

Submission  
No 19

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

**Name:** Name suppressed

**Date Received:** 20 February 2024

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Partially  
Confidential

## **Submission – 2023 Inquiry into the approved charitable organisations under the POCTA Act**

My submission will focus on the RSPCA and their methods of enforcement with a focus on volunteer wildlife rehabilitators.

*In this submission, I am in no way suggesting that any person, business or organization has done, or is doing, anything untoward or illegal.*

As a wildlife rescuer and rehabilitator in WIRES, there are a number of concerns for many volunteer members regarding enforcement actions taking place by RSPCA when a matter is referred to them by WIRES - and ***how much independent due process is taking place by RSPCA officers before they act upon information provided to them by WIRES specifically.***

WIRES CEO is a former employee of the RSPCA and WIRES now has a Wildlife Welfare Team whose staff members are nearly all ex-RSPCA employees. The Head of the WIRES Welfare Team was 17 years with the RSPCA.

WIRES is not an enforcement agency but changes to their 'Conditions of Membership' now document that 'routine facilities inspections' are to be carried out on volunteer members by the new Welfare Team – none of whom have any hands-on wildlife rehabilitation experience - and 'animal cruelty' has become a commonplace topic with each branch being given a talk by the Head of the Welfare Team *specifically about POCTA Act.*

POCTA Act has no need to prove '*intent to harm*' and native wildlife in care is always compromised – that's why it is in care in the first place. It would be very easy for someone not well-versed in wildlife rehabilitation to put an animal's condition down to negligence by the person in charge of the animal ie. the wildlife carer - if inadequate recognition is given to the condition of the animal on arrival into care and how native wildlife respond whilst in care.

The increasingly close relationship between WIRES and the RSPCA in NSW has many volunteer wildlife rehabilitators very concerned and I believe is adversely affecting confidence across the sector. Wildlife carer numbers are declining as is well documented in recent reports, one being the Wildlife Rehabilitation Sector Strategy Review -

<https://www.environment.nsw.gov.au/research-and-publications/publications-search/review-of-the-nsw-volunteer-wildlife-rehabilitation-sector>

WIRES also did their own Members Survey in 2023 to look into declining volunteer numbers, the results of which have not been released.

An ongoing court case of a highly experienced ex-WIRES carer clearly outlines some of these concerns in a real-world scenario. Below is my understanding of the facts of the case and how it highlights that RSPCA enforcement procedures might be considered 'unnecessarily aggressive' and be contributing to the wasting of public funds whilst having serious impacts on the lives of people in the community volunteering to assist native wildlife. It is very difficult to separate WIRES and the RSPCA in the facts of this court case as they seem to have acted as one entity. This in itself is concerning.

- 1) WIRES Welfare Team referred an experienced carer to the RSPCA following a 'standard review' of an animal in care. There was no attempt made by WIRES to discuss any concerns with the carer prior to them making a report to their contacts at RSPCA. It would be interesting to know how this report was made and whether it went through official channels. WIRES policies state that carers will be retrained or mentored if there are any concerns for their standard of care so surely this animal must have been considered to be in '*immediate grave danger*' by both WIRES and the RSPCA yet the animal had only been seen via zoom and in photographs by WIRES.

- 2) This rehabilitator has almost a decades experience successfully rehabilitating wildlife and has completed numerous training courses under WIRES governance and facilitated training others. She would fit the definition in the NSW Codes of Practice for Sick, Injured and Orphaned Protected Fauna as an, 'experienced fauna rehabilitator' able to assess wildlife.
- 3) The animal was being given daily medical treatment involving changing wound dressings with the hope it could be reintroduced into the wild. It was not being abused – it was being given a chance. It was seen by a vet on coming into care initially, and another vet at the midway point who opted for a change of medication.
- 4) Following their zoom review, WIRES could easily have asked the carer to get another veterinary check and RSPCA did not have to take the WIRES report at immediate face value. I believe at this point, RSPCA should have checked with WIRES whether they had asked the rehabilitator to take the animal for a further vet check as a result of their review. Did the RSPCA examine any of the so-called 'evidence' themselves or did they rely solely on the request by WIRES to perform a raid on this volunteers premises?
- 5) It is my understanding that no attempt was made by the RSPCA to contact *either of the two treating vets* that had examined this animal to inform themselves of the animals condition prior to raiding this volunteer members property. It would be interesting on what basis the RSPCA deemed it necessary for them to act so quickly and whether such a response was appropriate or necessary.
- 6) The member of the WIRES Welfare Team that lodged the complaint also accompanied the RSPCA officers on the raid which I believe could be considered a conflict of interest. I would be interested to know if the RSPCA ever take a complainant on the raid at any other time or if this treatment is reserved for WIRES staff. Is it appropriate for WIRES to attend the raid when they lodged the complaint?
- 7) The WIRES 'expert' vet also accompanied the RSPCA officer on the raid and I believe he euthanized the animal in the RSPCA van before it was given any further independent evaluation or medical examination at a veterinary clinic including x-rays. On the basis of a zoom call and some photographs of the animal, he determined this animal should be euthanized without waiting for x-ray results. Did the RSPCA confirm the qualifications of this WIRES vet prior to allowing him to accompany them on the raid and was he experienced with this particular species? Does the RSPCA consider all vets to be experts in native wildlife or would a species-specific vet be preferable in such a case?
- 8) The carer is now facing serious charges in court of 'aggravated cruelty' which comes with a \$22,000 fine or a possible custodial sentence. This is a volunteer with 10 year's experience in wildlife rehabilitation and no prior complaints. If convicted of this serious offence, she will never be able to rehabilitate native wildlife again and for many volunteers, this would be akin to a death sentence. Should wildlife volunteers be permitted to be 'blindsided' like this – by their own organization and the RSPCA working together? Should a volunteer rehabilitator always have some understanding that there are concerns for their level of care before any such case is escalated?
- 9) It is concerning that the RSPCA enacted the raid on the carers property and are then prosecuting the case in court – there has been no independent assessment of the facts of the case by a third party. Has this volunteer been given a chance at procedural fairness and natural justice in the handling of this case?
- 10) It is very hard to ascertain on what basis the RSPCA responded so vigorously to a complaint raised by WIRES – and how much due diligence has taken place by either organization. When it comes to Not-for-Profit Charitable organization there seems to be very little transparency and accountability. They are not government departments so the requirement around record keeping and visibility of processes are less rigorous.

