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## Factsheet: Animal Cruelty – What can I do?

### What is Animal Cruelty?

Animal cruelty as defined by law sometimes differs to the public perception of what may be considered 'cruel'. There is no exhaustive list of what is and is not considered cruel and it is often a matter for courts to decide. This fact sheet intends to explain some of the ways you can report and take action on illegal cruelty as well as what you can do if you believe that animal cruelty has occurred or is occurring.

The key piece of legislation pertaining to cruelty to animals in NSW is the *Prevention of Cruelty to Animals Act 1979 (NSW)*.

Section 5 provides that a person cannot commit or authorise the commission of an act of cruelty against an animal. A person in charge of an animal must not fail to 'exercise reasonable care, control or supervision of an animal to prevent the commission of an act of cruelty upon the animal' and where pain is being inflicted upon the animal, must take such reasonable steps as are necessary to alleviate the pain. Veterinary treatment must be provided where necessary.

Animal cruelty includes intentional acts of violence towards animals as well as the failure to provide for the welfare of an animal under a person's control. Not just physical acts of cruelty, but psychological harm in the form of distress, torment or terror can also constitute animal cruelty. Many different things may amount to animal cruelty and the legislation is written broadly to include any act or omission that causes 'unnecessary', 'unreasonable' or 'unjustifiable' harm to an animal.

An 'act of cruelty' is defined in the Act to include any act or omission as a consequence of which the animal is unreasonably, unnecessarily or unjustifiably:

- beaten, kicked, killed, wounded, pinioned, mutilated, maimed, abused, tormented, tortured, terrified or infuriated,
- over-loaded, over-worked, over-driven, over-ridden or over-used,

- exposed to excessive heat or excessive cold, or inflict with pain.

More serious acts of cruelty, or 'aggravated' cruelty, is defined as an act of cruelty which results in

- the death, deformity or serious disablement of the animal, or
- the animal being so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive

#### Examples of cruelty may include:

- torturing or beating an animal
- confining or transporting an animal in a manner inappropriate for its welfare
- killing an animal in an inhumane way
- failure to provide adequate food or water
- failure to provide adequate treatment for disease or injury
- failure to provide adequate living conditions
- failure to provide exercise to a confined animal
- unreasonable tethering of an animal
- abandonment of an animal
- docking the tail of a horse, bovine (cow etc) calf, or dog
- cropping the ears of a dog
- debarking a dog or declawing a cat
- grinding, trimming or clipping the teeth of a sheep
- performing a clitoridectomy



(removal of the clitoris) or a greyhound

- fire or hot branding the face of an animal
- riding, driving, using, conveying an animal unfit for the purpose
- failure to render assistance/report an animal injured by the driver
- unlawful poisoning of an animal
- the use of certain electronic devices on an animal
- the use of sharpened spurs
- baiting and fighting of animals
- trap shooting
- release of an animal for the purpose of catching it for a game or to be caught by a dog, including the advertising of such event
- 'firing' (injuring an animal with a thermal stimulus such as a hot wire)
- cutting a horses tail so that the animal carries it high
- steeple chasing or hurdle racing
- selling severely injured animals
- use of a steel jawed trap

In addition to the *Prevention of Cruelty to Animals Act*, section 530 of the *NSW Crimes Act* creates an offence of 'serious animal cruelty'. That provision provides that

A person who, with the intention of inflicting severe pain:

- tortures, beats or commits any other serious act of cruelty on an animal, and
- kills or seriously injures or causes prolonged suffering to the animal,

is guilty of an offence.

