



**Royal Society for the Prevention of Cruelty
to Animals Western Australia (Incorporated)**

Response to further evidence submitted by
Department of Agriculture and Food WA
dated 10 March 2016

Legislative Council Select Committee into the
Operations of RSPCA WA

24 March 2016

Introduction

On 15 March 2016, RSPCA WA became aware from reviewing the webpage of the Select Committee into the Operations of RSPCA WA (Committee) that the Committee had recently directed questions to a number of previous witnesses, including the Department of Agriculture and Food (DAFWA).

A response was provided to the Committee by Mr Peter Metcalfe, A/Director General for DAFWA on 10 March 2016.

Aspects of that response relate directly to RSPCA WA Inspectors. Therefore, in the limited time available, RSPCA WA has prepared the following submission. It is numbered in accordance with the DAFWA letter of 10 March 2016 and extracts the relevant material from that letter.

General Inspectors appointed under the *Animal Welfare Act 2002* - response 4

General inspectors appointed under the *Animal Welfare Act 2002*

4. RSPCA Chief Inspector Amanda Swift in her evidence to the committee on 23 November 2015 states "...they [rangers] do not adhere to the *Animal Welfare Act* at all. The *Animal Welfare Act* for them is basically getting into back gardens because they are not allowed to. That is the truth of the matter. I see it day in day out." Ms Swift appears to later clarify her evidence to limit her comment to the poor working relationship between the RSPCA WA and the rangers from the City of Wanneroo.

RSPCA WA has submitted a letter to the Committee dated 10 March 2016 clarifying its position on this issue.

General Inspectors appointed under the *Animal Welfare Act 2002* - responses 4 and 6

With the exception set out below, no complaints, or statutory objections regarding the exercise of powers by general inspectors, have been received by DAFWA in relation to decisions made by general inspectors employed by a Local Government Authority (LGA). The only exception was a letter from RSPCA Chief Inspector Amanda Swift on 26 August 2015 in relation to City of Wanneroo rangers. In that letter Ms Swift did not raise the issue of the alleged widespread general abuse of the *Animal Welfare Act* by rangers.

Ms Swift's letter provides examples from 2013, 2014 and 2015 where she identifies a number of issues, some of which she alleges made it impossible for the RSPCA inspector to proceed with the investigation. Had the issues in relation to LGA general inspectors been brought to DAFWA's attention at the time they would have been investigated and where necessary appropriate action taken. DAFWA did however receive a complaint and a statutory objection was lodged with the Minister for Agriculture in relation to the 2013 matter. This complaint related to the actions of the RSPCA general inspector and not a City of Wanneroo general inspector.

The letter of 26 August 2015 referred to by DAFWA was tabled at the Select Committee hearing with RSPCA WA on 23 November 2015 (Tabled Paper 2). That letter was directed to specific issues with the City of Wanneroo.

However, RSPCA WA wishes to comment on the statements that:

- *“no other complaints or statutory objections regarding the exercise of powers by general inspectors have been received by DAFWA in relation to decisions made by general inspectors employed by a Local Government Authority”;* and
- *“Had the issues in relation to LGA general inspectors been brought to DAFWA's attention at the time they would have been investigated and where necessary appropriate action taken.”*

RSPCA WA submits that it has repeatedly brought to the attention of DAFWA, as administrators of the Act, ongoing issues with local government inspectors from the City of Wanneroo as outlined below.

March 2013 -

Wanneroo

- This incident was detailed in the letter to DAFWA from Chief Inspector Amanda Swift dated 26 August 2015 (Tabled Paper 2, Select Committee hearing 23 November 2015).
- DAFWA states that it *“received a complaint and a statutory objection in relation to this matter but it related to the actions of the RSPCA general inspector.”*
- DAFWA's response to this question fails to mention that in addressing that matter RSPCA WA made it clear to Sarah Wylie of DAFWA that it had serious concerns with the conduct of the City of Wanneroo rangers.
- **Attachment 1** is an email from _____ dated 26 March 2013 responding to the complaint and objection. Page 4 of this email details the issues with the conduct of the City of Wanneroo rangers.
- RSPCA WA seeks that **Attachment 1** be accepted as private evidence given that it discloses confidential investigative material including the names and addresses of potential persons of interest and potential witnesses.
- Consequently, RSPCA WA submits that DAFWA was aware of the concerns held by RSPCA WA Inspectors with respect to the conduct of the City of Wanneroo rangers in March 2013.

