

立法會 *Legislative Council*

LC Paper No. CB(2)418/16-17(01)

Ref : CB2/PS/2/16

Panel on Food Safety and Environmental Hygiene

Subcommittee to Study Issues Relating Animal Rights

Background brief prepared by the Legislative Council Secretariat for the meeting on 16 December 2016

Issues relating to animal welfare and cruelty to animals

Purpose

This paper outlines the Administration's policy on animal welfare and the measures it adopted for the prevention of cruelty to animals. It also summarizes the major views and concerns expressed during the deliberations of the Panel on Food Safety and Environmental Hygiene ("the Panel") and the Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals ("the former Subcommittee") formed under the Panel in the Fifth Legislative Council ("LegCo").

Background

Policy on animal management

2. According to the Administration, its policy objective on animal management is to ensure that animals and people co-exist in a harmonious way in Hong Kong. To achieve this, there is a need to strike a balance between the well-being of people in Hong Kong on the one hand and the welfare of animals on the other.

3. The Agriculture, Fisheries and Conservation Department ("AFCD") is responsible for the regulation of animal trading and related business (such as animal boarding and animal exhibitions), management of pet and stray animals, prevention of animal cruelty and promotion of animal welfare. In discharging

its duties on animal management and welfare, AFCD is responsible for publicity, education, intelligence gathering as well as inspection of the sale outlets for pets.

4. The Animal Welfare Advisory Group ("AWAG") was established in 1996 to advise the Government on animal welfare and related matters. The terms of reference of AWAG and its committees cover review of animal-related legislation, regulation and control of the pet trade, public education and publicity programmes, etc. It has also assisted AFCD in the development and updating of the various Codes of Practice concerning different types of animals, as well as other publicity materials.

Current legislation

5. The concept and practice of the protection of animals is mainly enshrined in the Prevention of Cruelty to Animals Ordinance (Cap. 169) ("PCAO"). As a centre-piece legislation for the protection of animals, it not only safeguards animals against acts of cruelty, but also imposes a duty of care requirement on animal owners or keepers. Under PCAO, cruelty to animals includes cruelly beating, kicking, ill-treating, torturing, infuriating, or terrifying any animals to cause unnecessary suffering to them. Cruelty to animals also covers the improper carriage of animals and putting animals in captivity. Anyone who fails to supply animals with sufficient food and fresh water or causes unnecessary suffering to an animal commits an offence. The Prevention of Cruelty to Animals Regulations (Cap. 169A) made under PCAO also set out the basic requirements for keeping animals in confinement or during transport, contravention of which may constitute an offence notwithstanding that the animal has yet to be harmed.

6. According to the Administration, relevant government departments will take enforcement action under PCAO where circumstances warrant. Both the Hong Kong Police Force ("the Police") and AFCD will investigate into cases of cruelty to animals and institute prosecution. Where necessary, AFCD will provide professional veterinary advice, while FEHD will assist in handling environmental hygiene issues and dead animals. The Society for the Prevention of Cruelty to Animals ("SPCA") has set up a 24-hour enquiry hotline for such cases and it will also provide medical treatment to the animals and facilitate law enforcement officer in their work.

Former Subcommittee formed under the Panel in the Fifth LegCo

7. The Panel appointed the former Subcommittee at its meeting on 10 November 2015 to study issues relating to animal welfare and cruelty to animals. The former Subcommittee completed its work in June 2016 and put

forward a total of nine recommendations in its report to the Panel (LC Paper No. CB(2)1704/15-16). A summary of the recommendations is in **Appendix I**.

Members' major views and concerns

8. Members' major views and concerns on the subject are summarized in the ensuing paragraphs.

Combating acts of animal cruelty

Relevant legislation

9. Some members considered that the current penalty levels might not have sufficient deterrence against acts of animal cruelty. In their view, the Administration should comprehensively review and amend, as and where necessary, PCAO, including reviewing the definition of cruelty to animals. The Administration was recommended to make reference to animal protection legislation in developed countries/places.

10. The Administration advised that the penalty was substantially increased to a fine of \$200,000 and to imprisonment for three years in 2006 to strengthen deterrence against cruelty to animals. Since then, the heaviest sentence handed down by the court for convicted cases under PCAO was imprisonment for 16 months. In the Administration's view, the current penalty levels provided sufficient deterrence against acts of animal cruelty. However, in response to members' view, the Administration undertook to review the definition of cruelty to animals as defined in PCAO, by drawing reference to the practices adopted in other places, such as the United Kingdom, the United States, Australia, Japan, Singapore and Taiwan.

11. There was a suggestion that a blacklist of persons convicted of offences under PCAO should be drawn up to permanently forbid those on the list from keeping any animals. The Administration considered the nature of the proposal controversial and its feasibility had to be considered carefully before a firm view was to be taken.

