

REPORT ON PROCEEDINGS BEFORE

**SELECT COMMITTEE ON ANIMAL CRUELTY LAWS IN
NEW SOUTH WALES**

ANIMAL CRUELTY LAWS IN NEW SOUTH WALES

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Thursday 13 February 2020

The Committee met at 9:15 a.m.

PRESENT

The Hon. Mark Pearson (Chair)
The Hon. Lou Amato
The Hon. Mark Banasiak
Ms Abigail Boyd
The Hon. Sam Farraway
The Hon. Emma Hurst
The Hon. Matthew Mason-Cox
The Hon. Walt Secord
The Hon. Mick Veitch (Deputy Chair)

CORRECTED

The CHAIR: Welcome to the second hearing of the Select Committee into Animal Cruelty Laws in New South Wales. The inquiry is examining the effectiveness of the arrangements for the administration and enforcement of the laws of New South Wales for the protection of animals from cruelty. Before I commence, I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the Elders past and present of the Eora nation, and extend that respect to other Aboriginals present. Today we will hear from private citizens, representatives from agriculture, primary industries, companion animals, animal welfare organisations and the RSPCA NSW.

Before we commence I will make some brief comments about the procedures for today's hearing. Today's hearing is open to the public and being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the gallery should not be the primary focus of any filming or photography. I would also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings.

It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at this hearing. I urge witnesses to be careful about any comments you may make to the media or to others after you complete your evidence, as such comments would not be protected by parliamentary privilege if another person decided to take any action under defamation. The guidelines for the broadcast of proceedings are available from the secretariat. There may be some questions that a witness could only answer if they had more time or had certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide that answer within 21 days. I remind everyone here today that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily.

Witnesses are advised that any messages should be delivered to the Committee members through the Committee staff. To aid the audibility of the hearing, may I remind both Committee members and witnesses to speak into the microphones. The room is fitted with induction loops compatible with hearing aid systems that have telecoil receivers. In addition, several seats have been reserved near the loudspeakers for people in the public gallery who have hearing difficulties. Finally, I would ask everybody to turn their mobile phones off or to silent.

SELMA BUREK-CELEJEWSKA, Private citizen, affirmed and examined

The CHAIR: Would you like to make an opening statement for the Committee?

Ms BUREK-CELEJEWSKA: Yes, please. I will be brief. I worked at the RSPCA for eight years—three years as an animal attendant and then almost five years as a nurse. I still feel connected to the RSPCA. I take all of my animals to the RSPCA hospital for treatment. I trust the staff, I trust the standard of care and I prefer that my vet bills contribute to the funding of the hospital. I think the hospital is crucial to the work of the RSPCA. I still foster animals or organise foster carers, which is basically taking care of an animal that is not ready to go up for adoption yet. It might be due to age. It could be due to illness.

I commend the staff, in particular the animal attendants, the front counter staff, the veterinary nurses and the vets. They really are on the front line and carry out a very difficult job, as do the inspectors, and I wholeheartedly support the work that they do. But the issue, as I understand it, is with the appropriateness of charitable organisations enforcing the law, in particular criminal law. There are issues in terms of resources, expertise and funding.

I understand that this inquiry is also about looking into more suitable alternatives in the form of possibly an independent government body or a police task force. Particularly with the police task force, this has proved successful in other jurisdictions so I would certainly support that but I feel there are other organisations that are better placed to advise more in-depth on this area. I will also touch on the issue of euthanasia. It is a very vast issue that obviously impacts the animals as well as the employees. If charitable organisations no longer had to fund an inspectorate it would certainly mitigate some of these problems by reducing the number of animals put to sleep by having some of that money go towards education programs, investigating where changes can be made and finding ways to reduce the number of animals that are euthanased.

Then there are the flow-on effects: This would also improve the mental health of staff which again in turn aids the animals. Essentially why we are here is to improve animal welfare. I think there is common ground within all the different organisations in that fundamentally that is what we want, although we have differing viewpoints as to how that should be achieved. Lastly, thank you for allowing me to make submissions and thank you for asking me to provide testimony. I hope I can play a small part in this important inquiry.

The CHAIR: Thank you for coming.

The Hon. MICK VEITCH: Thank you very much for your submission and your considered contribution as an opening statement. I want to go to animals and research. You touch on that in your submission. It is an area we have not explored a great deal yesterday or today at this inquiry. Part of the discussion has been around the legislative framework of the animal welfare legislation and whether or not there needs to be a contemporising or a review of all that legislation, and particularly the Prevention of Cruelty to Animals Act [POCTAA]. Firstly, do you support the need for a complete rewrite of the animal welfare legislative framework in New South Wales? Secondly, how does that apply to animals specifically in research?

Ms BUREK-CELEJEWSKA: I do not know if I would be able to say I support a complete rewrite—definitely a review. Sorry, what was the second part of the question?

The Hon. MICK VEITCH: As it relates to animals in research—what are your concerns about current arrangements for looking after the welfare of animals who are being utilised for research?

Ms BUREK-CELEJEWSKA: I think not having regular inspections and then that also connects to funding because obviously RSPCA officers and Animal Welfare League officers—there are just not enough resources for them to be inspecting all these facilities, animals in research included. So regular or unannounced audits do not appear to be carried out and it largely falls to employees or ethics committees to detect and report those breaches. So I think one of the fundamental things would be to have a regular unannounced audit by officers as opposed to self-regulation—having an independent person or authorised officer performing these regular and unannounced inspections. That would certainly be a start.

The Hon. MICK VEITCH: Thank you.

The Hon. EMMA HURST: I understand that you are also a law student.

Ms BUREK-CELEJEWSKA: Yes.

The Hon. EMMA HURST: From the perspective of a law student can you give us your thoughts about some of the key problems that you see in having a private charity enforcing criminal law?

Ms BUREK-CELEJEWSKA: Can I answer that in short and then potentially also take it on notice? Because it is just so vast and I would love to go back to it.

The Hon. EMMA HURST: Yes, that would be great.

Ms BUREK-CELEJEWSKA: The three key issues would be resources, expertise and accountability. Charitable organisations are already struggling and I do not think there are sufficient resources to adequately enforce anti-cruelty legislation. There are issues with transparency—

The CHAIR: Sorry, could I just come in with question: What do you mean by "struggling"?

Ms BUREK-CELEJEWSKA: In my experience there was always an issue with being understaffed due to the volumes of animals that come in and the unpredictability as well, particularly working in the hospital. Even if you technically had the right amount of staff, due to that unpredictability element people would still be struggling to get through the work. If there was a little more funding for more staff I think that would go a long way in improving things. In terms of expertise I refer to the inquiry that was done in Victoria where they found a lot of issues with things like the technical aspects like drafting our drafting briefs, which are very important. Again a lot of that has to do with not having sufficient staff numbers, not having adequate training and having a huge case load. Again that is connected to resources.

The Hon. EMMA HURST: We heard quite a bit of evidence yesterday that the funding that was being received from government was very small.

Ms BUREK-CELEJEWSKA: Minimal—yes.

The Hon. EMMA HURST: Do you think that is one of the biggest issues?

Ms BUREK-CELEJEWSKA: I think that is an aspect. Transparency, having access to more detailed information as to why certain cases are not prosecuted and more detailed information in terms of why animals are being euthanased—

The CHAIR: Just to that, you did mention that if there was more resourcing that fewer animals would be killed. Can you elaborate on that a little?

Ms BUREK-CELEJEWSKA: You are working under a budget. So a lot of animals will require routine surgeries in addition to sterilisations. But there has to be money in the budget and it gets to a point where there just is not any more money for them to undergo the surgery, in which case they might be put to sleep. Because there is also an issue with space which I believe will be improved with the new shelter. When it is peak times, as an example, something that could be done is to have one of those portacabins. But again you need to have the resources to be able to—

The CHAIR: What is that—a portacabin?

Ms BUREK-CELEJEWSKA: I am probably using the wrong term—those temporary housings that you see on construction sites. If you need extra space, that is potentially something you could do. But again you do need to have the funding to carry that out. That is just one example of many.

Ms ABIGAIL BOYD: From your experiences, how much effort was made to keep animals with owners in situations where owners could be educated to take better care, rather than it being a serious case of cruelty?

Ms BUREK-CELEJEWSKA: I found that, generally, if the owner was compliant then there would be no prosecution unless there was an extreme case. But, generally, if a member of the public was issued with an order to seek veterinary care and, with subsequent follow-up, if it was found that they had complied, or if they surrendered the animal, then prosecution would be unlikely.

Ms ABIGAIL BOYD: Were there resources diverted towards education of those individuals? It seems from a lot of the evidence that there is a huge amount of discretion given to the RSPCA as to how they approach individual cases and whether they take on particular cases. In your experience working there, was there a set amount of income or resources that was put towards that sort of education role instead of seizing animals and prosecuting? How were those decisions made?

Ms BUREK-CELEJEWSKA: There was definitely an education department. I cannot say for certain whether there was money directed towards educating people—that would be individually—or where it was possible that, through education, prosecution could be avoided. I am not entirely sure if funds were directed towards that. But overall it was about educating people to take better care of their animals and to keep animals with their owners and prevent them coming into the shelter, not just in terms of cruelty but also in terms of desexing and assisting with other things, like veterinary bills. They had programs for people who were struggling financially and could get their animals sterilised or vaccinated for a lesser fee.

Ms ABIGAIL BOYD: How were decisions made, if you know, by inspectors on the ground working out who they were going to charge? Are there guidelines? Was there, perhaps, a meeting of inspectors where they discussed their approach?

Ms BUREK-CELEJEWSKA: I am not sure. We were not privy to that, and I think a lot of it had to do with confidentiality. But I did hear it said often that due to things like lack of resources, cases will only be prosecuted where there is certainty of success. That was a main aspect.

The Hon. MARK BANASIAK: Going back to the funding, you quote in there that the RSPCA has an operating cost budget of around \$50 million. When you look at what they spend on the inspectorate being \$6 million—and three and a bit million of that is on wages—I think we can all agree that the Government is not necessarily giving them enough to cover that \$6 million. But I struggle to reconcile how they can claim to be on Struggle Street when they have got an operating cost of \$50 million and getting donations of \$32.1 million. I think it speaks to some greater governance issues in how they manage their finances, potentially, across the board. Did you ever feel concerned about how money was being spent—not necessarily across the inspectorate but just in general?

Ms BUREK-CELEJEWSKA: Again, I will answer that in brief, and if I could also take that on notice, please. I definitely did have some concerns. When I started as a nurse, I had been told that staff members—not inspectorate—had company cars and I believe I was also told that they were not having to pay petrol. Those particular staff members—I was then told by one who no longer works there that they no longer have those vehicles. I also heard from colleagues about how there seemed to be a lot of money going into what you would more likely see in a corporate environment in terms of management; that was of concern. Again, I was hearing things from colleagues. I cannot really speak to the details of that. Again, we were not privy. But I can certainly speak to more colleagues, have a bit more of a think and provide more information on that question.

The Hon. MARK BANASIAK: In one of your statements that you made in your submission, you state that there is a conflict of interest with RSPCA working to reform laws at the same time that they are enforcing them. You say that it becomes a conflict when they play a major role in both of those. Can you define what you mean by a major role in reforming the law? Where do you think they have overstepped in playing that role?

Ms BUREK-CELEJEWSKA: I think it is important. I think it is probably the balance. I think law reform is an important aspect of what the RSPCA do. I think it becomes an issue when they are also endorsing—obviously it is RSPCA Australia, which I do understand is a separate legal entity, but I think the public sees the RSPCA as a whole and it can create a perception of bias if they see the RSPCA in a law reform role and endorsing certain brands and if there are cruelty complaints, it is primarily RSPCA officers who are then investigating those at the very places that they are endorsing. That is what I meant by that.

The Hon. EMMA HURST: Are you talking about the RSPCA stamp of approval on food products?

Ms BUREK-CELEJEWSKA: Yes.

The Hon. MARK BANASIAK: You do not think that they are able to adequately distance themselves from their different operations or different things that they have going on in terms of the RSPCA tick of approval, the enforcement, and then the national body doing law reform?

Ms BUREK-CELEJEWSKA: I think so. Again, from just the perspective of the public, I would imagine it creates a perception of bias and distrust. I think the law reform part combined with the RSPCA tick of approval—I think you can balance that. But if on top of that you have the enforcement, I think that is really where it starts to become questionable.

The Hon. EMMA HURST: Yesterday somebody gave evidence that they thought that if something was an RSPCA Approved farm, it would be hard for the RSPCA to prosecute that farm if there was a complaint of cruelty. Is that kind of what you are leaning towards?

Ms BUREK-CELEJEWSKA: Yes. Again, people would be questioning, if you are endorsing a particular brand and you are getting a certain amount of money from that, would it not be difficult at the very least to carry out a prosecution?

The Hon. WALT SECORD: Many of my questions have been covered by the other participating members. But if I could take you back to some of your comments that it is inappropriate for charities to enforce criminal law, is that a philosophical view that you have or is it a conclusion that you reached when you worked at the RSPCA?

Ms BUREK-CELEJEWSKA: I will answer that in brief and then I would like to take that on notice so I can develop it more. When I was working at the RSPCA—it was more once I started studying the law and learnt

more about the law and what the Government does, and I began to realise that it is quite an anomaly that charitable organisations are enforcing the law—particularly criminal law. That does tend to be the role of the Government and I cannot think of any other charitable organisations that are tasked with something like that.

The Hon. SAM FARRAWAY: I wanted to ask you about the Animal Welfare Advisory Council. We heard yesterday from DPI that it has been in place, they are looking to restructure it, the process is open now for applications. I wanted to ask you how do you believe that that council could function better in the system generally under the current structure, or under any proposed different structure in the future?

Ms BUREK-CELEJEWSKA: Again, I will answer that in short. I would like to take it on notice because I think it is a big question. But, again, one of the main elements would be for it to be independent and for it to be an independent government body, which is more transparent than what we have currently.

The Hon. SAM FARRAWAY: Do you believe that the Act and the enforcement should continue to be outcomes focused for the animal as a priority over obviously criminal proceedings? We have heard that there will be reform to the Act and we have heard from other speakers that it is a 40-plus-year-old Act. Do you believe that it should continue to be an outcomes focused decision at the end, rather than just essentially criminal proceedings and penalties issued?

Ms BUREK-CELEJEWSKA: By outcome focused, do you mean—

The Hon. SAM FARRAWAY: For the animal.

Ms BUREK-CELEJEWSKA: For the animal. I would say no. Ultimately what you want is to prevent cruelty. So you want to be able to reach animals and reach people as well before cruelty actually occurs, but that is obviously an educational aspect. But things like regular inspections play a big role in that.

The CHAIR: Would you consider killing an animal that could live with some veterinary assistance or more time to find a home cruel?

Ms BUREK-CELEJEWSKA: I would and unfortunately that does occur. I have been present at countless euthanases.

The CHAIR: Of animals that could have lived if given various opportunities, medical or otherwise?

Ms BUREK-CELEJEWSKA: Yes. The primary reason being space and foster carers. If an animal requires surgery there needs to be money in the budget for surgery, there needs to be availability of, say, for the surgery to actually take place; recovery, so that might mean recovery in the actual shelter or a foster carer.

The CHAIR: Is your evidence that, what you observed when you were working at other places, it appeared that the inspectorate aspect of the RSPCA was actually a burden, cumbersome and prevented the capacity for the RSPCA to be able to provide the highest standards in caring for their animals and being a shelter and education programs. In your evidence you said that if the inspectorate was not sitting with the RSPCA it would be able to perform those other duties at a higher standard.

Ms BUREK-CELEJEWSKA: Certainly that would be the case because the funding that goes towards the inspectorate would then be going back towards the shelter. So you could expand on so many areas, which would be, education would be a major one, expanding the foster care network, having more staff in place.

Ms ABIGAIL BOYD: You touch in your submission on a really important issue, which I did not see in many of the others, which is in relation to the mental health burden on individuals involved in animal cruelty enforcement and looking after animals. You note the high turnover of RSPCA investigators. In your view what could we change to make that burden less or to ease that burden in some way, what structural change could we consider?

Ms BUREK-CELEJEWSKA: I think a big part of it would be to increase staff, so case load was a major aspect; feeling that you just could not get to all the animals that needed help; not being able to prosecute all the cases that warranted prosecution because of time limits and limits in terms of other resources. So, certainly having more staff would go a long way to lessening the case load per person. The mental health aspect is a big part of why people leave. There is generally a very high turnover in my experience within the organisation, and I again had colleagues also agree with that. I stopped working at the RSPCA two years ago and in that time I think there are only a couple of staff members left in the hospital that I worked with. Everyone else is new. And I remember having a conversation with an inspector who was a team leader at the time and he was talking about the difficulties of trying to run the inspectorate when so many inspectors were actually on leave due to mental health.

The CHAIR: Your evidence has been very helpful. Thank you. There are four questions on notice. If you could provide your more detailed answers that you were asked to within 21 days that would be greatly appreciated.

Ms BUREK-CELEJEWSKA: Okay. Thank you.

(The witness withdrew.)

MYRIAM HRIBAR, private citizen, before the Committee via teleconference, affirmed and examined

SIMONE LIESCHKE, private citizen, before the Committee via teleconference, affirmed and examined

The CHAIR: I welcome Ms Myriam Hribar and Ms Simone Lieschke, who are joining us by teleconference today. My name is Mark Pearson, I am the Chair of the Select Committee on the Inquiry into Animal Cruelty Laws in New South Wales. To set the scene for you, we are here in the Macquarie Room at the New South Wales Parliament House. I have with me the other members of the Committee: the Hon. Lou Amato, the Hon. Mark Banasiak, Ms Abigail Boyd, the Hon. Sam Farraway, the Hon. Walt Secord, the Hon. Mick Veitch, the Hon. Emma Hurst. Members of the public and the media are also present and the proceedings are being recorded by Hansard.

The CHAIR: Do you want to make an opening statement?

Ms HRIBAR: Yes. Simone and I have prepared this statement together. Thank you for the opportunity to speak at this hearing. I was a volunteer at Wagga Wagga pound from late 2010 to May 2015. In 2010 I went to TAFE and completed the animal studies certificate II course. At the same time Simone was also a volunteer and was completing her bachelor of animal science degree. We have made five points. First, Wagga pound and all pounds have no independent government bodies checking and monitoring them. If there is legislation that the Government expects councils to comply with, then there also must be measures in place to make sure that this legislation is enforced. We agree with the statement in the review of Wagga Wagga pound in 2016 where it states:

It is difficult for the Glenfield Road Animal Shelter to demonstrate that it is compliant with the legislative standard and to ensure that it does so.

Second, we saw inappropriate treatment of some animals and even cruelty at Wagga pound. That is why we so strongly advocate that everyone working with animals should have some formal animal qualification and also a genuine love and passion for animals. Third, the review of 2016 also stated:

The physical infrastructure forms one pillar of a well-functioning animal shelter but without appropriate management, staff and protocols no shelter will perform well.

It also stated:

Currently much of the day-to-day functioning of the shelter is not defined in the protocols or procedure. It leads management largely blind to what is actually occurring at the facility.

We think many of the incidents would never have occurred if there had been proper protocols in place. Fourth, we think that the issues we raised with both council and the RSPCA have never been properly investigated. If proper investigations had been carried out, with detailed documentation then our questions to both council and the RSPCA of all the issues we raised would be answered but they still remain unanswered. We also wonder if thorough investigations were carried out, why did the same issues keep occurring?

Fifth, we are still seeking further information in regards to the holiday period of 2016-17. We know animals were not cared for properly and suffered. We have put in GIPA requests to Wagga Council regarding this period and have had to appeal twice so far to the IPC. In its review report the IPC stated that council's decision was not justified and they recommended the council make a new decision. The last report from the IPC was received on 28 January this year. If thorough investigations had been undertaken by both the RSPCA and council we think this holiday period would never have occurred. That is why we think there should be an independent government body checking and investigating pounds, with proper documentation to which GIPA applies. Without GIPA we would never have received so much helpful information.

In conclusion, if our experience is an example of how some councils self-monitor their own pounds and investigations are carried out by both councils and RSPCA then we think animals will continue to suffer needlessly in pounds. We assumed that when animals entered a pound they would be properly cared for and their basic needs met. Instead, for some animals it was the continuation of the suffering they had already endured. That is why we would really like to see pound reforms.

The Hon. WALT SECORD: I represent the Australian Labor Party. Will you take us through what you describe in your correspondence as the frozen cat incident?

Ms HRIBAR: This was a really difficult situation. One of the other volunteers was volunteering at the pound and she had this really uneasy feeling. She came around and spoke to me and said, "I've got this really bad feeling." The next morning we were contacted very early with this image of this cat. We both decided, Simone also, and we went then to the pound in the afternoon and saw this cat in the freezer ourselves. We could not understand why it was not bagged, why there were all these claw marks on the freezer wall and why there were

all these blood smears. But also on the Thursday, that was the day before, a woman had come in with three cats. When we went in on the Friday only one of those cats remained in the cattery and two cats had disappeared.¹

The Hon. WALT SECORD: Did you make a report to the RSPCA about your concerns about the cat marks, the clawing? Did you document it? Did you refer it to the RSPCA?

Ms HRIBAR: Much later cause that occurred in 2014 and much later in 2015, after I had put in my first report to the RSPCA, I did not bring up the issue of the frozen cat. It was only when I was sending in my diary note into council in the following month and I came across my diary note and the images of the frozen cat. Then I contacted the RSPCA.

The Hon. WALT SECORD: What was the response to your reports or your concerns when they were forwarded to the RSPCA?

Ms HRIBAR: The only response was that Simone and I put in witness statements and that is all.

The Hon. LOU AMATO: I am from the Liberal Party. Did you work at the animal shelter from 2010 to 2015?

Ms HRIBAR: Yes, from late 2010 to 2015, yes, until the volunteer program was suspended. It was suspended, I think it was in May 2015 because they were going to address occupation health and safety issues.

The Hon. LOU AMATO: You worked at that shelter and that is where the cat was found?

Ms HRIBAR: Yes, in the freezer.

The Hon. LOU AMATO: And you documented it in 2015?

Ms HRIBAR: No, I documented that in 2014 when it occurred.

The Hon. LOU AMATO: That is because somebody had a feeling that there was a cat in the freezer?

The CHAIR: The cat was alive, correct?

Ms HRIBAR: We do not know that but we consider it was probably alive because we are thinking that two cats disappeared overnight.

The Hon. LOU AMATO: Who else worked there and had access to that facility apart from yourself?

Ms HRIBAR: At the facility the staff employed by council worked there and then we were volunteers and we came during the public opening hours.

The CHAIR: The RSPCA asked for a statement from you and a statement from the other witness who corroborated it?

Ms HRIBAR: I contacted the RSPCA and they then contacted me and asked for a witness statement. They also asked if anyone else observed this and Ms Lieschke provided a witness statement as well.

The CHAIR: What happened then?

Ms HRIBAR: Nothing.

The CHAIR: Did you hear anything from the RSPCA afterwards?

Ms HRIBAR: No.

The CHAIR: Did they interview you?

Ms HRIBAR: No.

The CHAIR: Did they come to the facility?

Ms HRIBAR: We were informed by council that the RSPCA had visited the facility. The only issue that I am aware of that was thoroughly investigated by the RSPCA is the Saviour incident.

The Hon. EMMA HURST: I am stepping away from the examples here. Just looking at your submission, you talk about the statute of limitation for any authority to bring about proceedings under the

¹ In [correspondence](#) to the committee (dated 5 March 2020) Ms Myriam Hribar and Ms Simone Lieschke clarified the paragraph by inserting: *We believe that one of these cats that disappeared overnight is the frozen cat in the freezer. We think it was put in there alive.*

Prevention of Cruelty to Animals Act and you say that the limitation period should be much longer. Can you explain why you think the statute of limitations should be reviewed?

Ms HRIBAR: We did not realise that it only lasted for 12 months, if that is correct? That is what I was informed.

The CHAIR: That is correct, yes.

Ms HRIBAR: So finding information and asking for information under the Government Information (Public Access) Act [GIPAA], it all takes time. We are also juggling with everything else in our lives. It does take time. We wanted to be very careful that the information we had was correct. Within 12 months it is very, very hard to get all of the evidence collected.

The Hon. EMMA HURST: In your submission you talk about an independent office for animal welfare to enforce animal cruelty laws. Can you explain why you think that would be better than the current model that is in place?

Ms HRIBAR: I want an independent government body because I want a body that is answerable and that you can get information from under GIPAA.

The Hon. EMMA HURST: So it is more about transparency and accountability than anything else to you?

Ms LIESCHKE: And also that it is properly funded as well. Yes, adequately funded.

The Hon. WALT SECORD: Do you see a conflict between a charitable organisation providing animal welfare and being an enforcement agency at the same time? Do you see a conflict in those roles?

Ms HRIBAR: I think it is very difficult. I just do not think that a charitable organisation should be enforcing government legislation.

The CHAIR: Your concern seems to be that pounds, particularly Wagga pound in this instance, have not been properly monitored or regulated by an external authority in terms of the standard of care for the animals?

Ms HRIBAR: I think all pounds should be monitored because, the thing is, I do not think you can assume that councils automatically comply with legislation. I think self-monitoring does not work.

The CHAIR: In the time that you were employed at Wagga pound—

Ms HRIBAR: I was not employed; I was a volunteer.

The CHAIR: It is the same thing in law. Did you actually see an RSPCA inspector come to the pound at all during the time that you were there?

Ms HRIBAR: No.

The CHAIR: To do a spot inspection or whatever?

Ms HRIBAR: No.

Ms LIESCHKE: I did not either.

The CHAIR: An officer from the Animal Welfare League?

Ms HRIBAR: No.

The Hon. MARK BANASIAK: Just touching on your comments about the suggestion of an independent authority, what gives you confidence that a government will fund it correctly when we have seen other instances where the Government has not funded things properly, like ICAC, like the Rural Fire Service and like national parks? What gives you confidence that this independent authority will be given the adequate funding that you believe it deserves?

Ms LIESCHKE: I think, like everything, it will rely on public pressure maybe. People will have to voice that that is a really important priority for them, to have that area properly funded. Hopefully the Government will listen and fund it accordingly.

The Hon. MARK BANASIAK: Isn't that public pressure already there with the RSPCA and the Animal Welfare League? The public look at those organisations quite fondly, generally speaking. I would suggest that public pressure is already there to fund these organisations properly. I have trouble reconciling that this independent authority would be properly funded because the public is going to pressure the Government.

Ms HRIBAR: I think that if you have legislation that the Government expects you to comply with, I do not think you should be relying on a charity. I think you should be relying on another government body. I agree with you, I do not know whether there will be adequate funding, but I think that is what responsible governments should be doing.

The Hon. MARK BANASIAK: We agree on that point.

The CHAIR: It is part of the journey we are on here by having a committee looking at this very issue.

Ms ABIGAIL BOYD: I have a couple of questions for you. Firstly, in relation to the pound, how many volunteers were there compared to people who were being paid to work there?

Ms HRIBAR: In comparison to how many people were paid?

Ms ABIGAIL BOYD: Yes.

Ms HRIBAR: At the time when we were volunteers there were four paid staff members, sometimes five—it varied. With volunteers it is really difficult because there were some volunteers who just came really irregularly and then there were other volunteers who came really regularly, but there were not many regular volunteers.²

Ms ABIGAIL BOYD: How did you get to be a volunteer? Were there any qualifications required, or was there an interview process?

Ms HRIBAR: No, I just put in an application with council and said that I was interested in volunteering. Because I like animals, I thought, "If I'm going to volunteer with animals I should go and get some training."

Ms ABIGAIL BOYD: Was training provided by the pound?

Ms HRIBAR: No, there was not really any training provided at the pound. That has changed now. I think the volunteers do get training. But when I volunteered it was just a walk-through of the things that occurred there.

Ms LIESCHKE: Yes, that was the same for me as well.

Ms ABIGAIL BOYD: Did the employees have qualifications?

Ms HRIBAR: No.

Ms ABIGAIL BOYD: So even the people paid to run the pound did not have qualifications?

Ms HRIBAR: No.

Ms ABIGAIL BOYD: So there are pounds being run with a bunch of people who do not have any particular qualifications in working with animals, is that correct?

Ms LIESCHKE: Yes.

Ms HRIBAR: Yes. That has changed at Wagga pound, but there are still pounds where people work that do not have any animal qualifications.

Ms ABIGAIL BOYD: And despite that we do not have regular investigations or inspections being done by anybody.

Ms HRIBAR: No.³

The CHAIR: Is it true that the change that has happened at Wagga pound is really a consequence of adverse publicity about the very evidence you just gave regarding the cat and other matters?