June 2014 -

Horse incident

- This incident was detailed in the letter to DAFWA from Chief Inspector Swift dated 26 August 2015 (Tabled Paper 2, Select Committee hearing 23 November 2015, page 3).
- DAFWA LCU Inspector Ostle issued the Direction Notice in this matter. Following the lapse of the compliance period the Wanneroo rangers also became involved in this matter.
- Charlotte McIntyre of DAFWA was also directly involved in this matter and would have been aware of the issues at this time.
- RSPCA WA submits that it may have been appropriate for DAFWA, as the administering agency, to review the situation and work towards improving co-ordination across general inspectors from various bodies.
- In this respect, RSPCA WA directs the Committee to the findings of the Animal Welfare Review Panel at page 18.

October 2014 - Operational Concerns

- On 16 October 2014, Chief Inspector Swift telephoned a ranger representative from the City of Wanneroo. She requested a meeting with senior management to discuss the recent problems with operational issues and breaches in the enforcement of the *Animal Welfare Act 2002* (the Act) by their rangers.

- On 27 October 2014, Chief Inspector Swift received a letter from the City of Wanneroo's Director City Businesses, Chris Morrison, agreeing to meet to confirm the roles and responsibilities of RSPCA WA inspectors and City of Wanneroo rangers. A copy of this letter is at **Attachment 2**. The letter was copied to Charlotte McIntyre of DAFWA (see notation on letter).
- A meeting between the two organisations took place on 7 January 2015.
- Following the meeting, Chief Inspector Swift contacted Charlotte McIntyre in relation to the continuing issues. Charlotte acknowledged there were issues between the two organisations, but indicated there was a reluctance for DAFWA to be involved at that stage.
- With respect to the City of Wanneroo letter of 27 October 2014 and associated records, DAFWA's further evidence states:

I note John Flint's response to the committee, to questions on notice in relation to his evidence, provides a number of documents from the City of Wanneroo over the period of 2014 and 2015 where the City has attempted to resolve the differences between the two organisations and forge an improved working relationship. DAFWA has not been involved in the issue nor been invited to participate by either party.

In response to this, RSPCA WA states:

- Charlotte McIntyre was copied into this letter and discussed it with Chief Inspector Swift. Therefore, DAFWA was aware of the issue.
- RSPCA WA had instigated the discussions in an attempt to resolve the differences between the organisations and improve the working relationship. The letter of 27 October 2014 followed a call from Chief Inspector Swift, in which she sought a meeting to resolve these issues, as referred to above.
- RSPCA WA submits that it may have been appropriate for DAFWA, as the administering agency, to review the situation and work towards improving co-ordination across general inspectors. In this respect, RSPCA WA directs the Committee to the findings of the Animal Welfare Review Panel at page 18.

June 2015 - RSPCA WA and DAFWA meeting

- On 17 June 2015, a meeting took place with DAFWA representatives Maike Dorne, Michelle Rodin and Kevin Chennell and RSPCA WA representatives Chief Inspector Swift and David van Ooran, Chief Executive Officer, at RSPCA WA's offices.
- The matters discussed included interaction with City of Wanneroo rangers and a specific case of a sheep with a broken leg. DAFWA advised the meeting that the City of Wanneroo rangers had told the Department that RSPCA WA refused to deal with this type of job and therefore DAFWA had assumed responsibility.
- Chief Inspector Swift explained that RSPCA WA inspectors were concerned that the City of Wanneroo rangers had failed to follow correct procedures in dealing with the sheep prior to seeking to transfer the matter. The specific concerns expressed to the City of Wanneroo Rangers and relayed to Maike Dorn were:
 - (i) Was the person of interest appropriately advised of his rights under the *Animal Welfare Act 2002* by the local government rangers?
 - (ii) Was the animal fit to load and transport?
 - (iii) Was the animal immediately given veterinary treatment, or was there a period of time at the rangers' pound where the sheep had been left without treatment?

- (iv) Was appropriate notification left with the person of interest regarding the seizure of the animal?
- (v) Was the person of interest cautioned and interviewed and appropriate contemporaneous notes signed?
- (vi) Was a waybill completed with both the Property Identification Code (PIC) of consignment and PIC of destination?
- Chief Inspector Swift asked DAFWA to investigate the matter further and it was agreed that the parties would meet again.

July 2015 - Wanneroo

- This incident, as detailed in the letter to DAFWA from Chief Inspector Amanda Swift dated 26 August 2015 (Tabled Paper 2, Select Committee hearing 23 November 2015), led to Chief Inspector Swift raising the issues formally with DAFWA through that correspondence.

October 2015

- In October 2015, DAFWA referred documentation to RSPCA WA as part of a third party consultation under the *Freedom of Information Act 1992*.
- The material comprised a complaint from the City of Wanneroo concerning dealings with RSPCA WA Inspectors including the 2013 matter.
- RSPCA WA was not advised of this complaint nor consulted by DAFWA when it was submitted. It only saw the complaint material as part of the third party consultation in October 2015.
- As far as RSPCA WA is aware, the complaint was lodged, but not investigated further by DAFWA.
- However, it is clear that in October 2015, DAFWA was again made aware of issues between RSPCA WA general inspectors and the City of Wanneroo rangers.

