

18/6/2020

RE: NSW Animal Welfare Reform - Issues Paper

As a brief introduction, Canary and Cage Bird Federation of Australia Inc. (CCBFA) represents some 250 bird keeper (avicultural) clubs nationally including in excess of 100 NSW based clubs, all with a stake in this matter. We are continually involved in a range of ongoing legislative and licensing matters in various states, territories and federally.

CCBFA encourages and supports bird keeping, breeding and exhibiting as a worthwhile past time that not only has health benefits but also contributes to scientific understanding and conservation of wild avian populations. This process must take care to ensure reforms are based on sound evidence that is shown to improve animal welfare outcomes. Care is needed to avoid over regulation that discourages animal keeping.

We make the following THREE recommendations, which summarise the theme of our submission that follows.

Recommendation 1.

Achievement of animal welfare outcomes should be testable over time using independent scientifically and statistically valid measures.

Recommendation 2.

Understandable and enforceable standards (and accompanying guidelines) developed and maintained in close consultation with stakeholder experts should be the core of animal welfare regulation.

Recommendation 3.

Education should take a leading role over compliance operations.

We welcome further consultation as the reforms progress.

Regards,



Sam Davis
President – CCBFA
E: president@ccbfa.org.au
M: 0411 253 512

CCBFA Submission

NSW Animal Welfare Reform – Issues Paper

The issues paper was accessed here...

https://www.dpi.nsw.gov.au/data/assets/pdf_file/0008/1200320/NSW-Animal-Welfare-Reform-Issues-Paper.pdf

On the introduction (p4-6)

CCBFA encourages the streamlining of animal welfare legislation in all jurisdictions. We should aim for the “best bang for buck” - maximise improvement of animal welfare outcomes, minimise bureaucracy. The first logical step is to produce independent reliable statistical measures of “animal welfare” across NSW that can be recalculated over time to verify improvement and ensure targeted economical use of resources.

We are encouraged by the commitment to consult with stakeholders throughout this process. We must ensure consultation post implementation of the Act, Regulations and Standards. We encourage formation of legislated ongoing consultative structures to enable stakeholders to be heard as new needs arise and evolve. Agility should be built into the new modern legislation.

1. Is there anything additional to the current objects that should be included in the objects of new animal welfare laws?

Consideration of the Animal Welfare definition as a scaffolding for the revised Act. including the Five Freedoms (p12).

Consider including as an Object...

- a. The human value of animal keeping to the mental, physical and social health of the community.
- b. Raising of animal welfare outcomes across the community through education and compliance/enforcement. That is, include education up front.
- c. Specifically distinguish between animal welfare and animal rights, and exclude animal rights from the Act.

2. Do you have any comments on the interactions between the Prevention of Cruelty to Animals Act 1979, Animal Research Act 1985, and Exhibited Animals Protection Act 1986?

We encourage combining all three acts into a single “NSW Animal Welfare Act”. It makes much more sense to consider the welfare of specific species rather than the welfare of who keeps them. Whether a bird is kept by a private aviculturist, as a pet, in a wildlife park or zoo or as part of a research project is secondary. We envisage a single standards and guidelines document governing avian welfare in NSW.

There are bureaucratic anomalies within the current Animal Research Act 1985 that make it difficult for private organisations to use their expertise to assist with threatened species. CCBFA looks forward to working through these issues as part of this review process.

3. Should additional species be included in the definition of ‘animal’ and therefore covered by animal welfare provisions (for example, cephalopods, crustaceans in all situations, other species)? Why?

The addition of species to the Act definition of an animal should be based on and require peer reviewed scientific evidence. CCBFA has no expertise with cephalopods or crustaceans. Nevertheless, care is needed to not cast too wide a net, which may be occurring should all interactions with cephalopods and crustaceans be included.

4. Should a consistent definition of ‘animal’ be used across the Prevention of Cruelty to Animals Act 1979, Animal Research Act 1985, and Exhibited Animals Protection Act 1986? Why?

Yes. Refer to our answer to question 2. recommending combining all three Acts.

5. Do you have any comments on how ‘cruelty’ is currently defined within the Prevention of Cruelty to Animals Act 1979?

The definition of cruelty should be redefined in terms of the five freedoms or domains or needs.

- The need for a suitable environment.
- The need for a suitable diet.
- The need to be able to exhibit normal behaviour patterns.
- The need to be housed with, or apart from other animals.
- The need to be protected from pain, suffering, injury and disease.