Ms HRIBAR: That is my opinion. I think that if we had not have gone to media and if we hadn't persisted I do not think the changes would have occurred, because I wrote my first letter to council in 2011 and I subsequently wrote them more letters and had meetings and a couple of discussions and I was always reassured that everything was going to be better and that things had changed. What prompted me to write to the RSPCA

² In [correspondence](#) to the committee (dated 5 March 2020) Ms Myriam Hribar and Ms Simone Lieschke clarified the paragraph by inserting a clarification on the number of staff rostered.

³ In [correspondence](#) to the committee (dated 5 March 2020) Ms Myriam Hribar and Ms Simone Lieschke clarified the paragraph by inserting: "No", meaning no, there are no regular investigations or inspections of pounds being done by anybody.

was that the volunteer program had been suspended, but I was still going there just as a member of the public. It was when I saw the feral cat in the crush cage and I went there on the Friday and it had no food or water and another volunteer was there on the Saturday and it was the same scenario.

Then I went on Monday and it was still in the same crush cage in the same angle, no food, no water, no litter, no bedding etc and I thought I cannot help these animals anymore as a volunteer; I am going to report them to the RSPCA. And then in that first letter I raised lots of other issues about dogs left to die and the really thin dogs not taken to the vet, the treatment of feral cats, and how cats are classified as feral. I raised the issue of inadequate bedding for dogs, broken beds, animals left to sleep on cement when it was minus one degree, animals constantly with no water, especially cats and mother cats which did not have any food. I also raised the issue of the deposit pens being checked regularly, especially the winter.

Ms ABIGAIL BOYD: Is it your view, and again just sort of reflecting on your submission that there are a couple of changes that could be made in relation to the way that pounds in particular are regulated—I note in your submission that you mention having specific legislation or regulations in relation to pounds—do you think that greater enforcement and inspection would have to go along with any of that kind of legislative reform?

Ms HRIBAR: Definitely. I think pounds have to be regularly inspected. There are some small pounds that are not even open to the public. So I think every pound has to be inspected. I find some anomalies. Again, this is my opinion and this is just a general comment, I often think that pounds are a low priority with council. It was interesting, when I was reading the OLG pound report and now pounds are listed individually, when you see statistics that say, for example, 135 cats came in and 135 cats are euthanased or not deemed rehomeable, and I look at that statistic and I think not one pet cat, not one sick cat, not any kitten, you now, to go to rescue. It is just the easiest thing I can do. One hundred and thirty-five come in, 135 are euthanased. I do not think that is accurate.⁴

The CHAIR: And I am sure we agree. We are going to have to conclude your evidence now. There are members who want to send you questions on notice. I do not think we have asked you to take any questions on notice. I really appreciate your evidence today. It is very helpful in linking us to the Companion Animals Act, which covers pounds, which I think is going to be soon under review as well. So thank you very much for your evidence. We will conclude now until 11 o'clock when our next witnesses will appear.

(The witnesses withdrew.)

(Short adjournment)

⁴ In [correspondence](#) to the committee (dated 5 March 2020) Ms Myriam Hribar and Ms Simone Lieschke clarified the paragraph by inserting: *Now that the OLG lists pounds individually on its pound data report, I think it makes councils more accountable. When you see next to some councils "no report", "no data", "incomplete" or inaccuracies, it makes you question the effort, time and commitment of some councils in relation to their pounds.*

MARGO ANDRAE, Chief Executive Officer, Australian Pork Limited, affirmed and examined

MELINDA HASHIMOTO, Chief Executive Officer, Egg Farmers of Australia, sworn and examined

JAMES McDONALD, Chair, Animal Welfare Committee, NSW Farmers Association, affirmed and examined

ANNABEL JOHNSON, Head, Strategy and Advocacy, NSW Farmers Association, affirmed and examined

The CHAIR: Thank you very much for coming to this hearing. Would any of you or all of you like to make an opening brief statement?

Ms JOHNSON: We will all make statements. I will start and then Mr McDonald will provide the conclusions from NSW Farmers. NSW Farmers welcomes the opportunity to provide the farmer perspective to this inquiry into animal welfare laws in New South Wales. We thank you for the opportunity to appear before the Committee today. NSW Farmers is Australia's largest State farming organisation. We represent all primary producers, from intensive industries like pork, eggs and dairy, to our extensive industries of sheep meat, wool, cattle and goats.

An affinity with animals is one of the key reasons individuals are drawn to farming. Farmers have a commitment to achieving high-quality animal welfare outcomes. This commitment underpins what they do on a daily basis. As the primary caregivers to animals in their production systems, farmers have the pivotal role in protecting and improving animal welfare. NSW Farmers strongly supports the current reform process, which is assessing New South Wales' animal welfare legislative framework. We acknowledge that the current arrangements are in need of reform and that a modern, fit-for-purpose legislative framework needs to be developed. We look forward to closely engaging in this process and achieving an outcome that advances welfare outcomes and will ensure that the critical role of farmers in this is captured. A key part of the reform process will be enforcement. We consider that this inquiry should examine at a principled level those characteristics for effective enforcement agencies.

Mr McDONALD: NSW Farmers believe there are a number of key principles that should underpin any enforcement agency. First, enforcement agencies must be impartial and avoid conflicts of interest. Impartiality necessitates that these bodies do not engage in political advocacy, activism or public campaigns. Enforcement bodies must be focused on achieving positive animal welfare outcomes as their first priority, and not the cases that are brought to the court. Communication and collaboration between farmers, government agencies and welfare organisations lead to better outcomes. This is clearly displayed by the recent inclusion of stock welfare panels in serious animal welfare situations. This process has been tested during the drought, and over the last two years it has been most successful. The panels have achieved positive animal welfare outcomes because the primary objective was to make sure the animals were looked after. They also have been possible through the collaborative process that they rely on and foster.

Third, enforcement bodies must be adequately funded and resourced to carry out necessary enforcement activities in New South Wales. Finally, an enforcement agency must have a high degree of accountability and transparency in order to build and retain community trust. As recipients of public funding, it is important that enforcement organisations have publicly accessible records that explain their activities, the reasons for their actions and expenditure.

This inquiry is also examining the administration of the animal welfare legislative framework. NSW Farmers strongly supports the New South Wales Department of Primary Industries [DPI] retaining the carriage of any animal welfare legislation. The New South Wales DPI has the technical knowledge of welfare with their large employment of veterinarians and also the relationships and extension skills needed to ensure positive welfare outcomes. The administration sitting within DPI is consistent with most other Australian jurisdictions where similar legislation is administered by the agriculture portfolio. We strongly oppose the establishment of an independent office of animal welfare in New South Wales. We firmly believe that placing the role of administration in such a body will result in a decline in welfare outcomes. The body will not have the inherited knowledge, professional skills, capacity or relationships to successfully fulfil the vital role already ably carried out by the DPI. Ultimately, NSW Farmers supports reform to the animal welfare legislation. We urge the Committee to constructively consider and build on principle-based reform to enhance enforcement and to recognise the advantages of the current administrative arrangements.

The CHAIR: Thank you very much.

Mrs HASHIMOTO: Egg Farmers of Australia is the voice of Australian egg farmers. We advocate on key policy issues affecting our industry and promote egg production by providing transparent information to the public. Our organisation represents the commercial egg layer industry and had a focus around farming rather than

companion animals. Funding must be at an adequate level that work can be undertaken to ensure animal welfare outcomes first and foremost, and that enforcement is based on this focus rather than simply a focus on how many prosecutions occur as being seen an outcome of success. The Prevention of Cruelty to Animals Act 1979 in New South Wales allows that legislation is in place should the RSPCA or the Department of Primary Industries find that a person is not treating their animals correctly and are able to ensure that the legislation is administered accordingly.

It should be noted that egg producers are in favour of the animal welfare standards being mandatory, showing the seriousness and importance of animal welfare for egg producers and reflecting public sentiment that animal welfare is of great importance. Egg Farmers of Australia would be concerned that any move to an independent office would see a full cost recovery model and feel that RSPCA work hard to liaise with industry should a concern come to their attention. Communication and collaboration of producer, government agency and welfare organisations leads to the best outcome. Thank you for the opportunity for Egg Farmers of Australia to contribute to this hearing today.

Ms ANDRAE: Thank you for the opportunity to be here today on behalf of Australia's 3,700 pork producers, our sector's 36,000 employees and all the families deriving their livelihoods from our \$5.3 billion industry. Australia's pig industry has been scrutinised publicly for many years. We have embraced that scrutiny and we are proud of where the industry stands today. Not only is the pork industry judged on the health and wellbeing of the pigs in our supply chain, but producers, transporters and processors all know that good welfare is good business. Healthy pigs raised in an environment where their welfare needs are assured are productive and profitable animals. Producers must be commended for investing in new production and husbandry methods, making Australian pork an environmentally and ethically sustainable industry. We have reduced our carbon footprint by 70 per cent.

We have reduced our water usage by 80 per cent and producers are adopting technology to further make sustainability progress, including on-farm waste management and electricity generation. Our animal welfare standards and outcomes and the way we manage the wellbeing of sows and piglets is a journey we are proud of and one we will continue to advance. Australian pork producers demonstrate the highest level of animal biosecurity of any livestock industry in Australia. So much depends on our disease-free status in terms of our production capacity, our market access and our consumer reputation. With this in mind, it is clear that existing regulation protections to uphold, monitor and enforce animal welfare require adequate resources and appropriate penalties for welfare breaches to be applied. These measures would be more effective and desirable than any legislative changes.

The CHAIR: Thank you very much.

The Hon. WALT SECORD: I am Walt Secord, Australian Labor Party. Mr McDonald, I read your submission number 66 and listened to your introductory remarks and I see a bit of a disconnect between two of your recommendations. You express concern about a role for animal welfare advocacy and enforcement, but then you oppose the creation of an independent office. If you look at your recommendations you seem to be arguing for an independent office because the RSPCA is involved in advocacy and enforcement at the same time. I find that there is a disconnect or conflict in your recommendations. Can you elaborate or explain that? You are saying the RSPCA as advocacy and enforcement should not do it, but then you are against an independent office.

Mr McDONALD: I will answer the last bit about being against the independent office first. This comes from that I was a district veterinarian at Yass between 1996 and 2013. In the early days, where it was a court based, prosecution based system is where I draw the parallels with independent office. The RSPCA—one officer would come out, they would take photos, they would take evidence. They would then call on professional people to come and verify what they had seen. These professional people would very well know that what they do and see would have to go to court for some action. There was reluctance for a start, just naturally. It takes a lot of time. It was on the spot. There was a reluctance to be involved. What happened was that once all of this evidence was gathered, the RSPCA were busy gathering the evidence and developing—giving some advice to the owner, but developing their case.

The professionals would come in and know that they would have to support what they said by developing their case for court. The owner would then know that it would go to court, they would develop their case to defend the court, and what happened to the animals? The whole reason people were there with the animals but the last thing that occurred was actually looking after the animals. We have to get away from a situation where we have this authority that is hell-bent on taking cases to court because the animals are the losers. The animals are the losers. One of the specific cases that I was involved in was a man who was in his mid-seventies, his wife had recently passed away, he was diagnosed with early terminal cancer and had a grandson who had committed suicide. Taking that situation and trying to take that to court and thinking that animals were going to be the priority

was the last thing. That is where I come from as far as an independent office is that we do not want that situation. We want the animals to be the priority.

Ms JOHNSON: I might just add—

The CHAIR: We have to clarify this answer.

The Hon. WALT SECORD: I am even more confused after your answer that I was before. Are you saying that the RSPCA should not be involved in this? They should just solely be involved in animal welfare? Then who should do the investigations and the prosecutions if there are animal cruelty cases involved? What are you actually arguing because I am actually more confused now that I was before.

Mr McDONALD: The situation now in the last couple of years is we have stock welfare panels for livestock. There are representatives from the RSPCA, there are normally two. There are people from DPI and Local Land Services [LLS], veterinarians or livestock officers. There are police and there are representatives from NSW Farmers. Together they work out a plan that is best for the livestock rather than it being focused on a court action.

The Hon. SAM FARRAWAY: Essentially they are doing both. Obviously, you have advocated for reform of the Act, and I understand that, but you are saying that it can do both.

Mr McDONALD: Yes.

The Hon. SAM FARRAWAY: It is outcomes-focused for the animal and criminal proceedings—

Mr McDONALD: Can follow.

The Hon. SAM FARRAWAY: —can follow, will follow, but you are saying that under the model, especially with the stock welfare panels, you have seen success in that, in being able to do both—enforcement and outcomes-focused for the animal.

Mr McDONALD: Yes, the priority is looking after the animal in the situation and, if there are court proceedings later on, that is secondary.

The CHAIR: You would accept that the RSPCA undertakes court proceedings if that is required— if that is deemed to be an action that needs to be taken—but while all the animals are looked after and overseen by this particular panel. Is that what you are saying?

Mr McDONALD: Yes.

The CHAIR: Coming back to your earlier statement, and following on from Mr Secord's question, are you aware that the RSPCA has positions and policies in relation to animal production systems? For example, the RSPCA has a strong position opposing battery cages, a strong position opposing farrowing crates, and strong positions opposed to certain stocking densities and other practices. Yet, you are saying that is the body that you would accept more than an independent body that does not have any particular position on any animal welfare matter. You would prefer that the RSPCA, which has these positions about animals, to run the cases, rather than an independent body? I am trying to match the two.

The Hon. MARK BANASIAK: Sorry, Chair, can you clarify—are you talking about RSPCA Australia or RSPCA NSW?

The CHAIR: Both.

The Hon. MARK BANASIAK: Both have those positions?

The CHAIR: For clarification, RSPCA Australia sets the policies, standards and positions that all State and Territory RSPCAs must follow.

Ms JOHNSON: I will come back to the original question to clarify a few things. In our submission we outlined the core key principles that we see of any enforcement agency. We did not provide comment on the independent office and that being an enforcement agency. The recommendation around the independent office is that we would not support that undertaking the administration of the Prevention of Cruelty to Animals Act [POCTA] or the revised animal welfare legislative framework. Because I believe that is how the terms of reference were also drafted—it was an independent office to administer animal welfare legislation. So, we would not support that. In terms of—

The Hon. WALT SECORD: I would like to quote to you recommendation number 3.:

Enforcement bodies must not engage in political advocacy or activism nor conduct campaigns, to ensure that impartiality is maintained.

That recommendation clearly says that the RSPCA should not be the enforcement body. I am quoting your recommendation.

Ms JOHNSON: I think we have seen the concerns this morning around that dual role with enforcement and also having that—whether it is, say, running QA programs—recognising the distinction between RSPCA and the Commonwealth, which really does not exist within the public sphere. We do have concerns about those activities being undertaken because we do think it does undermine the public's trust and confidence. We are only speaking about the political activism and policy that is developed in relation to commercial animals. We have always had those concerns. We note in our submission that perhaps it is part of the reform process that needs to be examined—something similar to Victoria, where enforcement in relation to commercial livestock is undertaken by a body within the Department of Agriculture. They have a special unit that does it specifically for commercial livestock.

Then there is a distinction between companion animals, performance animals, which we will not provide comment on because we do not have those insights. I think that is something that needs to be examined. Do you draw out distinctions between enforcement in relation to commercial, in relation to performance and in relation to companion animals? The Victorian system seems to work quite well. Part of what you would need to look at is making sure that you do not put a body within the Department of Agriculture that has a conflicting role. Our concern would be—we believe that Local Land Services [LLS] cannot have a dual role with enforcement. They are a key advisory body to farmers. You cannot, at the same time, be providing advice while conducting enforcement.

The CHAIR: Thank you, Ms Johnson.

The Hon. MICK VEITCH: These are the lessons we learnt from the exercise around water. I stood in the Parliament and said, "There is a conflict between compliance and regulation," and, lo and behold, within 12 months—

The Hon. WALT SECORD: You were vindicated.

The Hon. MICK VEITCH: —the Minister is standing up in the Chamber saying, "The Hon. Mick Veitch was correct. We should not have done this." We now have the Natural Resources Access Regulator conducting those measures. That is a model that has been taken outside the remit of Agriculture. We have been hearing that there is a view that, one, the legislative framework is outdated and needs review and revamping and, two, what is the process that provides greater accountability and scrutiny upon whatever agency—independent office of animal welfare or whatever—such as maybe the animal welfare agencies have to come and sit here once or twice a year in front of a parliamentary inquiry, as an opportunity for them to be scrutinised. There must be greater accountability and scrutiny.

What we are saying, particularly Mr Secord and I, is that we have a view about the independent office of animal welfare and what it would do. That view may not be consistent with the views of others on this panel, to be fair, but we have heard a lot of evidence that there are concerns about the accountability and transparency around the way that animal welfare is administered in New South Wales and it needs to be reviewed. What are your comments—from all the agencies, all the organisations—around the need to review the legislative framework in New South Wales?

Ms JOHNSON: I think everyone supports a review of POCTA. I think everyone can recognise that it is a piece of legislation that is almost 40 years old. It is quite prescriptive. When I say, "40 years old," I would like it to be recognised that commercial agriculture has made improvements to the standards. We are not where we were 40 years ago. We continue to update our model codes and have revised standards and guidelines, but the vast majority of the framework is still in existence. It is a very prescriptive framework that makes it difficult to make changes. I see the reform process as quite similar to what was achieved with the new Biosecurity Act. With the development of the new Biosecurity Act, we now have a modern framework, and more of the requirements are in regulations, making it easier to change and be proactive. I think that will be one of the keys that will come out of the reform process.

The CHAIR: I have a question on the evidence you just gave. You said that since the 1979 Act, industry codes, codes of practice and codes of conduct have improved welfare to a level that is better than the level set by the 1979 legislation. That is what you said basically—that the industry has moved forward and improved welfare standards?

Ms JOHNSON: Yes, model codes have been updated since that time.

The CHAIR: Have any of those model codes removed the exemption for stock animals—that they do not have to be exercised—in section 9 (1A) of the Prevention of Cruelty to Animals Act?

Ms JOHNSON: Could I take that on notice?

The CHAIR: Thank you.

The Hon. SAM FARRAWAY: My question is directed to anyone but probably, particularly, to representatives of the NSW Farmers Association. I refer to your recommendations—in particular, number 1. where you recommend:

The NSW Department of Primary Industries (DPI) must remain the administrator of animal welfare legislation in NSW ...

Could you expand on that? We have read the submissions and we have briefly touched on stock welfare panels, but could you expand more on the expertise within DPI to administer the legislation and also the role itself? We heard about it briefly from DPI yesterday, but maybe the NSW Farmers Association could also add more on the role LLS plays in all this because he have not touched much on it today.

Ms JOHNSON: DPI has the technical skills and expertise and also relationships—both with industry and the community—to undertake and effectively administer POCTA. I will continue to call it POCTA until it is changed. It has the highest employment of vets. These vets are very skilled—both in terms of providing policy advice but also in terms of upskilling Local Land Services to make sure they are delivering advice that is appropriate.

The Hon. LOU AMATO: Also biosecurity.

Ms JOHNSON: Also biosecurity, which we see as a welfare outcome. It is about improving animal health. Better health is a better welfare outcome. They also have longstanding relationships with industry and the community so they can work through the bushfire response or drought and come into those areas. So we have a grave concern that you have this highly skilled group of people that understand the community and have a huge amount of trust in the community. Any move from that would be detrimental. It is also important to recognise the role of the Local Land Services [LLS], as Mr Faraway pointed out. They play a key role in providing that extension service. Extension used to be provided by the Department of Primary Industries [DPI]. That is no longer the case.

The Hon. MICK VEITCH: It should still be, according to me.

Ms JOHNSON: A debate for another time. The LLS keeps farmers up to date about best practice in terms of not only welfare but also biosecurity and feeding regimes to ensure the greatest productivity. Having that direct link in where farmers can go somewhere to get independent advice—they are not paying for a consultant—it is very important in building that level of trust and in building the capacity of the industry.

The Hon. SAM FARRAWAY: Obviously, the Animal Welfare Action Plan was released in 2018. We heard from DPI around their six goals and we also heard information around the Animal Welfare Advisory Council and that is being restructured; they would like it to have more expertise to have a role. My question is: How do you see the Animal Welfare Advisory Council integrated in the system and in terms of the reforms that DPI themselves are looking to undertake now? Have you been a part of that process? As a peak body, what are your thoughts on it?

Ms JOHNSON: We believe that the Animal Welfare Advisory Council [AWAC] has a key role. It is an advisory council to the Minister on welfare. We are supportive of it being retained. We are also supportive of the restructure that has been undertaken. We were not consulted on the exact—I just note that we used to have our representatives that we put on that committee. That is no longer the case. We were informed that changes were about to be made. We recognise the need for reform in AWAC. It covered a great breadth—any welfare issues. You could be talking about circus animals or you could be talking about companion animals. We recognise that someone with farming expertise being involved in those conversations that does not add anything to the person involved and they cannot contribute. We recognise the need.

AWAC needs to be more specific about matching the skills with the topics that are being talked about. Obviously, as I noted in my opening statement, farmers are the fulcrum for improvement of animal welfare at a farm level because they are involved in welfare on a daily basis. We are confident that someone with farming expertise and that understanding will be needed as part of the new AWAC.

The Hon. LOU AMATO: That is the question I was going to ask. I can see where you are going but my understanding of it is that when it comes to the commercial side of things and farmers, it should really stay under the DPI. That is separate. That is commercial. When it comes to your companions and such, perhaps there should be a separate agency to cater for that side of things. There should be a separation, from my understanding.

Ms JOHNSON: I will not comment on where companion animals should sit. I mean, it is not for me to comment.

The CHAIR: It is not your gig.

Ms JOHNSON: That is not my industry, although it is not an industry.

The Hon. LOU AMATO: But there should be a separation between the two sides, if I am correct, Ms Johnston. That is my understanding of it.

The CHAIR: I am sorry, is that a question?

The Hon. LOU AMATO: I am asking whether that is their point of view.

Ms JOHNSON: I think it is something that needs to be looked at as part of the Animal Welfare Action Plan especially around enforcement whether you distinguish who conducts the enforcement. It might be different for commercial and it might be different for companion and different from performance.

The Hon. EMMA HURST: Following on from what the Hon. Lou Amato was saying, it almost becomes a self-regulating system where the DPI and the agricultural groups are sort of working together in enforcement. Do you think that that would create more distrust among consumers who are already concerned about welfare? Is that a concern of yours?

Ms JOHNSON: Absolutely. I think we noted what principles we are looking at. A conflict of interest, whether actual or perceived, needs to be considered as part of the reform process. We do not want to have an enforcement agency where there is a perceived or actual conflict of interest and that is right across the board whether it is with commercial or companion animals or performance animals. I will note we do not see DPI's role in welfare and increasing the productivity of agricultural industries as a conflict of interest. We see it as them having a vested interest in making sure that industries are improving welfare. I mean, they have a key role in conducting animal welfare research and, as I noted, making sure that that is extended out and farmers are adopting. They also take a long-term approach, as does industry, to productivity and profitability.

The CHAIR: Just on that I think we need to share some answers. Ms Andrae? You need to be a bit more noisy so that we will notice. The Hon. Mick Veitch has been scanning.

Ms ANDRAE: We noticed. I think we are both in the firing line.

The CHAIR: I think some other witnesses want to answer some of these questions.

Ms ANDRAE: Yes. We are a national body. We represent all pig producers across the country so we come across jurisdictions. We are very supportive of the New South Wales DPI remaining the legislative body and that really does come to those technical skills that they have. The bottom line is that our producers and government need to be working together for the best outcomes for the animals. We do support the RSPCA having a role and it really does link into what you are talking about around community trust and the independence of that. We are about building better legislation and constant improvement based on good science, good research but also building in most community expectations. We do not support an office of animal welfare. We said that at the national level. We have a State as well as a national level. Really the thinking there is that the State-level DPIs do have the legislative positions on this but most importantly we are concerned the office of animal welfare would just become another red tape situation that is post the event.

The CHAIR: You are saying the pig industry is comfortable with a charitable organisation whose policy position on certain current practices in the pig industry, such as the use of farrowing crates—a charitable organisation that has a position opposing those practices, including farrowing crates—being the prosecutor or enforcer of animal protection than a completely independent body?

Ms ANDRAE: We support the New South Wales DPI remaining in charge of the legislation. In terms of your exact question, we do not want a body that agrees with us completely. We want to be challenged. We want to be working with them to constantly improve in line with community standards. We will not always agree. We did not agree on farrowing crates but we did work with all charitable bodies on phasing out the sow stalls, as you would be aware. We are working together for the outcomes of the animals. They do not always agree but they are independent. They do have a touch with the community but they need to be better resourced, as does the DPI.

The CHAIR: I think the question of independence is in question in that arrangement that you are talking about. We have not been convinced by your argument. Mr Banasiak? There are a lot of people wanting to our questions.

The Hon. MARK BANASIAK: I think Mrs Hashimoto wanted to contribute.

The CHAIR: Sorry.

The Hon. EMMA HURST: Abigail Boyd got skipped again.

Ms ABIGAIL BOYD: Again!

The CHAIR: No. I think Mr Banasiak indicated before you.

Ms ABIGAIL BOYD: But just picking up on that point?

The CHAIR: Yes, sure.

The Hon. MARK BANASIAK: I think we had a response and Mrs Hashimoto wanted to give some evidence.

The Hon. LOU AMATO: Give the witness an opportunity.

The CHAIR: In relation to me asking whether other witnesses want to give an answer to the other questions before, then we will come to Ms Boyd and Mr Banasiak. I am sure you will give up that position. We have plenty of time. Mrs Hashimoto?

Mrs HASHIMOTO: Certainly I think we are aware of the different roles. Since I have CEO of Egg Farmers of Australia there has not been a major incident where there has been a need for us to link in. But previously for my predecessor and certainly for the RSPCA there was a case where, basically, agencies were working together, which I think is really important. I guess certainly I see that for the egg-laying industry, although there is a range of production systems, we are aware of particular policy positions. It has been a longstanding position of the national RSPCA around conventional cages and their positioning on that, but when it comes to the actual inspectors coming on a farm we are very aware of their job, which is to look after the animals, and certainly working under the legislation and working under the model code. Of course, we are working on the standards and guidelines at the moment. I would see that they are looking at the animal welfare situation of the animals rather than any policy position that their national body may have.

Ms ABIGAIL BOYD: Would you object to an independent office of animal welfare for all animals other than those that are used in the commercial animal industry? If that was a proposal before Parliament, is that something you would object to if it specifically excluded you?

Mrs HASHIMOTO: You are coming back to Mr Amato's point on the split?

Ms ABIGAIL BOYD: Yes. I want to drill down into that.

Mrs HASHIMOTO: Certainly we are really coming from advocating from commercial egg lay industry from the farming sector. As my submission said, we are not supportive of an independent office. Full cost recovery, as far as having set up, is the thought there that would be of concern, rather than with the structures and systems that are in place at the moment. I think it would be best to look at the funding that is provided and how that is used rather than looking at setting up a new independent office.

Ms ABIGAIL BOYD: There was a number of references made to productive and profitable animals as being synonymous with animal welfare from the industry's perspective. I can understand that from the industry's perspective. But clearly, when it comes to people's pets and other types of animals outside of the industry, looking at them as being productive and profitable is clearly not the standard. My concern is that standard within the commercial animal industry would be holding back the betterment of animal welfare outside of the industry, which is why I am asking if your objection, really, is only to the aspects to do with your industry as opposed to an objection to the idea of an independent animal welfare office externally.

Ms JOHNSON: Can I clarify? This independent office—is it just an enforcement role or will it also have an administration role in the legislative framework?

Ms ABIGAIL BOYD: I think that is up for debate, but I would understand it to have an oversight role where it would be working with whoever was doing the enforcement, whether that be a police unit or RSPCA or whoever, and ensuring that standards were being met. It is an accountability and transparency mechanism.

The CHAIR: It would probably have powers of its own, pretty much like other commissions.

Mr McDONALD: I do not think the NSW Farmers would have a problem in dividing the two because with companion animals you can take a snapshot of what is happening and be pretty right with your thinking. But there are a lot more things going on in production animals. I think we would be reasonably comfortable with being able to separate those out.

The Hon. SAM FARRAWAY: Just following on, I suppose, in separating it and farming productions and farming animals, and putting it in context of the severe drought we are going through—what are your thoughts on how to get the best outcomes-focused result for animals, and sometimes for farming communities that are facing the drought that do come across welfare issues for animals? How does it work or what is your view around

LLS and around the Stock Welfare Panels? How do you think it is best administered, keeping families together but also outcomes focused for the animal?

Ms JOHNSON: I think that is where it has been critical having DPI, the administrator of the Act, and having that link into LLS. They have been able to understand where issues might be arising and undertake pilot programs. There was a pilot program undertaken in the north where there was cold calling of producers. What we are finding is people become isolated and they get indecision paralysis, so it is trying to bring them back into the community. LLS have a key role in that. In terms of Stock Welfare Panels, what that does is it recognises the need to escalate it.

