

Inquiry into the RSPCA Victoria

Submission from the Australian Veterinary Association
(Victorian Division)



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30th March 2017

The AVA

The Australian Veterinary Association (AVA) is the national organisation representing veterinarians in Australia. Our 9500 members come from all fields within the veterinary profession. Clinical practitioners work with companion animals, horses, livestock and wildlife. Government veterinarians work with animal health, public health and quarantine systems while other members work in industry for pharmaceutical and other commercial enterprises. We also have members who work in research and teaching in a range of scientific disciplines. Veterinary students are also members of the Association.

The RSPCA

Anti-cruelty legislation can be traced back to 1635 when the Irish Parliament recorded the first statutory reference to animal cruelty¹. Following that, in the early nineteenth century, there were attempts to secure legal protection for animals through the English Parliament. The rights of individuals owning animals as property was enshrined in legislation but common law did not formally recognise animal rights. It was not until 1822 that the first piece of legislation giving protection to animals arose². This was known as 'Martin's Act' and empowered courts to impose fines and imprisonment for acts of cruelty towards cattle, horses or sheep³.

The first animal welfare organisation was formed in 1824 – The Society for the Prevention of Cruelty to Animals (SPCA) which consisted of two committees: one for educating and influencing public opinion in the humane treatment of animals; the other for inspecting and prosecuting cruelty cases.

In 1840 the SPCA received patronage of Queen Victoria and became the Royal SPCA (RSPCA). The colony of Victoria was the first of all Australian states in which the RSPCA formed in 1871 with all other states and territories following suit. The RSPCA is highly regarded in Victoria with most Victorians aware of its existence. The organisation is the most well-known and respected animal welfare organisation in Australia. It is an organisation that:

1. provides for the protection, veterinary care and rehoming of animals
2. advocates for the rights of animals
3. investigates and prosecutes in cases of animal cruelty, and
4. provides a legal and ethical framework for society's investment in animal welfare.

Victoria has come a long way since 1871 but there is still much to do. The replacement of the *Protection of Cruelty to Animals Act 1986* (POCTAA) with the new *Animal Welfare Act* is an opportunity to align animal welfare more closely with community expectations in providing better protection for animals and harsher penalties for those guilty of animal cruelty.

The AVA admires and appreciates the work that the RSPCA Victoria does in what is a very confronting, distressing and sometimes dangerous environment. Caring for and providing veterinary treatment to surrendered or neglected animals and then attempting to rehabilitate and rehome those animals is an arduous, endless task. For more than 150 years Victorian Governments have sought and received respected advice from the RSPCA Victoria when formulating animal welfare legislation in matters relating to animal cruelty.

The appropriateness and use of its powers pursuant to the Prevention of Cruelty to Animals Act 1986, including the context of its other objectives and activities

Recently the RSPCA Victoria conducted an independent review of their inspectorate and the final report was delivered in September 2016. As identified in this report (*Recommendation 18*), the RSPCA Victoria advocates for the authority to issue infringement notices for lower level offences that are not to the requisite level of seriousness to warrant criminal prosecution; and for failing to meet the requirements of Notices to Comply issued under Section 36G of POCTAA⁴.

The AVA supports the RSPCA Victoria in the acquisition of these powers and believes this should happen as soon as practicable to ensure that the RSPCA Victoria's resources can be used more effectively. The AVA further believes that improved powers of entry be considered to enable the RSPCA Victoria Inspectorate to perform its duties effectively and efficiently.

The appropriateness and use of its funding provided by the Victorian Government, including its other objectives and activities

Funding

The RSPCA Victoria receives \$1 million annually from the Victorian Government and in addition will receive \$5 million (spread over four years 2016-2019) to assist in cracking down on puppy farms. This grant is to fund the RSPCA Victoria's Special Investigation Unit which investigates intensive breeding facilities.

In the 2015/16 financial year, the RSPCA Victoria had an expenditure of \$37,553,000 with \$22,622,000 being spent on animal welfare. They recorded a loss of \$2,683,000 and the year before that recorded a loss of \$3,248,000. Bequests, fundraising, retail sales and government grants generated \$33,931,000 in income⁵. It is concerning that the RSPCA Victoria continues to operate at a substantial loss and this must ultimately threaten its long-term survival. The significant and continual annual financial shortfall must also threaten the Inspectorate's ability to effectively protect animal welfare in Victoria.