Consider a hierarchical continuum of offences – from unintended failure to care, intended failure to care, cruelty, aggravated cruelty.

Would prohibited acts be better included as Standards within the relevant standards and guidelines document for the animal in question? Breaching a standard is an offence. The standards and guideline document can better describe the standard, it’s purpose and supporting guidelines.

We strongly recommend a bias towards education over regulation. Aim to raise animal welfare standards across NSW. Inordinate resources are often spent on compliance which given funding limitations would achieve better outcomes if directed to education. Currently compliance is largely in response to complaints, although these cases must be investigated, there are an unknown number of other cases undetected.

6. Would you support introducing a minimum standard of care into the new animal welfare laws?

We do not support a minimum standard in the form outlined on pages 21 and 22.

The minimum standard of care as outlined on pages 21, 22 is far too general to be of assistance to the general public and therefore is unlikely to contribute to improved animal welfare outcomes. Instead each Standards and Guidelines document, for each animal group, should as unambiguously as is possible specify the minimum standards. These standards should be promoted and circulated widely, such that they are known to all.

7. Do you have any comments on using existing 'fail to provide' provisions under the Prevention of Cruelty to Animals Act 1979 as a basis for a minimum standard of care?

A duty of care should be an overriding principle within each Standards and Guidelines document. Refer question 5 where we recommend a hierarchical continuum of offences – from unintended failure to care, intended failure to care, cruelty, to aggravated cruelty.

8. Do you have any suggestions about how the definition of pain could be updated?

A general definition of pain is as follows

“An unpleasant physical sensation caused by illness or injury”

Pain itself is a feeling, and ranking the severity of pain is specific to the individual and therefore very difficult to measure reliably. For animals the situation is significantly more difficult.

We're unsure how compliance officers can assess the level of pain experienced by an animal with any certainty, particularly given the broad range of species encompassed by the Act. Rather, we recommend enforcement is focussed on the Standards which when complied with will prevent pain.

9. Do you have any comments on the definition of 'person in charge', particularly with regard to circumstances where multiple people may have responsibility for, or control over, an animal?

In general, anyone given responsibility for the care of an animal must be held accountable for their actions (or lack thereof). An enterprise keeping animals will have particular responsibilities in this regard, their knowledge of legislation and standards can be assumed, but only when these standards have been clearly defined and articulated (which is not currently the case).

10. Are there any activities currently considered as research or teaching activities under the Animal Research Act 1985 that should be excluded? If so, why?

Yes. Threatened species captive breeding programs should not require ethics committee approvals under the ARA.

Currently ethics committee approval is a significant red tape hurdle for private aviculturists. Note that it is private aviculturists who possess the expertise to breed birds. The zoos and other facilities that are currently engaged in threatened species captive breeding at great cost are utilising husbandry honed by private breeders, yet red tape including but not limited to ARA requirements are preventing these experts from contributing directly.

Within schools, the compliance requirements to keep animals is resulting in steadily less and less schools bothering. Unfortunately, children are no longer exposed to sound animal husbandry principles as part of their education and perhaps even more critically less children are provided the opportunity to build empathy for animals.

Animal welfare legislation should encourage and promote the keeping of animals, including in schools. Direct contact with animals via schools is critical to improved animal welfare outcomes for NSW.

11. Are there any additional activities that should be considered as research or teaching activities under the Animal Research Act 1985? If so, why?

No. Note that we recommend combining ARA, EAPA and POCTA into a single animal welfare act.

12. Are there any activities currently included in the definition of 'exhibit' in the Exhibited Animals Protection Act 1986 that should be excluded? If so, why?

13. Are there any additional activities that should be included in the definition of 'exhibit' under the Exhibited Animals Protection Act 1986? If so, why?

It is critical to ensure that all hobbyist activities continue to be exempt from EAPA.

This includes complete exemptions for all competitions and displays at agricultural shows and complete exemption for all events run by an association dedicated to the keeping of that type of animal. CCBFA affiliated clubs run many hundreds of events and many thousands of meetings annually where birds are exhibited and traded.

There are a range of anomalies between avian species that can be kept by animal display establishments compared to private breeders that need to be reviewed.

14. Are there any other terms or concepts used in the existing animal welfare legislative framework that require new or amended definitions?