It is important to recognise that before a Stock Welfare Panel is formed, generally the RSPCA and an LLS person have been out on that property working with the farmer. It only gets escalated to a panel when there has been a decline or they have not been able to make progress and it is decided that they need to try a different tactic. The panels are very effective in being able to provide that circuit-breaker, generally because the two-person approach is not working. What they do is they go on to the property and they will make directions about how to make those improvements. It is very clear that it is focused on welfare, those improvements that need to be made, but it is done in a collaborative way.

The Hon. SAM FARRAWAY: It is preventative, is it not? Hopefully, in a lot of cases, you would be preventing a serious issue because of the dialogue—because of the early intervention, possibly—of the Stock Welfare Panel.

Ms JOHNSON: Absolutely.

The Hon. MARK BANASIAK: I am going to go across all of you. We have heard submissions and some of us have been spoken to anecdotally outside this hearing about the overzealousness of RSPCA NSW in how they investigate and how they treat some farmers. As key representative bodies and key advocates for farming, what have you heard about this overzealousness? I am trying to get a picture of—is it isolated incidents or is it something systemic that needs to be addressed as part of the RSPCA NSW culture?

Ms JOHNSON: We have a good relationship with RSPCA and it has been proved throughout the drought. What we have done is if we have ever had a member—I think it is important to recognise that farmers do not have a good understanding about how POCTAA operates. What we have found is that sometimes they have been involved in a welfare incident and they have not understood where they are up to in the process. The key concern is, "Are my stock about to be taken?" We have had a role—and I must say, we have only had a role in two incidents throughout the whole drought—where we have actually engaged with the RSPCA to say, "Look, we have had member X. Where are they up to? What do they need to be doing?" In addition to that—we have done that on two occasions and essentially they had just had a direction. They just needed to comply. They complied and the issue was resolved. It is not something that has come up on a continual basis for us throughout the drought, I must say.

The Hon. MARK BANASIAK: You have never received complaints from your farmers about their cattle being seized and then being taken to the saleyards? And then basically being told that there actually was no animal welfare issue, there was no prohibition issue and, by the way, you can buy some of your cattle back at the saleyards two days later? That is some of the anecdotal evidence that have been presented to me.

Mr McDONALD: Yes, there has been that. In years gone by that was certainly the case because you could have a farmer who was maybe elderly and a young RSPCA officer. There can be clashes. I have seen those happen previously. But with the Stock Welfare Panels, the idea is you take away those personality clashes and you have representatives from several agencies coming up with the best plan. Now people could still complain about the overzealousness, but that is certainly blown way out of proportion because you do have this panel that will look at things dispassionately and work out the best option.

The Hon. MARK BANASIAK: Mrs Hashimoto, you talked about the cost recovery process in this potential independent authority. What is your understanding of the cost recovery process with RSPCA NSW? We have heard submissions that would suggest that, outside of the fines and infringements, they seek cost recovery by taking people to court unnecessarily through civil matters.

Mrs HASHIMOTO: I guess the note in our submission was really around looking at the levels of funding to the inspectorate and the possibility of that maybe increasing. Quite often government offices, if there is already a structure and bricks and mortar in place under the RSPCA—having to essentially set that all up. There, of course, would be overheads and costs in relation to that. Often many government agencies then need full cost recovery to be able to continue their work. Really, it was around that initial set-up costs and ongoing costs rather than anything to do with the prosecution costing linking.

The Hon. EMMA HURST: I have a question for the two panel members from the NSW Farmers. I am going to quote a very small section of your submission which says:

Enforcement bodies must be adequately resourced to ensure that they are able to undertake their role.

We have heard a lot of evidence this morning and yesterday that the RSPCA is not properly resourced to be able to fully function in its role and the Animal Welfare League as well, who said they were in desperate need of more funding. Would you agree that it is the Government's responsibility to pay the costs incurred by the authorities in enforcing POCTAA, in the same way that they fund the police?

Ms JOHNSON: Whichever way it is funded, we need it to be adequately resourced—whether it is full cost recovery or whether charities receive the grants. One of the issues that we were experiencing in the drought was we were concerned that welfare issues might be arising and there might not be the resourcing able to be undertaken. We advocated for additional funding to be provided from the DPI to both these enforcement agencies and that was provided. I am sure it was not just our advocacy but I am sure the enforcement agencies were also raising these issues to make sure that they had sufficient resources, with the additional work created by the drought, to make sure that welfare issues were being resolved.

The Hon. EMMA HURST: Have you heard concerns that there are not enough resources or funding coming from the Government to the authorities?

Ms JOHNSON: They have not been raised with us directly.

Mr McDONALD: No. To add a little bit to that, to me it is more an issue that the enforcement agency is transparent with the money coming in and their activities. Because if you can see that this is what they are doing, this is what they are spending it on, this is what it is costing, you can quite easily say, "Well, that's funded," or, "It's not funded," rather than just asking for more money to be hidden on a back page. If it is clear to everyone, transparent, well, then it is an easy decision for everyone to make, I think—to say, "Yes, they need more," or, "They seem to have plenty." That is probably where I come on that.

The Hon. EMMA HURST: Thank you. We have also had a lot of people submitting that one of their big concerns with the RSPCA—and to some degree the Animal Welfare League—the accusations that have been made are that there are no regular inspections of farming properties and that cases of extreme cruelty were not prosecuted. I want to link that into the part of your submission where you emphasise focusing on education rather than enforcement agencies prosecuting. Do you see value in POCTAA enforcement agencies prosecuting cases of extreme cruelty to at least alleviate some of those concerns from the community? This is a two-pronged question. Do you know where those concerns are coming from, given that we have had multiple witnesses giving the same evidence?

Ms JOHNSON: New South Wales in no way permits animal cruelty. If animal cruelty is occurring, prosecution should occur. It is also important to note that as part of the reform process that needs to look at the penalties that are being provided. A number of years ago it did look at the penalties and there was a discussion paper put out by DPI. So we supported the penalties recognising the seriousness of the crime and also reflecting other jurisdictions, because New South Wales was quite a long way behind. You also asked about routine inspections, which I think is around resourcing. POCTAA does allow for routine inspections at the moment. They are not occurring and I think that is a question for the enforcement agencies as to why they are not occurring, whether it is a resourcing issue. But POCTAA allows for that. We do not have an issue with that. It is part of the framework.

It is also important to note that industry does undertake a huge amount of quality assurance [QA] by itself. We believe that the inspectors that are used are independent so they generally go out onto property assessed against a higher animal welfare standard than what is required under POCTAA. It is important to remember POCTAA is just the minimum. QA programs are established by industry to set a higher standard. They are generally set to make sure consumers can purchase animal welfare products that meet a higher standard in their production.

The Hon. MICK VEITCH: I am going to be a bit cheeky here. I have one question but I would like the view of each of the three organisations on it. An issue has been raised with this panel both in written submission and in testimony yesterday and today about the complaints process with AWL and the RSPCA—an adequate, transparent grievance process. Do you or your membership have any experience of people trying to raise a complaint about the way they have been treated or raising a grievance about the process that was followed when the RSPCA or AWL interacted with them?

Ms ANDRAE: Sadly my answer is very quick: not to my knowledge. I am only six months in the role but in going through the notes—

The Hon. MICK VEITCH: You can take this on notice, by the way, and come back to us.

Ms ANDRAE: I will take it on notice.

Mrs HASHIMOTO: Not that I am aware of, but I am again happy to take it on notice.

Mr McDONALD: No, there has been nothing brought to me that has said people have been treated unfairly.

Ms JOHNSON: I am aware of two instances where they have raised issues. We put that through the complaints process. It was resolved. The issue was in relation to people not understanding where they were up to in the enforcement area. The issues was resolved so they did not come back to us.

The Hon. MICK VEITCH: Can you talk us through the process that you followed when you were advocating on behalf of those people? You do not need to say who they are or give them up, just the process you followed.

Ms JOHNSON: I contacted their chief inspector who then contacted the inspector that was out on the property. It was really just matching up the communications so that they could understand what was occurring. I put the person's complaint in to the chief inspector.

The Hon. MICK VEITCH: My second question to the full panel is around education. As I understand it the agencies that are legislated for responsibility in New South Wales are provided with grant funding—essentially it is the old block funding model where they were allocated money to do what they want and spend it on compliance activities. Should there be allocated funding for organisations to conduct education for society around, firstly, responsibilities under POCTAA and, secondly, around greater animal welfare standards?

Ms ANDRAE: For society, the general public?

The Hon. MICK VEITCH: In your case, should there be some money available to educate your pork growers around their responsibilities under the relevant framework.

Ms ANDRAE: For Australian Pork Limited we probably see that as a role we undertake on behalf of our producers. We see very strongly that their levy money we would be returning to making sure they are meeting all standards and are aware of all of their responsibilities.

Mrs HASHIMOTO: As we are national body, that is not a role that we specifically undertake. But as far as your idea around the funding I would see that coming through via a relationship between the agency and working with the State farming organisation.

Ms JOHNSON: As Ms Andrae noted, industry would go above and beyond. I do think that there is a role for making sure people understand the minimum. As I said earlier, people do not understand much about POCTAA at all, especially that enforcement process. DPI have done some work. They have created videos to explain it but it is certainly a gap.

The Hon. MICK VEITCH: I guess I am drawing on my experience here of the rollout of biosecurity legislation. Again at the time—you may well have been in the Chamber, Ms Johnson, when I said this—I said to the Minister across the table, "You will have to spend an amount of money here on educating the community about the paradigm shift with biosecurity." If there is going to be a review of the legislative framework in New South Wales and there are going to be changes, I am concerned from where we are now, based on our experience with the biosecurity legislation, the time frame for that to take place—and the education program still really has not happened for biosecurity, by the way—the education program that would be required to advise society of the new framework and their responsibilities under that framework. I am drawing my questions based on the biosecurity experience.

Mr McDONALD: Yes, I think you are absolutely correct. There needs to be considerable extension work to get those messages across and it is not just holding three meetings in big centres in New South Wales or on the internet. It needs to be extensive, it needs to be localised and it needs to be carried out by people who are respected and know the new Act.

Ms ANDRAE: In terms of that, from an industry perspective, we are national but we feel we have a strong responsibility to make sure our producers are aware of that. In terms of biosecurity and changes, they have to have on-farm biosecurity plans. They have to be updated. In answering Ms Hurst's question before, we do have an independent quality assurance system, which is audited. They are audited regularly. So we do not rely just on the system; we are actually a proactive industry that is doing that. In answer to your question, Ms Boyd, we are not companion animals. We are privileged to provide a safe, reliable protein to Australians. That is our role and we raise those animals with the best care and are constantly improving based on science, research and community

expectation. So we are not companion animals. We have seen a recent spate of people breaking into our piggeries to put piglets on Instagram and on their couches, and those piglets have died from those interactions. We are not companion animals. We are a protein that we provide to Australians and we are very privileged of that. It is around the animal welfare and the care that our producers provide. Our production methods actually allow us to do that. We are looking after our people and our pigs and giving back to the planet.

The CHAIR: We will now have to wind it up. Thank you very much. Mr McDonald, are you a veterinarian?

Mr McDONALD: I am, yes.

The CHAIR: And you live in the Yass area?

Mr McDONALD: Yes.

The CHAIR: Were you involved with the prosecution of Wally's Piggery by the RSPCA?

Mr McDONALD: I was not, no.

The CHAIR: In any way at all?

Mr McDONALD: I was not in the court case, but I was involved in inspections there.

The CHAIR: Were you retained by the RSPCA to do that?

Mr McDONALD: No.

The CHAIR: Mrs Hashimoto, you are the umbrella body that represents the egg industry?

Mrs HASHIMOTO: That is correct.

The CHAIR: Does it include Pace Farm?

Mrs HASHIMOTO: It does.

The CHAIR: Is Pace Farm the largest egg producer in Australia, as far as you are aware?

Mrs HASHIMOTO: There are a number of larger egg producers. There is—I guess you could call it a top tier of large producers.

The CHAIR: Does it produce eggs under three different systems: battery cage, barn and free range?

Mrs HASHIMOTO: I believe two of those systems, but I will have to take that on notice and come back to you.

The CHAIR: Is the barn system approved by the RSPCA?

Mrs HASHIMOTO: I would have to take that on notice.

The CHAIR: Are you aware of any prosecutions of Pace Farm by the RSPCA?

Mrs HASHIMOTO: Not during my time as CEO, no, I am not.

The CHAIR: Thank you very much. Would you be willing to table all of your introductory statements?

Mrs HASHIMOTO: Yes, we are.

The CHAIR: Thank you very much for your evidence. It has been very helpful. There were questions taken on notice; 21 days to answer those questions, please.

(The witnesses withdrew.)

MICHAEL DONNELLY, President, Animal Care Australia, affirmed and examined

SAM DAVIS, Vice President, Animal Care Australia, affirmed and examined

BARRY CODLING, President, Pet Industry Association of Australia, affirmed and examined

JOHN PARKINSON, Membership Manager, Pet Industry Association of Australia, affirmed and examined

KRISTINA VESK, CEO, Cat Protection Society of NSW, sworn and examined

The CHAIR: Thank you very much for appearing. Would any or all of you like to commence with a short opening statement?

Ms VESK: Thank you. The Cat Protection Society of NSW thanks the Committee for its concern on this important issue. I would like to declare that the Hon. Walt Secord adopted his now sadly late cat Brutus from the Cat Protection Society and he also kindly hosted our diamond anniversary celebration lunch here at Parliament House in 2018.

The CHAIR: You will be happy to know that the next cat he is going to adopt from you will be named Caesar.

The Hon. WALT SECORD: Thank you for that declaration.

Ms VESK: Also, I sit on the New South Wales Government's Responsible Pet Ownership Reference Group, which is chaired by member for Albury Justin Clancy and provides advice to the Minister for Local Government, the Hon. Shelley Hancock, on issues relating to cats and dogs. Its focus is the Companion Animals Act, rather than the Prevention of Cruelty to Animals Act. The Cat Protection Society has also worked in constructive partnership with our colleagues here from the Pet Industry Association of Australia, notably on our Good Neighbour Project. Additionally, the Cat Protection Society receives an annual animal welfare grant of \$15,500 from the New South Wales Department of Primary Industries. We apply this to our feline welfare work in the community, which is mainly desexing, vaccination and microchipping the cats of low-income owners.

The Cat Protection Society does not have, nor do we seek, powers under the Prevention of Cruelty to Animals Act. We are a registered charity focused on sheltering and adoption of homeless cats and kittens, providing information and education to support responsible pet ownership and promoting feline health, welfare and wellbeing, with programs including subsidised desexing, vaccination and microchipping, research, policy and initiatives to support the human-feline bond. We also offer information and support to promote better practices in cat sheltering and rescue. We operate in a One Welfare framework, which means our approach considers our impact on people, animals and the environment. An example of this would be our shelter medicine management and consideration of zoonotic diseases. I mention this particularly because One Welfare—which is really just a logical extension of the concept of One Health—is the appropriate framework in which to consider animal law, including POCTAA and associated animal welfare standards.

With a no-harassment fundraising policy, we depend on bequests, donations and our own income-generating efforts to meet the \$3 million or so it costs us each year to help thousands of cats and the people who love them. As we noted in our submission, there is a gap between community expectations for animal welfare and the letter and application of the law. The standards—and I need to point out here that I am confining my comments to pet cats and dogs, mainly cats, because that is our charitable remit and our expertise—are too low and the breaches too difficult to prosecute.

In respect to the animal welfare matters we have dealt with, these range from simple neglect due to ignorance, which can be remedied by education; to harmful situations complicated by mental health issues, such as hoarding; to deliberate acts of violence against animals; and finally, the abuse of animals in the context of domestic and interpersonal violence. In these last matters especially, I do not believe it is adequate to depend on animal welfare inspectors. In our submission we provided several attachments, including academic articles. In particular I draw the Committee's attention to the United States Department of Justice, Community Oriented Policing Services Paper "Animal Cruelty as a Gateway Crime", which noted:

Animal abuse and cruelty are serious and often precursors to other crimes such as assault, domestic violence and homicide.

Animal abuse is often a window into the home and awareness of animal abuse may prevent other crimes.

There is a lack of communication between animal control and law enforcement.

There is an awareness and education gap between animal control and law enforcement.

Communities care about animal cruelty and often voice this concern to elected officials and community leaders through social media.

Our current system does not adequately protect or support—

The CHAIR: Excuse me, Ms Vesk, you are going to have to wind up. Are you on your last page?

Ms VESK: Thank you for your indulgence. The current system does not adequately protect or support people and their pets. I welcome the DPI's commitment to the review of animal welfare laws and in that process we would like to see, and we need to see, an outcome that recognises the seriousness of animal abuse and offers a coherent triaged approach that properly recognises animal welfare based on contemporary scientific knowledge and protects pets and the people who love them.

The CHAIR: Would anybody else like to make an opening statement?

Mr CODLING: We would like to take a slightly different approach than an opening statement. We would like to summarise our position. In preparing for this inquiry the Pet Industry Association of Australia [PIAA] has reviewed a number of key submissions and find that our position against the terms of reference is largely aligned with the recommendations presented by Animal Care Australia [ACA]. We firmly believe we have established root cause for this inquiry, which is the Act itself, which is not delivering against current community concerns. We also believe that the cost to administer the Act is by far greater than the current level of government funding. Therefore we suggest an industry largely dependent on charitable donations will always deliver a blurring of biased and unbiased opinions.

Mr DONNELLY: I will make an opening statement on behalf of Mr Davis and myself. Before I start, could I ask that copies of our opening statement be tabled as well please?

The CHAIR: Yes.

Mr DONNELLY: Animal Care Australia is a national incorporated association established to lobby for real animal welfare by those who keep, breed and care for animals. Our goal is to promote and encourage high standards in all interactions with the animals in our care. Animal Care Australia encourages continued development of animal welfare standards and codes of practice for animal husbandry, breeding, training, sale and sporting exhibitions for a wide range of animal species; including pets, companion animals, animals used for educational or entertainment purposes or kept for conservation purposes.

To encourage responsible pet ownership and the respectful treatment of all animals in our community ACA continues to promote welfare education over restrictive regulations. ACA supports the current charitable organisations, RSPCA NSW and Animal Welfare League, in maintaining their roles in the enforcement and education for the prevention of cruelty to animals. We see no reason for the creation of an office of animal welfare or independent welfare organisation to investigate animal cruelty. We believe the creation of that office would be a backward step—government departments are universally inefficient whilst RSPCA NSW and AWL are already achieving the same goals that any other government department would. Despite this, we acknowledge there are improvements that must be made; however, that is true of any organisation and particularly those overseeing areas of high emotional impact, such as investigating and prosecuting acts of animal cruelty.

ACA acknowledges many cases—likely the majority of cases—of significant animal cruelty currently go undetected. Public opinion is equally divided between those who publicly condemn the organisations tasked with compliance for inaction and those who condemn them for having too much focus on one area or one set of individuals. It is with that in mind that our focus and response to this inquiry is not on the charitable organisations but rather the single factor we consider as the problem—the Prevention of Cruelty to Animals Act. POCTAA is 40-plus years old and I am sure we all agree is outdated and extremely challenging to comprehend, both for the public and for those organisations and institutions tasked with compliance.

While the concept and big picture aim of POCTAA is widely known, the actual Act, the accompanying regulations, and its standards and guidelines are unknown by the vast majority of those it affects—those who keep animals—with the vast majority essentially clueless as to what their legal responsibilities are. This is not their fault. The fault lies in the lost purpose of POCTAA, in particular ineffective education and hence poor implementation of best welfare outcomes for our animals. The responsibility of that failure rests on the shoulders of all previous governments and by default the departments responsible for the governance of POCTAA. We must do better, and the current review of POCTAA is the opportunity.

To move forward Animal Care Australia has made several recommendations. RSPCA NSW and AWL should be more accountable and transparent in their actions and investigations, with that accountability being overseen by the NSW Ombudsman's office or equivalent. There should be a review of the powers for enforcement, focused on natural justice and the protection of the presumption of innocence until proven guilty. Animals are being seized and held for long periods of time on the presumption of guilt. This is not in the animal's best interest and often legal counsel recommends guilty pleas to avoid excessive fees, rather than on the merits of the case. The prosecutorial stage of an investigation should be transferred to the Department of Public Prosecutions, perhaps with a full time funded police prosecutor working within RSPCA NSW and/or AWL. ACA supports the need for

more sustainable funding, but does not support this process being a fully government funded organisation as this is contradictory to the term "independent".

With the current review of POCTAA, ACA recommends streamlining the Act ensuring a better stakeholder understanding of the standards and guidelines and with a stronger focus on education and welfare over prosecution. Having stated that, we equally support, and have supported in the DPI's previous request, the strengthening of fines and sentencing terms of those found guilty of aggravated or intentional abuse. To be clear, ACA opposes the implementation or creation of an independent welfare organisation. We would like to thank the Chair and the Committee for inviting us to appear today and welcome questions.

The Hon. WALT SECORD: So I can frame my questions, Animal Care Australia and Pet Industry Association of Australia, in your submissions you describe yourselves as hobbyists, is that a euphemism for breeders and pet shops?

Mr DONNELLY: It is a welcomed and agreeable euphemism for all pet owners.

Mr DAVIS: From Animal Care Australia's perspective.

Mr DONNELLY: Some people see themselves as keepers, some people see themselves as owners and some people simply keep the animals as part of a hobby, such as aviculture, for example.

Mr DAVIS: The bulk of our members or affiliates are clubs. For instance, I am President of the Canary Cage Bird Federation of Australia that represents some 250 clubs, and that would be the same for reptiles and cats and dogs.

The CHAIR: Like an umbrella club?

Mr DAVIS: Yes.

Mr DONNELLY: Umbrella—hobbyist is the most welcomed term.⁵

Mr DAVIS: It is like volunteer organisations.

The Hon. WALT SECORD: Mr Codling, your Pet Industry Association of Australia, who do you represent?

Mr CODLING: We represent both upstream and downstream. For us we represent breeders, groomers, boarding, aquarium.

Mr PARKINSON: Retail, pet retail.

The Hon. WALT SECORD: And breeders?

Mr PARKINSON: Breeders, kennels, and we also have a large membership based around suppliers and manufacturers.

The Hon. WALT SECORD: So the commercial end of the pet community. Mr Donnelly, in your evidence you threw out there a concept where you wanted situations of innocent until proven guilty. Are you advocating that there not be the seizure of animals until court proceedings are underway? What are you actually advocating?

Mr DONNELLY: What we are actually advocating is there are many times in our experience that animals are seized. They will go onto a property and there could be, as an example, 10 rabbits being held. Two are showing signs of illness or of mistreatment but all 10 are seized and then held within shelter until—not even until but right the way through the prosecutorial process which can take a very long time.⁶ Those animals were healthy—at least eight of them were—and they are now being housed in a shelter which, even the RSPCA has openly admitted to us, are under-staffed and those animals are not receiving day-to-day love, care and attention. Often in most of the cases those animals were already under veterinary care anyway with their owners who, if they are healthy animals, request to take those healthy animals and keep them away and store them out of harm's

⁵ In [correspondence](#) to the committee (dated 23 February 2020) Animal Care Australia clarified the paragraph by inserting: *Umbrella organisation where hobbyist is the most welcomed term.*

⁶ In [correspondence](#) to the committee (dated 23 February 2020) Animal Care Australia clarified the paragraph by inserting: *but all 10 are seized and then held within shelter until, well, not even until, but right the way through the entire prosecutorial process which can take a very long time.*

way is what we are being told is the purpose of it when there has been no proven assumption of guilt in those particular cases.

Mr DAVIS: The other issue, further to your question if you do not mind, is in terms of natural justice. The problem in a number of cases that I have to deal with is the fees involved in keeping those animals—fair enough that the RSPCA or AWL needs to recover their costs, I understand that—but what happens when the person who is accused of this crime, whether they are guilty or not, those fees for housing or in some cases horses, dogs and others over a number of months amount to many orders of magnitude greater than what the fine will be from the court. So the advice from their solicitor is "Plead guilty and fall on your sword" which I do not think is in the interests of natural justice. They are doing that to avoid the stabling, kennelling or keeping costs rather than on the merits of the case. I am not sure how you solve it.

The Hon. WALT SECORD: Mr Donnelly, in your submission you oppose the creation of an independent animal welfare body but then you advocate that prosecutions go to the Director of Public Prosecutions. Is there a disconnect there?

Mr DONNELLY: No, there is not. What we are actually asking for is that the Inspectorate still remain. The Inspectorate are the ones who go out inspect and ascertain whether there is a case to be answered. When it gets to the courts and the prosecutorial level of things that we would actually like to see somebody outside of just the Inspectorate with some sort of legal background involved in that because quite often what we have found is that you will have an inspector who is then calling a solicitor or someone with a legal background that are employed by the RSPCA or the AWL.

So those two parties are there with one goal and one goal in mind and that is not natural justice; that is the actual prosecution whereas with the Director of Public Prosecutions there has to be a level of reasonable doubt put across that case first. So the Director of Public Prosecutions would then determine is there actual sufficient evidence here for this prosecution to be carried forward? What we are asking is not for anything to change in the step of where it is now, we are actually asking for the additional step of the DPP having responsibility of ensuring that those people that are being prosecuted are actually being prosecuted with the right grounds of legal courts.

The CHAIR: Just for clarification, is that already not the case with normal police prosecutions? The DPP has to make the final decision as to whether a case proceeds.

Mr DONNELLY: That is correct, whereas at the moment in the under the current system it is the Inspectorate who has carried it out and an RSPCA employed solicitor.

The Hon. WALT SECORD: From the verbal statement and from your submission, Ms Vesk, you talk about cat welfare being the primary number one concern. What is your feeling about the proposal of Mr Donnelly that innocent until proven guilty and that the animals not be seized in a situation? You must come across situations where there are a large number of cats, varying levels of health standards, how do you feel about the proposal of innocent until proven guilty involving the seizure of animals?

Ms VESK: I think if someone is committing a crime or robbing a bank we do not leave them doing it until the case has been prosecuted and they have been convicted. Similarly, you do not leave animals in a dangerous situation. You do not leave animals at risk. The animals do deserve protection and I think there has been a lot of discussion here about an office of animal welfare. I heard that raised yesterday as well and I have been thinking about that. Conceptually perhaps that is something akin to the Office of the Children's Guardian in the sense that it is taking a leadership role in providing protection to a really vulnerable group, and animals are a vulnerable group. There are various organisations like ours, like the RSPCA, who advocate for animals but the notion that as a society as a whole that we see this as a civic responsibility I think is important. It is reflected in the fact that we do have animal laws. I think it can be strengthened, and I would like to see it strengthened.

Ms ABIGAIL BOYD: Just on the issue of the independent office of animal welfare, Mr Donnelly, in your submission and your opening statement you noted that you would be happy for the accountability of the RSPCA and AWL to be overseen by the New South Wales Ombudsman. If the independent office of animal welfare was a similar sort of body—not a replacement for the RSPCA and AWL but rather an overarching body that would look at the accountability of those organisations—would you still be opposed?

Mr DONNELLY: I would have to see the structure of that setup. Your terms of reference have asked us to consider this independent office of welfare with no understanding, no explanation, no structure, no nothing and yet you are asking us to support such an organisation without having seen that. So I cannot answer you right now.

Ms ABIGAIL BOYD: Fair enough, which is why I am drilling down. You stated that you are opposed to the implementation or creation of an independent welfare organisation. I wanted to understand what that looked

like to you so that the Committee could understand what your opposition was to. Is it an opposition to a replacement organisation?

Mr DONNELLY: Yes, our interpretation of this office of independent, whatever it is going to be called, currently that it would literally be a full new department set up and run to do exactly what the RSPCA and the AWL are already doing. That is our interpretation of that office and that is based on many different articles that have been put out over social media, publicised through the Animal Justice Party and so forth. From those kinds of things we would oppose that because you have already got that happening. You have already got those organisations that are doing the job so why would you start that process again, is where we are coming from.

The Hon. EMMA HURST: I put on notice, just to clarify something you said that the Animal Justice Party has put things out that the independent office would be a replacement of the RSPCA. On notice, will you provide the Committee those posts?

Mr DONNELLY: I will definitely take that on notice, the primary documentation that I am referring to were previous policy documents of the AJP.

The Hon. EMMA HURST: Previous policy documents?

Mr DONNELLY: Even current. As far as we are aware they are still current. We are happy to provide those to which we are referring, yes, for sure.

Ms ABIGAIL BOYD: Mr Parkinson what are your views on an independent office of animal welfare? What do you suppose it will look like in what I think is your support for that general concept?

Mr PARKINSON: Our position would not be overly different to the ACA. We are not aware of the detail of what is proposed, I guess is our hesitancy. What we know we are comfortable with the view on the back of this inquiry that changes are required. We do not have an articulated position as to what we see other than what we do not see.

Ms ABIGAIL BOYD: Are you able to articulate what you would be opposed to in that type of body?

Mr PARKINSON: We are opposed to a whole new body, without understanding the detail.

