

Submission
No 7

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

Name: Mr Dennis Phillips

Date Received: 20 February 2024

Partially
Confidential

Tuesday, 20th February, 2024.

RE: 2023 Inquiry into the approved charitable organisations under the Prevention of Cruelty to Animals Act 1979

Thank you to the Members of Portfolio Committee 4 for resuming this Inquiry, and giving me the opportunity to complete the story of my elderly Great Dane Lego and her tragic demise in RSPCA NSW "care" in November 2021.

This submission may be listed publicly. ***But please redact the personal contact information for myself and our 2 veterinarians in the Appendices.***

I wrote a confidential submission to you for the 2021 Inquiry, as my case had not yet gone to court. ***Please first read/re-read that submission attached as Appendix 1.*** I will continue the story since then here, and provide some additional documentation.

I thought the worst was over when I last wrote to you, but no - not just for my family and myself, but also what was revealed through the court process about my dog's so-called care at RSPCA NSW Yagoona.

Through the process of preparing for court, we learned several things:

- RSPCA NSW decided to override a visit by police verifying that Lego was alive and well in our yard
- Lego was injured in transport from her home to the RSPCA NSW's Yagoona Shelter
- Inspectors have zero accountability for the injuries they cause to animals
- Lego's body had not been disposed of as we had been told by an inspector
- RSPCA NSW will prioritize any kind of prosecution over an animal's welfare
- RSPCA NSW are a multi million dollar corporation, and an ordinary person like me simply cannot afford to fight them through the courts
- RSPCA NSW Inspectors will not communicate with their targets except to secure information for court. We can call all we want, our vet can call, our lawyer can call, but it is all futile
- RSPCA NSW are callous and cruel in dealing with animal owners, and do not care about the mental and emotional distress they cause, and the effect that still has on us, even as the years pass

Police Inspection

We learned through court documents that the RSPCA NSW received a complaint from a member of the public, and called local police to investigate as it was a Sunday. (It appears that RSPCA Inspectors don't work on weekends). We were unaware that Police did attend our property to investigate that same day. ***See Attached Police Report (Appendix 2)***

The complaint stated that there was a "half-dead dog tied up in a paddock with no shelter, food or water".

The Police report states that our dog was checked, appeared well, and was barking at them. There was shade and water as our photos at the end of this submission show, and she was tethered to a

40m cable run attached inside the fence. The RSPCA NSW decided to send inspectors the next day anyway.

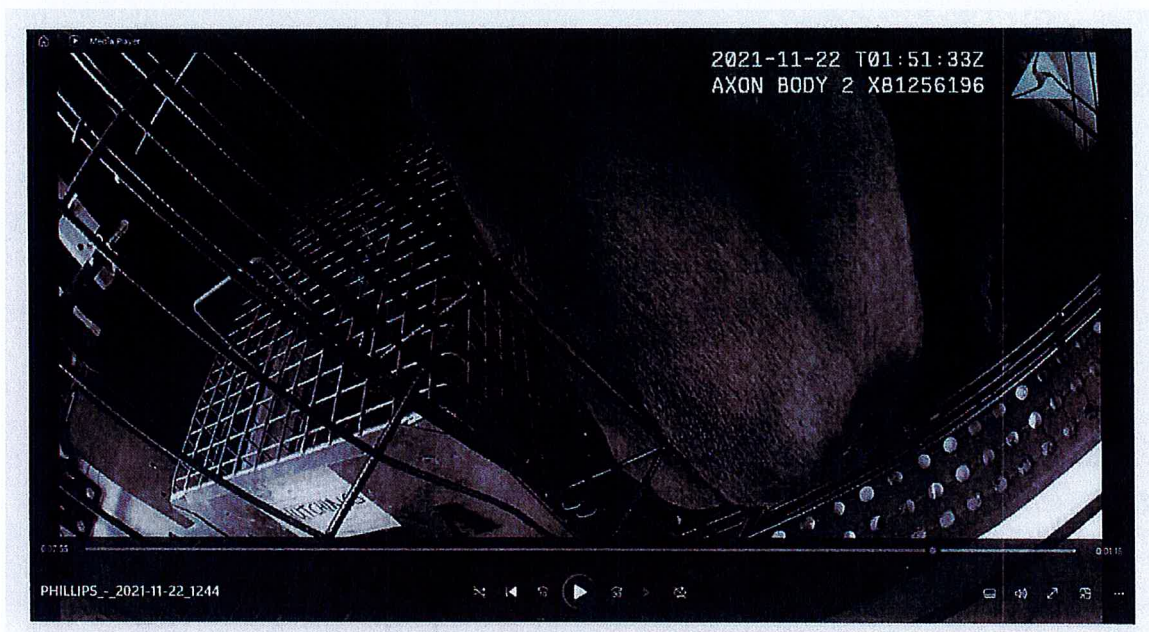
It is my understanding that the Police are Authorised Officers under the Prevention of Cruelty to Animals Act 1979, on equal standing with RSPCA NSW Inspectors and do not report to, or act under the RSPCA NSW. Why did RSPCA NSW attend when the Police confirmed that the report was not accurate?

