

13/12/2020

RE: A NEW ANIMAL WELFARE ACT FOR VICTORIA – DIRECTIONS PAPER SUBMISSION

The Canary and Cage Bird Federation of Australia (CCBFA) represents many hundreds of clubs nationally including approximately 100 clubs throughout Victoria. We support Animal Welfare initiatives in all jurisdictions and represent aviculturists on a variety of government committees nationally. Aviculture has a proud animal welfare history in Australia largely via the clubs and their various governing and representative bodies.

We agree and amplify the words of Minister Symes in the foreword to the Directions paper.

“...the laws must maintain the ability for people to conduct lawful activities involving animals and not create unnecessary regulatory burden for our animal-based industries.”

The clear aim of Animal Rights activists is to shut down captive animal breeding and keeping in all its forms, including birdkeeping (aviculture). They progress this aim via lobbying for ever increasing regulation, together with misinformation to the general pet keeping public who remain largely unaware they ultimately aim to end pet keeping.

Care is needed to avoid unintended consequences which create a disincentive to keep animals.

CCBFA strongly recommends the new animal welfare Act (Act) specify upfront,

1. The human value of animal keeping to the mental, physical and social health of the community.
2. The distinction between animal welfare and animal rights and specifically exclude animal rights from the Act.

We support and strongly recommend a bias towards education over regulation.

The directions paper plots a course largely based on regulation, compliance and enforcement. Admittedly this is the primary role of legislation, however legislation can also ensure resources for ongoing education striving to raise animal welfare standards across Victoria.

Improvements in animal welfare standards must be verifiable state-wide using statistically valid measures of animal welfare. Measurement should occur over time to plot progress such that education resources can be directed purposefully and effectively.

The Act must direct significant resources towards education.

We strongly support inclusion of ongoing species-based advisory panels within the new Act to engage with community, in our case with our network of volunteer-based clubs. We are an untapped resource that is already focussed on raising animal welfare standards through education.

Please consider the submission and recommendations that follow. We welcome and look forward to further consultation.



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CCBFA Submission

Theme 1: Safeguarding animal welfare

The Act is primarily safeguarding the welfare of animals in *captivity*. A prerequisite for this to occur is that animals can and should be kept and bred in *captivity*. The Act must take care to promote (rather than demote) *captive* animal keeping, it must avoid over-regulation whilst simultaneously regulating to improve animal welfare standards.

1.1 Animal Sentience

- 1.1.1. The word “sentience” (rather than the meaning) has close associations to the extreme animal rights movement and should be avoided at all costs.
- 1.1.2. Whilst acknowledging animals feel pain, pleasure, fear and distress, such emotions cannot reliably be measured in humans where there is many magnitudes more scientific research to draw upon.
- 1.1.3. The Act will regulate many hundreds of species, there is simply insufficient research and tools available to measure the emotions implied by sentience to even close to the level required to enable evidence required for compliance and enforcement.
- 1.1.4. In Proposal 1.1, CCBFA does NOT recommend any of the 2 options are implemented.

Recommendation 1.A. The word sentience should NOT appear within the new Act.

Recommendation 1.B. Include within the principles of the Act words to the effect “The Act prevents actions leading to prolonged or extreme negative emotions.”

1.2 Minimum standards of care

- 1.2.1. The minimum standard of care for different species varies widely for avian species as, no doubt, it does for species in other classes.
- 1.2.2. Specifying a general standard of care that applies to all animals will be so general as to be of little use in terms of education or compliance/enforcement.

Recommendation 1.C. Minimum standards for different species should be rigorously and succinctly defined within codes of practice (or standards and guidelines) documents developed by species experts and specific to those species.

1.3 Offences for prohibited acts

- 1.3.1. Prohibited acts, if specified, should not be offences that require pain or suffering to be proven – exceedingly difficult to establish (refer 1.1.3).
- 1.3.2. CCBFA recommends the Animal Care Australia Inc. (ACA) proposal that the Act should include 3 levels of offence, the first being dealt with by education/warnings.
 1. Neglect – accidental or unintended neglect for the welfare of an animal. This is a non-offence and would be responded to with assistance and education.
 2. Deliberate – deliberate or intended failure to provide for the welfare of an animal, as specified in the Standards.
 3. Aggravated – wilful intent that causes harm resulting in death, deformity or serious disablement of an animal.
- 1.3.3. Codes of practice or Standards and Guidelines documents should be the basis of all offences in Category 1, 2 and 3. These documents to be promoted, disseminated, and widely known to all animal keepers and breeders.

