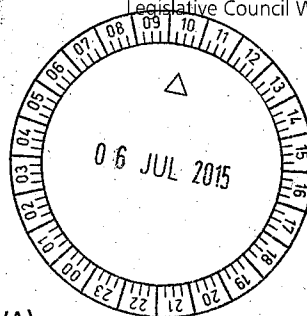


E-MAILED
03/07/15



Select Committee into the Operations of the RSPCA (WA)
Attn: Samantha Parsons
Committee Clerk
Legislative Council
Parliament House
GPO Box A11,
Perth, WA 6837

To Whom it May Concern,

Re: Select Committee Inquiry into the Operations of the RSPCA

Thank you for the opportunity to provide feedback to the Select Committee inquiry into the Operations of the Royal Society for the Prevention of Cruelty to Animals Western Australia "RSPCA (WA)".

The RSPCA is a highly valued and well respected charity globally, nationally and within Western Australia. It can be argued that public engagement with the charity has continued to grow annually, through financial contributions, attendance at events and through social media. In the 2013/14 financial year, more than 36,000 members of the public made a financial contribution to RSPCA (WA).

RSPCA (WA) undertakes vital work in WA protecting and promoting the welfare of animals, as well as physically caring for a number of abandoned companion animals in its shelter. There is a prominent community expectation for the RSPCA to speak up on key animal welfare issues, lead debate and provide a voice for animals.

The Greens (WA) consider cruelty to animals as a critical state and national issue that needs to be appropriately addressed. Consistent with this, the Greens (WA) have a strong policy position regarding animal welfare. This policy outlines that animals are sentient beings with intrinsic worth and that humans have a responsibility to minimise any suffering of animals caused by human activities. Humans should also maximise animal's quality of life by implementing the five basic freedoms;

- 1) Freedom from hunger and thirst;
- 2) Freedom from discomfort;
- 3) Freedom from pain injury and disease;
- 4) Freedom to express normal behaviour; and
- 5) Freedom from fear and distress.

In addition to these key elements of the Greens (WA) animal policy, there are three aims that are particularly relevant in regards to the role and responsibility of the RSPCA (WA).

These aims are;

- The adoption of legally enforceable codes of practice to protect the welfare of animals used in agriculture
- Adequate resources to be provided for the inspection and prosecution of persons and businesses suspected of animal cruelty
- Cruel acts and practices against animals to be treated as serious crimes for corporate and private offenders.

In light of this context, I appreciate the opportunity to provide a public submission to this inquiry, with a particular focus on the three key elements outlined; RSPCA's funding from the government, its objectives and the use of its powers.

1. Funding from the Government

The RSPCA (WA) received \$500,000 in the last financial year from the State Government to undertake a number of specific responsibilities on the behalf of the Government. This arrangement has been formalised through a Memorandum of Understanding (MOU) between the two parties.

The RSPCA (WA) receives this funding, subject to the terms and conditions of a Funding Grant, which is administered by Department of Agriculture and Food WA (DAFWA). These terms and conditions would be similar to any other Funding Grant provided to any number of other charities and organisations that are undertaking activities on behalf of the State Government.

RSPCA (WA) publishes a comprehensive Annual Report and also provides DAFWA with a separate detailed acquittal report each year for the funds it receives from the State Government.

Within forty (40) business days of the end of each reporting period, RSPCA (WA) provides DAFWA with a completed and signed annual report on the project, which is to include:

- a) A final statement of income and expenditure, consisting of an expenditure statement detailing budgeted expenses, in accordance with the approved purpose of the grant and actual expenditure on the project described in the request to the grant; and
- b) A detailed report outlining:
 - i) An overview of organisational activity and any significant steps taken to improve processes in the regulatory arena
 - ii) Details of Inspector training undertaken, including the names of inspectors and the specific training undertaken -
 - iii) Evidence of public education and promotion of responsible companion animal ownership, such as press releases, new articles, publications, etc.
 - iv) Relevant stakeholder engagement activities undertaken.

Financial statements are certified by the CEO and an Auditor. The RSPCA (WA) has an independent auditor that undertakes work carried out as required within the DAFWA Grant Agreement.

It is evident that a high number of checks and balances exist to ensure that the RSPCA (WA) is complying with the conditions of the Funding Grant and it appears that the RSPCA (WA) is complying with all of these conditions.

If additional conditions are required by the State Government, then they could be written into the Grant Agreement at the most appropriate opportunity, and communicated to the RSPCA (WA) to ensure they continue their compliance.

2. RSPCA's Objectives

The community's expectation is that the RSPCA is the leading authority on animal welfare and is the compliance and enforcement body focused on 'policing' animal welfare. The RSPCA's objectivity, independence and specialist knowledge and expertise in the area is highly regarded.

The RSPCA (WA) defines its purpose as to:

- Promote animals welfare and kindness to animals
- Prevent or suppress cruelty to animals
- Do all such lawful acts as the Society may consider conducive or incidental to the attainment of these purposes

It could be argued that the RSPCA (WA) has two masters; as it is required to comply with obligations associated with State Government funding, and it is required to adhere to the social contract between the charity and its supporters that are members of the public.

The RSPCA has been empowered by the State Government to enforce elements of the *Animal Welfare Act 2002*. However, the RSPCA is also a registered charity with over 90% of its funding provided by donations. Therefore, outside of the duties that it is empowered to undertake through the formal MOU, additional objectives and campaigns are at the charity discretion.

