

8 September 2017

Hon. Matthew Swinbourn MLC
Chairman
Standing Committee on Environment and Public Affairs
Legislative Council Committee Office
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

By email: lcco@parliament.wa.gov.au

Dear Chairman

Petition No. 13 - *Animal Welfare Act 2002*

Thank you for your letter of 17 August 2017 and for the opportunity to comment on the terms of the petition by Charlotte Armstrong and the supporting letter from the Hon. Alanna Clohesy MLC, who tabled the petition in the Legislative Council.

The petition arises out of the recent prosecution by WA Police under the *Animal Welfare Act 2002* (Act) in connection with the stabbing of the dog 'Luna'. RSPCA WA understood the strong community concern around those events. Our Chief Executive Officer stated at the time:

"We heard from so many people in the aftermath of Luna's stabbing, who all expressed outrage at this senseless cruel act. While we need to respect the court's decision, this horrible case has highlighted just how much the community finds cruelty towards animals totally unacceptable."

As RSPCA WA Inspectors bring prosecutions under the Act, it is not appropriate for us to comment on individual sentences handed down by the Magistrates Court. However, this case and the petition highlight the need for the proposed review of the Act to be given priority to ensure that, amongst other things, the law reflects current welfare standards and community expectations.

Review of the Act

For a number of years, RSPCA WA has been making submissions to the Government for a review of the Act to be undertaken (see for example RSPCA WA submission to the 2015 *Easton Review*). We consider that there are a wide range of legislative reforms required to bring about improvements in animal welfare standards.

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We have been advised by the Department of Primary Industries and Regional Development (DPIRD) that a review of the Act will be undertaken in 2017/18, but no further information has been released on this reform. As a major stakeholder in animal welfare in Western Australia, we look forward to engaging extensively on the review of the Act. As part of the Standing Committee's Inquiry, RSPCA WA would support a recommendation for the review of the Act to be given priority.

Specific issues

The letter and petition raise matters that require detailed consideration and consultation during the review of the Act. However, RSPCA WA would like to comment briefly on some of the key issues as follows.

Petition

- *Inadequate penalties provisions and inadequate penalties*

As indicated, because RSPCA WA Inspectors bring prosecutions under the Act, it is not appropriate for us to comment on sentences handed down by the Magistrates Court or comparative sentencing across the Magistracy.

Letter from Hon. Alanna Clohesy MLC

- *Lack of publicly accessible records and information regarding animal cruelty prosecutions, trial outcomes and sentences*

RSPCA WA collects and maintains records from prosecutions commenced by its Inspectors. This information is used by prosecutors acting in such prosecutions to assist the court in determining sentencing.

Whilst the vast majority of animal cruelty prosecutions are commenced by RSPCA WA Inspectors, other bodies such as WA Police and DPIRD commence prosecutions from time to time. Where requested, RSPCA WA has shared comparative sentencing outcome information with WA Police and also provides all sentencing outcomes to them, for criminal records to be updated.

RSPCA WA has also commenced providing to DPIRD the outcomes of all prosecutions commenced by its Inspectors. However, we are not aware of whether this information is currently collated by DPIRD, along with the prosecution outcomes from other general inspectors. We suggest that it would be beneficial if DPIRD took this step. 2015 The *Easton Review* made recommendations in relation to the co-ordination of work under the Act by DAFWA (as DPIRD was then named) and RSPCA WA supports those recommendations.

- *Records of individuals banned and powers available to enforce those bans (no rights to enter property unless fresh cruelty concerns)*

As indicated above, RSPCA WA collects and maintains records from prosecutions commenced by its Inspectors, including prohibition orders made under section 55(2)(a) of the Act.

This information is used by RSPCA WA Inspectors when responding to new reports of cruelty or information in relation to people being in breach of a prohibition order. In our submission to the *Easton Review* we highlighted issues with the enforcement of prohibition orders as follows:

Prohibitions - section 55(2)

The court may prohibit an offender from being in charge of or having contact with any animal.

Pursuant to section 55(4) the offender must comply with such court order. Failure to comply results in a breach of the court order under section 55(2), under which a fine or prison sentence can be imposed. However, the powers of the inspector under Part 3 of the Act no longer apply and the inspector has no ability to seize an animal in the possession of the person charged.

To remedy this, an offence could be created under Part 3 that allows inspectors to use their powers to seize an animal when there has been a contravention of a court order.

Therefore, RSPCA WA supports this concern raised by the Hon. Alanna Clohesy MLC and recommends this is addressed in a review of the Act.

- *Given the apparent lack of information available regarding allegations and findings of animal cruelty under the Animal Welfare Act 2002 there is a need to gather conviction and sentencing outcomes to determine what action is needed and to address community concerns*

As indicated above, RSPCA WA supports a recommendation that the administering Department co-ordinates and collates this information consistently with the *Easton Review* recommendations.

Thank you again for the opportunity to comment on these important issues.

Yours sincerely



**Lynne Bradshaw
President**