and general transparency around the operations of the ACOs makes it difficult to assess how they exercise their compliance and enforcement functions under the POCTA Act.

To assess properly how the ACOs exercise their compliance and enforcement functions under the POCTA Act, the community would need to know information that is currently very difficult, if not impossible, to obtain, including:

- How many animals, what type of animals, and which offences enforcement action such as written directions and penalty infringement notices were issued in a reporting period.
- The number of routine inspections undertaken during the reporting period, at what type of establishments, and how many were unannounced.<sup>6</sup>
- Whether routine (or any) inspections of wildlife harvesting programs (eg kangaroo shooting) are undertaken.
- How complaints about cruelty to animals in rural and remote areas eg about farmed animals or wildlife, or after-hours complaints, are handled.

### **TOR 1(c). Any other related matters**

#### **SHELTER KILL RATES**

The ACOs must be required to report on actions they are taking to lower the euthanasia rates at their shelters. For example, according to RSPCA NSW's 'Animal Outcomes' data, the number of animals euthanised was more than one-third of the total number of animals, and almost half the number of animals who were adopted or reclaimed.<sup>7</sup> Unfortunately, unlike in previous reports, numbers were not provided for types of animals (eg 'dogs', 'cats', 'livestock').

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<sup>6</sup> The ADO notes AWL provided some information on these issues in its 2022-23 Annual Report, p 8: 'Proactive animal trade inspections enforcing the Prevention of Cruelty to Animals Regulations, along with industry education, continue to form an integral part of the Inspectorate's function. Boarding Establishments, Breeding and Pet Shops continue to be a focus in this area.'

<sup>7</sup> RSPCA NSW Year in Review 'Animal Outcomes' p 23: 6,956 adopted, 1,470 reclaimed, 4,004 euthanised. ADO's calculation of the total number: 10,531 (this number is not provided in the report).

## **ACCOUNTABILITY**

The ADO continues to advocate for the following measures to help improve the accountability and transparency of the ACOs:

- Making the ACOs agencies for the purposes of the *Government Information (Public Access) Act 2009* (NSW) and funding them to process requests for information.
- Creating a process to allow members of the public to make complaints about ACO inspectors.
- Making public reports provided by the ACOs to Government Departments.

## **CONCERNS RAISED WITH ADO re ACOs**

Since the 2022 Inquiry, members of the public have raised concerns with the ADO about various aspects of the operation of the ACOs. The issues causing the most concern included the involvement of ACOs in the culling of wild brumbies, the closure of regional shelters by ACOs against the wishes of sections of the regional membership and volunteers and the general community, and the investigation and prosecution of volunteer wildlife carers by ACOs. These issues have caused significant distress in the community, many members of which have contacted the ADO seeking information and advice.

## **ALTERNATIVE MODELS FOR ANIMAL WELFARE**

In light of the ongoing concerns raised in these submissions, and the inherent problems in making private charitable organisations responsible for enforcing criminal laws, ultimately the ADO supports the creation and government funding of an independent statutory body that would be responsible for enforcing NSW's animal welfare laws. As an interim measure, the ADO supports the establishment and government funding of a specialist unit with the NSW Police Force to investigate and prosecute animal cruelty offences. These measures were recommended in 2020 by the NSW Parliament's Select Committee on Animal Cruelty Laws in New South Wales.<sup>8</sup>

## **Animal Defenders Office**

**20 February 2024**

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<sup>8</sup> New South Wales. Parliament. Legislative Council. Select Committee on Animal Cruelty Laws in New South Wales. *Report*. No. 1, June 2020, Recommendations 13 and 14, p xii.