1.3.4. We support increased penalties for Category 4 offences involving deliberate or aggravated harm.

Recommendation 1.D. CCBFA supports escalating offence categories in preference to lists of prohibited acts within the Act.

Recommendation 1.E. CCBFA recommends the ACA proposal of 3 categories of offence, namely neglect, deliberate and aggravated, outlined in 1.3.2 above.

Recommendation 1.F. Standards documents must specify expectations clearly including the resulting Category of offence imposed for non-compliance.

1.4 Controlled Procedures

1.4.1. The type of controlled procedure, age at which it can be performed and expertise of those performing such procedures varies considerably for different species, for example pinioning and euthanasia.

1.4.2. Details of controlled procedures is best articulated within the relevant species' Code of practice or Standards and Guidelines document.

1.4.3. Regulations, although simpler to alter than the Act itself, do not provide the flexibility required to specify controlled procedures.

Recommendation 1.G. Include Controlled procedures within Codes of practice or Standards and Guidelines documents where they can be specified in sufficient detail and will be known to the general public.

Theme 2: A simplified and flexible legislative framework

We strongly recommend a bias towards education over regulation. This is best achieved via industry led and developed Codes of Practice or Standards and Guidelines, rather than generalised regulations written for the sole purpose of enforcement. To improve animal welfare, support from those who represent animal keepers and breeders is essential.

2.1 Consistency of the framework

- 2.1.1. We recognise the need for some exemptions to apply, for example to manage pest species such as rodents.
- 2.1.2. Regulation of poisons and other pest and feral management tools is best managed by other Acts; however Category 4 intentional cruelty offences should still apply and be specified for pest and feral management within the new animal welfare Act.

2.2 Clarity of the framework

- 2.2.1. The framework must be known and understandable to the general public if we are to raise animal welfare standards across Victoria.
- 2.2.2. Industry developed Codes of practice or Standards and Guidelines documents should be the basis of the framework. These documents to include enforceable Standards accompanied by unenforceable guidelines and best practice notes.

Recommendation 2.A. Mandatory Standards accompanied by guidelines and all developed by or in close consultation with industry are supported.

Recommendation 2.B. Education is key – new Standards and Guidelines must be promoted, disseminated, and widely known and supported by all animal keepers and breeders.

2.3 Incorporating National Codes of Practice, Standards and Guidelines into the framework

- 2.3.1. CCBFA supports consistency of standards across jurisdictions. We do have concerns with regard to how these standards would be developed nationally in our area due to limited expertise of government officials and past experiences that have not been positive.
- 2.3.2. Currently, different states, different avian species groups and different event types have a range of different codes, standards and best practice documents in place that have been developed by our clubs and representative bodies over many years, in some cases hundreds of years. Some are supported by international standards and specifications. CCBFA is the governing body ratifying many of these documents.

Recommendation 2.C. Relevant peak industry bodies, such as CCBFA, must be consulted prior to Victoria adopting any national codes or national standards and guidelines within the new Act.

2.4 The role of co-regulation in the new framework

- 2.4.1. Avicultural clubs are not in a position to enforce their current codes and standards documents governing how individual members keep their birds on their own premises, in this regard our clubs are largely educational and social in nature.
- 2.4.2. Compliance with welfare codes is a routine requirement for membership of most CCBFA affiliated bird clubs, however as voluntary clubs we strongly promote compliance rather than performing formal audits of members' private properties.
- 2.4.3. Events run by CCBFA affiliate clubs, such as bird sales and shows have strict enforced codes. Controls are in place, including appointed stewards, to ensure and enforce compliance.

Recommendation 2.D. CCBFA strongly supports co-regulation using CCBFA developed and/or endorsed Codes of Practice and Standards and Guidelines for events such as bird sales and shows.