Inspectorate costs in 2015/16 totaled \$5.9 million which included legal fees, caring for seized animals rescued from cruelty, large scale operations, the daily costs of keeping the RSPCA Victoria's inspectors on the road and in the community, their Special Investigations Unit, equipment and prosecution costs⁵.

Animal cruelty reports received by the RSPCA Victoria rose to 12,022 during 2015/16, which was an increase of 12% from the previous year. Within those reports, 21,345 animal cruelty offences were reported and of those 1,146 charges were laid which was an increase of 232% from the previous year⁵. In addition to this, DEDJTR received over 1000 complaints for investigation by department officers in relation to livestock – which they are responsible for investigating.

Staffing of the RSPCA Victoria's Inspectorate consists of a Manager, four Senior Inspectors, 19 Inspectors and three support roles⁵. These numbers are reduced by vacancies and leave arrangements at any one time. The RSPCA Victoria's Inspectorate is required to cover the whole of Victoria. On week days, 8-10 inspectors will be on duty, however weekend responsibilities across the state are covered by only one inspector on call.

The Government's contribution falls well short of effectively running the RSPCA Victoria's Inspectorate, which is of course part of a non-profit charity – not a government agency. This means that the RSPCA Victoria must secure a large amount of money from bequests, donations and fundraising, in order to administer and enforce a Victorian Act of Parliament (POCTAA) on behalf of the government. This is of concern, as enforcing legislation on behalf of the government should be appropriately resourced. **To the best of our knowledge, no other legislation in Victoria is reliant on the fundraising activities of a non-profit organisation in order to be enforced.**

The AVA is firmly of the position that the Director of Public Prosecutions should prosecute animal cruelty cases after the RSPCA Victoria has prepared briefings. The RSPCA Victoria, in prosecuting cases, runs the risk of having costs awarded against them, and this has in fact already happened in the past. The state of Victoria should take responsibility for protection of its animals and prosecute perpetrators of animal cruelty. Society has an expectation that this will be the case. The link between perpetrators of animal cruelty and domestic violence is well documented and therefore the Director of Public Prosecutions should be taking responsibility for the safety of our community and its animals. It is unfathomable that the day may come when the RSPCA Victoria is bankrupted by the cost of funding legal proceedings causing the state's ability to protect its animal welfare to be compromised.

Importantly, one of the recommendations of the Western Australian Parliament's *Select Committee into the Operations of the Royal Society for the Prevention of Cruelty to Animal Western Australia (Inc)* was 'that the Animal Welfare Act 2002 be amended for indictable aggravated cruelty offences, prosecuted by the Director of Public Prosecutions.'

Objectives and activities

Recommendation 21 of the RSPCA Victoria's Independent Review, recommended that the RSPCA Victoria, while continuing its legitimate advocacy role, will discontinue its public activist campaigning against the existing laws of this State⁴. This has been realised by the RSPCA Victoria and the AVA is comfortable with this recommendation. As a partially government funded non-profit organisation, public activism against existing state laws does not seem appropriate. Having policy positions and advocating for change to current legislation by lobbying government through appropriate channels is encouraged; but public demonstrations and advertising campaigns against current laws should not be part of the RSPCA Victoria's business. The RSPCA Victoria may lose important donor funding by implementing this recommendation and that should also be noted by government.

References

1. Thomas Wentworth's *Act against Plowing by the Tayle, and Pulling the Wooll off Living Sheep* (1635) cited in Cao, Deborah, 'Historical development of animal law', *Animal law in Australia*, Lawbook Co., Pyrmont, NSW, 2015, p 61.
2. *Act to Prevent the Cruel and Improper Treatment of Cattle* [1822] 3 Geo IV, c 71. Cited in Katheryn Shevelow, *For the love of animals: The rise of the animal protection movement*, Henry Holt and Company, New York, 2008, pp 182-197
3. In reference to its sponsor, Richard 'Humanity Dick' Martin (1754-1834) MP for Galway in Ireland, sitting in the House of Commons. Cited in: D R Fisher, 'Martin, Richard (1754-1834)', in D R Fisher (ed.), *The history of Parliament: the House of Commons 1820-1832*, Cambridge University Press, Cambridge, 2009, p 367
4. Independent Review of the RSPCA Victoria Inspectorate – Transformation of the RSPCA Victoria Inspectorate, Final Report 1 September 2016, Neil Comrie AO, APM, Senior Reviewer
5. The RSPCA Victoria Annual Report 15/16