Ms ABIGAIL BOYD: That is why I am asking you to give us your view on what would be acceptable within that detail and what would not be acceptable from your perspective. If it were an overarching transparent body, rather than a replacement, is that something you would be comfortable with, obviously subject to further detail?

Mr CODLING: Yes, I guess we would be but again I still need to understand what that looks like. If we had input to that our problem is going to be "Is there an independent body?" and I think we are all struggling with what the word "independent" means. That is a problematic situation from the root cause from us.

The Hon. MICK VEITCH: The Independent Commission Against Corruption is funded by the Government. I have not heard anyone tell me that is not an independent body. Part of my annoyance over the past couple of days is people are pushing back on a concept because they do not understand it. They want independence, which means they do not want it funded by the Government. But we have the Independent Commission Against Corruption and people are asking us to look at whether the Ombudsman has a role. That is funded by the Government. I think people need to think more constructively about what is happening here and look at the evidence.

Mr CODLING: To answer from our position, we are all asking, "What does that look like?" We could change our opinion based on what that looks like.

The CHAIR: Do you understand that an independent officer is similar to a commissioner of a commission? Even though the Parliament may establish a commission, it cannot interfere with its deliberations, with its inquiries or with its investigations. It would be highly irregular and it would be an extreme criticism of the Parliament or any member to interfere. It is like a police Minister interfering with a police matter. It would be absolutely unacceptable.

The Hon. WALT SECORD: But that actually happened.

The CHAIR: Just to help you understand.

The Hon. MARK BANASIAK: Or trying to arrest you for road rage.

The CHAIR: But it is still not acceptable and it hits the front page of the paper because it strikes at the very concept and understanding of the importance of an independent body, which the Parliament establishes. It has happened with a royal commission.

The Hon. MARK BANASIAK: Mr Donnelly and Mr Davis, thank you for your submission. I particularly enjoyed reading your recommendations around training. I think they were very insightful and some food for thought. What is your understanding of the training currently required for an inspector?

Mr DONNELLY: We have actually requested further information on that from the RSPCA in our meetings with the RSPCA. Currently we have not received any information on its actual training. Our understanding is that they do have to have a background in some form of animal welfare science or veterinary knowledge. That is the minimum.

Mr DAVIS: We are meeting regularly with Steve Coleman, CEO of the RSPCA. In fact that is on the agenda for our next meeting to get some details.

The Hon. MARK BANASIAK: If I told you that inspectors may get \$1,500 dedicated to their training over a year, would that give you cause for concern?

Mr DAVIS: Indeed.

Mr DONNELLY: Indeed, yes. Particularly when we have been in meetings with the RSPCA and it has openly admitted that its inspectorate would not know what to do if they walked in on people with reptiles, birds or even some small mammal species. Their predominant training and knowledge level is based around dogs, cats and, to some extent, horses.

The Hon. MARK BANASIAK: Mr Parkinson and Mr Codling, in your submission you talk about the guidelines that you have developed for your members and a model breeder licensing system that would be self-funded. Have you presented that concept or those models to anyone from the Government?

Mr CODLING: Yes.

The Hon. MARK BANASIAK: What was the response to that?

Mr CODLING: I am unaware of the response. We would have to go back through the records.

The Hon. MARK BANASIAK: Was it a while ago?

Mr CODLING: Yes, it was some time ago.

The Hon. MARK BANASIAK: My final question is to Ms Vesk. We heard some submissions yesterday and some discussion about cat colonies, particularly from the Animal Welfare League [AWL], and the concern that the concept of cat colonies versus other approaches to cats that have escaped owners, for want of a better term, actually causes conflict about what is appropriate animal welfare for those cats. I was just wondering, in terms of your thoughts on the concept of cat colonies and their place in animal welfare, do you see that as an area that the review of POCTA needs to look at?

Ms VESK: Thank you for that question. It is a hugely, hugely complex area. We are quite open-minded on—there was reference yesterday by the AWL to TNR, which is trap, neuter, return and managed colonies. There is some research going on on that in an Australian context, led by Emeritus Professor Jacquie Rand at the University of Queensland. That will be very informative. The annual national RSPCA animal welfare conference this year is dedicated to considering humane domestic cat management in Australia. I think that is going to be very important. I cannot give you an easy answer because it is such a vexed and difficult question.

The Hon. MARK BANASIAK: I did not give you an easy question.

Ms VESK: In terms of the Cat Protection Society's work, our umbrella project, the Good Neighbour Project, targets these issues of preventing homelessness, reducing homelessness of cats, reducing nuisance cat behaviour of owned cats that are annoying, trespassing or predated. But I think we do need to put a lot of energy and effort into this across lots of different communities and not just people with experience in cats, because it does vary according to areas: cities, urban, peri-urban, regional and country. In terms of POCTA, there is a view that because POCTA says you cannot abandon an animal that therefore people cannot look after a colony because that would constitute abandonment.

The flipside of that is one of the complaints we get regularly at the Cat Protection Society is from people saying they have complained to RSPCA, the Animal Welfare League or their local council about cats who appear to be homeless and are not being looked after and they are told that nothing can be done about it because cats are allowed to roam. There is this sort of lacuna of, "Where do they fit in?" In terms of the Act, I think some things can really quite adequately be dealt with by standards made under the Act. I do not think it is impossible to introduce new measures within the framework of the Act. Sorry.

The Hon. MARK BANASIAK: No, that is very good.

The Hon. MICK VEITCH: I will be very quick, Ms Vesk. For Hansard, what does TNR stand for?

Ms VESK: It is trap, neuter, return.

The Hon. MICK VEITCH: Thank you. My question is to each of the panel members. In a number of the written submissions and in testimony yesterday we had people raising issues about the way in which the agencies, the approved charitable organisations [ACOs], are managing perceived conflicts in their roles. So, particularly if they are prosecuting, I think there have been some allegations around board members then actually being used to provide evidence in the case. What I want to know is, for your organisations, has there been any experience or dissatisfaction with the way in which AWL or RSPCA manage their conflicts?

Mr DAVIS: I do not think there are any that I am aware of in terms of internal conflicts of interest within RSPCA NSW or AWL. I have sat on a number of these things over the years. The conflict that I see that exists is with RSPCA Australia and RSPCA NSW and the same for the other State organisations where RSPCA Australia is involved in a number of what I would call activist—they are perfectly within their rights, but that is where the conflict arises. To my knowledge, I do not think that has affected its inspectorate role and its compliance role in terms of POCTA.

Mr CODLING: Certainly none that we are aware of. We are aware of differences of opinion between different States of the RSPCA and the Animal Welfare League.

The Hon. MICK VEITCH: Yes, so their national structure.

Mr PARKINSON: Our awareness is more an internal debate, rather than how it informs them acting.

Ms VESK: Nothing that has directly affected us. I would make the point that I do not think it is always a bad thing that anyone has a vested interest in something. I think for interests and conflict of interests the issue is about declaring them, managing them and being transparent and accountable in behaviours. But a vested interest, as it were, of a deep understanding of animal welfare, is surely advantageous.

The Hon. MICK VEITCH: Can I go to the issue of accountability and transparency? Regardless of whatever the model is that may well be put in place or recommended by this Committee, I did pose to some witnesses yesterday that this Parliament has a number of organisations that will come and sit here in front of a parliamentary committee—ICAC has to do it, the Ombudsman does it—and once a year or twice a year they will present to a parliamentary inquiry and answer questions like this about their actions, what they have been doing, and it provides an opportunity for members of the community to convey to the members of Parliament who can then sit down under oath and ask people questions. Regardless of the model we look at and regardless of what we put in place, do you think that for the animal welfare agencies the time is now right for them to have to go through a single process of accountability and transparency?

Mr DONNELLY: Australia Care Australia would support that, yes.

Mr CODLING: Yes.

Mr PARKINSON: Yes absolutely.

Ms VESK: Yes.

The Hon. EMMA HURST: I have got a couple of questions to ask Ms Vesk. You mention in your submission that you get quite a few calls from the public reporting animal cruelty to the Cat Protection Society. Why do you think that those calls are coming in to you? Are they people who have tried with authorities and failed or that they are unhappy with the outcome?

Ms VESK: It is not usually where there has been any kind of investigation or anything like that. It is where people have tried other avenues and, as we said, the threshold for prosecuting cruelties is so high and there is a real disconnect between what the community sees as good animal welfare and what is actually permitted. So I think often it is frustration. Often it is the first port of call because they know us and they do not know the others or they do not know where to go; so we give them the different options that they can do. Then in other cases it will be where there is no prospect of a prosecution or investigation because there is simply no evidence around the person or perpetrator but there is a cat who is a victim. We have had cats who have been quite brutally harmed, but there is nothing anyone—no police, no RSPCA—could do anything about that anyway. So we will take the cat, we will get the veterinary care, we will do the rehabilitation and look after them. Other calls, I guess, are in relation to things like domestic violence where people are seeking options for their pets in order to leave a violent situation.

The Hon. EMMA HURST: I notice that you mentioned that in your opening statement as well and we did talk with the police yesterday about the link between violence towards people and violence towards animals.

Do you have thoughts around, and particularly because you have got that interaction with DV and animal rescue and animal abuse—do you find problems with the fact that human violence is being predominantly handled by the police and animal violence by charities and the lack of connection between those two?

Ms VESK: Absolutely, and I think the work that is being done, particularly in the United States, has been—

The Hon. EMMA HURST: Can you tell us a little bit about the work?

Ms VESK: It is the sharing of information, but through formal and defined protocols, not some agreement that is casual or that lasts for a few minutes or a little while. They are flagged, they are defined, they are reported. I think one of the issues that we have now is that we do not even collect this data in any meaningful way. So we cannot even properly look at it in terms of research. There has been a lot of research on it, but in terms of sort of a statistical analysis of what is going on in Australia in relation to crime against animals and crime against people and those links, there has been work, but because the data collection is not great and often does not happen, and then you get all the underreporting, the issues that I am talking about where people are trying to leave a situation and it is not being reported, the police do not necessarily take it seriously—and I am not blaming them; I am just saying I think there is an education gap, there is a communication gap. It needs to be the case that these situations are flagged; they are predictive.

The Hon. EMMA HURST: I have just got one more question for the Pet Industry Association. In your submission you talk about puppy factories and kitten factories. I know that those are quite loose terms without any specific definition, but how well do you feel that the authorities that are currently working on identifying these facilities when they are problematic, considering that they are often very hidden away? Have you had any sort of interaction in regards to—

Mr CODLING: Interaction no, but certainly feedback. I think we can refer back to the new legislation in Victoria in terms of breeders, which we certainly welcome. That is such a high regulation and one that should be endorsed nationally, but because of that it has created a black market in New South Wales, which is a consistent message that is coming through between members. So I think that would be the fear that we have; we have a New South Wales policy but we do not have one in even Canberra or we do not have one in New South Wales or Queensland, which creates problems.

The Hon. MICK VEITCH: Just to be clear on this, what you are saying is that the Victorian model is the model that you would like to see rolled out across the nation.

Mr CODLING: The current Victorian model is probably the highest in terms of standards.

Mr PARKINSON: A high standard, yes.

Mr CODLING: And it is certainly something that we support.

The Hon. MICK VEITCH: So would you support this Committee recommending to the Minister that they agitate at a Federal level for that to be rolled out statewide?

Mr CODLING: The difficulty component to that is that there are still holes in that. We support the regulation, but there are still holes in that that are starting to pull through today that we are seeing after its execution. So yes we are supporting, but I think there still needs to be some review of the standards. Let us just be clear on that.

Mr PARKINSON: I think we support a national approach to breeding.

The Hon. WALT SECORD: I just have one final question for Animal Care Australia and the Pet Industry Association of Australia. You would be aware that the RSPCA will give approval or give sort of a tick or an endorsement to things such as eggs and chickens and things like that. Do you have members or product streams in your organisations that have RSPCA approval or endorsement?

Mr CODLING: Yes.

The Hon. WALT SECORD: What would you have?

Mr CODLING: There are certain brands out there in our supply base that are endorsed by RSPCA.

The Hon. WALT SECORD: Certain brands like in pet food?

Mr CODLING: Yes, there is pet food or pet accessories or in some cases I believe there is a pet med.

The Hon. WALT SECORD: Pet med. What is that?

Mr CODLING: A flea or tick medication.

Mr DONNELLY: If I could answer that? None of our member organisations have the RSPCA tick of approval.

The Hon. WALT SECORD: Have they sought it?

Mr CODLING: No.

The Hon. SAM FARRAWAY: Just following on from the Hon. Walt Secord's question, do you find for some of the members that you may represent that it is a way for the general public to do their bit to support those brands that have that tick? Does it do anything for some of your members to have that endorsement?

Mr CODLING: Is that a commercial question?

The Hon. SAM FARRAWAY: It is a question around, I suppose, there has to be a process—and this is a question that I will definitely put to the RSPCA as well later today. Do you find that it has a positive impact, that you have general consumers that come in for the members you represent and in doing their bit for the prevention of cruelty to animals, and this may be a non-animal owner, they will purchase a product or their family may purchase it—they would have to be an animal owner, obviously? Is there a direct conflict there or do you find there are benefits in having that endorsement?

Mr CODLING: I think I would give you a personal opinion and in being in the industry for 30 years. I think the general community believes that the RSPCA brand would be a generic.

The Hon. SAM FARRAWAY: Just moving on quickly for time, the Animal Welfare Advisory Council [AWAC], how do you see it functioning? We have heard from DPI that it is being restructured. What sort of expertise from any of the organisations do you think should be reflected on that council?

Mr DONNELLY: As far as Animal Care Australia is concerned, we have asked for a meeting with Minister Marshall next week to discuss the AWAC current proposal, the positions that were advertised. We do not believe that that is in the best interests of the animals, the current proposed structure. They are proposing at the moment for scientific-based members only to sit on AWAC. That automatically excludes the vast majority of key stakeholders that would otherwise have been put into animal welfare. We are being told that we would be relegated to sub-groups that might get consulted if necessary underneath that. In our opinion that is inappropriate. In our opinion yes there should be some sort of scientific level and input at AWAC, but the main key stakeholders should be also sitting on that council to provide proper input.

The Hon. WALT SECORD: Mr Donnelly, when your organisation's members come into contact with the RSPCA and the Animal Welfare League, what kind of investigations would they come into contact with? What are the nature of those interactions? Because you get reports from people saying, "What do I do? The RSPCA has shown up to my kennels."

Mr DAVIS: That is right. I am thinking of some particular cases when you say that but I will not mention them. Normally it is because an inspector has attended somebody's property and normally that is because of a complaint. Pretty much all of the time I think they are responsive to complaints and they are asking us, "How do we deal with that?" It comes back to POCTA again where there is members that do not know what it is that they are supposed to be doing. Most of them have never seen the standards and guidelines that apply to their pet shop to their backyard or whatever sort of animals it is. They really are completely flying blind. At least with say speeding, whether you agree that the speed limit should be 80 or not it is pretty clear that that is the speed limit and you cop it on the chin. That is a real problem.

The Hon. WALT SECORD: So you are telling me that you have members call up to say, "I have RSPCA and AWL inspectors here and I do not know why they are here"?

Mr DONNELLY: No, we actually do not usually get that phone call until after the inspectors had been and gone, the animals of all been seized, they have been provided a list of things that they may have to achieve before either they can have the animals returned, or they would be told, "You have an X period of time frame to get these things fixed we will return to take your animals anyway". It is at that point before we receive the phone call or before we receive the inquiry.

The Hon. MARK BANASIAK: So you are saying RSPCA and AWL will turn up with no concept and no understanding of what should be judging in terms of—

Mr DONNELLY: We are saying that the inspectorate is not sufficiently trained in all of the species to have that understanding.

Mr DAVIS: In some cases the standards and guidelines are the fault. There is an example I am thinking of recently where an inspector has shown up, has walked around, has not found any animals that were ill, underfed, overcrowded, no welfare issues, and yet that person has been left with a list of 20 different items from the standards and guidelines that they need to correct. Most of those are paperwork. They are bits of paper that they could not find in the filing cabinet. That is an extreme example but that is the kind of—the RSPCA officers must use, they are looking at the standards. That is their job. I get that. The standards are the problem.

The Hon. WALT SECORD: Mr Davis, you have Parliamentary privilege. I find it extraordinary that someone would come in and have a list of 20 infractions and the person behind the counter be surprised by that. If you have such materials I would like you to provide that to the Committee.

Mr DAVIS: I am happy to do that.

The Hon. WALT SECORD: If that exists I would love to examine it.

Mr DAVIS: Can I ask the particular case? Can you have a particular person involved in or find out—⁷

The Hon. WALT SECORD: Can you at least tell us what area of—

Mr DAVIS: It is a pet shop. It is a bird shop. I deal with and represent bird breeders. That officer, they have not come back yet. They left with a number of—they have not been charged. They were left with a number of corrections including things such as Material Safety Data Sheet [MSDS] sheets for Pine O Clean, for instance, or whatever disinfectant they were using in the store. Those type of issues were the things that they left with. What I am saying is there is a better way to do this. There is a better way to do this.

The Hon. WALT SECORD: Have you had members complain about the RSPCA showing up with media to do—

Mr DONNELLY: Not to my knowledge, no.

The Hon. WALT SECORD: Because we had evidence yesterday that some people had the media show up with the RSPCA?

Mr DONNELLY: Not to my knowledge.

The CHAIR: Are you aware of any situations where the RSPCA have rocked up with the media and a lot of noise?

Ms VESK: Not to my knowledge. I have no experience of it.

The Hon. SAM FARRAWAY: I did hear from one organisation, not the other two, regarding the animal welfare advisory councils. I am not sure if you had any contribution to make to the expertise or how it should be structured because it is looking to be restructured we have heard from DPI. I do not know if you had any comment. We heard from Mr Donnelly, but I am not sure if the other two organisations had a comment on it.

Mr CODLING: We sit on the AWAC committee so we would be adding what we were building to see if it was of value to that change, but it is not something to be discussed here. It is something to be taken to a workshop to ensure that we ratify certain changes.

Ms VESK: I apologise, I am not sure quite what they had in mind, but I think conceiving of it as something like the medical health research council where the main bulk of participants are people who are experts, in this case, in animal welfare.⁸ You can bring into that a lay perspective, if you like, whether that is industry or consumer to keep that conversation not just at that level, but at a more practical and realistic level.

The Hon. SAM FARRAWAY: The Government also reviewed the penalties recently and sought some public feedback. Mr Donnelly, you mentioned that you were part of that process. I just wanted, from the three organisations, to understand: Did you participate in that process and what are your thoughts on the penalties under the Act at the moment?

⁷ In [correspondence](#) to the committee (dated 23 February 2020) Animal Care Australia clarified the paragraph by inserting: *Can I ask the particular case? Can I ask the particular person involved in this or find out if they would mind?*

⁸ In [correspondence](#) to the committee (dated 11 March 2020) The Cat Protection Society of NSW clarified the reference to a medical health research council by inserting: *National Health and Medical Research Council (NHMRC)*.

Mr DONNELLY: We did participate and we sought higher penalties and longer sentences as part of that process.

Mr CODLING: We did not participate but we do endorse higher penalties.

Ms VESK: We did not participate; would support higher penalties.

The Hon. MICK VEITCH: Education. A number of you has spoken about the fact that that your members do not understand or do not know about the requirements of POCTA and the animal welfare legislation framework in New South Wales as a whole. Do you think there is a case to be put to the Government to provide funding for a greater education for people around the animal welfare requirements in this State?

Mr DONNELLY: Unequivocally yes.

Mr DAVIS: Yes. I think that is the elephant in the room in a sense. At the moment there is very little funding. I guess you have heard it is something like half a million dollars to \$1 million of Government funding, and then the charities are multiplying that by an order of magnitude, maybe up to \$10 million. It is reactive, someone has to complain, whereas our organisation says, "let's get the people who are doing the real cruelty." Some of these cases have been talked about in the last hour. At the same time, we are just getting at the tip of the iceberg when all they can do is react to complaints. The way to really lift animal welfare standards across the State is education. I prefer my work in education so I am perhaps a bit biased. To me, that is the way to lift standards and community expectations and really affect animal welfare in a big way.

The Hon. EMMA HURST: Just on that, would you then support that the Government be funding that educational program in some way?

Mr DAVIS: Absolutely.

Mr CODLING: For us, education is one thing but the root cause is more the fact that there is a significant gap between standards. We have a set of standards for our members which is greater than the current regulations. We do that because we are a national body. The issue becomes that a member of ours could choose to abide by those regulations and become a member or does not become a member and does not abide by those. How do we ensure the regulation is endorsed upon that organisation? That is something. We have had a diminished amount of membership over the years because of the fact that our standards are in excess of what we see as the current.

The Hon. MICK VEITCH: And Ms Vesk, education around animal welfare?

Ms VESK: Absolutely. Motherhood, education, yes. I think also there needs to be education of the community about what to look for and what to expect. For example, a PIAA accredited pet shop doing all the right things in terms of where they source their puppies that they might be selling, a consumer needs to know that when they are making a choice between that and buying a puppy online from an unknown breeder. The community needs to start supporting the people and the places that are providing good animal welfare standards, but they do not necessarily know a lot. I know that the RSPCA's puppy farm campaign has been really good in that regard, but yes, definitely education.

It is incumbent upon anyone caring for animals to understand that it is not only a matter of compliance or even moral obligation that they should be doing that properly, but also its a health and safety issue and its a community and public health and safety issue, which is critically important. Things that might be dismissed, such as paperwork, can be quite fundamental. Record keeping is really important when you have multiple animals—vaccination records, microchipping, whatever. Things like that are still really important. When people visit the Cat Protection Society of NSW, I say to them that it is like going into a hospital facility or an aged-care facility—all the infection control procedures, all the record keeping—you have a big population and you have to protect them, your visitors and your staff.

The Hon. WALT SECORD: One last question to the PIAA. Did I hear you correctly that your standards for your members are higher than what the New South Wales Government requires?

Mr CODLING: That was an overall comment in relation to the national—yes, in some situations we are higher than the State regulations or council regulations.

The Hon. WALT SECORD: This is in relation to breeding?

Mr PARKINSON: No, it goes across our portfolio of members. It could be a breeder, it could be grooming, it could be retail that are selling animals—

The Hon. MICK VEITCH: A boarding kennel.

Mr PARKINSON: —it could be a kennel, it could be on the aquarium side of things. The challenge we have as an organisation is that we are trying to lift the welfare and care of animals. In doing so, where we see that the current legislation is not covering all that needs to be covered, we introduce standards and guidelines for our members to abide by. But we are not in a position to enforce that. We would like to see that link back to legislation and education, and the ability to enforce that would be critical.

Mr CODLING: If I may just add to that. We have also identified a considerable gap in training. We have a very large project on the table, which is almost complete and will be rolling out in June. That training will be a core competence for our members and for us. We are working with Natural Animal Solutions and the Registered Training Organisations to put in the appropriate training programs, to which all our members would have to comply.

The Hon. MICK VEITCH: Like a certificate III or certificate IV?

Mr PARKINSON: Correct.

Mr CODLING: Correct. But there are some significant gaps in those and animal welfare is the gap.

The Hon. LOU AMATO: This question is probably for Mr Codling. What I have noticed in particular over the past few years is that there does not seem to be many pet shops open anymore, particularly selling birds and animals. Can you tell me why?

Mr CODLING: I think it is more around the commercial situation. I believe that the industry is maturing quite considerably. What would be called the small "mum and dad" pet shops are now becoming the Petbarns and PETstocks of the world—very corporatised. Some of those endorse the selling of pets and some do not.

The Hon. LOU AMATO: I have noticed now that a lot of them only sell products, they do not sell animals. My question is, where are people buying the pets from?

Mr CODLING: The black market.

Mr PARKINSON: That is our concern.

Ms VESK: Shelters!

The Hon. WALT SECORD: They are adopting them.

The Hon. LOU AMATO: The problem is when you over police something, that forces people to go underground. I am wondering if that is the case or whether—

Mr CODLING: That is a large debate and I think I would refer to the Victorian changes that have created such a situation.

The CHAIR: We need to wind it up there. That is a discussion for another day and another forum. Thank you everybody for coming. Your evidence has been extremely helpful. If you could provide the answers to questions you took on notice within 21 days, that would be great.

(The witnesses withdrew.)

(Luncheon adjournment)

DENNIS ANDERSON, President, Coalition for the Protection of Greyhounds, affirmed and examined

DEBBIE BARBER, President, Australian Equine Unification Scheme, affirmed and examined

JUSTINE CURATOLO, President, Heritage Brumby Advocates Australia, affirmed and examined

The CHAIR: Thank you very much for attending. Would any of you like to make a short opening statement?

Ms CURATOLO: Yes.

The CHAIR: All of you?

Ms BARBER: Yes.

Mr ANDERSON: Yes.

The CHAIR: We might start with you then Ms Curatolo.

Ms CURATOLO: The Australian brumby is an iconic part of Australian culture. The stories of *The Silver Brumby* and *The Man from Snowy River* inspire people from all generations and backgrounds and bring about their love of the Australian bush and its inhabitants. The brumby is also known as a wild horse and as such there is much scientific evidence to prove the benefits of the wild horse—which is a large herbivore—to the ecosystem, in particular how wild horses can help the environment regenerate after catastrophic environmental disasters. Heritage Brumby Advocates Australia [HBAA] Inc. is a legally recognised association, formed in response to concerns about the irresponsible and inhumane treatment towards the heritage brumby in Australia.

HBAA Inc. is an independent organisation with a focus on advocacy and systemic change. We work with all stakeholders and are not aligned to any political party. The focus of this inquiry is to report on the effectiveness of arrangements for the administration and enforcement of the laws of New South Wales for the protection of animals from cruelty. It is the position of HBAA Inc. that wild horses in Australia are not afforded the same legal protection as their domestic counterparts. Whilst in New South Wales there is some legal protection under the Wild Horse Heritage Bill, which explicitly prevents aerial culling, it does not offer legal protection against animal cruelty. Wild horses are classified as pests by the authorities who are entrusted to comply with prevention of cruelty to animals protection. However the legal loophole in New South Wales—and Australia wide—is that somehow, depending on an animal's legal classification, which is a social construct based on human values and prejudices, that animal is therefore deemed not worthy of protection from animal cruelty.

The iconic Australian heritage brumby unfortunately falls into this category as they are classified as a pest and are therefore undeserving of protection from cruelty. It is the position of HBAA Inc. that this situation is unjust and inherently wrong. The New South Wales Government has carried out an ongoing State sanctioned and funded campaign of intentional misinformation to justify acts of cruelty to wild horses. The RSPCA and other protection agencies have been complicit in this campaign of deliberate cruelty. A recent survey conducted by the Australian Alps National Parks, a Government funded organisation, asserts that brumby numbers have grown 9,187 to 25,318 in five years. However, the total number of horses actually counted was only 1,736. In other words, this "independent study", which was paid for and managed by the Government, includes an imaginary 23,582 wild horses.

On 21 December 2018 the Australian Defence Force reported that they had completed feral horse population control measures at the Singleton military training area. These measures were carried out by a Feral Animal Aerial Shooting Team [FAAST] accredited team, professionally, swiftly and accurately. The RSPCA had approved this measure and were also present at the time of the shooting. Despite our attempts as well as Freedom of Information requests, it has been unclear if the RSPCA were present the entire time of the shooting, where they were positioned and what alternative measures they engaged prior to approving an aerial cull. It is the position of HBAA Inc. that the aerial shooting of wild horses is cruel and inhumane.

Finally, as a charity and not a legislated agency of the Government with indemnity, the RSPCA is vulnerable to losses at court which ultimately impacts their financial position. Consequently this undermines the RSPCA's ability and willingness to prosecute for fear of failure and the costs involved. In 2018-19, the RSPCA NSW received 15,673 reports of animal cruelty yet only 77 prosecutions were commenced. That is a prosecution rate of less than one percent which is completely unacceptable. It is the position of HBAA Inc. that an Independent Office of Animal Welfare should be established and should sit within the Attorney General's department. Thank you for this opportunity to present today.

The CHAIR: Thank you very much. Ms Barber?

Ms BARBER: I thank the Committee for the opportunity to present here today on such an important issue. I am sure many of you viewed the recent *ABC 7.30 Report* on the cruelty inflicted on horses prior and during slaughter. I am here today to inform and show you that the cruelty shown by the ABC is the reality of the Australian horse industry and continues to stay in an industry largely unenforced. I am the President of the Hunter Horse Haven Inc., a charity which currently has 35 horses in rehabilitation. Most of these were rescued from neglect properties or intercepted on their way to slaughter. Over 80 percent of the horses we receive are emaciated on arrival, with more than 90 percent requiring several months of rehabilitation.