- 11) There has been no ability for an independent assessment of the animal as it was taken away by the RSPCA and so only this opinion can be presented to the court. There should be the ability for the rehabilitator to get a second opinion on the condition of the animal in question through having access to the carcass.
- 12) I believe this case to be a waste of court time and public monies. This entire matter could have been dealt with by better communication with the carer and requesting further veterinary assessments. Both organisations rely on public donations given in good faith and I wonder if legal action against their own volunteer members is considered an appropriate way for these monies to be spent. I would ask both organisations how much they have spent on legal cases against volunteer wildlife rehabilitators.
- 13) This case occurred during Covid restrictions when access to vets was even harder to access. Educating this carer and retraining or mentoring her would have been a much better outcome for everyone. I have to seriously question the response of both *charitable organisations* in the details of this case.
- 14) Does this situation truly warrant a court case and a significant cost to the tax payer? If the animal was not in 'immediate danger' surely the RSPCA should have issued a Notice of Direction for the animal to receive a further vet check?

Situations like this have knock on effects and will deter others from becoming volunteer wildlife carers - and rightly so. We are giving our time, attention and financial support to assisting native wildlife and yet without warning, we can find ourselves in front of a judge on criminal charges.

As these organisations are both charities, there seems to be a serious lack of transparency available for the community to understand their internal decision-making processes. There should be some investigation as part of this inquiry into the referrals made by WIRES and on what basis RSPCA raids are done on behalf of WIRES.

The WIRES vet apparently outlined in court his expectation that all animals in care should see a vet 'weekly'. This is NOT current practice and is not outlined anywhere in Codes of Practice of the policy of WIRES. Wildlife treatment is not funded by either the government or by WIRES. Who would be expected to finance this weekly treatment?

I believe this inquiry must investigate whether RSPCA is acting to concerns they have for wildlife following their own investigations or if they are relying on information from WIRES that is unsubstantiated.

Vets are facing staff shortages and increasing financial pressures and in 2023 there was a Parliamentary Inquiry into vet shortages.

The ongoing court case highlights a discrepancy in the RSPCA expectations for having native wildlife seen by vets when there is no compensation to vets or wildlife rehabilitators for these vet visits. This is not sustainable and the expectations detailed in the RSPCA case against this carer are not current policies.

Volunteer wildlife rehabilitators deserve to know that RSPCA will not enter their premises unless absolutely necessary and many believe that this would mean if they were deliberately ignoring advice or requests by their organization. Attacks on volunteers who have never been made aware of a problem cannot become part of a routine operational process. This needs some oversight.

I believe RSPCA should not be prosecuting good people without very good justification.

I also believe that the Annual Accounts published by both WIRES and RSPCA need to have more information outlined so that a proper evaluation of their spending of public donations can be performed. Current information only covers the minimum requirements yet these organisations are the recipients of considerable public monies.

I would agree with the recommendation in earlier Inquiry's that the NSW Government establish an independent statutory body to be responsible for animal protection issues.

WIRES is in the process of drafting a new Constitution document and has outlined an activity that will be 'advocacy in the areas of animal cruelty and licensing'. This has not been explained to members and is not inspiring confidence that any processes followed will be appropriately rigorous and allow members an opportunity for natural justice.

The Animal Defenders Office made the following recommendation in the earlier inquiry: -

"To do this we would suggest that publicly available annual reports of approved charitable organisations should include information about the type of animals that animal welfare complaints are about; the outcomes and the number of complaints not pursued and the general reasons why; **what type of action is taken in response to complaints that are pursued;**"

Volunteers deserve better.

Regards.