Recommendation 2.E. CCBFA does NOT support systems requiring our volunteer-based affiliate clubs to enforce codes regulating member's private properties.

2.5 The role of science in the new framework

- 2.5.1. CCBFA supports industry led development of codes of practice or standards and guidelines.
- 2.5.2. We envisage a process whereby scientific knowledge and expertise is included in panels that review drafts, rather than a scientific panel producing the draft. We aim to ensure the final document is scientifically sound, however it must be understandable and practical to implement for bird keepers if it is to improve animal welfare standards.
- 2.5.3. Other jurisdictions are looking to form advisory panels for species (or in our case species groups). Such panels should include suitable scientific representation. A significant first task for each advisory panel would be to recommend whether existing codes or new codes are required, which areas should be addressed in codes and how such documents should be created and endorsed.

Recommendation 2.F. An advisory panel for birds (and for other species) should be formed that includes avicultural, government and scientific representation.

Recommendation 2.G. New bird codes to be drafted by CCBFA representatives and submitted to the advisory panel for comment prior to ratification under the Act.

Theme 3: A better compliance and enforcement model

In general terms, CCBFA supports the graduated approach described on pages 42-43 of the directions paper. In particular we support education as the first step in most compliance operations that do not involve direct or deliberate harm to animals.

It is critical for resources to enable ongoing education are legislated within the new Act, including funding and structure. Without legislative backing experience indicates education will progressively fade due to future government cost cutting measures.

3.1 Monitoring compliance

- 3.1.1. Inspectors and compliance officers authorised under the Act, such as RSPCA inspectors, should look to education as their first action in all but severe cruelty cases.
- 3.1.2. In most cases inspectors and compliance officers attend in response to complaints, this is reasonable. An unknown, but likely some orders of magnitude higher number of animal welfare issues are occurring unreported.
- 3.1.3. Education should focus on raising animal welfare norms state-wide, making it socially unacceptable to treat animals below standards. To do this requires concerted and ongoing education that saturates the community such that codes and standards are just know by the public, much like road rules and speed limits are known.
- 3.1.4. Proactive assessments of compliance by authorised compliance officers will likely result in unintended consequences. Inspections that can result in prosecution are vastly different to those intended to educate.

Recommendation 3.A. Inspectors and compliance officers authorised under the Act, such as RSPCA inspectors, must obtain a warrant, or permission of the occupier before entering a property. The only exception being urgent circumstances to prevent a deliberate imminent act of cruelty.

Recommendation 3.B. Large scale corporate animal breeding and keeping entities may have licence conditions imposed requiring inspections at regular intervals as part of their licence conditions.

Recommendation 3.C. Inspectors and compliance officers authorised under the Act, such as RSPCA inspectors, must be accountable to an ombudsman or similar body legislated within the new Act to deal with complaints.

Recommendation 3.D. We strongly recommend a bias towards education over regulation. Education should be multifaceted and should enrol and utilise the networks and expertise of volunteer-based clubs and industry representative organisations.

3.2 Permissions and restrictions

- 3.2.1. For scientific licences, care is required. Anecdotally we understand the red-tape involved for schools to keep animals, specifically birds, discourages such keeping. Schools are clearly one of the most valuable resources for promoting higher animal welfare standards and as such they must be encouraged to keep animals wherever possible.

Recommendation 3.E. In general, CCBFA supports the graduated risk-based approach described on page 46 of the directions paper.

3.3 Managing seized animals

- 3.3.1. We are aware that defendant decisions to defend cruelty charges in court are routinely made based on the cost of housing their seized animals together with predicted costs should the defence fail. This means an unknown, but potentially significant proportion

of “guilty plea” animal cruelty cases are not resolved based on the evidence but rather on economic grounds.

- 3.3.2. For other criminal cases, defendants are not charged for accommodation and living expenses whilst incarcerated, whether found guilty or not. Therefore, the state should compensate the entity housing animals whilst court proceedings take place.

Recommendation 3.F. To ensure natural justice all seized animals must be retained at cost to the state until legal proceedings are completed.

Recommendation 3.G. Defendants, whether found guilty or otherwise, should not be responsible for seized animal costs over which they have no control.