I am also the President of Australian Equine Unification Scheme. We lobby for positive change in the Australian horse industry and have for years. Our organisation collates evidence on horse abuse, cruelty, neglect and breaches of industry standards and acts. The evidence is then supplied to the appropriate agencies, mandated to enforce the related welfare acts. We are out in the field all the time, assessing saleyards, welfare breaches and constantly reporting breaches of welfare at Australian horse saleyards and transport. We are also constantly involved in neglect cases, where horses are starving on properties. We collate statements and pictorial evidence and continuously battle to force any action by RSPCA and other agencies.

We have found that the best approach is to request a job number during our phone report and provide the collated information only to the RSPCA area manager and request that the report and all the evidence is tabled at next New South Wales RSPCA board meeting and also emailed to their head office. All these requests do not ensure a positive response. I have just supplied you with a document through copies. If you could have a look at page 10. This is an example of what we deal with every single week. This is what we report to the RSPCA, the Department of Primary Industries [DPI], Local Land Services [LLS] and agriculture every single week.

The person on this property has been under RSPCA monitoring for over 10 years. Some 12 dogs were removed from her but she is still breeding dogs and she is still breeding horses. So 10 years of continual monitoring and the abuse still continues from this hoarder. So when you look at 0.5 percent of cruelty complaints to New South Wales RSPCA are prosecuted, we have a massive welfare problem in Australia. Funding was brought up earlier to the Committee. There are various options for funding. Australia has two abattoirs which slaughter horses for human consumption throughout Europe. There is a \$5 levy per head, per horse. Of this levy, \$2.50 is utilised for the testing of meat prior to export for human consumption overseas. Why are the abattoirs not paying this levy on testing the meat and where does the other \$2.50 go per horse? We have not found it. It goes to the Government, we do not know where.

There is also the point-of-consumption tax. Does anyone know about the POC tax, which is a percentage of wagering funds implemented by every State, apart from Northern Territory, between 2017 and 2019? The estimated revenue in New South Wales is 10 per cent, expected annual revenue is \$100 million and Racing NSW receive 2 per cent of that. No other agency does in regards to horse welfare. Queensland is 15 per cent, \$90 million; Victoria is 8 per cent, \$150 million; WA is 15 per cent—not found their annual revenue; South Australia is 15 per cent and \$24 million to South Australian Racing over five years. No percentage to horse welfare.

So we have options. As far as we are concerned, it has to be an independent body to prosecute. We are failing animals all over Australia at the moment. It would have to have police presence and the Attorney-General's Department, who have the legal independence and experience to enforce prosecutions, and there is no conflict of interest. Cruelty is systemic in the Australian horse industry and continues unabated without intervention from any agencies mandated to enforce POCTAA. Neither RSPCA, DPI or the Department of Agriculture enforce POCTAA adequately to intercept or prevent cruelty in the system. Prevention could include higher prosecution rates, intervention at saleyards and follow-up on owners of emaciated horses dumped at sales. No agency is willing to adequately enforce animal welfare at saleyards during transport. Education—to educate owners, you need to know where they are.

The CHAIR: Ms Barber, is that your last page?

Ms BARBER: It is, yes.

The CHAIR: Thank you.

Ms BARBER: At this time dogs, cats, goats, sheep, cattle and camels are required to be registered and we are currently working very hard on implementing a national horse traceability database. Yet if you register a dog in New South Wales and move to another State, you are required to re-register your dog, as there is no central national companion animal database. Unless agencies start liaising and have national databases, we are going to continue to fail the animal welfare in Australia. Thank you.

The CHAIR: Thank you very much, Ms Barber. Mr Anderson, would you like to give a brief statement?

Mr ANDERSON: Yes, thank you. First of all, I would like to thank you for giving me the opportunity to appear before this inquiry. I would like to start off by just refreshing the members of the inquiry with the objects of the POCTAA. The POCTAA states that the objects of the Act are to prevent cruelty to an animal by being unreasonably, unnecessarily or unjustifiably killed or inflicted with pain. I would like you to keep that in the back of your mind as I read my statement. I will address, first of all, on-track death and injury.

Figures issued by the NSW Greyhound Welfare and Integrity Commission show that in the 15 months between 1 July 2018 and 30 September 2019, 109 greyhounds died on the track and another 3,245 were injured on the track. So far this calendar year up to today, there have been seven greyhounds killed and 331 injured on New South Wales tracks, and we are only at the middle of February. Greyhound industry spokespeople admit that death and injury on the track are inevitable. In a newspaper article in *The Northern Daily Leader* on 6 December 2019, Mr Geoff Rose, a regional director of NSW Greyhound Breeders, Owners and Trainers Association and the president of the Gunnedah Greyhound Racing Club, was quoted as saying:

"You're never ever gonna eliminate injuries, the same as you can't eliminate injuries in football." He continued: "I can't see why they're [the CPG] complaining."

Greyhound Racing NSW paid the University of Technology Sydney [UTS] to investigate how to make tracks safer. The UTS report was given to Greyhound Racing NSW in June 2017. The report found that it is strongly recommended that Greyhound Racing NSW consider developing purpose-built straight tracks. UTS further recommended trialling reducing the number of starts per race from eight to six. We understand that Greyhound Racing NSW conducted a six-dog trial at Tamworth. We sought a meeting with the CEO of Greyhound Racing NSW to discuss these matters. Despite numerous follow-up requests by email and phone, no meeting occurred. Two-and-a-half years after Greyhound Racing NSW received the UTS report on how to make tracks safer with specific recommendations, greyhounds are still being killed and injured on oval tracks and at eight-dog races. By any measure, this is a massive failure of preventing cruelty to greyhounds. I would now like to address the off-track deaths.

The CHAIR: It will need to be fairly short because we now have to get onto questioning so we can tease out all of these elements in more detail. Thank you.

Mr ANDERSON: Very short, yes. We estimate that in the 2018-19 financial year 3,560 greyhounds were unaccounted for. The Greyhound Industry Reform Panel reported to the Government in February 2017 and recommended a new greyhound racing register should be established and managed by the Integrity Commission to capture the identity and whereabouts of all greyhounds throughout their life cycle. The Government accepted this recommendation. However, the welfare and integrity commission is restricted to tracking only those greyhounds owned by registered racing industry participants, despite this recommendation. More greyhounds are rescued by private rescues, which are dependent on public donation, than by the industry-funded Greyhounds As Pets program.

Whole-of-life tracking, monitoring and government-funded rescues and sanctuaries are the only way to ensure that greyhounds do not disappear. The law has failed to protect greyhounds, and the organisations with responsibility to protect them have also failed. The charitable organisations charged with enforcing POCTAA are vastly under-resourced to achieve the objects of the Act in respect to greyhounds. Why are organisations which are dependent on public donation enforcing New South Wales legislation? The CPG wants the Government to either establish an independent office of animal welfare to oversee, monitor, investigate and prosecute offences against POCTAA, or if that is not possible, the Government must fully fund the approved charitable organisations to undertake these functions.

We have got five demands that we are making. We want to see an implementation of whole-of-life tracking and monitoring. We want to see government funding of rescues and sanctuaries, with the government recouping this money from the gambling industry. We want to see increased penalties for breaches of the POCTAA. We want to see reduced breeding and we want tracks to be made safer. Finally, Mr Chair, I do not know if any members of the inquiry have a pet dog, but if you did or if you do, would you like your pet dog to be literally running for its life?

The CHAIR: Thank you very much. I might commence questions to Mr Anderson. After the bill was overturned, that was to ban greyhound racing, and the integrity commission was established, there was a commitment to whole-of-life tracking, so to speak. Yet your evidence is that this is not happening. Can you explain why it is not happening?

Mr ANDERSON: Yes, I can. The reason it is not happening is because of the Greyhound Racing Act 2017. That Act restricts the Greyhounds Welfare Integrity Commission [GWIC] to looking after only those greyhounds that are owned by registered industry participants. If a registered industry participant passes their greyhound off to someone else, GWIC have no authority to track that dog.

The CHAIR: So they could kill the dog—which would be their right, to kill the dog humanely—and we would never know?

Mr ANDERSON: Correct.

Ms ABIGAIL BOYD: Thank you for coming in and giving your evidence today. There are a few things I would like to pick up on from the opening statements that were given—firstly, this idea that organisations that are predominantly funded by donations from the public are perhaps constrained not only in terms of their secure funding for the future but also in how they exercise their powers. Particularly in horseracing and greyhound racing, where there are different views in the community, do you think there is some reticence from the RSPCA and AWL in enforcing POCTAA because they are worried about upsetting certain donors?

Ms CURATOLO: I have met with the RSPCA twice in regards to horses and they are quite clear that they do not want to prosecute unless it is a winnable case. They are really open. In the conversations I have had with them they have been really explicit in their unwillingness to prosecute unless it is a case that they are likely to win. It is a regular position that they take. Because prosecution is incredibly expensive, it takes a really long time and they might not get the outcome that they want, which means that they have spent a massive amount of their limited financial resources to not get that money back. And that money does affect their bottom line.

The CHAIR: If the authority that undertakes investigation and prosecution did not have that resource difficulty, is your view that they are more likely to take on a case which is of public interest but is risky?

Ms CURATOLO: Yes. When you compare models in terms of animal welfare and child welfare, when you look at States where they have child protection models, the prosecution is not an issue for them. If it fits the criteria, they will prosecute, because they have an indemnity through a legislated body. The RSPCA does not have that; it does affect their bottom line. It happened in Victoria when they lost the case that they thought they were going to win and that had a huge impact on their bottom line and the rescue and rehabilitation they could do in the following year. They have said that in their annual report as well.

Ms ABIGAIL BOYD: They are reluctant to take on anything that is not really very certain—

Ms CURATOLO: Yes.

Ms ABIGAIL BOYD: —because otherwise it could ruin them or make a big dent in their finances.

Ms CURATOLO: In the conversations I have had they have been really explicit about that. That sort of information is reasonably publicly available as well. I think it is clearly reflected in their prosecutorial rates, which is less than 1 per cent.

Ms ABIGAIL BOYD: Ms Barber, following on from the question I asked a moment ago, yesterday we heard evidence in relation to the whipping of racehorses and the evidence of that being available on live footage and yet no action ever being taken against that sort of behaviour by the RSPCA or AWL.

Ms BARBER: No, there isn't.

Ms ABIGAIL BOYD: What is your take on why that is?

Ms BARBER: It is exactly what Ms Curatolo says. We attend saleyards. We go to just about every horse sale auction that we can go to. Today there is one on so we have other people there. Basically that is what you view at the end of the day: doggers whipping horses onto trucks. There is no enforcement by any agency over any humane welfare at saleyards. We have requested 100 times RSPCA, DPI. Ms Curatolo is part of the Australian Equine Unification Scheme [AEUS]. We have that many reports, like an example of what you have been given and cases where there is no agency that will come in and help these animals. Things will have to change. We need to separate RSPCA from the legalities and prosecutions otherwise nothing is going to change and our animals are going to continue to suffer.

Ms ABIGAIL BOYD: Mr Anderson might be best to answer this question. Listening to you reading out the objects of the POCTA Act it does appear that POCTAA is really prevention of cruelty to some animals in terms of its implementation as opposed to it being all animals. We have a standard that has put into legislation—and, yes, it is 40-odd years old and we need to update that legislation—that cruelty to animals is unacceptable to the community and yet we see in instances of industry, whether it is the agricultural industry or the gambling industry when it comes to greyhounds and racehorses an exception or exclusion in terms of what is acceptable, as being okay in those circumstances. Is that how you would see the way that it is played out?

Mr ANDERSON: Yes, absolutely, because if you look at the objects of the Act, which state that it is an offence to unnecessarily inflict pain on an animal, every greyhound race has the potential to inflict pain or death on an animal and yet the greyhound races are permitted to operate.

The CHAIR: Following on from that would you say that inflicting this pain on an animal is necessary in a greyhound race?

Mr ANDERSON: No. Inflicting pain on an animal is never necessary.

The CHAIR: And because this is entertainment. There would be some argument, maybe, in moving animals in a situation like at an abattoir or other circumstances. They might have to inflict an electric shock or whatever and that would be argued as being necessary at the time. But is there any necessary time in greyhound racing that pain being inflicted is necessary?

Mr ANDERSON: It is our view that in 2020 the public do not accept that the infliction of pain and death on animals for entertainment is acceptable in any way.

Ms CURATOLO: You talked about POCTAA and whether there are exceptions, and of course there are. You cannot cut tails off a pig or anything like that. You cannot confine its space. So if it is on a particular side of a fence in a domestic property you cannot do it but if it is born on the other side of the fence in factory farming you can. So, yes, there are exceptions which allow animal cruelty. As long as you are a business, making money, you can do what you like and it is not enforced.

Ms ABIGAIL BOYD: You read out a quote saying that injuries are going to happen on greyhound racetracks just like they would for someone playing a sport. What happens to a dog that is injured though?

Mr ANDERSON: That would depend on the severity of the injury. Some dogs will be injured and they will have what is called an incapacitation period awarded by the on-track vet. That can vary from a few days up to three or four months. If the dog has a minor injury then the chances are that the connections of the dog will take that dog, allow it time to heal the injury and then they will put it back into racing. A lot of times with the dog if it is a long period and the connections are losing money, that dog will never race again. The problem then becomes finding out what happened to that dog. Under the current regulations a person who is an owner of a greyhound can transfer that dog from the racing register to the companion animals register. If that person remains as the owner of the dog and that person being a registered industry participant, the welfare and integrity commission have the right to go and check on the welfare of the dog. If that dog is transferred to the companion animals register and transferred to a person who is not a registered industry participant, there is no further welfare checking done on that dog.

Ms ABIGAIL BOYD: So you could transfer it to a partner or a child.

Mr ANDERSON: That is right. And it could be put down the next day.

The CHAIR: We need to keep moving with questions—do you have one more point?

Mr ANDERSON: One more point and that is the current rehoming policy. Once again, if a greyhound is injured and it is no longer going to be profitable to the industry—because the industry is all about profit before welfare—the owner of that dog, an industry participant, who wants to get rid of that dog, apart from transferring it to a friend who will then have it euthanased, under the current policy he needs to take it to Greyhounds As Pets, which is the industry funded rehoming organisation. If Greyhounds As Pets reject the dog for any reason, they then need to take it to a private rehomer. If the private rehomer rejects the dog—and nine times out of 10, the reason they will reject the dog is because they are already full with other greyhounds—you take it back to Greyhounds As Pets [GAP]. If GAP rejects it a second time, you take it to the vet and it is a one-way trip to the vet.

The Hon. MARK BANASIAK: Mr Anderson, touching on some of your comments in your opening statement, are you aware of any straight tracks in development, in terms of the Government honouring that commitment to fund and build those straight tracks? Are you aware of any that have commenced?

Mr ANDERSON: Greyhound Racing NSW made a statement last year that there was going to be an imminent statement on the development of a straight track.

The Hon. MARK BANASIAK: They made a statement about making a statement?

Mr ANDERSON: That is correct. I contacted Greyhound Racing NSW about that and they confirmed that there was not going to be, despite the newspaper report, any statement about straight tracks. There are no straight tracks in New South Wales. There are three operating in Australia: one in Queensland, one in Victoria and one in South Australia. We in the coalition have done a detailed study of those three straight tracks and compared a similar number of races on those straight tracks with a similar number of races on oval tracks in those three States. We can prove that racing on straight tracks reduces—reduces, not eliminates—death and injury.

The Hon. MARK BANASIAK: I think a lot of people would agree with you. I get the sense from your opening statement that a lot of your frustration about the greyhound industry is centred around the fact that the Government has not held up its end of the bargain in terms of alleviating your concerns in terms of the straight tracks. The Government is not upholding its end of the bargain in terms of the Prevention of Cruelty to Animals Act when it comes to greyhounds. Is that a fair assumption from your opening statement—that a lot of your frustration is at the Government's lack of action?

Mr ANDERSON: Yes.

The Hon. MARK BANASIAK: Ms Curatolo, I agree with your comments about the study done in terms of the brumbies. I guess it is not an isolated issue, where studies are done on animals that are based on false methodology. If we could get an accurate study done on brumbies and it was shown to be a high number that need to be managed or culled—I know that you have stated that your association is opposed to aerial shooting, for obvious reasons, and I would agree with you. What is your position on other culling methodology, just for clarity about where your association sits?

Ms CURATOLO: I support removal and rehoming. I support humane population management. I just do not support aerial culling.

The Hon. MARK BANASIAK: Humane population management—flesh that out. What do you define that as?

Ms CURATOLO: At the moment there are a number of organisations: Victorian Brumby Association [VBA] and also Guy Fawkes brumby heritage association. They do successful trapping and rehoming programs. Guy Fawkes passes through a lot of numbers, and so do VBA. If there are statistics and the population data was accurate, then the majority of brumbies supporters do support removal. We do want humane population management. It is not in anyone's interest if brumby populations exceed what they can naturally sustain. I do not support aerial culling. There is enough evidence to suggest that aerial culling is inhumane. But I do support removal and rehoming.

The Hon. MARK BANASIAK: Do you support ground shooting, as opposed to aerial culling?

The CHAIR: We need to return to the terms of reference.

The Hon. WALT SECORD: The terms of reference includes "and related matters". This is related.

The Hon. MARK BANASIAK: I am trying to get clarity on their position in terms of animal welfare and how you manage a particular species in line with the Act.

Ms CURATOLO: In terms of methods, I would say ground shooting is more humane than aerial shooting, but I am not actually supporting ground shooting.

The Hon. MARK BANASIAK: No, I did not expect you to advocate for that.

Ms CURATOLO: I am just saying, in terms of evidence, it does seem that ground shooting is more humane.

Ms BARBER: If I can add to that, they are trialling birth control in 30 parts in America—an implant that they can actually shoot into the horse. If this was a method that Australia adopted, we would not be aerial culling.

The Hon. WALT SECORD: In regard to animal welfare, what is your response to the environment Minister, who on 22 January said they were going to "engage in the best ever pest control campaign" in the Snowy Mountains in regard to the brumbies?

Ms CURATOLO: I think my response is that the information that they have received and how they have come up with that response has been through the influence of single-interest groups who have political agendas to pursue. I do not think the information that they have received has been well balanced and it does not truly represent the contribution that wild horses can make.

The Hon. WALT SECORD: In December 2019 the Invasive Species Council said there were 15,000 brumbies there.

Ms CURATOLO: Yes.

The Hon. WALT SECORD: It said that they were actually moving into the parts that are not burnt, so they are pushing other animals out.

Ms CURATOLO: Did the Invasive Species Council provide evidence of that?

The Hon. WALT SECORD: The last part was my comment. The 15,000 was the Invasive Species Council.

Ms CURATOLO: The Invasive Species Council, in terms of that number—referring to that study which I have made reference to in which they cited 1,600 horses and then through this formula they have extrapolated it to 25,000. The people who ran that study—they are claimed as independent but it is actually funded through the Government and it is really clearly labelled on the website. If there was an independent study done for the population numbers, then I am happy to come back to the table and discuss it.

The Hon. WALT SECORD: Do you know if the RSPCA has a role in this "best ever pest control campaign"?

Ms CURATOLO: From what I am aware, this is a Government initiative through the department of the environment. In Victoria on the weekend or just recently, there was conflict between the department of the environment and also the parks body and whether they are talking to each other and being consistent in their approaches.

The Hon. EMMA HURST: I have a follow-up question from what the Hon. Walt Secord was asking. Are you suggesting that the counting methodology is flawed?

Ms CURATOLO: I am suggesting that the methodology used is not accurate and there is enough data on their website to prove that. What they saw in reality was 1,687 horses, and what they have used to extrapolate that information has come up to 25,000.

The CHAIR: Is that extrapolation called the correctional factor?

Ms CURATOLO: It is just the formula that they have used. They have explained it on their website as formula.

The Hon. MARK BANASIAK: But it ignores all knowledge that you have about a particular species and how they move and their home range and everything like that. It is flawed from the onset because they do not acknowledge the individuality of a species.

Ms CURATOLO: Yes, that is right.

The Hon. EMMA HURST: Mr Anderson, do you support the greyhound industry, or do you feel that it should be responsible or partly responsible for funding the prosecution arm of the RSPCA and the Animal Welfare League?

Mr ANDERSON: The greyhound racing industry—and I include in that the gambling industry because, as McHugh identified, without gambling there would be no greyhound racing industry—should be responsible for all aspects of greyhound welfare, from birth to death. So whether it is housing the greyhounds, ensuring their welfare, following up with investigations and, if necessary, prosecutions, it should all be funded by the greyhound racing industry and the gambling industry.

The Hon. EMMA HURST: Do you feel that that might potentially create a conflict of interest if a private charity is receiving a huge amount of its funding from the same organisation that they are then required to prosecute?

Mr ANDERSON: No. What we said in our submission is that a lot of greyhound welfare organisations will not accept money from the industry because they consider it to be tainted by cruelty and criminality. What we are putting forward is that the Government should be funding this and that the Government, through the Betting Tax Act of 2001, recoup that money 100 per cent from the greyhound racing industry so that the people who are involved in greyhound welfare are actually at arm's length from the money.

The Hon. EMMA HURST: Another thing that we have spoken about quite a bit at this inquiry—and this is for everybody here—is the idea of the creation of an independent office of animal welfare. I wanted to get the thoughts of your organisations as to how that would work and if you would support that kind of a system?

Mr ANDERSON: We are not sure how that would work. What we have as a philosophy is that legislation and laws, the investigation and prosecution of acts against legislation and laws should be the responsibility of the Government, not donors to private charities, whether it be a government body, such as an independent commission for animal welfare, or whether the approved charity organisations separate their investigations and prosecutions away from their education and shelter functions so that there is transparency that the Government could fully fund the investigation and prosecution arms of the approved charity organisations.

Ms CURATOLO: We fully support an independent office of animal welfare. As I have mentioned, I think the charity is unable to effectively prosecute. In New York they have a separation of powers already and it

works quite well. The model I would see would be to work similar to child welfare. You have a government body, for me I see the department, I see that sitting in the Attorney General's department, and they would be responsible for prosecution and hopefully there would be money available to the charity, if that is what it is, to do the rescue, rehoming and education and the preventative work.

The Hon. MICK VEITCH: The terms of reference talks about whether there is a requirement to have a review of the animal welfare legislative framework in New South Wales because there is more than one Act, more than just POCTAA, there are other Acts as well. Individually, do you support that overarching review and an attempt to modernise, contemporise the animal welfare legislative framework in New South Wales, and why do you support or not support that? We will start with Ms Curatolo.

Ms CURATOLO: Yes, I do completely support an absolute overhaul. I think there are way too many exceptions within POCTAA which allows animal cruelty to occur and I find that hugely concerning. I also find that State to State some things are a little bit different, but also State based POCTAA legislation does not tie in with Federal legislation and it leaves a lot of loopholes. There are also changes in definitions and things like that. I strongly support POCTAA being overhauled and become more current, like you said in terms of technology. We need to be more accountable in terms of microchipping and scanners available, and all that kind of stuff. What was the second one?

The Hon. MICK VEITCH: You just answered that yes, you do and why.

Ms CURATOLO: Great, thank you.

Ms BARBER: There are so many Acts, standards, guidelines in regards to every single section. Predominantly we are horses. If you look, for example, knackeries, you probably have eight or 10 agencies involved that are supposed to come under POCTAA and they are supposed to be regulated by the RSPCA, but that does not happen. To go forward, yes, we need to separate them from prosecutions. What was your second question?

The Hon. MICK VEITCH: Do you support the idea of a review?

Ms BARBER: Yes, most definitely.

The Hon. MICK VEITCH: And if you could explain why.

Ms BARBER: Yes, we do. Just to bring one point up, when it comes to horses, we have spoken about greyhound racing, at the end of a life of a horse when it races, it is not traceable. We also have the added problem that horses are categorised under two categories. They are both companion, if they are at pony club or dressage, and then if they are on a transport vehicle or saleyard or slaughter, they are livestock. They fall under all that. They have not been categorised in any State in any form and that is something that has to be looked at as well.

The Hon. MICK VEITCH: Mr Anderson, do you support an overarching review of the legislation and why?

Mr ANDERSON: Yes, we do support an overarching review. There are three Acts that pertain to greyhounds; POCTAA, the Greyhound Racing Act 2017 and the Companion Animals Act, and there are loopholes in all of those Acts whereby people can commit acts of cruelty on greyhounds and get away with it.

The Hon. MICK VEITCH: My second question relates to accessing public information. I gather each of your organisations would have at some stage lodged a request for information under the Government Information (Public Access) Act [GIPAA]. Have you actually tried to access information through GIPAA?

Ms CURATOLO: We did it through freedom of information before it changed.

The Hon. MICK VEITCH: Essentially you have?

Ms CURATOLO: Yes.

Ms BARBER: Actually, we work together, so yes we did, and that was on horse slaughter figures from the department of agriculture, and we never received the figures, only that they could not provide them, and the figures actually came out at the Senate inquiry in Canberra on traceability.

The Hon. MICK VEITCH: You should note the Hon. Walt Secord and I are big GIPAA lodgers.

Ms BARBER: We know who—we will contact you tomorrow.

The Hon. MICK VEITCH: And we have varying degrees of success. Mr Anderson?

Mr ANDERSON: No, we have never tried to access anything through GIPAA, and there are other greyhound welfare organisations that are doing the other work to get freedom of information that we share. But I would like to share a story with you if I may about when I tried to contact the Office of Racing. It is impossible to ring the Office of Racing. If you go onto any of the New South Wales Government websites you will not find a phone number for them. I spent an entire morning trying to ring someone in the Office of Racing and it ended up with me talking to a lady who was on the New South Wales Government switchboard, who was talking to somebody in the Office of Racing. She said to me that the person in the Office of Racing had told her that she was not to give me anyone's name or telephone number in the Office of Racing.

The Hon. MICK VEITCH: We have some Government members I am certain will be pleased to act upon that for you. My last question relates to education. A number of witnesses have spoken about their surprise at the low amount of money that is provided to the agencies such as RSPCA and AWL by the block grant funding arrangements. It is a low amount. Also, is there a need for additional funding just for education for the community, a broad education program around what is animal welfare and animal expectations in this State? Just be short, do you think there should be an education program funded by the Government to do that, and if so what would it look like? I start with Mr Anderson this time.

Mr ANDERSON: Are we talking about an education program for industry participants or for the public as a whole?

The Hon. MICK VEITCH: This is the public as a whole around what are animal welfare expectations in this State.

Mr ANDERSON: Yes, absolutely we should be.

Ms BARBER: Yes, it is required. I do not know how you would actually achieve it, but yes.

Ms CURATOLO: I think there are already some pretty good education flyers and leaflets and stuff around that you can get from the website and you can download, especially in terms of drought. The issue is that people who are going to comply, are going to comply. It is the people who are not. The focus, I think, needs to be more on enforcement.

The Hon. MICK VEITCH: Just quickly, one last question. I have asked this of everyone, so it is only fair. Yesterday I posed to some witnesses—regardless of whatever the review of the legislation comes up with, and regardless of whether it is decided upon an independent office of animal welfare or advocate, or whether the funding stays with the ACOs, the RSPCA and AWL—do you see there is a need for this type of arrangement once or twice a year where the agencies that are legislatively required to take compliance and prosecution in the animal welfare space would have to come and sit in front of a parliamentary inquiry and answer questions just like this?

Ms CURATOLO: Only if there was enforcement. If they are just going to come and tell you the same figures each year and nothing changes, there is no point. There has to be some sort of power behind it to enforce change.

Ms BARBER: Any agency, whether a charity or government, the department trusted to enforce the main welfare of animals in Australia must be held accountable for their failures.

Mr ANDERSON: Any agency that is in receipt of public money should have to front a parliamentary inquiry and explain how they have spent those public monies.

The Hon. MATTHEW MASON-COX: That would certainly increase the scope for many organisations. Ms Curatolo, in relation to your submission you recommend an independent office of animal welfare. I think the basis primarily that you make that recommendation is in relation to the prosecutorial function of the RSPCA and AWL in relation to that not being effective—

The Hon. WALT SECORD: Less than 1 per cent.

The Hon. MATTHEW MASON-COX: Let me finish, and there being a conflict in relation to their role in education and their other roles. What do you think of an alternative model which is that the actual Police Force which is responsible for enforcing crime in this State actually takes a role in relation to those issues?

Ms CURATOLO: I support that.

The Hon. MATTHEW MASON-COX: Is that a viable alternative in your mind or just someone else that needs to be looking at those areas?

Ms CURATOLO: There needs to be a separation of powers whether that is an independent office of animal welfare or whether the police are able to do that, I support that. I want to be clear there needs to be a separation of powers.

Ms BARBER: Under POCTA 1979 No. 200, section 24D the definition of an inspector includes a police officer. A police officer has the powers that the RSPCA has in regards to animal welfare.

The Hon. MATTHEW MASON-COX: I am familiar with that. I am talking about the actual role of prosecuting and enforcing the Act and the crimes under the Act which is something that the RSPCA can do as well. I am asking, take it out of the RSPCA, where would you put it?