## Exemptions and Defences to Cruelty

Unfortunately, there are a number of exemptions to what may amount to animal cruelty at law. Often the status of an animal can change whether an act is considered cruel, or whether it is regarded as 'necessary' for the carrying out of business. For example, what may be regarded as cruel to a companion animal such as a dog may be regarded as legal when inflicted upon a farm or stock animal. In the case of cruelty upon a farm animal, if it is determined to be 'necessary' or 'reasonable', or is an identified defence in the Act an offence will not have been committed. For example, the following acts do not constitute acts of cruelty under the *Prevention of Cruelty to Animals Act* if they are undertaken in a manner that inflicts no 'unnecessary' pain upon the animal:

- Ear-marking, ear-tagging or branding, (other than firing or hot iron branding of the face) a stock animal
- Castrating a pig of less than 2 months of age or cattle, sheep or goats less than 6 months of age
- Dehorning a goat of less than 1 month of age or cattle less than 12 months of age
- Tailing a sheep of less than 6 months of age or mulesing a sheep less than 12 months of age
- Acts done for the purpose of hunting, shooting, snaring, trapping, catching or capturing an animal
- Destroying an animal, or preparing an animal for destruction, for the purpose of producing food for human consumption.

Notwithstanding the exemptions, if you see what you believe to be an act of cruelty inflicted upon an animal, it is better to report it than to make the

determination yourself as to whether the act constitutes illegal cruelty or a permissible act. Often it is a matter for a court to decide.

## Codes of Practice and Farm Animals

Many people are opposed to legal practices which they consider to be cruel, such as factory farming, and may be frustrated that there is limited protection for farm animals provided in the Act. However, most farming operations involving animals are covered by Codes of Practice. Failure to comply with the applicable Code may give rise to a charge of cruelty while adherence to the Code may be a defence against a charge of cruelty.

## Investigation and Enforcement

The NSW Police Force, the RSPCA the Animal Welfare League NSW and delegated officers of the NSW Department of Primary Industries are authorised officers for investigations and prosecutions under the *Prevention of Cruelty to Animal Act, 1979*. But while the Animal Welfare League and the Department of Primary Industries have power to investigate and prosecute complaints, in practice, most investigations and prosecutions are carried out by the RSPCA and/or the Police. The DPI has discretionary prosecutorial and investigatory powers which they tend not to exercise.

Local Councils are not responsible for enforcing animal cruelty laws but council rangers can seize animals found wandering or abandoned or those considered dangerous to other animals or humans.

## Reporting Cruelty

If you have witnessed what you believe to be animal cruelty, there are a number of agencies that you can contact to report the incident. While complaints may be made anonymously, providing your contact details is valuable should the agency require more information from you to clarify facts or provide further evidence.

### **NSW Police**

Police have a general responsibility to investigate any allegations of criminal activity, and this includes breaches of animal welfare laws. Complaints can be made at your local police station or by calling Crimestoppers 1800 333 000, a phone hotline for callers wishing to remain anonymous.

### **The NSW Rural Crime Squad**

The rural crime squad investigates complaints of criminal activity that occur in rural or isolated areas. In regards to animal welfare, they can investigate animal welfare matters such as illegal hunting, the selling of doped, sick or injured farm animals as well as animals suffering from lack of sufficient food, water or veterinary care.

Complaints can be made at your local rural police station or online at <https://www.facebook.com/RuralCrimeNSWPF>

### **The RSPCA**

The RSPCA handles over 60,000 animal cruelty complaints nationwide each year. They are an independent non-government organisation which receives small amounts of government funding to investigate and prosecute animal welfare laws.

Complaints can be made online at

<http://www.rspcansw.org.au/contact/report-a-cruelty-case> or by calling the 1300 278 3589 (13000 CRUELTY) hotline.

### **Animal Liberation**

Established 8 years ago, the Animal Liberation Hotline is available 7 days a week, 24 hours a day, Australia wide, to receive complaints of animal cruelty. When a complaint is received, they will gather evidence and pass the complaint to the police or the RSPCA which have power to prosecute under the *Prevention of Cruelty to Animals Act*

The Animal Liberation hotline phone number is 1800 751 770

### **Animal Welfare League**

AWL is an approved charitable organisation in NSW under the *Prevention of Cruelty to Animals Act*. AWL inspectors can respond to reports of cruelty or neglect of animals and any concerns received by the public in relation to the welfare of animals.

