

Submission
No 23

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

Organisation: Australian Veterinary Association (AVA)

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NSW Inquiry into the operation of the approved charitable organisations under the Prevention of Cruelty to Animals Act 1979

Submission of the
Australian Veterinary Association Ltd

February 2024

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The Australian Veterinary Association (AVA)

The Australian Veterinary Association (AVA) is the peak professional association representing veterinarians in Australia.

Our members come from all fields within the veterinary profession. Clinical practitioners work with companion animals, horses, livestock, and wildlife. Government veterinarians work with our animal health, public health, and quarantine systems while other members work in industry, research, and teaching. Veterinary students are also members of the Association.

We empower the veterinary profession to thrive by providing a voice, education, community, and support.

Discussion

The AVA welcomes the opportunity to provide feedback to the *Portfolio Committee 4 – Regional NSW 2023 Inquiry into the operation of the approved charitable organisations under the Prevention of Cruelty to Animals Act 1979*. The AVA submission will address the relevant Terms of Reference (TOR) 1(b) and provide comment on recommendation five from the 2022 Inquiry Report regarding mobile veterinary clinics.

Please note, the AVA has several policies, and recent submissions relating that are highly relevant to this inquiry:

- [AVA Submission, hearing appearance](#), and [questions on notice](#) to the [Inquiry into Veterinary Workforce Shortages in NSW](#)
- [AVA Submission](#) and [hearing appearance](#) to the [Inquiry into Pounds in NSW](#)
- AVA Policy on [Animal Abuse](#)
- AVA Policy on [House call practice](#) (mobile companion animal veterinary services)
- [AVA Statement of principles – Animal welfare and ethics](#)

It is critical to note that pet ownership in Australia is at an all-time high, with approximately 69% of Australian households having at least one pet¹. Along with recognition that animals are sentient beings, there is increasing public expectation that animals held are appropriately cared for and protected from acts of cruelty, and that animals experience positive welfare².

The AVA would welcome further discussion on the concerns outlined in this submission.

¹ Animal Medicines Australia. Pets in Australia: A national survey of pets and people. 2022. Available from: https://animalmedicinesaustralia.org.au/%20wpcontentj%20u%20ploads/%202022/%2011/%20AMAU008-Pet-Ownership22-Report_%20v1.%206_%20WEB.pdf

² MELLOR, D. J., BEAUSOLEIL, N. J., LITTLEWOOD, K. E., MCLEAN, A. N., MCGREEVY, P. D., JONES, B. & WILKINS, C. 2020. The 2020 Five Domains Model: Including Human–Animal Interactions in Assessments of Animal Welfare. *Animals*, 10: <https://doi.org/10.3390/ani10101870>.



TOR 1(b) the exercise by the approved charitable organisations of their compliance and enforcement functions under the Prevention of Cruelty to Animals Act 1979

The AVA are concerned there's a prosecution gap amongst numerous legislations concerning animal welfare; Prevention of Cruelty to Animals Act, Veterinary Practices Act, Medicines Poisons & Therapeutic Goods Act, Stock Medicines Act and the Biosecurity Act. As such there are several agencies and organisations with the authority and responsibility to investigate and prosecute various acts of animal cruelty or welfare concerns. However, there is uncertainty amongst these authorities where cases overlap or fall between various legislations. Furthermore, it has been observed that agencies prioritise cases with a higher chance of successful prosecution under certain animal welfare acts, potentially leading to the sidelining of less severe cases. For example, unauthorised acts of veterinary science by laypersons.

Unauthorised acts of veterinary science by laypersons are governed by several pieces of legislation, leading to multiple agencies overseeing various facets of these illicit activities. A shared challenge across these agencies is the limited resources and impetus to enforce the associated legislations.

The illegal use and acquisition of S4 drugs, including general anaesthetics, by laypersons is a significant concern in New South Wales. Such actions not only breach the Poisons and Therapeutic Goods Act but also raise broader concerns about animal welfare, pain management and the unauthorised practice of veterinary science. In these instances, NSW Health inspectors are charged with investigating potential breaches under the Act. Simultaneously, the suppliers of the S4 drugs – which could include veterinarians or pharmacists – would also come under scrutiny. Veterinarians implicated in such practices would be referred to the Veterinary Practitioners Board.

Adding to the complexity, if the affected animal is a food-producing species, potential breaches of the Stock Medicines Act or the Biosecurity Act may come into play, falling under the purview of the NSW Department of Primary Industries (DPI).

However, it is evident that the legal landscape governing these matters is intricate and, at times, inconsistent. For example, while DPI administers the Prevention of Cruelty to Animals Act (POCTA), it lacks inspectorial or prosecutorial powers under these Acts. Instead, these responsibilities lie with organisations like the RSPCA, Animal Welfare League, NSW Police, and Greyhound Welfare and Integrity Commission, as delineated in POCTA.