Ms BARBER: Take it out of the RSPCA.

The Hon. MATTHEW MASON-COX: Where would you put it?

Ms CURATOLO: My preference would be to sit within the Attorney General's Department because there is no conflict of interest but I also strongly support it to sit within the police department as well.

The Hon. MATTHEW MASON-COX: You are open to either or?

Ms CURATOLO: Of course.

The Hon. MARK BANASIAK: You said that the RSPCA does not take on cases that they do not believe they can win. If we moved it to the police or the DPP, which is a suggestion by somebody else, are we still not faced with the same problem because the DPP will not take on cases that they do not believe they can win either?

Ms CURATOLO: No, it is the financial bottom line for the RSPCA so they will not take them on if they are going to be at a financial loss whereas government departments have indemnity so they will take on cases, as long as they fit the criteria. The RSPCA has openly not taken on cases, even though they fit the criteria, because the cost is going to be too large for them.

Ms BARBER: We are working on anywhere between three and five neglect cases a week—I mean a property full of horses—and we cannot get the RSPCA out even with reports, with all that information.

The CHAIR: The Minister of the day banned the aerial culling of cattle and horses. Is it true that was as a consequence of the aerial culling of horses in Guy Fawkes National Park?

Ms CURATOLO: That is correct but what happened in 2018 in New South Wales was aerial shooting was on Federal land at Singleton Army Defence base. It was banned but they found a loophole because it was on Federal land.

The CHAIR: You said that the RSPCA were involved with analysing that.

Ms CURATOLO: Yes.

The CHAIR: Did the RSPCA give the okay to go ahead?

Ms CURATOLO: Yes, and the Australian Defence Force included that in its statement: the RSPCA approved it.

The CHAIR: Obviously the Minister implemented the ban on aerial culling of cattle and horses for a reason. Were there any reports to reassure your organisation and the community that the cattle and horses were humanely and cleanly killed from helicopter?

Ms CURATOLO: Only when we engaged with them and organised a meeting to go up and meet with them. They gave us assurance then. I think they released a very brief media statement but there was no way for us to verify any of it because obviously all Defence personnel were asked to leave the base. Locals were not allowed to go in and help and helicopters were not allowed to fly over. We were not able to verify if that was true or not, only based on what they said.

Ms BARBER: Can I answer something on that?

The CHAIR: Yes.

Ms BARBER: Trying to shoot an animal in the heart that is galloping at approximately 60 kilometres an hour over rough terrain from a helicopter. Who can do that shot? We had a found horse six or seven days later on the ground, bleeding, still alive, foal with broken legs. It is actually an atrocious and inhumane way to dispose of any animal.

The CHAIR: I come back to on the Defence grounds near Singleton. Was there ever any report of an inspection by the RSPCA or any other authority for that matter of the horses after they were shot to assure us, you, that the animals were killed cleanly?

Ms CURATOLO: Through Senator Mehreen Faruqi we were able to do a question to the Minister so we got some answers that way but no official report was released: it was only through the questions from the Minister.

The CHAIR: Thank you for your extremely helpful evidence.

(The witnesses withdrew.)

FARNHAM SEYEDI, Volunteer Lawyer, Animal Defenders Office, affirmed and examined

TARA WARD, Executive Director and volunteer lawyer, Animal Defenders Office, affirmed and examined

The Hon. MICK VEITCH: I welcome our next witnesses from the Animal Defenders Office. You may make a brief opening statement.

Ms WARD: Thank you for the opportunity to appear before the Committee. I thought I would give a very brief history of animal cruelty laws and their enforcement, just to put the system we have today in some kind of historical and cultural context. The first laws resembling our anti-cruelty laws as we know them today emerged in the early 1800s in Britain. There were a few failed attempts to bring in what would have been world-first legislation to protect animals. Finally, in 1821 Richard Martin, who was a lawyer and a member of Parliament, successfully introduced an Act protecting cattle. This was the first Act protecting animals to be passed by any State anywhere in the world. The problem was, however, that there was no police force to enforce it or to prosecute offenders, as the Metropolitan Police Force was not created until 1829.

Richard Martin himself was involved in the first prosecutions. He also established a Society for the Prevention of Cruelty to Animals to support his Act through inspections, education, as well as setting legal precedents through prosecutions, and to bring about further cultural and legal change. It is useful to reflect on the origins of our anti-cruelty regulatory framework, which was radical at the time. But that was 200 years ago—almost to the year. We would suggest that having private charities enforce animal cruelty laws today in twenty-first century Australia is nothing but an historical anachronism, which has no place in today's modern society.

Mr SEYEDI: Thank you to the Committee for having us here today. The Animal Defenders Office [ADO] is a nationally accredited not-for-profit community legal centre providing legal assistance, representation, education and advocacy on behalf of animals in Australia. The ADO endorses the acknowledgement of animal sentience in the ACT's Animal Welfare Act, which states that:

- (a) animals are sentient beings that are able to subjectively feel and perceive the world around them; and
- (b) animals have intrinsic value and deserve to be treated with compassion and have a quality of life that reflects their intrinsic value ...

It also states that, "We humans have a duty to care for the physical and mental welfare of animals," which we endorse. As such, we recognise the work done by many organisations around Australia and within New South Wales with the laudable goals of preventing and investigating the infliction of unnecessary suffering on animals, including but not limited to approved charitable organisations within the meaning of the Prevention of Cruelty to Animals Act. However, we do not agree that charitable organisations should be the main enforcers of the criminal laws and sanctions contained in the Act whilst at the same time maintaining their status as private entities. We suggest to the Committee that in most circumstances the community would not accept law enforcement agencies such as the police having to rely on private donations to fund their day-to-day operations or their law enforcement functions, while at the same time having limited accountability regarding the exercise of their significant powers.

Indeed, we submit that having such an enforcement system in place in any other context, particularly for violent crimes, which many animal cruelty offences do constitute, would rightly be regarded as patently absurd. To our knowledge the exercise of criminal law enforcement powers by private charities is unique to animal protection in New South Wales and other similar jurisdictions in Australia and overseas, the result being that these private entities exercise these significant powers without mechanisms for systemic accountability, which our case studies and others you have heard about during this inquiry demonstrate: there is no fundamental accountability to the community. Without levels of transparency and accountability that would normally apply to public institutions, in particular, we disagree with the view that private charities are subject to the Government Information (Public Access) Act 2009 [GIPAA].

We submit to the Committee that these systemic flaws are not insignificant and that the structure of the animal cruelty enforcement framework fundamentally fails to protect animals in need. The community of New South Wales, including the millions of animals who endure so much suffering at the hands of humans, deserve better. We submit that an alternative framework for animal cruelty law enforcement will need to be based on four key principles: transparency, accountability, independence from government and industry, and sufficiently resourced and capable to enact their duties. Whatever can best achieve this, whether it be an independent statutory authority or a specialist unit within the NSW Police Force, is one we would in principle support and endorse. Thank you.

The CHAIR: Thank you.

The Hon. MICK VEITCH: Thank you for your opening statements and your submissions today. I will go to page 14 of your submission, which you have presented to the Committee. You say:

... the current animal cruelty enforcement framework lacks appropriate oversight mechanisms and is not subject to sufficient public scrutiny ...

You continue on about enforcement powers. Just taking that bit of your statement, can you elaborate on that? You have talked about GIPAA. What about parliamentary scrutiny? What are the measures you would like to see in the perfect world with this?

Mr SEYEDI: The same that would be expected of those exercising executive power, especially those that are coercive or have criminal sanctions, including terms of imprisonment, similar to that of police or, at least, other independent statutory authorities or other executive departments. That could include parliamentary scrutiny or at least information that is routinely expected to be published to the public. We know that there are annual reports provided to the Department of Primary Industries [DPI] but not necessarily to the public about the inspectorates' operations.

The Hon. MICK VEITCH: Are you suggesting those reports should be tabled in Parliament?

Mr SEYEDI: It really should be published on their website like an annual report would be, but it can be tabled in Parliament as well, certainly. In terms of accountability, that is referring to where there is any misuse or abuse, or even allegations of misuse or abuse, of power. That can be instances of those who are dissatisfied that powers were not exercised at all when they should have been or that they were not exercised appropriately. That is our understanding and at least in the RSPCA's submission regarding its own levels of accountability it referred in its submission to judicial scrutiny of its prosecutorial activities. We would suggest that would not be sufficient, although that is an appropriate check and balance. That is what we all go through under our rule of law.

The Hon. MICK VEITCH: My second question relates to GIPAA. A number of people have said that because the approved charitable organisations [ACOs], the AWL and RSPCA, receive government funding they should actually be required to provide more information under GIPAA. Can you explain to me what sort of information would you be looking for and why is that important?

Ms WARD: For example, one of the case studies in our submission was about a particular case where we were instructed by witnesses to a particularly horrific case of cruelty to many, many young, vulnerable animals. We provided the relevant enforcement agency, being a private charity, with a comprehensive complaint, setting out a wide range of potential offences and breaches of the Act, regulation, codes of practice and industry standards. That complaint went absolutely nowhere and that would be an example of where it would be great to be able to find out what happened to that, why it was not investigated or if it was investigated what was the outcome.

Mr SEYEDI: More holistically as well, often when there are evaluations such as parliamentary inquiries such as these, but even academics who are trying to do evaluations of our animal cruelty laws around Australia to see how they are performing, they would often want a breakdown of statistics—like how many complaints are received, how many get investigated, how many move on to prosecution and when prosecuted how many are successful and what the penalties are, for example. Although charitable organisations have provided that information from time to time it is certainly not routinely done and it is certainly not provided, to my knowledge, as part of annual reports for relevant approved charitable organisations. So it would be information like that as well.

Ms WARD: And it would be the detail. There is a broad level of information that is provided, but it is the detail. Breaking down the statistics that are given so that a proper evaluation of the regulatory framework and whether it is working and achieving its legislative goals is very difficult under the current situation because that information is just simply not available—for example, what penalty infringement notices are given for, what offences—so we can see where they are useful and where they are not useful, or what offences were the prosecutions for, what were the outcomes, what were the sentences? Much more information like that would enable the community to be able to evaluate the regulatory framework including the enforcement aspect, which is critical to determine whether it is achieving its goals.

The Hon. MICK VEITCH: Thank you very much. I have got a lot more questions but so has everyone else.

The Hon. MARK BANASIAK: I am seeking some clarity on some of your comments earlier around the powers that currently exist with RSPCA and potential powers that you may propose. On page six of your submission you state that the RSPCA does not have the powers that police do and you would like them to have the same. We heard evidence from police and DPI yesterday that basically stated that the only difference between the police and the RSPCA in terms of inspecting potential animal cruelty is that they wear body cameras. Would you refute that evidence or are there other things that you see that RSPCA NSW does not have that police do?

Ms WARD: I did not hear the evidence provided about the body-worn cameras, but I thought that both types of officers would be able to use that, and we have seen instances where they have. So I am not able to comment on that. One example, if this is going to your question, would be surveillance powers. What we say is that often animal cruelty or abuse or neglect of animals happens behind closed doors—no access to the public—and the only way to be able to obtain evidence of that cruelty, short of whistleblowers, which unfortunately does not happen as often as it should, could be, for example, surveillance devices or surveillance powers. We have seen the very regrettable and unfortunate consequences for the criminal prosecutions process and the criminal justice system where prosecutions rely on, let us say, improperly obtained evidence.

The Hon. MARK BANASIAK: That goes to my next question. In your submission on the same page you say that there was evidence against greyhound trainers—

Ms WARD: That is right. The cases of Grech and Kadir.

The Hon. MARK BANASIAK: They used that undercover footage but then it was ruled inadmissible because it was obtained illegally. I want to get clarity on what you are proposing because I do not think you are proposing as legal professionals that we ignore the rules of evidence.

Mr SEYEDI: No.

Ms WARD: Absolutely not.

The Hon. MARK BANASIAK: But what you are proposing is that—

Ms WARD: There is a fundamental flaw in the system in that the enforcers of animal cruelty laws do not have those kind of surveillance powers that would enable them to obtain that evidence legally.

The Hon. MARK BANASIAK: So you are proposing that if they had reasonable suspicion, like a police officer may have a reasonable suspicion of a crime being committed, they would be able to request a warrant to get that surveillance.

Ms WARD: That power already exists. So it would be pre that sort of stage in an investigation. Where there may be a tip-off or more concrete evidence may be required, giving a private charity enforcement powers but not the enforcement powers that police officers have—our regular law enforcement officers—means that in some circumstances they cannot obtain the evidence that is required to successfully prosecute. We have seen the High Court just hand down its decision earlier this month in the Grech and Kadir and ruled that the evidence that was obtained by the covert surveillance was not admissible.

The Hon. MARK BANASIAK: So you want them even before. Before the warrant process you want them to go and get surveillance.

Ms WARD: No more than what police officers can do. It would be giving them—

Mr SEYEDI: They do already under the Surveillance Devices Act.

Ms WARD: It would be giving them no greater powers than other enforcers of criminal laws.

The Hon. MARK BANASIAK: I just wanted clarity around that—

Ms WARD: It is not suggesting anything radical.

The Hon. MARK BANASIAK: —because the way it was phrased it sounded like you throw the rules of evidence out.

Mr SEYEDI: If I may also add, we also state that fairly clearly on page six of our submission. So we just echo what is in that submission in terms of the powers that we would want and why.

The Hon. MATTHEW MASON-COX: But ideally you do not want the RSPCA and AWL to have those powers.

Mr SEYEDI: No.

The Hon. MATTHEW MASON-COX: You prefer this to be done by a unit of the police or an independent statutory body.

Mr SEYEDI: Yes.

The Hon. MATTHEW MASON-COX: That is really where you are coming from, is it not?

Ms WARD: That is right. It is highlighting a flaw in the current system.

The Hon. MATTHEW MASON-COX: I understand. It is a technical flaw, but it is not really what you want to see happen. You really want to see it reviewed and reformed.

Ms WARD: That is right.

The Hon. MARK BANASIAK: How would you overcome what has been told to us in the hearing yesterday about the police do not have the technical knowledge about animal welfare and they defer to people like the RSPCA and the Animal Welfare League for that technical knowledge about agriculture and animal welfare? How would you see this specialist unit of the police—let us call it ACU, Animal Cops Unit—overcoming that?

Ms WARD: The way any entity would overcome any skill shortage and that is you just undertake training. It is all about skills, capacity building and building that expertise. We do it and I am sure you do it. Any entity engages in that kind of capacity-building process.

Mr SEYEDI: I would also add that the RSPCA mentioned in their submission they do have close collaborative interactions with police as well, which can include training. So it would not be completely unheard of or at least unusual if it were even the RSPCA that were to train police in the relevant subject matter.

The Hon. MATTHEW MASON-COX: Which already occurs.

Mr SEYEDI: Yes, exactly, as they have stated.

The CHAIR: Are you aware of any undercover surveillance evidence that has been obtained by the RSPCA or the Animal Welfare League?

Mr SEYEDI: The Kadir case, I think.

Ms WARD: No, it was not obtained by—

Mr SEYEDI: By the RSPCA, sorry.

The CHAIR: So the RSPCA, having stalled via seeking a warrant, are exercising their powers to stall.

Mr SEYEDI: Not to our knowledge.

The CHAIR: Are you aware of the police doing such a thing?

Ms WARD: I am not aware of any, but that is not saying much at all.

The CHAIR: Are you aware that the unlawfully obtained evidence of live baiting in Queensland and New South Wales led to a major police task force which used the unlawfully obtained evidence to navigate their way to find lawfully obtained evidence? Is that the case? Are you aware of that?

Ms WARD: Is that Grech and Kadir?

The CHAIR: I am not sure, but it is the cruelty charges that were laid against people both in New South Wales and Queensland in relation to live baiting and other practices in the greyhound industry.

Mr SEYEDI: It sounds like that case.

Ms WARD: I am just not aware of the details.

The CHAIR: Would you like to take that on notice?

Ms WARD: Yes, thanks.

Mr SEYEDI: Yes, thank you.

The Hon. WALT SECORD: I would like to get a bit of a context from the Animal Defenders Office. Do concerned individuals come to you and point out cases of animal cruelty that they would like to see pursued or do you simply do research in areas of law, or in the past have you assisted the RSPCA?

Ms WARD: So, pretty much, yes to all of the above. We provide all our services pro bono. We are an unfunded, 100 per cent volunteer-based community legal Centre. We operate nationally. We will assist people but we do not have enforcement powers under any animal welfare Act. If people were to report cruelty or instances of cruelty to us, we would do what for example we did in the Yass truck crash case. That is that we could assist them if instructed to assist them in compiling a complaint. There we might be able to offer our—we know the legislation and assist them in that way. Often we will get, I think what you just heard from the previous witnesses, and that is where people have tried reporting cases to enforcement agencies and for whatever reason have not been able to get anywhere. There has been no action.

The Hon. WALT SECORD: Do you find yourself in conflict with the RSPCA not wanting to take up cases or pursue matters that you think that in fact there is a strong case for?

Ms WARD: It is a very relevant question. We always have to be mindful as a community legal centre about potential conflicts of interest. Our starting point, our policy is we will not take on cases where the RSPCA would be the other party. That is because our interests are aligned. We are both about protecting animals and we are both about ensuring that perpetrators of animal cruelty are prosecuted. However there are instances where the relevant enforcement agency may not have, for whatever reason, either they have investigated—I am thinking, for example, of that well-known case of the cockatoo kept in the car sales yard, Toyota?

The Hon. WALT SECORD: Yes.

Ms WARD: That is an unfortunate case where apparently the relevant enforcement agencies under the Prevention of Cruelty to Animals Act in New South Wales did inspect, but because that very sad situation for that bird did actually meet the rock bottom standards in the relevant codes of practice, there was nothing they could do. However, we did try to assist. A member of the public came to us in complete despair because it seemed that the regulatory framework could not assist this bird. So they came to us because they had already tried to go to the standard enforcement agencies but could not get anywhere.

The Hon. WALT SECORD: It has been put to the Committee that the RSPCA had been accused of taking on matters that have attracted high-profile public interest to curry favour or excite people who have given donations to them—high-profile cases. You were nodding in agreement.

Mr SEYEDI: I have heard of it.

The Hon. WALT SECORD: You have heard of it. Do you have concerns about that? Have people expressed concerns that they are going after the low-hanging fruit or situations that attract a lot of interest and ignoring others?

Ms WARD: The way the current framework is set up, it unfortunately leads to the perception that that could be the case and that is the problem. There is a perception that because the enforcement agencies rely on private donations that that could affect, consciously or otherwise, their prosecution policy. For example, they would not investigate enterprises associated with donors or they would investigate the fluffy cases with a lot of public appeal and not the ones against, say, animals who do not have that public appeal, for example, because it is less likely to result in donations. I am not saying that is the case but the perception is that that could be the case and that is a fundamental problem for the administration of justice.

The Hon. EMMA HURST: We have also heard evidence come forward over the last couple of days, accusations that there is a disproportionate focus on companion animals rather than farm animals. Is that something you have also heard of and/or seen? And if you think that is the case, why do you think that that would be the case?

Mr SEYEDI: Certainly whenever we have been able to find statistics of either historically or more recently on animal cruelty prosecutions, it seems to be reflected at least in the raw numbers that a higher number of prosecutions do appear to be dogs and cats and lesser so for other types of animals. Were you also asking why we would think that that would be the case?

The Hon. EMMA HURST: Yes.

Mr SEYEDI: That could be really hard to truly determine. It would probably be one that those organisations would be better placed answering. It could be for a multitude of reasons both—

The CHAIR: Could I ask a question which goes directly to what you were asked?

Ms WARD: Sure.

The CHAIR: In the situation where there was a truck that overturned near Yass with animals on it, what species were they?

Ms WARD: They were day-old chicks. I understand that they were to become broiler chickens.

The CHAIR: Your evidence was that quite a bit of evidence was gathered lawfully? Photos, videos et cetera, correct?

Ms WARD: That is correct. It was 100 per cent lawfully gathered evidence.

The CHAIR: And it was given to the RSPCA to investigate?

Ms WARD: The evidence itself? I cannot remember now. It may have been links too because it was already on social media et cetera, because it consisted of video footage.

The CHAIR: Was it part of a formal complaint to the RSPCA?

Ms WARD: The formal complaint, which was several pages long citing chapter and verse of every bit of relevant legislation and codes of practice, certainly would have made reference to the kind of evidence that was available being statements from witnesses, photographic evidence, video footage—

The CHAIR: So that brief, the RSPCA had received that with a request to investigate?

Ms WARD: Definitely.

The CHAIR: And so far you have not heard about anything that has happened or the consequences?

Ms WARD: We followed up on it at various points because we are very conscious of the statutory time limit being 12 months, which is too short. When we did not hear anything as that deadline was approaching we did follow-up. Unfortunately we did hear back from the RSPCA who was the relevant enforcement agency in that case and were told by someone quite high up that they did not know why the investigation had not proceeded and that they would get back to us. That is where communication just ceased.

The CHAIR: And the statute of limitations passed?

Ms WARD: Passed.

The CHAIR: If the animals were kittens and puppies do you think that it would be a different response?

Ms WARD: That is a hypothetical.

The CHAIR: Yes it is and we can do that here.

Ms WARD: If you were to go by the statistics that the RSPCA does itself publish, it would not be an unreasonable suggestion to suggest that yes, it may well have been a different result.

The Hon. EMMA HURST: You mentioned some data that you may have compiled around what prosecutions were taking place—

Mr SEYEDI: Those charitable organisations have previously supplied that.

The Hon. EMMA HURST: It can come directly from them rather than putting it on notice with you?

Ms WARD: That is right.

The Hon. EMMA HURST: You have not got extra data that could be useful?

Ms WARD: And it is useful because it shows that a tiny, tiny, tiny fraction of the prosecutions are about anything that could be regarded as an agricultural animal, and yet the numbers of agricultural animals, as we know, far exceeds companion animals.

The Hon. SAM FARRAWAY: This is directly related. In your submission you referred to the data. There is one issue around the RSPCA not putting forward prosecutions by animal type, so you are using 2011 and 2012 data because you are saying that is the most recent?

Mr SEYEDI: At the time of our submission.

The Hon. SAM FARRAWAY: Which obviously was not that long ago. In 2011 and 2012, you are saying that only 9 per cent of the total prosecutions were for livestock, which were 24 prosecutions yet the largest number of animals used by humans. I just wanted tie it in with DPI and we heard from NSW Farmers Association earlier today. Do you believe that an approach should be different for farming operations when we can implement the stock welfare panel because of the complexities? It is a very large industry and is not going to get shut down anytime soon. Do you think it should be dealt with differently to companion animals?

Mr SEYEDI: To begin with, you have mentioned stock welfare panels. There are already legislative provisions that empower inspectors to enter any commercial premises—not just on a reasonable suspicion, but merely to ensure that the Prevention of Cruelty to Animals Act [POCTAA] has been complied with. There are no notice requirements of a warning to do so. Even for inspectors, where available, to exercise that authority to do routine inspections—as would be expected of many other industries—would be a good start.

The Hon. SAM FARRAWAY: Do you think a Local Land Services [LLS] officer or an officer of the Department of Primary Industries would be better suited to go onto a farming operation and deal with a welfare

issue, versus someone who is going in there to enforce the law and issue a penalty notice or court order? Do you not think it should be more outcomes-based for the animal?

Ms WARD: Absolutely, but we would argue that you could achieve that by not having an agency—or inspectors or authorised officers associated with agencies—whose primary concern is fostering animal industries.

The Hon. EMMA HURST: How do you think the enforcement of animal cruelty in the commercial agricultural sector could be improved, given what we have all been talking about?

The Hon. WALT SECORD: An independent office.

The Hon. MARK BANASIAK: Leading the witness, your Honour.

The CHAIR: Order!

Ms WARD: Any of the suggestions that have been made for an independent—and we heard the Hon. Mick Veitch's comments about independent not meaning "not government". But any agency that could be viewed as independent from industry, be it either a specialist unit in the police force or an independent authority, in that sense, and not an officer associated with the department whose primary purpose is to encourage animal industry and ensure profits for that animal industry.

Mr SEYEDI: On a pragmatic level, since we mentioned that there are already existing provisions allowing for inspections of these properties, it would be for there to be a sufficient amount of inspectors in whatever body that is to be able to conduct routine, unannounced inspections of properties, because it is quite low at the moment.

The Hon. EMMA HURST: I have one other question regarding private prosecutions. Prior to 2007 private prosecutions were available under POCTAA and then that was removed. Do you think it would be an improvement on the enforcement of animal cruelty offences in New South Wales if we were to go back to allowing for private prosecutions under POCTAA?

Ms WARD: Definitely. If that were to be only one change to the current framework, then it could well be that. In other words, we already have the laws being enforced by private charities, so there is no reason why, objectively, that could not be opened up to allow private prosecutions. We are talking about prosecutions, not investigations. Prosecutions are—

The Hon. MATTHEW MASON-COX: How would that work?

Mr SEYEDI: The same way they do in most other criminal jurisdictions.

The Hon. MATTHEW MASON-COX: So private citizen A could take private citizen B to court for smacking their dog?

Ms WARD: Well, that is a civil matter. Other jurisdictions, even in the animal welfare space, such as the Australian Capital Territory [ACT], Queensland, Tasmania, maybe South Australia—

The CHAIR: Western Australia.

Ms WARD: —they allow public prosecutions.

The Hon. MATTHEW MASON-COX: For criminal offences by private citizens?

The Hon. WALT SECORD: Matthew, stick to conveyancing.

The CHAIR: Order!

Ms WARD: Even under the Criminal Procedure Act in New South Wales, the default position is that there can be what is known as a "common informer", meaning anyone can bring a criminal prosecution, unless there is a statutory prohibition. Under POCTAA we have a statutory prohibition, which limits the persons who, or entities that, can bring a prosecution.

Mr SEYEDI: It is not unusual at all in the criminal jurisdiction for that to be available. We are not suggesting that those should be the majority of those being able to do those prosecutions, but merely that it is not shut out from other entities to be able to do so. This is not in New South Wales, but to try to use a tangible example, I recall that in the media—maybe mid- to late last year—a woman in Queensland had suffered significant domestic violence and by the Queensland police's own admission there was a lot of evidence—according to that article, at least—available for there to be a successful prosecution, but they decided not prosecute. That individual decided to initiate a private prosecution, so—

The CHAIR: So the avenue is there.

Ms ABIGAIL BOYD: Just following on from that—to be clear, if a prosecution was allowed by any private individual, the burden would be on that individual to gather their own evidence and to present that case?

Ms WARD: Not necessarily. Allowing private prosecutions does not actually go to the investigation side of things. They can be separate processes. In other words, just to stop the alarmist, "If we allow private prosecutions"—as was the case and is the case in other jurisdictions in the animal law space—"it would mean that we would have every sort of vigilante running onto farms." That is not the case because it does not affect who can investigate.

Mr SEYEDI: We could provide this on notice as well, but there are existing legislative frameworks that allow for private prosecutions, usually with a failsafe to ensure that it is not just a bunch of individuals initiating private prosecutions. Usually, the office of public prosecutions or DPP could, at any time, take over the prosecution and decide to either proceed or withdraw it. Usually there would be some sort of authority there.

The Hon. MICK VEITCH: If you could provide that on notice, that would be good.

Mr SEYEDI: Yes, we are happy to provide that.

Ms ABIGAIL BOYD: Would opening up that private prosecution ability again need to be coupled with some sort of GIPAA to allow people to get that information from investigations from the RSPCA or the AWL? Is that envisaged in that?

Ms WARD: As the Hon. Emma Hurst mentioned, it was the case in New South Wales.

Ms ABIGAIL BOYD: So it happened before without—

Ms WARD: That is right.

Ms ABIGAIL BOYD: So it would be helpful, but not necessary?

Ms WARD: That is right, yes. Some very good and interesting cases—more along the lines of test cases—were brought, as we detailed in our submission, including the Arna the elephant case.

Mr SEYEDI: It is also not to suggest that private individuals should be given more powers than they normally would have in order to be able to do so. It is merely to allow the prosecutions to occur in the first place.

Ms ABIGAIL BOYD: My final question relates to the statutory time limitation of 12 months, which, as you said, is way too short. What would you suggest it be extended to?

Ms WARD: We just need to go over the border to the ACT, where there is no time limit.

The Hon. SAM FARRAWAY: No, we don't.

The Hon. MATTHEW MASON-COX: Let's not do that.

Ms WARD: We can highly recommend it in the animal welfare space.

The Hon. MATTHEW MASON-COX: Well, in the commonsense space, please, let's not go there.

The CHAIR: What is the statute of limitations there?

Ms WARD: There is no limitation, basically.

The Hon. MATTHEW MASON-COX: That says it all.

Ms WARD: Once again, the courts are not clogged with ancient animal cruelty prosecutions.

The Hon. MATTHEW MASON-COX: It is a local government area, let's keep it at that.