General Inspectors appointed under the *Animal Welfare Act 2002* - response 5

5. DAFWA has provided Local Government inspectors with access to the online training module since it was developed in late 2011. In late 2015, the 'Regulatory Role' online training module (which originally had a *Biosecurity and Agricultural Management Act* focus and was only available internally) was amended, so it can be provided to all animal welfare inspectors and nominees in 2016. The content of the online course has previously been provided to the Committee.

66 LGA personnel have completed the online course to support their appointment as general inspectors.

RSPCA WA submits that the online training course is a basic introduction to the *Animal Welfare Act 2002* (the Act) only and does not qualify a person to understand or administer the Act. RSPCA WA Inspectors receive substantial supplementary training, including training with respect to evidence gathering and similar law enforcement subjects, along with a Diploma in Government Investigations and a Certificate IV in Government Investigations. RSPCA WA has previously provided to the Select Committee full details of the training undertaken by RSPCA WA Inspectors.

RSPCA WA Inspectors also have the benefit of the following tools and procedural manuals:

- Standard Operating Procedures
- Inspectorate Health & Safety Working Instructions
- Prosecutions Policy
- Inspectorate Animal Welfare Decisions Chart
- Legislative Framework

RSPCA WA has instigated and developed this ongoing training for its general inspectors and dedicated substantial resources into the supporting materials.

As far as RSPCA WA is aware, Local Government general inspectors do not have the benefit of the same extensive training and materials. RSPCA WA is of the view that there should be a higher level of standardised training for all general inspectors.

RSPCA WA highlights the evidence of the WA Rangers Association to the Committee in relation to the issue of training where they stated:

Since the Department of Agriculture has taken over, there has been limited training available to new and existing General Inspectors. Easier access to information and guidelines need to be a priority. This also relates back to sufficient training. (Letter from Dene Lawrence, President, WA Rangers Association, 4 March 2016).

In 2011/2012, DAFWA delivered three workshops on the *Animal Welfare Act* at Busselton, Wanneroo and Roebourne to an estimated 25 LGA staff.

In 2013 two sessions on direction notice training were provided by DAFWA to all general inspectors. Remote inspectors were able to attend via phone or video link. LGA inspectors attended both sessions.

RSPCA WA inspectors attended the Direction Notice training. There were subsequent issues with that training relating to sections 40(1)(b) and 47(1)(j) of the Act. Consequently, RSPCA WA made requests to DAFWA for a refresher course covering aspects of Direction Notice training but this has not been provided to date (see evidence of Chief Inspector Swift, 7 September 2015, transcript pages 17 & 18).

Culverwell v Ginbey - Response 8

8. The Inspector Governance Framework will address the issue of the prosecutorial position of general inspectors employed by the RSPCA. DAFWA has already begun the process and has sought advice from the State Solicitor's Office. Further work will require increased resourcing.

RSPCA WA is not aware of the Inspector Governance Framework which it appears will affect general inspectors employed by the Society and would welcome further information on this.

Conclusion

DAFWA is responsible for the administration of the Act. Therefore, over a number of years, RSPCA WA has repeatedly brought to DAFWA's attention issues relating to City of Wanneroo rangers, as detailed in this submission and the letter from Chief Inspector Swift to Kevin Chennell of DAFWA, dated 26 August 2015.

RSPCA WA submits it is essential that these issues are considered in the wider regulatory context. In particular, the problems have arisen because, although local government rangers are appointed as general inspectors under the Act, they do not have the necessary specialised training, infrastructure and legal and other resources to undertake enforcement activities under the Act. As the letter from DAFWA states:

Through the DAFWA RSPCA policy group, attended by representatives of the WA Rangers Association, DAFWA has offered to provide further training to LGA general inspectors. The Rangers Association did not see training as necessary as they undertook very little in the way of enforcement of the Animal Welfare Act. The general consensus from rangers was that they had limited resources and animal welfare was not their prime focus.

The WA Rangers Association has given evidence to the Committee that:

The workload for Local Government Rangers has increased over the years with various extra Acts and Regulations they need to administer. There are a significant number of Local Governments that do not get involved with Animal Welfare due to this reason. There are a significant number of Local Governments that are not supportive of their resources being used for what is essentially a State Government responsibility, specifically their staff being authorised as General Inspectors under the Animal Welfare Act. (Letter from Dene Lawrence, President, WA Rangers Association, 4 March 2016).

