

Hon Peter Foster MLC
Chair
Standing Committee on Environment and Public Affairs
By email: env@parliament.wa.gov.au

29 September 2022

Dear Hon Peter Foster,

Re: Petition No.50 - Minimum Penalties for Animal Abuse

RSPCA WA is grateful that the committee bring Petition No.50 to our attention and for the opportunity to comment. RSPCA WA understands the motives behind the Petition and commends Ms Kramara for acting to improve animal welfare.

Penalties for offences of animal cruelty are set out in section 19(1) of the *Animal Welfare Act 2002*. If found guilty of cruelty to an animal, the minimum penalty per offence is a \$2000 fine. Enforcement of current minimum penalties is marginal and there is speculation that legislative intent behind increased penalties will not be reflected in the decisions handed down in the Magistrates' Courts.

In May 2019, the McGowan Government commissioned the Independent Review of the operation and effectiveness of the *Animal Welfare Act 2002*. RSPCA WA believes an effective Animal Welfare Act should promote the welfare of animals by focusing on a person's duty of care towards animals for which they are responsible, rather than prohibiting acts of cruelty towards animals.

RSPCA WA played an integral part in the review process, working extensively with the Animal Welfare Act review panel and was pleased to see many of the recommendations put forward by RSPCA WA supported. The panel produced a comprehensive report containing 52 recommendations.

Recommendation 38 related to penalties and stated that:

The Panel recommends the *Animal Welfare Act 2002* be amended to include indictable aggravated cruelty offences for acts of cruelty that:

- (a) If committed by an individual, are committed intentionally and which do in fact result in, or which are capable of resulting in, serious harm to, or death of, the animal.
- (b) If committed by a corporation, are committed intentionally or recklessly and which do in fact result in, or which are capable of resulting in, serious harm to, or death of, the animal.
- (c) Impact adversely upon a large number of animals, even where the resultant harm to each individual animal may not be individually be described as 'serious harm'.

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for the Prevention of
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The Government Response to the Review recommendations has identified five key areas of reform including:

1. Modernise the *Animal Welfare Act 2002*
2. Strengthen the authority and capability for animal welfare inspectors
3. Deliver more efficient and effective law enforcement
4. Seek independent advice and expertise
5. Provide open and effective communication.

An increase in minimum penalties was not a part of the recent review process. It seems unlikely that further review will be held. There is also a significant risk that an attempt to now revisit the issues addressed by the panel will delay the current process of legislative reform.

I also note that the penalty of a CBO was also available instead of a fine of \$2000 by reason of s 42(2a) of the *Sentencing Act 1995*. This disposition is always available. To change this position would require amendments to the *Sentencing Act 1995* to create an express exclusion from its operation solely for the *Animal Welfare Act 2002*.

Yours sincerely,



Lynne Bradshaw
Chair of RSPCA WA

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