Why did they not simply instruct the police to issue an animal welfare directive to take the dog to a vet and report back? Would that not have been prioritizing Lego's best interests? So much heart ache for us, and suffering for Lego, could have been prevented if they actually cared about Lego.

Injuries At the hands of RSPCA NSW Inspectors

Lego was very old for a Great Dane, at 12, she had exceeded her life expectancy by several years. We knew her time with us was limited, and we had plans for when that time came, and were checking her daily for signs of pain or suffering. We did not feel that time had come, but we knew it was close.

When the Inspectors seized Lego, they literally stuffed her into a cage too small for her to transport her to their vet at Yagoona. This really upset me (and Lego) as clearly if she needed urgent vet treatment as the inspector claimed, then she should go to the nearest vet (also her usual vet) and not travel an hour and 15 minutes in a cage she did not fit into. I told him our vet is only 5 minutes away, we could go right away, but the Inspector said that our vet might be busy and not able to fit us in, but of course, if we arrive with an emergency, our vet would help immediately, that's why we use these vets!



This screenshot is taken from the Inspectors' body cam footage of Lego inside the Inspector's cage. This is how they closed the cage on her. If you can watch this footage, you will see Lego being physically manhandled to squeeze her into this cage. An elderly, innocent and very gentle dog.

Please note the lack of bedding for her to lie on. I offered to give them her soft bed or blanket, but it was refused.

I was not told the reason why the inspector felt it was so urgent for her to be taken to Yagoona, that they couldn't even ensure she was safe and comfortable.

Upon arrival at the RSPCA NSW Shelter, Lego had fresh injuries, caused by the too small cage. They were raised by the judge at my court hearing, and RSPCA NSW's Prosecutor acknowledged that they happened *after* Lego was seized. No fault was admitted, of course. ***Please see Appendix 3 for Court Transcript.***

We also learned during these proceedings that Lego was still in RSPCA NSW's possession, and had not already been disposed of as the Inspector had told us.

Prosecutions are more important to RSPCA NSW than Animal Welfare

This decision to seize Lego was not in the interests of Lego's welfare, but to secure evidence for a potential prosecution. ***This decision was made at Lego's expense.*** Our objections were not considered. Again, this could all have been prevented if we were allowed to take Lego to our local vet. She would have been handled kindly, respectfully and if necessary, euthanised with the people she loved alongside her. The vet costs are irrelevant – I paid for the RSPCA NSW Vet to treat her same as I would have paid my own Vet to treat her. But Lego's care would have been so, so much better.

Lego experienced the worst cruelty of her life AFTER being seized from us by RSPCA NSW.

In the evidence given by Veterinarian Jenni Taylor (***attached as Appendix 4 with her permission***), having reviewed the RSPCA NSW's reports of Lego's time in RSPCA NSW care, she stated that the stress and anxiety of removing an elderly dog like Lego from her home and then restricting her movement to a small cage in a vet hospital would have exacerbated her decline in health. The medication commenced would have contributed to her decline through their side effects.

When I was calling and asking for information about Lego's wellbeing, I was only told they could hold her for up to 60 days.

Why was Lego put through this? It was certainly not for her benefit. Its one thing for RSPCA NSW to investigate me, and pursue me, but why did they make Lego suffer for it? Her last days would have been so confusing and frightening and feeling abandoned.

Reason for Seizure is Not on the Paperwork

Please note that the "Receipt" I am given for Lego's Seizure does not state WHY Lego was being seized. (see photo below).

The boxes ticked for Nature of Seizure – sections 24J and 24K of POCTAA relate to the powers of Inspectors to seize animals and to seize evidence. They do not explain the reasons for **this dog** being seized. Why are inspectors allowed to seize an animal without putting the reason in writing?