Ms ABIGAIL BOYD: If we were not going to have no limitations, what would be the next best thing? How many years would be a standard across—

Ms WARD: I would defer to—I am sure there has been some academic research into that because what you would want to do is to look at the type of cases that have been frustrated that could have been prosecuted but for the statutory time limit, and work it out from there. But you would want at least three years.

Mr SEYEDI: While still preserving the rights of defendants and relevant safeguards, of course.

The CHAIR: As you would be aware, to have this inquiry into the enforcement of the relevant animal protection legislation is novel to Australia. Are you aware of overseas jurisdictions where animal protection enforcement has moved from the equivalent of the RSPCA to either the police or an independent authority? Are you aware of any situations internationally where that has occurred?

Ms WARD: We refer to it in our submission, but we did not go into detail because we assumed that everyone else would.

The CHAIR: When you did that research, were there any situations where the charitable organisation collapsed, became irrelevant or was no longer an entity?

Ms WARD: No.

The Hon. WALT SECORD: One last question. There has been some concern expressed from previous evidence that there was concern about the RSPCA having a law enforcement role but then, on the other hand, providing a tick of approval or endorsing certain products. How do you feel about that? Products and services?

Ms WARD: I think it might go back to your earlier question. That would just be another situation where it could lead to the perception of some kind of conflict of interest or bias in how law enforcement duties or functions are undertaken. Speaking hypothetically, an agency that has such schemes may well be reluctant to investigate any allegation of cruelty in those enterprises that participate in those schemes because it would reflect badly on the scheme. You can understand that would at least be a perception.

The Hon. WALT SECORD: Would you like to add something, Mr Seyedi?

Mr SEYEDI: More broadly, that just goes to the more fundamental issues of law enforcement being done by private charities who are dependent on donations for a lot of their operations.

The Hon. WALT SECORD: Do you think the RSPCA could exist if the role of animal welfare was given to an independent body or would we see the RSPCA evaporate and disappear?

Ms WARD: So if the law enforcement part of it—

The Hon. MATTHEW MASON-COX: No. You are talking about everything.

The Hon. WALT SECORD: No. I am just talking about the law enforcement.

Ms WARD: Here I would be speaking as just a member of the community, like anyone else looking at the data that the RSPCA, for example, provided in his submission. The money spent on the Inspectorate is a small proportion of the rest of their budget and functions. So one could look at that and say, firstly, I do not understand why you would not be glad to have that taken away from you, that particular function. There is a huge range of functions—on paper—they could perform and continue to perform and hopefully continue to attract donations. Operating shelters, education, rescuing—

Mr SEYEDI: In the RSPCA's own submission they detail quite a lot of the work that they do outside of the Inspectorate. The overwhelming majority of their staff are not inspectors and there is a lot of work they do outside of the Inspectorate. This is not the RSPCA but just referring to approved charitable organisations, you heard yesterday from the Animal Welfare League [AWL], who themselves said that if they were to lose their Inspectorate powers, they would continue doing what they do and continue to advocate for animals and doing so to the best of their ability. That would not change. So in our view that would be what would work here.

The Hon. MICK VEITCH: I just want to go back to my questions around the Government Information (Public Access) Act [GIPA] arrangements and the need for both the AWL and the RSPCA. Have you ever tried to access information from the RSPCA or the AWL?

Ms WARD: No.

Mr SEYEDI: Not directly to the RSPCA. Not a request for information from them.

Ms WARD: Mainly because our understanding is that it does not apply to private charities.

Mr SEYEDI: And academia have previously stated so as well so we have operated on that basis.

The Hon. MICK VEITCH: I will explore this with the RSPCA when they come here.

Ms WARD: Our interpretation of the GIPA Act is that it does not apply. They can voluntarily subject themselves to it, which is great, but equally they can exercise the discretion not to.

The CHAIR: If you could just clarify something there? In the RSPCA submission, their evidence is that the Inspectorate body—because it is appointed by the Government—is subject to the GIPA Act. Would you agree with that?

Mr SEYEDI: If you read that provision in full that they cited, I believe it is Section 2 of Schedule 4 of the GIPA Act. If you read that provision in full, it is referring to that the entity itself has been created by an instrument not merely the function, that it has been created by an instrument. We would consider that the

Inspectorate is not a separate entity to the RSPCA as a whole and the RSPCA has not been created by legislative instrument or by legislation. They are a private entity. We would also refer you to— there was another section?

Ms WARD: Subsection 3. But this would be a matter of legal opinion. Obviously we are not privy to the full details of how the Inspectorate is set up.

Mr SEYEDI: The only other thing we would add is that the New South Wales Government states in its own submission that the RSPCA is not subject to the GIPA Act and as it is their legislation, we would consider that they have the most expertise.

The CHAIR: Okay but what would be GIPA-able perhaps then is a report from the RSPCA to the Minister and the GIPA would apply to the documents within the Ministry if that report was there. Is that correct?

The Hon. MICK VEITCH: Not the other way around.

Ms WARD: The other thing that we noticed, just to go back to the issue, is that we had a quick look but could not find— I think agencies are required to report on their GIPA functions or requests. We could not find one from a prevention of cruelty to animals.

The Hon. MICK VEITCH: Can I just say that the Chair has used a word which I know is not going to be in the Macquarie dictionary and *Hansard* are going to have a distinct difficulty transcribing. I have yet to find the word GIPA-rable in language.

The CHAIR: It is GIPA-able.

The Hon. MICK VEITCH: I want to see how that reads in the transcript.

The CHAIR: I am sure it will be gorgeous. Thank you very much for your evidence. It was extremely helpful. I think there were questions you took on notice?

Mr SEYEDI: We have taken questions on notice, yes.

The CHAIR: So you have 21 days to provide that information. Is that okay?

Mr SEYEDI: Yes that is fine. Thank you.

(The witnesses withdrew.)

(Short adjournment)

SCOTT MEYERS, NSW Chief Inspector, RSPCA NSW, affirmed and examined

STEVE COLEMAN, Chief Executive Officer, RSPCA NSW, affirmed and examined

PETER WRIGHT, President, RSPCA NSW Board of Directors, sworn and examined

STEPHEN RUSHTON, Director, RSPCA NSW Board of Directors, sworn and examined

The CHAIR: Thank you very much, gentleman. Would any or all of you like to give an opening statement?

Mr COLEMAN: Yes, Mr Chairman. RSPCA NSW has been committed to the promotion of welfare for animals for over 145 years in New South Wales. We have done this by enforcing the provisions of the Prevention of Cruelty to Animals Act and its predecessor for 90 years, and so we welcome the opportunity to assist the Committee in this inquiry. Improving animal welfare—we believe that there are practical measures that could be undertaken by the New South Wales Government to improve welfare outcomes for animals. One good measure which has already taken place is the dividing of different components of the Act between the portfolios of primary industries and local government.

As the Committee will have heard from several of the witnesses, key to this is the pending review of the provisions of the Prevention of Cruelty to Animals Act. We have, of course, already provided a comprehensive written submission dealing with these matters raised in the terms of reference, but we would like to make the following opening remarks, if I may. As a service-based organisation RSPCA NSW focuses first and foremost on providing services to animals and their owners. We are an operationally-focused organisation concerned mostly with getting the job done and not by nature comfortable with blowing our own trumpet. That said, we are proud of the work that we do in working to prevent animal cruelty in New South Wales and the trust which the public places in us to do that work. This work is by nature largely unseen.

Over many years RSPCA NSW has worked hard to evolve and adapt in meeting the needs of the community and we believe that this is reflected in the way in which the community trusts RSPCA NSW and looks to it to play a central role in protecting animals. In the last year alone we received more than 140,000 calls from members of the public, including over 15,600 reports of cruelty. We currently have over 278,000 followers on social media and more than 1.3 million visitors a year to our website. Those numbers continue to grow. Our operations are predominantly funded by the generous donations of more than 70,000 donors annually. What we have learned over our 145 years of working for the welfare of animals in New South Wales is that everyone has an opinion about the condition of every animal and how it should be treated.

There is a vast mix of views and I think that has been ventilated over the last couple of days—for instance, on topics such as whether humans should or should not eat meat and whether animals should or should not have more rights. We consider that these are questions and issues not for RSPCA NSW to determine, but that the community need to be provided with the best veterinary and animal welfare science available and thereafter for community debate. We see our role in that debate is to provide accurate, factual and contemporary scientific information to enable the community to make informed decisions.

We understand that one of the matters is being considered by the Committee is the rationale of the involvement of a charity like RSPCA NSW in enforcing the animal cruelty laws. Again, this is a matter addressed in our written submissions. But, in summary, this the tried and tested model with a long history both in Australia and internationally. We consider that it is a model which has considerable benefits to the public and the animals involved. Again, we have outlined this in our written submission. We believe that any radical change to that model would carry very real risks to the effective enforcement of the animal cruelty laws and animal welfare standards in general in New South Wales. It is the unintended consequences of changing the current model. Overall we consider that there are numerous and substantial benefits to the public of New South Wales and the Government arising from the role of the RSPCA in the enforcement of the animal cruelty laws. We have attempted to list these more fully in our written submission on pages 45 and 46.

In summary, they include the provision, with only a relatively modest government funding contribution, of a specialist and highly experienced body of RSPCA inspectors who are solely dedicated to the enforcement of the animal cruelty laws. They also include the ability of our inspectors as part of RSPCA NSW to operate within an integrated animal welfare organisation able to draw seamlessly on our veterinary services, animal shelters, rehabilitation facilities, education and specialised community support programs for animal owners. RSPCA NSW is a one-stop shop solution for the government. They also include the ability of those inspectors to respond to animal welfare concerns in the context of disaster management and other emergencies when we are regularly activated by the New South Wales Government as recently in these catastrophic bushfires.

The value that our inspectors add in disaster management is linked directly with their roles in animal welfare compliance. That is, they would not have the necessary skills, experience and the capacity to undertake welfare assessments in the context of disaster management without the experience and training that they are given in the context of animal welfare compliance. The inspectorate has been vital in addressing the animal welfare consequences of the declared drought which is nearing its third year. We cannot speak highly enough of the new measures to trigger livestock welfare panels. These panels and the work that they do with our involvement have addressed and improved the conditions of many thousands of animals in drought. RSPCA NSW shelters and veterinary clinics are vital to our capacity to support the inspectorate and in community engagement. Our vets and vet nurses come from some of the best universities and tertiary teaching facilities in Australia and internationally.

In relation to the standard of care in RSPCA clinics and shelters, our staff know animal welfare. They love and they care for the thousands of animals in our custody every year to the very best of their ability. I see the communication on a daily basis from staff within our shelters and hospitals, celebrating adoptions from around the State when some of these animals have been with the RSPCA for weeks and sometimes months and longer, and have finally found their new homes. RSPCA NSW staff are supported by 26 volunteer branches right around the State and this spirit of volunteerism has never been more important than during emerging critical incidents including drought, fire and flood. As an open-admission sheltering organisation we are often a last resort for many animals, in particular dogs that are difficult to rehome due to their breed specificity and/or their behavioural and medical challenges. There is no coincidence that our shelters are full of staffies and large, crossbred mastiff dogs and the like.

As we look forward, particularly in relation to amendments to POCTAA, whilst our organisation has evolved and adapted over the decades in applying best practice, ongoing reform to the Prevention of Cruelty to Animals Act has simply not kept pace with community expectations. It is this which we believe underlies growing concern in the community about the effectiveness or lack thereof of animal welfare enforcement in New South Wales. Much has changed in the more than 40 years since the Act was passed, not least community expectations as to minimum standards of animal welfare and the penalties which are appropriate for breaches of those standards. We believe that these changes should be reflected in legislative reform.

RSPCA NSW have been engaged in the sentencing reform process with Government since December 2017. In the interim that process has been subsumed into the wider POCTAA reforms. RSPCA NSW met with the Government for the first time in this process four days after this inquiry was announced. At that meeting we prioritised, number one, the need to take an evidence-based approach to the animals protected by the Act. This includes the need to carefully consider and debate the issues of sentence.

As several witnesses have no doubt pointed out, the Act is called the Prevention of Cruelty to Animals Act, but offence provisions generally require proof beyond reasonable doubt of the completion of an act of cruelty. We would suggest that the Act's capacity to prevent cruelty in those circumstances is limited. Therefore a start could be to address the inadequacies of dealing with companion animals and their psychological impacts and needs. Mr Chairman, if I could I will share a photo with members at the conclusion of my opening statement to illustrate that issue.

Another issue RSPCA NSW has sought to have considered relates to orders available to the court at the conclusion of local court prosecutions. The current version of section 31 (1) (b) requires, firstly, a conviction which excludes anyone diverted from the criminal justice system into the mental health system and, secondly, it requires the prosecution to prove it is likely that the convicted person will commit another offence contrary to part 2 of POCTAA before the court can make such an order. Finally, there are several matters relating to officer safety which need to be considered, including the mandated use of body-worn camera devices. RSPCA NSW believes that the New South Wales Government recognises this need for reform in its current focus on reviewing the legislation and we look forward to continuing to contribute to that review into the future.

The CHAIR: Thank you, Mr Coleman. Would you be willing to table that statement as you said it contains extra material from the submission? And you wanted to show us a photograph.

Mr COLEMAN: Can I pass that around, Mr Chair?

The CHAIR: Sure. The secretariat will distribute it. Thank you. Would any other witness like to make a statement? If not, we might got to questions.

The Hon. WALT SECORD: Mr Coleman, in the course of the hearing we have heard and some of the submissions have called for the creation of an independent animal welfare body to replace the RSPCA's activity and that of the Animal Welfare League. Would your organisation cease to exist if in fact the inspectorate role was removed?

Mr COLEMAN: Perhaps I should commence with this: The RSPCA is known for its enforcement. I strongly believe that the vast support that our organisation is lucky enough to secure is through the unique opportunity to enforce the law, the enforce POCTAA and to deal with matters appropriately. I would have grave concerns for the future of RSPCA NSW in the absence of an inspectorate function.

The Hon. WALT SECORD: Let me take that in. You are saying that you would have a hard time existing.

Mr COLEMAN: My view is that in the absence of an RSPCA inspectorate function our organisation would struggle over the next couple of decades.

The Hon. WALT SECORD: You said earlier in evidence that you get about 70,000 individual donors a year. Do donations, bequests and other offerings to the RSPCA increase after a high profile case, conviction or a high profile investigation? As CEO you would know and I have friends and acquaintances who run not-for-profits and they monitor bequests and so on. Do you see a correlation in that?

Mr COLEMAN: No, I do not. The volatility in our revenues is the bequest stream. It by far is the pivotal volatility around revenues—not what is being broadcast, not what is being posted on social media.

The Hon. WALT SECORD: How do you and your board reconcile an investigative role for your organisation while at the same time endorsing products or services, giving the tick of approval, when you are a regulatory or an enforcement body?

Mr COLEMAN: Is the question around the Approved Farming Scheme?

The Hon. WALT SECORD: I think there is Pace eggs. I can ramble off a bunch but I think you understand what I mean.

Mr COLEMAN: If it is about the Approved Farming Scheme, we are part of a federation. We have nine separate RSPCA organisations in Australia. The Approved Farming Scheme, which I think commenced around about 15 years ago or thereabouts, is a program that is run by our national colleagues. It is a loss-making program. It currently costs around about \$2.1 million to operate. The return is \$1.6 million. So there is a deficit of about half a million dollars. When it comes to issues that relate to producers that may or may not form part of that Approved Farming Scheme in New South Wales we will by process make contact with our national colleagues and ask the question if that particular location and/or producer is part of the scheme. If it is determined that they are part of that scheme, RSPCA NSW will not investigate it. It is referred to either the police or the Animal Welfare League.

The Hon. MICK VEITCH: Is that a documented internal process?

Mr COLEMAN: It is.

The Hon. WALT SECORD: But at the basis of that there is a recognition then that you would not be able to pursue or follow up a matter because you have endorsed or given the tick of approval to something. That is actually recognising that in fact there is a conflict.

Mr COLEMAN: Correct. And the only way to mitigate that currently is to refer it.

The Hon. WALT SECORD: It is to not have the conflict. Thank you.

The Hon. EMMA HURST: Thank you for coming in today. On page 36 of your submission you outline the inspections conducted on animal trades in 2018-2019 and from the animal agriculture industry it says you inspected one poultry farm and one dairy farm. Given there are approximately 15,000 animal agriculture operations in New South Wales do you consider that to be an acceptable level of oversight to be able to protect the animals used in these industries?

Mr COLEMAN: If it is a question around the level of resourcing I am compelled to say that we are under-resourced. It would be both naive and illogical for any organisation to say that they are satisfactorily resourced.

The Hon. EMMA HURST: That is something that has come up a lot in this inquiry. A lot of complaints were around the fact that there are no random inspections of animal agriculture facilities given there are so many of them. Another aspect that came up was around safety of these inspectors given that there may only be one inspector for a very large area. We heard yesterday from the DPI that often they require two officers to attend from the DPI because we also heard a lot of evidence about the issue of violence towards animals also meaning violence towards humans. I know that this is almost a question of "How long is a piece of string?" but how many inspectors would you see ideally you would need in New South Wales to be able to feel that you could adequately monitor the situation with animals?

Mr COLEMAN: Thank you. First and foremost it is not a case that we do not do random or unannounced inspections. They do occur. Do they occur enough in the eyes of the community? We would agree it does not. The police have 20,000-odd police across New South Wales or thereabouts. It is to your issue around "How long is a piece of string?" As I sit here today, if I said that 200 inspectors would adequately cover both complaints that are reactive and complaints that are proactive, I will guarantee you in 12 months from that point in time we will need more than 200.

The Hon. EMMA HURST: But would you say from where you are now that at least if you were funded for 200 that you could do a much more thorough job of animal protection in this State?

Mr COLEMAN: It is a logical conclusion. The more enforcement officers would obviously equate to more opportunities to properly deal with—sorry, I should not say that—to proactively enforce the Act.

The Hon. EMMA HURST: You acknowledge in your submission that you could do with more funding from government. Can you give us a little more information about what your ideal situation or thoughts are there?

Mr COLEMAN: It is a conflicting question in that on the one hand whoever is the primary funder of an organisation to enforce you could argue is conflicted, depending on where that funding source is derived from. It is a fact that RSPCA NSW is the most underfunded, in terms of government support, in the country when it comes to recurrent funding of inspectorate. I have agonised over this issue of our grant. I have agonised over the issue of independence. I think I have ventilated this in different quarters over the years. There is an argument that we should receive no funding from government in order to be completely independent.

The Hon. EMMA HURST: Would that, though, cause problems having control of a criminal Act that is entirely or mostly funded by donations and then partly funded by a business model, given that that would be the only criminal Act that would require that?

Mr COLEMAN: We have not, to date—touch wood—been unable to exercise a function through the inspectorate because of a budgetary issue.

The Hon. EMMA HURST: I have another question that goes a little bit towards what the Hon. Walt Secord was talking about. I have heard accusations—and perhaps the board members might be better to answer this—that there are members of the board who for their own personal reasons are supportive of, for example, battery cages in the egg industry. I do not know if those accusations are true, but I am wondering how you would deal with that if that was a situation that was occurring, and if you had the same accusations being made to you.

Dr WRIGHT: I suppose I had better deal with that one. Like any board and what you would hope to have on any board, particularly in a charitable organisation, there is a diversity of views around the table because if you do not have a diversity, you may as well just have one person sitting in the chair.

The Hon. EMMA HURST: Even if that diversity of view goes against the policies of the organisation they are on?

Dr WRIGHT: Yes. It might be a single case—say, someone on the board is not opposed to battery cages or environmental cages or whatever it happens to be. But that is a diversity of views. So you can have a discussion about what the pros and cons are. Ultimately speaking, the end result is the policy is the policy and that is outside that boardroom. We have had our vigorous discussion. That is a policy that is betrayed.

The Hon. EMMA HURST: Are you concerned that, from the public viewpoint, if there was somebody on the board who, for example, was supportive of battery cages in the egg industry despite there being a policy against it, that might influence the enforcement side of the organisation?

Dr WRIGHT: The board is completely arm's-length from the inspectorate. We have no control or sway over who is prosecuted, who is not prosecuted, who gets inspected or investigated. As a board, no, we do not have any influence at all in that regard.

Mr RUSHTON: Indeed, we have a policy that is attached to our submission which states that in detail.

The CHAIR: Would you not say it is a problem to have somebody on the board who has a philosophical position that supports husbandry of animals which the RSPCA policy opposes—for example, battery cages? Would you not consider it to be a serious problem to have somebody on the board who openly supports a husbandry system that the RSPCA has a policy against?

Dr WRIGHT: Like any policy—and I have been engaged nationally on and off over the years. It is always one of those ones that is a very hard debate about battery cages, in this case, because if you read the science on it, it is all over the place as well.

The CHAIR: But that is not relevant. What is relevant is the fact that the RSPCA has a position; it has looked at all the science and formed a position. You might say that the science is still arguing with itself about it, but the RSPCA has formed a position, which is to oppose various forms of husbandry or practices or whatever across the board. Do you not think it is a serious problem, considering how many people would love to be on the board of the RSPCA who would not have any position that is in conflict with RSPCA policy? You do not see that as a concern for the community?

Dr WRIGHT: But what about the views on many other issues that we deal with? Particularly, that is a national policy. We, as a board, do with a lot more issues broader than just—

The CHAIR: But the RSPCA, State or Territory, must reflect the RSPCA Australia policy.

Dr WRIGHT: Yes.

The CHAIR: It is an agreed policy—overarching, right across Australia. But to have a board member who says battery cages are okay but the RSPCA policy says it is not—that is the question.

Dr WRIGHT: Is it said publicly?

The CHAIR: Yes.

The Hon. MATTHEW MASON-COX: Point of order: I think this is straying outside the terms of reference. The RSPCA has answered the question and I think you are continuing down the same line.

The CHAIR: I will move on to the Hon. Mark Banasiak.

The Hon. SAM FARRAWAY: Can I follow on from the Hon. Emma Hurst with something that is directly related? It is regarding the board. In some submissions over the past two days, the accusation has been made within this Committee that board members were involved in investigations. Can you confirm or deny that board members are a part of the investigation process?

Mr RUSHTON: I can start with that. We are on oath. It just does not happen.

The Hon. EMMA HURST: The accusation was about board members being—I do not think the accusation was about investigations.

The Hon. SAM FARRAWAY: That is where the question should be left, probably.

Ms ABIGAIL BOYD: Who elects the board?

Dr WRIGHT: The membership.

Ms ABIGAIL BOYD: And who are the members?

Mr COLEMAN: Members who join our organisation pay an annual fee.

Dr WRIGHT: There are 6,000-plus thereof.

The Hon. SAM FARRAWAY: In terms of the board members that are members of the RSPCA—general members, is what you are saying—you would be able to get a good range of expertise from the members across many different fields around animals? You believe that is the correct approach as well?

Dr WRIGHT: Yes, the diversity of views is very important to a functioning board.

The Hon. SAM FARRAWAY: The reason I ask is for the official response from the organisation, because we have heard in submissions on and off over the past two days that anyone who is involved with animal production or farming operations should not have any involvement on the RSPCA board, which personally I question but I want your view on that about the expertise.

Dr WRIGHT: Personally, I am a vet by trade. That is what I do. I also have a farm and I was brought up on a farm. So bringing farming knowledge to a board that is going to discuss policy about farming practices—some knowledge is obviously going to provide benefit to the debate.

The Hon. EMMA HURST: Because it is this whole membership system to get the board elected, there have been accusations made that people will sort of stack the membership to get certain people onto the board. Do you have any response to that?

Dr WRIGHT: No—short answer.

The Hon. EMMA HURST: You do not believe that is happening?

Dr WRIGHT: No.

The Hon. MARK BANASIAK: Turning attention away from the board and to page 19 about inspectorate outgoings, there has been a lot of submissions around funding and whether you are funded enough and even an assertion that the inspectorate is a burden to the RSPCA in some respects. I struggle to reconcile with that fact when you are talking about a \$6 million expenditure and comparing it to a \$50 million operating budget, which is quoted quite regularly. Obviously, this is not a full, detailed balance sheet so we cannot interrogate it fully. Can you talk to us about the training of the inspectorate? What does that look like?

There have been some accusations and concerns that some of the inspectors walk into industries or situations that they are not fully across, and therefore we would question how they can assess an animal welfare issue that they are not fully across in terms of what good animal practice looks like in that area. Talk to us about training: What does it look like in the inspectorate? Is it annually based? Is there a level of currency they have to maintain over a 12-month period? I am just giving you some guiding points. Is it structured? What does it look like?

Mr MEYERS: I can answer that. Probably in the past 12 to 18 months, we have rewritten our whole training program around inspectors and onboarding inspectors. From the initial recruitment process, obviously we recruit for certain skill sets and experience with our inspectors. From there on, we do a lot of in-house training around legislation, around notebook requirements—all of those day-to-day things we require them to be across. The training program pretty much runs now for around three months before an inspector is actually out on the road investigating complaints themselves. We obviously have a lot of experienced inspectors with different species of animals—livestock people, the whole lot. We try and match up new inspectors with those to gain experience as well.

When we receive our complaints, for instance if it is in a particular area and it is, say, about cattle and the inspector who is in that area does not have as much experience as somebody else, we will bring somebody else in to assist them on that job as well. Apart from that, we do yearly training as well, we do batons and handcuffs training, which is an accreditation. We do a lot of verbal tactics, which is giving our inspectors skills to be able to identify issues and de-escalate situations, and that is all around our officer safety training as well. That is done yearly and it is something we continue to do.

The Hon. MARK BANASIAK: I imagine a lot of that is done on just the train the trainer model, because looking at your figures it only works out to be about \$1,500 spent on training per inspector, which when you put it like that seems quite low. When you have given us the details of how comprehensive the training is, I am assuming a lot of it is done online in their own time, like a lot of departments are going towards these days. The cost per inspector is quite low.

Mr MEYERS: Our external training that we do, which is with an external company, it is a company that is in Victoria, Queensland and New South Wales, we do that at an annual conference with the inspectors and it is actually quite expensive. I am not sure if it is reflected where that is in this one.

The Hon. MARK BANASIAK: One other question about finances, you have got external legal costs. There has been a lot of criticism about the lack of prosecutions that the RSPCA undertake. Looking at those external legal costs, it works out to be, if you look at 77 prosecutions, \$476 per prosecution. That is a cheap lawyer, by any means. Everyone is looking around saying, "Where is that cheap lawyer?" Are there other legal costs that we are not seeing here that would be attached to the prosecutions?

Mr COLEMAN: Yes, there are.

The Hon. MARK BANASIAK: What are they?

Mr COLEMAN: We have a full-time general counsel, we have a full-time legal counsel, we have a part-time external brief checker.

The Hon. MARK BANASIAK: Are they solely focused on the inspectorate—

Mr COLEMAN: Yes.

The Hon. MARK BANASIAK: Or they also go across—

Mr COLEMAN: General counsel will look at other contractual arrangements, sponsorship arrangements, leasing arrangements, but predominantly through our legal counsel the focus is on the inspectorate work and the brief checker.

The Hon. MARK BANASIAK: One last question, we have had commentary about limited funding and we could do more if we had more funding. How does the RSPCA inspectorate prioritise the complaints that come through the telephone to the hotline, or what have you? Is there a flow chart that the inspectorate goes through, or

the call centre goes through, and if there is would it be able to be tabled so we could see a little bit of the internal processes that go on when you receive a complaint?

Mr COLEMAN: I will let our chief inspector respond as well. Can I take that on notice? Because there is a flow chart, particularly for our contact centre and the way that those complaints are triaged, and then of course there are components within the inspectors' standard operating procedures [SOPs] that deal with how they are prioritised? Is there anything more to add?

Mr MEYERS: No, that is correct.

Ms ABIGAIL BOYD: Firstly, you may have been here and heard the prior witnesses talking about the history of the Act and animal cruelty crimes and the RSPCA, referring to the fact that the RSPCA is responsible for enforcing animal welfare crimes as an historical anachronism. There has been a lot of discussion in this inquiry from people who are unclear about the exercise of discretion by the inspectors. I guess the concern is that there is a lack of transparency, some things seem to get investigated while others do not. How is that discretion decided? How do you decide your guidelines for guiding the inspectors, and what happens when inspectors do not abide by those guidelines?

Mr COLEMAN: Fundamentally the inspectors perform their duties consistent with the standard operating procedures that have been dealt with very deeply and very carefully over a long period of time. If there is a deviation from the standard operating procedures, then simply there are disciplinary actions that can apply.

Ms ABIGAIL BOYD: Who creates the standard operating procedure? Where does that come from? Is it approved by the board?

Mr COLEMAN: It is a combination. Obviously we need the practical input into how they can practically operate. We also have legal advice around that aspect. We also have some expertise on the board that deal with risk management. There are a number of contributing inputs, if you like, into those SOPs. I should point out too that once those SOPs are finalised, they do not sit on a shelf. They are a dynamic document, and they need to be for very good reason.