Suspected cases of cruelty or neglect can also be reported to the AWL by calling (02) 8899 3333 or by emailing the Inspectors [inspectors@awlsw.com.au](mailto:inspectors@awlsw.com.au)

### **Local Councils**

Contact the council ranger at your local council if you consider that an animal appears to be distressed and abandoned or at risk of harm by being uncontrolled in public space. Rangers will also act on complaints of noise and nuisance caused by animals as well as menacing or dangerous dog allegations.

### **Making a complaint**

If you witness an act of animal cruelty, never put yourself at risk of personal injury. Sometimes perpetrators of violence towards animals will also be aggressive towards humans. Keep in mind that you will be of less assistance to an animal if you become injured yourself.

As outlined above, there are a number of agencies you can contact to report animal cruelty. If you fail to receive a satisfactory response from one agency, it may be worth trying again or contacting a different agency.

When making a complaint, It is important to speak calmly and respectfully and to be as factual as you can. While it may be distressing to witness animal cruelty, to be most effective, it is best to base your complaint on what you have witnessed and not upon what you think or feel about what you have witnessed.

Remember that the complaint processes are concerned with distress and harm to the animal and not to you personally.

When making a report of cruelty, try to provide the following information:

- what you have seen or are concerned about
- the address or location where the animal is being kept
- description of the animal
- details on what you have witnessed, including relevant time(s) and date(s)
- if known, details such as name and address of the person you think may be involved or responsible for the cruelty or neglect
- If the identity of the alleged perpetrator is not known, any identifying information such as appearance, height, age, etc.

- any other relevant details such as other witnesses, vehicle registration or description
- the current state of the animal and whether immediate assistance is required
- any conversation or interaction you may have had with the alleged perpetrator

## Documenting cruelty

Sometimes a lack of evidence can result in a cruelty complaint being dismissed or not investigated further. If you decide to gather evidence and document it yourself, always prioritise your own safety and ensure that you are not breaking any laws in the process of gathering information.

As a general rule, the use of surveillance equipment which invades a person's privacy or involves acts of trespass may, if detected and reported by an affected person, result in charges being laid against you. Note also that evidence obtained by illegal means is generally not permissible in legal proceedings.

If you obtain photographic evidence, use the date function of your camera where possible and mark all photographs with the time, date, location and a brief description of facts.

For example:

*Horse at Lot 65, Salvation Valley Road, Hurtlely, 1<sup>st</sup> December 2013,*

*10.00am. Open sores, showing signs of infection, maggot infestation. Horse appears to be emaciated.'*

If you consider that an act or acts of animal cruelty are ongoing, continuous and/or repeated and that your complaint has not been properly investigated, it is important to gather evidence over the relevant period of time. If you obtain a series of

photographs over a period of days, weeks or months, it provides more cogent evidence to support a claim of animal cruelty.

In some cases you may need to be cautious in reporting what may appear to you to be an animal in distress, without first contacting a veterinarian or the animal's owner. Sometimes an animal that appears to be doing poorly (such as emaciated or underweight) may have a medical condition that you are not aware of.

## What if my complaint is not investigated or is dismissed?

Do not take the law into your own hands. You can easily do more harm than good by illegally entering a property, seizing an animal or inflicting damage on property. Remember that you are acting in the interests of the animal(s) and if you find yourself in legal strife, not only can it result in personal distress and financial sanctions, but the animal(s) may also lose their advocate.

Reputable animal advocacy groups are all experienced in lobbying, protesting and advocating within the confines of the law. This is generally the most effective way of obtaining a positive outcome, both for the animal or animals concerned, and for engendering law reform.

If, for example, you feel the police have not taken your complaint seriously, you should then contact the RSPCA, Animal Liberation, the Animal Welfare League and/or the Department of Primary Industries and follow their advice.

If you feel, having done these things, that your complaint has not received an appropriate or adequate response, it may be effective to complain to your MP, contact your local newspaper to run a story and/or write letters to local publications.

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*The greatness of a nation and its moral progress can be judged by the way its animals are treated*

-Mahatma Ghandi

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