1702PA
exp 4 sep 25

RSPCA
Seizure Notice - Receipt

Job No 319507 SN 011538 DOB: [redacted]

NATURE OF SEIZURE

Section 24J Prevention of Cruelty to Animals Act 1979
 Section 24K Prevention of Cruelty to Animals Act 1979
 Search Warrant - Division 4 of Part 5 Law Enforcement (Powers and Responsibilities) Act 2002
 Other (please specify)

SERVICE OF SEIZURE NOTICE

Officers Name [redacted] Officers Station Yagoona
 Date 22/11/21 Time 10AM
 Served On Dennis Arthur Phillips At [redacted]
 Notice Attached to Premises Yes / No

DETAILS OF OWNER OR PERSON IN CHARGE

Surname Phillips Given Name(s) Dennis Arthur
 Address [redacted]

DETAILS OF ANIMAL(S) SEIZED

Reference	Species	Sex	Breed	Comments
<u>1</u>	<u>Canine</u>	<u>F</u>	<u>Great Dane</u>	<u>"Lego"</u>

DETAILS OF ITEMS SEIZED

Reference	Description of Item Seized
<u>1</u>	<u>Collar on the dog</u>

Signature Owner / Person in Charge
 [redacted]

Original - Owner or Person in Charge

This means that the reason the Inspector told me he was seizing the dog, could be changed later, when the "evidence" is withheld by RSPCA NSW and can no longer be inspected or verified by an independent veterinarian. Now it may sound reasonable for RSPCA NSW to be able to inspect the animal for invisible conditions prior to committing to a reason for seizing the animal, but why are they seizing the animal if the condition is invisible? And if its invisible, how could we know to act on

it? We don't normally conduct invasive exploratory procedures on our pets when there are no symptoms beforehand.

POCTAA should state that the reason for seizure MUST be included on the seizure paperwork.

At the time the inspector said Lego was being seized because of the visible benign tumours on her – which is in evidence on the body camera audio. While she had some unsightly lumps, they did not cause her any pain. And our vet had advised us that they would return (after she surgically removed some in 2019) and she was now too old and high risk for further surgery to remove them. But I was not charged by RSPCA NSW for the lumps, so I can only assume the RSPCA NSW vet must have educated the inspector and repeated what I told him – that they were not painful or preventable, and we were clearly treating any broken skin.

They then charged me for her dry eye and ear infection, although we WERE treating Lego for these conditions and knew how to treat them. The inspector was not interested in seeing the ear drops or eye drops - obtained from our vet - before deciding to seize Lego.

RSPCA NSW's court documents stated that she declined in their care, and as a result, she was euthanised. As above, our vet has stated that the decline should have been expected due to the circumstances of the seizure. But this then meant I was charged with Aggravated Cruelty. Aggravated Cruelty applied because the outcome was that Lego died, but Lego's decline and death was due to RSPCA NSW's actions, not mine.

The charges should relate to the harm caused to the animal, and the intentions of the person doing the harm and not just the outcome – especially when the outcome was an action taken by someone else, against my wishes and not in my control.

I can only assume that Lego was seized and not taken to the nearest vet because it was the only way to guarantee a more serious charge against me. By ensuring that she was euthanised, it is automatically an aggravated cruelty offence. If our local vet had taken over her care and treated her, the case would likely have closed then and there for RSPCA NSW.

Again, this was a decision made at Lego's expense.

Me versus a Multi-Million Dollar Corporation

At the time, I was very motivated to fight back and defend myself. The legal process is very slow, and very expensive. The harder you fight, the more it costs. I imagine there are very few people who can afford to fight back for long.

New laws, championed by some on this Committee, would mean that if I fought the charges and lost, I would face an automatic ban from owning, caring for or working with animals for years to come. It would affect my Working with Children Clearance. I never even harmed my dog! What would happen to my other very old dogs, and my cows and geese and chickens? It's not a fair fight, its rigged against animal owners, and it's a huge gamble - all because I did not have the financial resources to fight. I'd rather spend the money I have on my animals.

I was given a dozen character references from people in my community to present in court, including one from my veterinarian, commenting on RSPCA NSW's notes, which I have attached as **Appendix 5** with his permission.

RSPCA NSW agreed to a reduced plea deal. On 13 January, 2023 I pleaded guilty to one count of Failure to provide vet treatment.

The emotional and mental distress to defend these charges is much harder to deal with than the financial ones. This stays with you, and how I should have tried harder to protect Lego from the RSPCA NSW will haunt me forever.