Ms ABIGAIL BOYD: Is the Government, or any government agency, involved in the formation or approval of those sorts of guidelines?

Mr COLEMAN: Police?

Mr MEYERS: I think the police certainly had looked at them and gave advice on them as well. And I think they were also shared with DPI.

Ms ABIGAIL BOYD: From the perspective, again looking at the operations of the RSPCA, inspectors being accountable to the organisational structure, to the board, you have just under 6,000 members, so you are in turn accountable to those members, they elect you and re-elect you. In all other cases crimes are enforced and prosecuted by the police, who are accountable to the New South Wales Parliament, which is in turn accountable to 8,000,000 people. Can you understand the criticism that by having this kind of external body that has 6,000 members holding it accountable, it is an anachronism, compared to the rest of crimes in New South Wales.

Mr RUSHTON: Can I answer that in part? To say it is unique is really stating the obvious. It is a given that it is unique but the real issue, perhaps the only issue, in fact the sole issue, is whether it provides a better outcome to the victims of animal cruelty. One of the problems is, I suppose, that the conventional criminal law is, I will say, ill equipped to address animal cruelty of these voiceless victims. To have a highly trained body of specialist inspectors where the only priority is their welfare and who can draw on the resources of the RSPCA NSW as they progress, is a critical component in the delivery of better welfare outcomes, we say. I mean no disrespect when I say it would be utterly irresponsible to fragment the existing model unless satisfied that the welfare of those animals would not be enhanced by an alternative. I mean you would have to be satisfied that the alternative would in fact enhance welfare outcomes. This unique model has existed for years, as Mr Coleman has pointed out, and for very good reason.

Ms ABIGAIL BOYD: Would you be opposed to an oversight or accountability mechanism on top of your existing structure?

Mr RUSHTON: I think mention was made of having a body similar to the select committee that oversees ICAC. I can say from personal experience that that works very, very well. We have a very open relationship in that environment with Parliament, and I am sure personally I think there would be no problem whatever.

Ms ABIGAIL BOYD: That would enable that accountability back to Parliament and the State as a whole.

Mr RUSHTON: Absolutely, yes.

Mr COLEMAN: Ms Boyd, can I add to that, that currently, which has been the practice for some years now, section 34b of the Act requires us to provide a very detailed report of our inspectorate activities to DPI by the third month of the end of the financial year. That report is quite detailed and I would actually have no doubt, answers a lot of the issues that have arisen over the last couple of days through various witnesses. Right now that is an obligation under the Act which we fulfil, but from our perspective we would have no problems with that being publicly available.

The Hon. MICK VEITCH: Tabled in Parliament?

Mr COLEMAN: In terms of any additional scrutiny, the information is already being developed and finalised year on year. We are already doing it. The bottleneck, if you like, in its current form is that it is not further released with which DPI is charged with the responsibility to manage. And that is not a criticism that is just the way the Act currently exists.

Ms ABIGAIL BOYD: I may have misheard you but earlier when we talked about those RSPCA approved sites, facilities or company did you say you hand that inspection or prosecution over to someone else rather than investigating yourselves?

Mr COLEMAN: Correct.

Ms ABIGAIL BOYD: So to AWL or the police?

Mr COLEMAN: Yes.

Ms ABIGAIL BOYD: Earlier the AWL said they do not deal with livestock and the police said they do not have the expertise to deal with livestock. Do you think that by handing over those cases perhaps some of them are falling between the cracks because there is no one left?

Mr COLEMAN: From memory I think there may have been two over the past few years. They are not complaints that we receive frequently and fact check with our national colleagues to determine if they are part of the scheme or not. I do not know that I am in a position to respond to that because that would be a question for the AWL or the police.

The Hon. EMMA HURST: Where were those two cases referred to if they went to AWL or the police?

Mr COLEMAN: I think one was in northern New South Wales, and I cannot remember the other.

The CHAIR: Will you take that question on notice and provide more detail?

Mr COLEMAN: Yes.

The Hon. EMMA HURST: I want to know what happened in those cases.

Mr COLEMAN: Sure.

The Hon. LOU AMATO: The RSPCA was founded in 1873 in New South Wales so it has been around for a long, long time. It states it is an organisation created by the community and driven by strong community support. In the past couple of days I have heard a lot of negativity in regards to the conduct of the RSPCA and heavy handedness of the RSPCA. You say you have about 6,000 members. Do those members still contribute in some way to the running of the RSPCA?

Mr COLEMAN: The answer is yes and it is done in a number of forms. One is financially, the second is volunteering and thirdly providing advice and views to our board.

Dr WRIGHT: The other thing of course we have a large branch network as well which allows those members in country towns like Goulburn, for instance, to contribute into the organisation as well.

The Hon. LOU AMATO: Obviously the RSPCA would not exist today if it were not successful overall in doing its job. We heard the negativity and obviously there are positive outcomes as well. Do you get a \$1 million grant from the New South Wales Government?

Mr COLEMAN: No, not quite. It is \$424,000 a year that is earmarked for the Inspectorate. The other grants come by way of different funding or grant applications. But it is fair to say that the Government has also committed to funding an additional five inspectors at least for this financial year. But again I draw the Committee to the comparison when we look at other RSPCAs around the country. We have the biggest enforcement team across the RSPCA federation and yet we are the least funded from a recurrent funding spectrum.

The Hon. LOU AMATO: Does the Federal grant only go to the Australian RSPCA, the headquarters, so to speak, or does it filter down to the New South Wales sector as well?

Mr COLEMAN: No, it does not filter down. To your point around negativity, members, animal welfare work is really tough. It is tough because there are a lot of opinions, there are a lot of views, there is a lot of emotion and it is 24:7, seven days a week, 365 days a year. I listen to and speak with our staff, our volunteers and it is really tough to continue to prop up those people and support them when their intention every day is to go out and help animals. So when I hear the negativity I have to cop it because are entitled to share a view, just as much as the RSPCA is.

Often we are criticised for doing too much or criticised for not doing enough. This might sound flippant but it is not intended to sound flippant if we are somewhere between those two extremes we are probably okay in terms of the delivery of animal welfare services in New South Wales. In my opening remarks I talked about—we are not an organisation culturally that is big on having our backs or telling everyone how good we are—we just get on and get the job done. In fact, we do not get the time to talk about the good things that we do. It is incredibly difficult to get traction with the media on a good news story, and I do not think that is restricted to animal welfare.

The Hon. LOU AMATO: No, it is not.

Mr COLEMAN: As the chief executive officer of this organisation I will always listen to alternate views because that is my job but, in the end, we too have a job to do. We have an Act to enforce. This Act is like trying to drive a 2020 model vehicle with a 1979 engine is how I describe it.

The CHAIR: Does that not beg the question, are you up to the job? If you have to counsel, support, look after the Inspectorate and others who have to do it—I agree with you it is an extremely difficult area in which to work—if all that has to go into upholding the morale and positiveness, is that something that the RSPCA really wants to continue to do in order to be able to meet the standard which is growing and getting higher for animal welfare from the community?

Mr COLEMAN: The answer in short, yes, and we have been doing it for 145 years. We are up to the job. In fact, this might be the opportunity, if I may, to talk to the very photo that has been distributed.

The CHAIR: We need to move onto questions and if we have time we will come back to the photo.

The Hon. MICK VEITCH: I have a number of areas I want to explore. The first is funding for your organisation. Is there an algorithm, a formula or calculation that determines your annual allocation from the Government for the Inspectorate or is it just an historical thing that has not kept up with even CPI? Will you elaborate to the Committee how that funding is determined?

Mr COLEMAN: I cannot. I do not know, in all honesty, what \$424,000 is supposed to represent. That is an historical—15 years ago it was half that. What I do know is that the reason that it was doubled is that we were running out of space at our head office and needed to relocate our head office to Sydney Olympic Park. The Government of the day decided to double the grant to pay the lease at Sydney Olympic Park.

Ms ABIGAIL BOYD: How much lower than other States is it?

Mr COLEMAN: I take you to the last annexure, P, in the submission. It is substantially lower, in short.

The Hon. MICK VEITCH: Is there a jurisdiction in Australia that has a calculation or formula that funds their animal welfare agencies that the Committee could look at as best practice or the best of the all?

Mr COLEMAN: In short, not that I am aware of.

The Hon. MICK VEITCH: I am happy for you to take that on notice.

Mr COLEMAN: Before I do, perhaps the way to respond is that given the strength of our organisation, and the support that without complacency we continue to receive from the public, one could argue that because there is such significant support there is no need to go to government for additional. That is one argument. The second is that subject to the capacity, the skill-sets and the abilities of the different RSPCAs around the country, I know that there are some that have struggled to raise the funds to do what they need to do. Our colleagues at RSPCA Tasmania is one argument. I think they are 100 per cent funded by the Government in Tasmania but they do not have the population to raise funds within in comparison to other State.

The Hon. EMMA HURST: I understand that you are able to get a lot of donations from the public, but it is just still not enough to be able to put on enough inspectors, even with the amount of good fundraising that you are doing.

Dr WRIGHT: From a board perspective, we still have to balance the budget. We still want to be there in 147 years.

The Hon. MICK VEITCH: You actually have an obligation under the Corporations Act because you are a company limited by guarantee.

Dr WRIGHT: Yes, obviously. Therefore we have to budget and we have to work within our budget and within our reserves to ensure we could allocate 50 per cent or 100 per cent of our budget to the inspectorate. But, of course, then the other services would obviously fall over. It is always that balancing act of doing what we can do. The other thing I would say, which has not really come up, we consider the whole organisation an educational organisation. It is all about educating the public, no matter whether it is communications on social media, the inspectorate or the actual education team itself. It is all about that education. That is part of what we do, which we consider is really important.

The Hon. MICK VEITCH: I have other questions around funding. I might put those on notice. Now I want to go to page 43 of your submission around the GIPAA stuff—to quote the Chair, the "GIPAArable" aspect of your functions or otherwise. You say:

In particular, RSPCA NSW considers that its Inspectors hold an office for—

Then you quote the GIPA Act—

“a public purpose by or under the provisions of a legislative instrument” ...

I gather from that that you, Mr Coleman, expect that your organisation does fall within the Government Information (Public Access) Act for the uses of accessing information.

Mr COLEMAN: Correct.

The Hon. MICK VEITCH: How do you see that work? The bit that I want to get is this: where can people actually lodge the request? Is it through you or is it via a third-party process whereby I put in a GIPAA request to the agriculture Minister, who then seeks information from you?

Mr COLEMAN: I would have thought the former.

The Hon. MICK VEITCH: Do you receive many requests for information?

Mr COLEMAN: Not to my knowledge. In fact it is pretty rare, to my knowledge.

The Hon. MICK VEITCH: Do you think that is because people do not know that you have that approach?

Mr COLEMAN: I am not sure, Mr Veitch, why people form that view.

The Hon. MICK VEITCH: Would it need strengthening?

Mr COLEMAN: In what sense?

The Hon. MICK VEITCH: So that people do have the opportunity to access information via the GIPAA.

Mr COLEMAN: We consider ourselves susceptible to GIPAA and, on that basis, would respond accordingly.

Mr RUSHTON: Then it could be simple legislative amendment, which would not be controversial.

The Hon. MICK VEITCH: Which is where I am going to, if I can, because that is the next step, the parliamentary scrutiny process. As time has gone by I am firming in my view that I think that is something that we should explore as a committee. I guess what I want to hear from you is, do you support the parliamentary process that has been articulated over the past couple of days and, if so, why? But also, what do you foresee as potential problems with that, seeing as you are a charitable institution? It is not exactly the same as, say, the ICAC arrangements.

Mr COLEMAN: I have to say from my perspective, it has been frustrating listening to some of the evidence over the past couple of days because opening ourselves up to additional scrutiny is not a barrier for RSPCA NSW. As I said before, we prepare a very detailed report on our inspectorate activities and have done for years. If that became the subject of additional scrutiny outside of DPI, you will not be hearing from us.

The CHAIR: It won't be what, sorry?

Mr COLEMAN: Being objectionable to that process.

The Hon. MICK VEITCH: My last line of questioning relates to the statute of limitations. Mr Coleman, this has been explored a little bit. Have there been any instances where the RSPCA has been thwarted or has encountered the statute as an impediment to undertaking an investigation or a prosecution?

Mr COLEMAN: I think the short answer is yes. There are circumstances that come to our notice that are either on the cusp of that 12 month statute period or slightly over. So the short answer would be yes.

The Hon. MICK VEITCH: Here is your opportunity. Would you advocate for a change to the statute of limitations for animal welfare?

Mr COLEMAN: We would be open to a discussion around what that should look like.

The Hon. MICK VEITCH: Do you have a view about a time frame that you would expect? Is it open-ended, is it three years, is it seven years?

Mr COLEMAN: Can I take that on notice?

The Hon. MICK VEITCH: By all means.

Mr COLEMAN: Thank you.

The Hon. MICK VEITCH: That will inform the Committee without a doubt. What is the RSPCA's role when it comes to animals in research?

Mr COLEMAN: We have a category C member—I think that is right—on the Animal Research Review Panel. That is one mechanism of input. But I do think it is fair to say that, given the different pieces of legislation, all of which have impacts on animal welfare, and the fact that they are separated out and enforced by different bodies, is not ideal.

The Hon. MICK VEITCH: And you would seek an improvement in that arrangement?

Mr COLEMAN: If it means better welfare outcomes for animals, yes.

The Hon. SAM FARRAWAY: This question is directed at anyone on the panel, but probably more so Mr Meyers. We have heard from DPI around the involvement of the stock welfare panel and the integration of Local Land Services [LLS] in DPI and how they can work alongside the RSPCA at times. Obviously with such a severe drought crippling New South Wales for the past three years, can you just expand on the stock welfare panel, the RSPCA's involvement as members of that panel and how it has worked? We have heard that it has been quite—I would describe it as—a good mechanism to have about intervention and being preventative and outcomes focused for the animal, in particular for livestock, obviously.

Mr MEYERS: Yes, certainly. How that process begins is obviously as a result of a complaint. So an inspector will attend a property in relation to that complaint. Obviously depending on what the welfare issue is and the size of it, they will normally contact Local Land Services and re-attend the property with a district vet. Once that assessment has been made by the district vet we will normally receive a report. Based on the report we will make a referral through to DPI for the establishment of a stock welfare panel. The panel will normally consist of a chair, which is a DPI employee or contractor, a Local Land Services district vet, a rep from NSW Farmers and an RSPCA representative, which is someone who has nothing to do with the actual job, so it can remain an independent assessment of what the welfare issue is.

The officer in charge will also accompany the panel for the purpose of any intel they may have on the property size, where the animals were located and also to be able to establish and maintain the relationship with the animal owner. From there the panel will obviously conduct a number of inspections and put some things in place, offer advice, give instruction and give time for compliance. From there, reinspections will be done and if it appears that there is noncompliance with any direction that is issued the panel will then obviously discuss that and make a referral to DPI depending on what it is. So if that then moves forward to a seize and dispose, once that is done and once that decision is made it will be handed back to the enforcement agency to carry out that process.

The Hon. SAM FARRAWAY: That method is obviously outcomes focused and you feel that it has worked, especially in the context of what is possibly one of the worst droughts in the State of New South Wales. My second question is, in the New South Wales Government's reforms and part of its action plan you feel that the panel would be a critical part of any reform, making sure that it is intact moving forward?

Mr MEYERS: Yes, certainly. I mean, some of those matters we have had—and I cannot remember, we are probably up to 25, 26 or it could even be closer to 30 panels at this point in time—a lot of those have resolved based on the advice they have been given by the panel members. We have had other people turn around and change farming practices that are more welfare-outcomes based. It seems to be a very positive way of trying to deal with large situations where there are a large amount of animals, thousands of animals.

The Hon. SAM FARRAWAY: We have heard from DPI about trying to restructure the Animal Welfare Advisory Council. In terms of the expertise that should be on that moving forward, and they have applications open at the moment, what level of expertise do you feel should be on that council?

Mr MEYERS: That is difficult. Obviously we want industry experts, expert veterinarians, people who can offer advice on animal husbandry and to basically put forward best practice animal care.

The CHAIR: Would you prefer to have veterinarians or experts on that panel who are not employed by any industry or the government?

Mr MEYERS: We certainly have had other vets that have given advice on panels and stuff before. I do not really have an opinion whether it is a government vet or whether it is a private practising vet.

The CHAIR: Or an industry vet?

Mr MEYERS: Yes.

The Hon. SAM FARRAWAY: Moving to a completely separate issue, we have heard on a couple of occasions that the RSPCA are too quick to euthanase animals, but I noticed in your executive summary you state that "RSPCA NSW has access to a dedicated behavioural specialist and other highly trained animal behaviourists. As an outcome of those efforts, the euthanasia rate at RSPCA NSW has been reduced by more than 60% over the last seven years." Putting that figure into context from what we have heard, clearly that is quite a significant reduction. What is highlighted is that 65% of the total is obviously for cats.

Mr COLEMAN: Correct.

The Hon. SAM FARRAWAY: Why is that, in your view?

Mr COLEMAN: If I go back to my opening about the crossover between the portfolios of Primary Industries and Local Government, we strongly believe there are mechanisms that local government can deal with and make decisions around to reduce the overall incoming numbers of cats and kittens coming to our organisation. In kitten and cat season, if I can give a sense of scale here, on any given week we are receiving in the order of 500 cats and/or kittens over our shelter counters a week. There are simply not enough homes, number one. Number two, the extent to which these animals are both microchipped and registered represents about 3 per cent.

We work with different councils to talk to the issues of cat curfews as one practical example. No one organisation or individual has the magic solution around cat management in Australia, including RSPCA. It is a difficult issue to manage. That is why any opportunities, including being objective enough—as RSPCA NSW is—to new ways to look at managing cat populations in New South Wales and abroad or around Australia, is key to ensuring that the quantity of animals that we get in terms of cats and kittens is reduced over time.

The Hon. SAM FARRAWAY: Do you feel in any government reform moving forward that DPI, LLS should play a greater role for farm production, farming operations or, in particular, livestock?

Mr COLEMAN: All I can say is that there is expertise that sits within those organisations that we rely on regularly. So as the farming sector grows or contracts and the resources through those agencies to assist with the welfare implications around that sector, if it grows or contracts is subject to standards and guidelines, in effect. That, very quickly, takes me to the other point around the Approved Farming Scheme. If today people expect farmed animals to be farmed a certain way and if the Act is 40 years old and does not keep pace with that, it is entirely reasonable, in my view, that organisations like RSPCA Australia would seek to consider programs to get standards higher than what is legally required. Perhaps if the Act was in a more contemporary form the reliance on the RSPCA Approved Farming Scheme going forward might be less.

The Hon. SAM FARRAWAY: We heard something very similar from NSW Farmers around—

The CHAIR: We will have to keep within the time. Mr Mason-Cox?

The Hon. MATTHEW MASON-COX: Gentlemen, thank you for coming in and thank you for the wonderful work you do and, in particular, your response during the recent bushfires and the continued drought. It is much appreciated by—

The CHAIR: All of us.

The Hon. MATTHEW MASON-COX: —our communities in New South Wales, and I am sure I speak on behalf of everybody here. You do a wonderful job. I want to put that on the record because I think some of the evidence we have heard over the last two days has been, in places, pretty critical of you as an organisation and I think it would be an invitation I could make perhaps on behalf of the Committee—correct me if I am wrong, Chair—

The CHAIR: Will it lead to a question?

The Hon. MATTHEW MASON-COX: Yes, it will in a moment. That perhaps you should review the evidence and some of the allegations or accusations that have been made against you and respond to those as, if you like, a question on notice from me personally: an invitation to put in a supplementary submission to correct the record in that regard.

Mr COLEMAN: It is greatly appreciated.

Mr MEYERS: Thank you.

The CHAIR: Are you willing to take that on notice and provide such a response to it?

Mr COLEMAN: Yes, thank you.

Mr MEYERS: Yes.

The Hon. MATTHEW MASON-COX: I wanted to pick up a couple of themes. First of all, the powers of the inspectorate. In regard to the training issues which were referred to by the Hon. Mark Banasiak, Mr Meyers, do you see the training that your officers have to be equivalent to the training of a New South Wales police officer in relation to accessing premises and the like?

Mr MEYERS: Certainly the training around our legislation and the power of inspectors I think is very thorough. I think all of our inspectors know exactly what powers they have to be able to enter private property when they need to apply for search warrants right through to seizing animals, the whole lot. I think they are very competent in that regard.

The Hon. MATTHEW MASON-COX: Do you receive any training from the NSW Police Force?

Mr MEYERS: No.

The Hon. MATTHEW MASON-COX: In relation to the perceived conflict of interest in regard to the operation of not only the welfare side of what you do but then the investigation and prosecution side, do you believe that you have the resources and the means and the training to do a job in relation to the investigation side of your role equivalent to the NSW Police Force?

Mr MEYERS: Yes, I do.

The Hon. MATTHEW MASON-COX: In relation to the prosecutorial role, do you believe that you have the necessary resources and training and wherewithal to actually prosecute these cases through your own means rather than through the Government using the DPP for example?

Mr MEYERS: Yes, I do.

The Hon. MATTHEW MASON-COX: Why do you say that?

Mr MEYERS: I think we put a lot of training into our preparation and then the processes where once a brief is completed by an inspector who is responsible for doing the investigation, conducting the record of interviews, compiling the brief in its entirety, they will then send that off to an external brief checker we have, who is an extremely experienced, retired prosecutor. He will then assess that and make a formal recommendation based on that through to me. I will then either approve the prosecution and from there it will go through to our legal counsel. We will also rely on police prosecutors to hear a mention if we do not have a legal counsel available. And depending on where it goes from there, if it goes to a hearing we have our own legal counsel that will conduct that hearing.

Mr COLEMAN: Can I just add to that? I do not know that there is another regulator in New South Wales that would achieve a 99.9 per cent prima facie success rate.

The Hon. MATTHEW MASON-COX: When you prosecute and if you are successful and there are fines that are levied, do you keep the fines as an organisation?

Mr COLEMAN: We seek a moiety, and it is up to the courts to determine, which means we end up with 50 per cent of the fine.

Mr MEYERS: If we get that.

Mr COLEMAN: That is if that is awarded. At any given time our organisation would be owed somewhere between \$1.5 million and \$2.5 million worth of outstanding fines. Do we think about that? No we do not.

The Hon. MATTHEW MASON-COX: So that is not a relevant consideration to whether or not you take on the prosecution of a case.

Mr COLEMAN: Correct.

Mr MEYERS: If I can just say too, based on the prosecutions—a prosecution is only one way we will deal with a matter. An animal welfare issue may be resolved just by way of giving direction and education to somebody to improve the standard of care they are providing their animals. It may also result in a formal caution—there may be extenuating circumstances as to why something has happened. So it is as much about investigating a matter and assessing what has happened. From there we also have infringement notices and prosecution is obviously the final where we will go from there. So they do not all result in prosecutions, but they can be dealt with other ways.

The Hon. MATTHEW MASON-COX: I understand. In relation to coverage, I noticed where your shelters are located and your activities; I could not see anything in the south of the State, but I presume you have got branches in the south of the State. If you could provide on notice perhaps the location of those branches? Do you have any comments in relation to coverage and your ability to cover the whole State given the location of some of your main facilities?

Mr MEYERS: Yes certainly. Our inspectors cover the entire State. Around 12 months ago we had inspectors that were doing 1,200 to 1,300 jobs per year, that is investigations or cruelty complaints, as opposed to other inspectors that were doing between 200 or 300. We set out on a mission, if you will, to rearrange boundaries throughout the State to make the workload and the investigation load more even, to try to get to—we sort of figured out a number. If we had inspectors doing anywhere between 350-450 complaints on average, and it was averaged out across the State, that was a better workload. We are only getting to our 12 months of that and based on current statistics it is fairly averaged out now compared to what used to be. For instance, in the north part of the State we have 10 or 11 inspectors and in the southern part of the State we have six.

The Hon. MATTHEW MASON-COX: Do you break it up into geographical areas?

Mr MEYERS: That is correct.

The Hon. MATTHEW MASON-COX: If you could provide us the map of those where those inspectors are, that would be useful.

Mr MEYERS: Certainly.

The Hon. MATTHEW MASON-COX: And finally, the memorandum of understanding [MoU] that you have with the Department of Primary Industries. We have asked for that to be provided to us by the DPI, just so you understand that. Can you make a comment in that regard? Do you believe that is comprehensive? Do you believe that has enough performance indicators? Do you believe various ways that it can be improved to enhance accountability and transparency between the work that you do and the Government actually receiving the benefit of that work?

The CHAIR: I ask that the question be taken on notice because we are quickly running out of time.

The Hon. MICK VEITCH: If you are taking it on notice could you also include with regard to that, the annual process for negotiating your funding which is a part of the MoU?

Mr COLEMAN: There is no negotiation.

The Hon. MICK VEITCH: On notice, what is the process? Because—

Dr WRIGHT: There is no process.

The Hon. MICK VEITCH: Okay.

The Hon. MATTHEW MASON-COX: You mentioned in your opening statement that you believe that there are areas which can be improved under the current regulatory regime. Can you identify those areas in the way you think they should be improved in order to do a better job to protect animals in the State?

The CHAIR: That is taken on notice.

The Hon. EMMA HURST: Mr Coleman, I want to go back quickly to something you said before about receiving more funding from the Government. You were concerned about a loss of independence if you did that. Is that around concerns that the government of the day, whoever that would be, would threaten to remove that funding or would want to have input? Is there a reason why you feel or is there incidents in the past that make you concerned that it would affect your independence?

Mr COLEMAN: The short answer is yes. Mr Rushton might have a view about funding arrangements.

Mr RUSHTON: Yes I do. We have talked in the abstract in a way. Well, we have not, but we have heard evidence that problems would be resolved if there is an independent office. My concern in relation to that is that—

The Hon. EMMA HURST: In your own independence?

Mr RUSHTON: Yes.

The Hon. EMMA HURST: If you got more funding from government?

Mr RUSHTON: Yes. The answer is yes. Governments can be fickle and that is one thing that the Committee has to take into account when considering whether there is going to be a new independent office because in my experience you can say it as an abstract but in practice it is very dangerous. I can say that by reference to ICAC but most recently we have had to make the point before the Committee that we are not answerable to Government we are answerable to the Parliament. To have us funded by government rather than by an independent model that can be scrutinised by everyone fundamentally undermines our independence. That can be the case with any independent body that you choose to establish that is funded by government. Tomorrow priorities can change. Tomorrow there might be competing priorities to get better treatment. The next government may decide you do not really need three teams of inspectors, you can have two. They are things that do not affect the RSPCA but faced with increased funding—

The Hon. EMMA HURST: If you take on the wrong case or you do some campaigning that upsets Government, that you would need to consider that with everything that you do.

Mr COLEMAN: It is one of those unintended consequences of improving animal welfare in New South Wales.

The Hon. EMMA HURST: I want to get your response to something that was said by other witnesses. It goes back to a question I asked beginning about one inspection on a poultry farm and one inspection on a dairy farm. Looking at your data from 2018-2019, there was 39 breeding kennels and puppy farms inspected. The accusations that have been made is that there is a much higher emphasis on companion animals than on animals used in agriculture. What is your response to that accusation?

Mr COLEMAN: We have no control over what people bring us and complain about.

The Hon. EMMA HURST: So you get a lot less complaints come through and that is why there is less inspections?

The Hon. EMMA HURST: By virtue of the statistics, that is the reflection.

The CHAIR: Mr Coleman and Mr Meyers, in the inspection conducted on animal trades report in your submission it says that there was one poultry farm inspected, is that right?

Mr MEYERS: Yes, if that is what was provided.

The CHAIR: What is the name of the farm, do you know?

Mr MEYERS: I believe it may have been the farm on Mowbray road

The CHAIR: Which is called Lakeslands?

Mr MEYERS: Yes.

The CHAIR: There are about—

Mr MEYERS: I think as a result of that, that company, there were a number of properties inspected as a result of that.

The CHAIR: Right. It was the same actual company, different sheds.

Mr MEYERS: Same company, different properties.

The CHAIR: My understanding is that there were about three or four inspectors who attended that property or other buildings on other properties over a period of several days, is that correct?

Mr MEYERS: That is correct.

The CHAIR: Did any of the inspectors seize one hen?

The Hon. LOU AMATO: If it is who I think it is, I know the owner of the property. For the record, I just want to declare it.

The CHAIR: So you are declaring an interest. Thank you very much. The question is: Did one of the inspectors or any of the inspectors seize a hen or help a hen?

Mr MEYERS: I am not aware of that.

The CHAIR: There are several questions that are going to be written to you on notice. I understand you have taken quite a few questions on notice and requests for documentation as well. Thank you very much for coming. It was extremely helpful.

(The witnesses withdrew.)

The Committee adjourned at 17:10.