At a day to day level, local government rangers attend to deal with animal welfare issues and, after an initial assessment or preliminary enforcement activity, regularly contact RSPCA WA and request they attend and take over the job.

It is noteworthy that RSPCA WA is not advised by DAFWA of the identity of other general inspectors under the Act. Therefore, when attending jobs, RSPCA WA Inspectors are not aware whether the local government rangers they are working with are also general inspectors.

When RSPCA WA inspectors are brought in by local government rangers from the initial attendance, a better outcome is usually achieved. Where matters are transferred later, problems can arise due to the lack of training in evidence gathering and investigations for local government rangers. This occurred in the March 2013 and June 2014 situations with the City of Wanneroo rangers, referred to above. For example, in the March 2013 matter, the rangers failed to identify and caution relevant people and there was uncertainty as to the legal basis upon which the dog was removed. Further, the rangers' statements were of a poor quality and missing vital information such as exhibit movements and notebook entries. As a result, RSPCA WA inspectors were unable to proceed with the investigation and potential prosecution.

RSPCA WA is reluctant to routinely accept the transfer of matters from local government rangers in the absence of agreed framework including clear investigative standards being met prior to the transfer. These concerns were raised with DAFWA at the meeting in October 2015, referred to above.

RSPCA WA submits that DAFWA, as the administering agency, is responsible for ensuring that all general inspectors are appropriately trained, resourced and supported with access to legal expertise and infrastructure.

If general inspectors appointed under the Act are not able to fully undertake their enforcement activities, then this is a matter for DAFWA to resolve. RSPCA WA submits that DAFWA could consider putting in place a framework to regulate the transfer of matters from local government rangers to RSPCA WA Inspectors. This framework could take the form of a Memorandum of Understanding which provides for the transfer of matters that meet the standards required for

criminal prosecution. It would also be beneficial if DAFWA published a list of appointments of general inspectors under the Act, accessible through their website, to assist in coordinating activities under the Act.

RSPCA WA canvassed issues of inconsistent training, resourcing and infrastructure and co-ordination issues in its submission to the Animal Welfare Review Panel. RSPCA WA highlights that the Animal Welfare Review Panel found:

... the fact that General Inspectors are managed by different agencies can lead to inconsistencies in how the Act is applied. Without sound coordination and planning, strategic goals may not be identified or pursued, and training and education efforts can be disjointed. (see page 18)

RSPCA WA would welcome recommendations that led to DAFWA, as the administrator of the Act, addressing these issues, including the problems outlined in this Submission relating to the transfer of work from local government rangers to RSPCA WA general inspectors.

RSPCA WA is disappointed and concerned that its enforcement activities under the Act have been the subject of the Committee inquiry when its Inspectors have developed and maintained high investigative and prosecutorial standards. In fact, it is RSPCA WA which is regularly called upon by other general inspectors to undertake enforcement work when they lack the requisite training and resources.

END

Attachment 1 removed by authorisation of the Committee



28 OCT 2014

File Ref: 14/307825
Your Ref:
Enquiries: 9405 5037

27 October 2014

Ms Amanda Swift
Chief Inspector RSPCA
PO Box 3147
MALAGA WA 6945

Dear Amanda

Operational Concerns with RSPCA

In relation to and following on from your telephone call on Thursday 16 October 2014 I have been made aware of a number of occurrences in recent months where the City's Rangers have requested help from the RSPCA with seriously neglected and abused animals.

On each of these occasions the rangers have been met with an uncooperative stance by the RSPCA; on most occasions the RSPCA did not attend, often to the detriment of the animal(s) involved.

It appears that the central matter relates directly to re-confirming the roles and responsibilities of the RSPCA and local government regarding animal welfare and other agencies involved. As you would be aware, the Department of Agriculture and Food Western Australia (DAFWA) is the administrator of the Animal Welfare Act and it clearly states on their website that the RSPCA is the agreed single point for all public reports of cruelty to animals.

All Rangers are appointed General Inspectors under Section 33(2) of the Animal Welfare Act 2002. This enables our Rangers to deal with most animal welfare cases that are lodged and are within the City's area of responsibility and capacity. In fact we have had 424 animal welfare related customer concerns over the past two years, which we have successfully dealt with. Consequently, the only matters the City refers to the RSPCA are those that are serious potential prosecutions under Section 19 of the Animal Welfare Act.

In light of the above I would encourage a meeting with you in an effort to determine and confirm the roles and responsibilities of the RSPCA and the City of Wanneroo.

I look forward to discussing the above matters with you and I am contactable on 9405 5037 or email chris.morrison@wanneroo.wa.gov.au.

Yours sincerely

Chris Morrison
DIRECTOR CITY BUSINESSES

Cc Charlotte McIntyre DAFWA