POCTAA gives the RSPCA NSW more protections than it does to the animals, including allowing RSPCA NSW to cause physical and emotional harm to those animals. And yet I am the convict!

To add insult to injury – half the fines I was ordered to pay went directly to RSPCA NSW. It incentivised them to seize my dog and transport her to Yagoona and not to the closest vet.

More Mistakes

Not long after the court date, I received a Disqualification Order from Hornsby courthouse in the mail. The conditions stated that I could not own, care for or interact with animals for a period of 2 years. This was a huge shock, and more distress, as I was sure this was not the conditions I understood and agreed to in court.

I called my barrister to check if this was correct, and she confirmed it was a mistake. It was a mistake by the Courthouse Clerk, and they corrected the paperwork, but this again caused more distress for our family until the matter was cleared up several days later – I did not know if I was allowed to live in my own home because we had other animals or if we would have to send the cows to market while pregnant, which would have been a terrible outcome for them. I would not even have been permitted to feed my daughters dogs when she went away.

Haven't we suffered enough?

Trying to get my Girl Home

2 months after this, a man who lived on my street arrived at my door with an express post letter from the RSPCA NSW. It had been sent to his address, but had my name on it (*see Appendix 6*). The man didn't know me and spent several days trying to find me, and I'm grateful that he did.

The letter was from the RSPCA NSW Shelter Vet asking me to arrange collection of Lego's remains. It stated a short period of time to respond before they would dispose of her, and I called several times as you can see where I have written it on the letter. Eventually the shelter vet returned my call and he told me that I could pay RSPCA NSW to cremate Lego, or organise my own cremation service to collect her from them.

We wanted to bury her in our yard with our other pets, but were told that we were not permitted to pick up her body. We tried for several days to get an explanation for this. We were even told it was against EPA regulations (it's not true – I called them and checked, as well as checked with my vet) and after several days of back and forth, I was so frustrated and emotionally drained that I couldn't deal with them anymore. [redacted] made the same false claim in Court, as evidenced in Appendix 3.

I agreed to have RSPCA NSW cremate Lego, but we did not have the ashes returned to us, even though we paid for it.

In hindsight I suspect they didn't want to return the "evidence" to me to ensure another vet couldn't look at her. I just wanted to bury my poor dog and let her rest in peace. RSPCA NSW just say no to you for everything, without good reason, without justification, and there's no one to complain to, there is no one above RSPCA NSW to escalate the situation to. They have too much power, even over such a simple request.

Communicating with RSPCA NSW

I call them, no one calls back. My dog is seized, they euthanise her, and the inspector goes on happy holidays before letting me know. Then tells me he killed my dog a week before as if he's talking about a broken lamp he threw away. My vet calls, my lawyer calls, no one will respond. If they do get to speak to a person, it's to tell you that they cannot tell you anything. I am treated as sub human and an animal abuser.

The worst part of this, the part that made this whole process so devastating, unforgiveable and impossible to cope with was the lack of communication from RSPCA NSW. They were unnecessarily cruel and heartless. It was not being professional or distant, it was intentionally cruel. They cared nothing about Lego, except as evidence to use against me and they certainly didn't care about me or my family.

I was fortunate in one way. My community has been wonderful and supportive. As I told my story to members of my church, volunteer organisations, and my customers, they were shocked and outraged, and many have told me they have since cancelled their donations to RSPCA and changed their wills to remove bequests to RSPCA. Many shared their own stories about RSPCA visits and many were very similar to mine - very few had happy endings, especially for the animals involved. Many told me they are afraid to speak up about what happened to them. They are afraid RSPCA will retaliate and take more of their animals.

Not being alone during a tragedy might make you feel less alone, but it doesn't make the loss any easier to comprehend. We still can't understand how this happened to us, especially to poor Lego.

Thank you for taking the time to read my story.

I would be eager to appear as a witness in the Inquiry to answer any questions you may have.

Sincerely,

Dennis Phillips

Please note: I prefer to be contacted by phone

APPENDIX 1

Monday, 28th February, 2022.

RE: 2021 Inquiry into the approved charitable organisations under the Prevention of Cruelty to Animals Act 1979

Thank you to the Members of Portfolio Committee 4 for the opportunity to tell you the story of my dog Lego and her tragic demise in RSPCA NSW care in November 2021.