This has been recognised by the State Government on the DAFWA's website, as it states "DAFWA acknowledges that the RSPCA may have or advocate policies that differ from those of the Western Australian Government. However, the RSPCA separates their compliance and enforcement role and policies for their other policies."¹

The RSPCA (WA) is supported by the community and it is required to act according to the community's expectations. Therefore, if the charity chooses to dedicate funding (provided by members of the community) towards a campaign that is important to the community then, this is separate to its arrangement with the State Government. An example of this maybe the Ban Live Animal Exports campaign or the campaign against recreations hunting on public land in WA.

It is important to note, that as the RSPCA is an incorporated not-for-profit organisation, and it is independently audited and accountable to a wide range of existing legislation that are relevant to not-for-profit organisations. Example of legislation that the RSPCA (WA) is accountable to includes, but is not limited to; the Associations Incorporated Act, Charitable Collections Act and Freedom of Information Act.

In addition to this, the RSPCA's main governing body is its board comprises of 12 members, seven are elected and five are appointed if they advance the purpose of the RSPCA. This board determines strategic ways forward and develops state and local level policy, all of which must be in accordance with the code of conduct and the RSPCA (WA) incorporated rules. The code of conduct and the RSPCA (WA) incorporated rules are both available publically on the RSPCA (WA) website.

3. Use of its powers

As previously mentioned, the RSPCA has been empowered by the State Government to enforce elements of the *Animal Welfare Act 2002*.

¹ Department of Agriculture and Food WA. 2015. Animal Welfare Roles and Responsibilities. Last Accessed 29 June 2015 from <https://www.agric.wa.gov.au/animalwelfare/animal-welfare-roles-and-responsibilities?page=0%2C1>

As detailed on DAFWA's website, the RSPCA's enforcement and compliance responsibilities under the Act include:

- Receiving and investigating complaints of animal cruelty
- Undertaking inspections and other compliance activities for non-commercial livestock and companion animals
- Educating members of the public on responsible pet ownership practices
- Conducting enforcement activities, including prosecution where appropriate.²

The RSPCA (WA)'s inspectorate is primarily the compliance and enforcement arm of the organisation and operates pursuant to the provisions of the *WA Animal Welfare Act 2002*.

The Inspectors under the Act are appointed by DAFWA. The MOU in place between DAFWA and RSPCA (WA) to manage the legislative responsibilities and obligations, provide transparency and accountability, and to ensure consistency in the general operations of Inspectors.

Generally, if there has been an allegation made against a person or persons in regards to animal cruelty an inspector will be dispatched to investigate the incident. If an Inspector wants to enter a property they must apply for a warrant, if they are not granted access from the property owner. Warrants can only be issued by a Justice of the Peace.

Further to this, when an Inspector seizes an animal the owner can:

- Ask the Minister for Agriculture to order its return; or
- Have the seizure reviewed in the State Administrative Tribunal; or
- Apply to a Magistrate for the return of the animal.

Prosecutions and applications for forfeiture of animals are presided over by Magistrates. Anyone who is unhappy with a decision of a Magistrate can appeal to a higher Court.

The RSPCA (WA) animal cruelty statistics from 1 July 2013 to 30 April 2015.

	FY 2013/14	2014/15 YTD
Calls to cruelty line	20,749	14,076
Investigations carried out	6,113	4,690
Successful prosecutions	22	23
Unsuccessful prosecutions	0	0

With the high number of successful prosecutions that the RSPCA has brought to the WA Judicial system, it can be argued that the RSPCA is successfully fulfilling its obligation to the State Government to enforce the animal welfare act, through suitable and necessary means.

The RSPCA's WA Compliance, Enforcement and Prosecution Policy is publically available on the RSPCA's website or at http://www.rspcawa.asn.au/RSPCA_WA_Prosecution_Policy.pdf

It is clear that Western Australian's care very deeply about protecting animals from cruelty, which is demonstrated with the continued engagement with an animal welfare charity such as the RSPCA (WA).

² Department of Agriculture and Food WA. 2015. Animal Welfare Roles and Responsibilities. Last Accessed 29 June 2015 from <https://www.agric.wa.gov.au/animalwelfare/animal-welfare-roles-and-responsibilities?page=0%2C1>

The Greens (WA) believe that the RSPCA (WA) should continue to be supported by the State Government to undertake its important role under the *Animal Welfare Act*. The Greens (WA) also support a truly independent review of Animal Welfare in WA to be undertaken of the role played by DAFWA in reducing incidents of animal cruelty in the state.

An independent Animal Welfare Review should consider the number of successful prosecutions led by the RSPCA, in comparison to the limited successes of DAFWA, with zero successful prosecutions in 2013/14.

The Committee may wish to consider whether increased transparency through tabling of the RSPCA acquittal reports may address any concerns about accountability raised by other Members during debate on the motion to establish this inquiry.

Thank you again for this opportunity to contribute feedback and I look forward to the release of recommendations and findings from this inquiry.

Kind regards

A handwritten signature in black ink, appearing to read 'Lynn E MacLaren', written in a cursive style.

Hon Lynn MacLaren MLC
Member for South Metropolitan Region
3 July 2015