There are many specific terms in the current Acts that will require more rigorous unambiguous definitions.

15. Do you support aligning compliance powers and enforcement tools across the Prevention of Cruelty to Animals Act 1979, Animal Research Act 1985, and Exhibited Animals Protection Act 1986? Why?

Compliance powers would be better assigned based on expertise. Currently it is acknowledged that both AWL and RSPCA have minimal avian animal welfare expertise. Different animal groups/species require vastly different expertise, skills and training. Consider an accreditation system whereby individual compliance officers are accredited to perform specific compliance duties. Perhaps accreditation could be aligned with specific Standards and Guidelines documents. For instance, an officer may do further study to enable them to perform reptile compliance, or avian compliance.

16. Should Penalty Infringement Notices be made available under the Animal Research Act 1985?

We are not sufficiently familiar with ARA to comment with any authority. Currently we understand compliance in the first instance, is the role of ethics committees, usually within the research institution. From our, albeit limited experience, the current system appears to be working well.

17. Do you have any comments on providing authorised inspectors with powers and tools (for example, being able to check compliance with an existing direction) to provide proactive support to help prevent adverse animal welfare outcomes?

The term “proactive” is of concern. If this means preventing activities perceived to be precursors to cruelty then extreme care is needed to ensure such restrictions do not have unintended consequences, such as creating a disincentive to keep animals. For birds, we perceive few significant animal welfare concerns compared to other species groups.

In general, proactive support should be restricted to education.

18. Should the current provisions that require inspectors under the Animal Research Act 1985 to be public servants who are also qualified veterinarians be retained, or should they be amended to allow for a more risk-based approach? Please explain your answer.

We are not sufficiently familiar with ARA to comment with any authority. The example of wildlife cameras would seem to be an activity where formal ARA approval is just bureaucratic red tape and should simply be regulated by a code of practice.

19. Noting the educational focus of Stock Welfare Panels, would you support further consideration of how the Stock Welfare Panel process could be applied to support better animal welfare outcomes in non-agricultural cases?

We are not sufficiently familiar with Stock Welfare Panels to comment with any authority. The positive comment in the issue paper, specifically the strong community support, leads us to recommend pursuing the model via consultation with other animal groups.

20. Are there any specific issues you would like to raise as we review the penalties for all offences under the Prevention of Cruelty to Animals Act 1979, Animal Research Act 1985, and Exhibited Animals Protection Act 1986?

Public awareness of penalties for offences, in particular for on the spot PINs, is critical to raising animal welfare outcomes. Currently few people are aware of what constitutes an offence and even fewer are aware of the penalties. A publicised hierarchy of offence penalties – from education for unintended failure to care, to PINs for intended failure to care, to court and maximum penalties for cruelty, and higher again for aggravated cruelty convictions. Promotion and education is key so the public just know.

21. Would you support consideration of a risk-based approach to licensing under the Animal Research Act 1985 and/or Exhibited Animals Protection Act 1986, where it would not result in weakened protections for animals? Why?

Yes. There are many instances where over regulated licensing of low risk activities is discouraging the keeping of animals for research and exhibition. For birds, this is particularly the case for threatened species programs and for aviaries in schools.

22. Which areas within the animal welfare legislative framework could be improved to reduce unnecessary red tape or make requirements clearer?

Currently the framework is outdated and poorly understood by stakeholders and the general public. The focus on enforcement has resulted in the majority of the animal welfare budget being directed at responding to complaints and then managing the case, which may escalate involving further costs to remove animals or proceeding with charges leading to court action. Although individual cases must be investigated, in reality such cases are likely the tip of the iceberg.

Given the reality of a limited animal welfare budget, the new framework must focus on allocating resources to improve overall animal welfare outcomes. This is best done using understandable and known enforceable Standards. Promotion and education to maximise awareness of these new Standards (and accompanying Guidelines) would likely result in greater improvements in outcomes compared to the current situation.

23. Do you have any comments on what the role of panels and committees should be in supporting the new animal welfare legislative framework?

Committees should be formed to represent different animal groups. In the case of birds, an expert group that includes avian experts representing private, hobbyist, exhibitor, bird retailers, research and avian veterinarian concerns. This should be the group to manage regulation of avian species animal welfare matters including edits to the Standards and Guidelines over time.

24. Do you have any final comments about this reform?

We welcome further consultation as the reforms progress.