Firstly, a little about myself and my wife. We are animal people. Our lives revolve around them. We own dogs, cows, geese and chickens. We entered our chickens in agricultural shows with our kids. In my lifetime I have owned 15 dogs, and bred Labradors and Great Danes. I used to own a goat stud, have cared for animals as my career for most of my life, I even assisted my vet with my animals surgery. I have a good relationship with my vet, who I have been using for over 40 years.

We have operated a stock feed store on our property in Sydney's rural fringe since 1985. It's our job, and our pleasure, to help educate owners on caring for their pets, horses and livestock. People come to us for sound nutritional advice, general animal care, animal first aid, and supplies. Feeding and supporting the many animals in our community is just what we do.

Lego was a blue Great Dane born in 2009, and originally purchased by my son. She had 9 puppies and her son, Duplo, is now 9 and still lives with us. Our dogs are with us all day long at work and at home, and are very rarely left alone. Great Danes normally live up to 7 years of age and Lego was 12. She had some benign growths (common in old dogs) removed 18 months prior to the RSPCA visit and the vet advised that this would be her last surgery as the risk of complications increased with her advanced age. He warned us that the lumps would return in time, which they did. He advised that we could medicate any further issues that arose, and has supported us in doing so.

We knew her remaining time with us was limited, and she was slowing down. We were well aware of what signs to look for that would tell us she had had enough of life, this was not new to us, and we did not see those signs in Lego yet. Over the years, we established some basic, daily routines to ensure that her health and demeanour was monitored closely. Every morning she would wake from her bed, and demand a cuddle and rub all over. The rub was not just because she liked it, it allowed me to check she wasn't sore or sensitive anywhere.

The Monday morning of 22nd November 2021, she behaved normally. She enjoyed her morning cuddle and check over, I cleaned some sleep from her eyes and took her for a walk. She peed and pooped normally, without signs of effort, then chose her favourite sunny spot in the lawn to sleep while I prepared for work.

Two RSPCA Inspectors arrived around mid morning, parked outside of our open front gate, and one climbed on the front fence to look into the property near where Lego was sleeping. One approached me and told me he had a complaint, and he was investigating. He asked me about Lego's vet visit

history, which he confirmed with my vet, and then he inspected Lego, for less than 5 mins. It was a visual appraisal, he did no physical examination.

He told me that Lego needed to see a vet, due to the benign lumps, and asked how I was treating them. I answered his questions, and I told him that we could go straight to my usual vet (5 mins away) and the inspector could accompany me. The Inspector told me that the vet might be busy and not able to fit us in (even though he had just phoned them himself), and Lego must be seen by the RSPCA vet at Yagoona (over 1 hour away).

He did not ask me what type of food Lego ate.

He did not ask me how often Lego was fed.

He did not ask me what medications Lego was taking.

He did not ask me when her last flea/tick treatment was.

He did not ask me when she was last dewormed.

He did not ask me about Lego's daily management schedule.

He did not ask if she lived indoors or out.

He then gave me a Seizure Notice Receipt, and another notice for Duplo to have my vet assess a similar lump on his ear.

He then proceeded to load Lego into his ute, and I assisted him, as she is a very large dog. Lego did not fit through the dog cage door, and the Inspector had to push down on her head and back and hips to make her fit through it. When I objected to this treatment, he told me she will sit once they start moving. I was in shock and distraught. The cage was totally unsuitable for a Great Dane, she couldn't stand up or turn around at all. I couldn't foresee how they were going to get her back OUT of the cage at the end of the journey.

He did not tell me why it was urgent to seize Lego.

He did not tell me what would happen to Lego.

He did not take Lego's bedding, blanket or any familiar items to reassure her.

He gave me a Seizure Notice receipt that did not state the reason for the seizure.

When the inspector returned 2 days later for an interview. I asked if he wanted to see Duplo's ear or the evidence that I had followed his instructions, but he declined. He wasn't interested to see the dogs at all, he just wanted the interview of me accepting responsibility for Lego's care. I asked about Lego, and he refused to give me any news or information on how she was doing.

I waited to hear from the Inspector, but when 2 days passed with no communication, I called the RSPCA Yagoona Shelter and asked what was happening with Lego. I was told that they could hold my dog for 60 days, while they wrote a report, and that an inspector would call me. When I still heard nothing, I called again on 1st December and was told that the Inspector was now on leave and would

call me upon his return. I had not received any report as promised, and they refused to answer any questions about Lego. I asked to speak to a supervisor who did call me back, but also refused to provide any information. I did not know that Lego was already dead.