While the Veterinary Practices Act (VPA) overseen by the NSW Veterinary Practice Board (VPB) grants the authority to appoint inspectors for veterinary hospital compliance, they lack the necessary resources to deploy inspectors to address violations by laypersons. Currently, the VPB addresses reported breaches by laypersons by issuing cease and desist letters, which may not be enough to deter this behaviour, particularly where this is the basis of commercial practice.

There's a clear connection between VPA and POCTA, given that the latter refers to the Restricted Acts of Veterinary Science. Yet, certain ambiguities and exemptions in the VPA – like the allowance for laypersons and animal owners under specific circumstances to conduct restricted acts of veterinary science – create confusion and potential risks. Furthermore, the need for a comprehensive review of definitions, particularly around what qualifies as a restricted act of veterinary science and exemptions, is paramount to ensure clarity for all stakeholders involved.

A potential solution involves a systematic review and updating of the VPA to reflect modern veterinary practices and societal expectations, revisiting the exemptions as to who can perform restricted acts of veterinary science, and providing enhanced training and resources for POCTA inspectors.

For organisations like the RSPCA, competing objectives and resource constraints can impede effective oversight and prosecution. This is further complicated by the involvement of multiple agencies like DPI,



NSW Health, VPB, and the police, each approaching the issue from a distinct perspective. This fragmentation often leads to breaches not being investigated and contributes to a lack of clarity on jurisdictional responsibilities.

When presented with cruelty cases or cases of unacceptable animal welfare, individual veterinarians are often left to help the animals without support or guidance from those authorised under POCTAA. A challenge is that POCTAA is enforced by charitable organisations who are already under resourced. In a study of 540 Australian veterinarians, dealing with a case of suspected animal abuse was the most stressful ethical challenge faced³. This can be a source of moral injury and puts an emotional, financial, and ethical strain upon veterinarians and the wider veterinary team.

The effectiveness of the law is not just about its existence but also its consistent implementation and effective enforcement. Besides the considerable animal welfare issues, veterinarians are particularly concerned, feeling that there isn't a robust system to address illegal and cruel practices by laypeople, leading to frustration and career dissatisfaction.

Reviews of enforcement under POCTA need to take into account the gaps in legislation and a review of cases that were not investigated or passed to other agencies and the outcomes of these investigations. Additionally, future legislative and regulatory work needs to address these gaps directly.

To enhance this process, it is critical to establish arrangements for capturing data on investigations undertaken or not, including detailed reasons for such decisions. This approach will ensure a comprehensive understanding of enforcement challenges and opportunities for legislative improvements.

In essence, to safeguard animals, protect consumers, and the public interest, there's an urgent need for a consolidated, well-resourced, and clear legislative and enforcement framework in New South Wales.

2022 Inquiry Report Recommendation Five – mobile veterinary clinics

The AVA have reservations about the [2021 Inquiry into the approved charitable organisations under POCTA](#) Act that recommended: *That the NSW Government fund the procurement of additional mobile veterinary clinics, and consider funding the ongoing costs of running the mobile veterinary clinics, for both of the approved charitable organisations in recognition of the vital roles these clinics play in disaster relief efforts and in improving animal welfare outcomes in rural and regional New South Wales.*

The AVA appreciates the critical support provided by these charitable organisations, especially during disasters when the demand for veterinary services could exceed the capacity of local veterinary practices. However, we emphasise the importance of deploying them judiciously to avoid undermining local veterinary practices, ensuring that the deployment of mobile clinics collaborates with and complements rather than competes with existing veterinary services.

In our representations to the [Inquiry into veterinary workforce shortages in NSW](#) the AVA highlighted the potential of mobile clinics in servicing rural and remote areas lacking permanent veterinary facilities. However, these charitable organisations mobile veterinary clinics or outreach programs should be conducted in collaboration with veterinary practices in the region. Moreover, funding from the State for mobile veterinary clinics servicing rural and remote locations should be available to veterinary practices to extend their veterinary care into these outreach areas.

³ CRANE, M. F., PHILLIPS, J. K. & KARIN, E. 2015. Trait perfectionism strengthens the negative effects of moral stressors occurring in veterinary practice. *Australian Veterinary Journal*, 93, 354-360: <https://doi.org/10.1111/avi.12366>.



A significant concern of the AVA is charitable organisations mobile veterinary clinics providing discounted or free veterinary services without adequate means testing or collaboration with local veterinary practice. We support initiatives that provide affordable care to individuals with low socio-economic status and the intention of offering accessible care is commendable. However, this practice can have unintended consequences. It risks devaluing professional veterinary services and undermines the perceived worth of such care. Additionally, it can disrupt the continuity of care for animals by not connecting pet owners with long-term local veterinary care, essential for ongoing animal health. This approach can also undercut the financial viability of local veterinary practices, which are cornerstones of community support and employment.

In summary, the AVA recognises the value of charitable organisations mobile veterinary clinics in specific contexts, particularly in disaster relief and servicing underserved areas in rural and remote NSW. However, we advocate for a balanced approach where these services complement rather than compete with local veterinary practices, respecting the broader implications for the industry and community.

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