My vet also called during this time and while he could access people higher in management than we could, he still was given no answers, and could not help.

One week later, on Monday 6th December, 2021, the inspector called me and told me my dog had been euthanized, and that this had happened the previous week. I was devastated, and shocked, not just at the news, but at the casual and cruel manner that he told me. I asked to go and pick up Lego's remains to bury at home, but I was told that her body would not be released as the report was not complete.

Until this happened to us, we firmly believed that the RSPCA were a force for good, and that as long as you were doing the right thing, you had nothing to fear. But in my opinion, this is no longer true.

Lego's last days were unimaginable and my wife, children, grandchildren, and I are all tortured by the thought of it. She spent her last days without the only family and environment she has ever known, with food she was not used to, surrounded by other distressed dogs that she didn't know, without the bedding and smells that made her feel safe and happy. Was she in a small cage? Was she indoors or out in the pound? Was she given comfortable bedding? We don't know because when we asked questions, we were refused answers. She must have been so confused and afraid, and wondered why we let this happen to her. Why did we let them take her?

I have now been charged with cruelty offences, just for taking care of my very old, very fragile, very precious family member. Our vet had no authority. Our experience held no value. It was within the power of a single inspector to decide that that her life was not worth living, and her welfare needs were no longer important and could be disregarded. Are we not supposed to be our animals' forever family and love them until they tell us they have had enough? Are we not SUPPOSED to stay with them until their very last breath? Why was Lego punished so cruelly for us doing the right thing and caring for our family?

Lego was not ready to die, and she didn't deserve to die like this. We didn't deserve to be treated like this.

On the RSPCA website, under the Heading OUR ROLE IN ENFORCING THE LAW it explains that animal cruelty is, amongst other things: "causing animals psychological harm in the form of distress, torment or terror, may also constitute animal cruelty." In the "Fact Sheet" provided to us on Lego's case, states that after 7 days in RSPCA's care, Lego stopped eating and would not get up. She didn't want to live anymore in their "care". How can this not be seen as gross hypocrisy?

She should have been allowed to die when she was ready, here at our local vet's, where she was in familiar surroundings with those who cared about her, where she would have been treated with the dignity and respect such an elderly old lady deserved. She should have come home to be buried with the rest of her family here.

They 'disposed' of her without giving us the option of collecting her remains, and only notified me of her death a whole week later - after the inspector took a holiday. She is the only one of our beloved dogs not buried in our garden, and we have nothing left of her, not even the collar she was wearing. We feel like she was thrown away like garbage. Just one of many.

She was NOT garbage to us. We have been devastated by the callous handling and complete lack of regard for the welfare of an old, family dog. The inspector is protected by POCTA for his shocking handling of our dog, with no accountability, no avenue for liability or to claim compensation. There isn't even anywhere to complain to, as the Minister's office tells us to complain to RSPCA, who take no responsibility, because POCTA indemnifies their actions. DPI have no control and no power over RSPCA, and they cannot help us. There is no ombudsman or oversight of any kind.

We can't even defend ourselves fairly in court – the "receipt" does not state why the dog was seized or what condition she was in (perfectly legal under POCTA), our vet tried to intervene and was ignored (legal under POCTA), the "evidence" has been disposed of (legal under POCTAA), the inspector's body cam footage is so far being withheld (POCTA doesn't require authorised officers to provide any evidence beyond an authorised officer's oath in court), and we are assumed guilty before we even walk into the court room, because, why else would we there? What do you think our chances are? POCTA allows all of this to happen based on a 5 minute, visual assessment by a single visit by a single inspector.

This is how "streamlined" the current laws are. It's not streamlined, its one sided and leaves animal owners incapable of protecting their animal/family and defending themselves afterwards. POCTA gives the RSPCA more protections than it does to the animals.

We will never recover from this devastation, and this trauma to our family, and it could have been prevented if POCTA was actually written to PROTECT ANIMAL WELFARE. The RSPCA have too much power, too little empathy, no consequences for their actions, and there's no incentive for them to put animal welfare first. The animals' welfare MUST be legislated to come first without exceptions to the Act for those who enforce those same welfare standards. RSPCA must have independent oversight, because currently there are NO consequences for the decisions they make.

But YOU can change things, by ensuring POCTA makes all authorised officers' actions transparent and accountable. I beg of you. Make them accountable to SOMEONE external to their charitable organisations. Please don't let this ever happen to anyone else.

Sincerely,

Dennis Phillips.

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APPENDIX 2