12. Members noted that section 56 of the Road Traffic Ordinance (Cap. 374) ("RTO") provided that a driver of a vehicle should stop the vehicle where an accident involving that vehicle occurred whereby damage was caused to, amongst others, an animal. The driver was also required to report the accident to the Police as soon as practicable, and in any case no later than 24 hours after the accident. For the purpose of this provision, "animal" was

defined to mean any horse, cattle, ass, mule, sheep, pig or goat. Some members suggested that the Administration should consider the need to review and amend the relevant provisions in RTO, requiring the driver to stop and report to the Police in case of accidents involving knocking down or killing of cats and/or dogs. In response to members' view, the Administration undertook to review the legislation, with a view to bringing dogs and cats within the scope of section 56 of RTO.

Animal police

13. Some members strongly requested the Administration to draw on overseas experience and consider establishing in Hong Kong "animal police" teams specially tasked to investigate into cases of animal cruelty and abandonment. According to the Administration, reports of animal cruelty cases received by the Police would be taken up by various districts' crime investigation teams which had sufficient experience and professional investigation skills to follow up such kind of cases. The Police would continue to provide training to frontline officers to enhance their awareness and ability to handle cruelty to animal cases.

14. The Administration also advised that in 2011, the Police had introduced the Animal Watch Scheme ("AWS") with the support from AFCD, SPCA, veterinary associations and animal concern groups to strengthen the Police's capacity in the investigation of animal cruelty cases. AWS had the support of two professional veterinary associations, namely the Hong Kong Veterinary Association and China (Hong Kong) Veterinary Association which helped encourage their members to report suspected acts of cruelty to animals or the suspected culprits. Besides, AFCD had, in conjunction with the Police, FEHD, and SPCA, set up an inter-departmental special working group since 2011 for forging closer cooperation and mutual support in handling animal cruelty cases. The working group would meet regularly to discuss the handling of individual cases, formulate guidelines for improving efficiency in the detection and prevention of animal cruelty cases, and reviewing the guidelines from time to time. It would also keep in view the level of penalty handed down by the court for the purpose of considering whether a review of the relevant regulations was necessary. The Administration considered the existing mechanism generally effective and had no plan to establish an animal police team.

Management of stray animals

Use of euthanasia in handling stray animals and promotion of animal adoption

15. Concern was raised about the use of euthanasia in handling stray

animals that had not been re-homed. Many members considered that, more humane means should be employed to deal with the problem of stray animals. The Administration was suggested to set up more Animal Management Centres ("AMCs") under AFCD and explore the provision of subsidy to recognized animal adoption organizations so that they could have sufficient resources for keeping abandoned animals. There was also a suggestion that the Administration should step up its efforts in promoting animal adoption.

16. According to the Administration, AFCD had four AMCs across the territory. These centres were set up for the purpose of providing services to the public, such as vaccination and licensing of dogs, temporarily housing stray animals caught or animals surrendered by owners which were pending adoption. However, AMCs were not designed to keep these animals on a long-term basis. The Administration advised that only animals which remained unclaimed or not adopted at the end of the process would be euthanized. A number of international animal organizations, including the World Organisation for Animal Health ("OIE")¹, agreed that in situations where the number of stray dogs caught remain high or the dogs were not fit for adoption despite the deployment of various stray dog management measures, euthanasia would be an appropriate and humane solution.

17. The Administration also pointed out that a multi-pronged approach was adopted in tackling the issue of stray animals. It had, on the one hand, promoted a culture of care for animals and responsible pet ownership, while encouraged members of the public to adopt stray animals or animals surrendered by owners on the other. AFCD was partnering with and providing financial support to the animal welfare organizations ("AWOs") on the provision of animal adoption services. AFCD also supported the establishment and improvement of animal re-homing centres which provided temporary shelters for stray animals awaiting re-homing.

The "Trap-Neuter-Return" ("TNR") trial programme

18. Members noted that AFCD had, since January 2015, lent support to SPCA and the Society for Abandoned Animals in launching a three-year TNR trial programme for stray dogs in specified sites in Cheung Chau and Yuen Long. Members considered that the Administration should cooperate with

¹ OIE is an inter-governmental organization responsible for improving animal health worldwide, with 180 member countries. OIE promulgates standards and practices for better protection of animal health and promotion of animal welfare. Since 2004, OIE has been developing animal welfare standards for inclusion in the Terrestrial Animal Health Code ("the Code"). In Article 7.7.6 of the Code, OIE sets out a number of control measures for stray and feral dogs which can be considered after taking into account the local circumstances and context.

District Councils and community AWOs to extend TNR trial programme across the territory. The Administration advised that AFCD had commissioned an independent consultant to assess the effectiveness of the programme and would review the situation regularly during the three-year trial period and consider the way forward thereafter, taking into account the outcome of the trial programme.

Management of stray cattle

19. Concern was also raised about the effectiveness of the "Capture-Sterilization-Relocation" ("CSR") programme in tackling the issue of stray cattle. The Administration advised that the CSR programme, which was implemented mainly in Lantau Island and Sai Kung since late 2011, was found effective in preventing the cattle from moving back to the urban areas or roads and reducing the nuisances and risks of traffic accidents caused by them. AFCD would continue to strengthen the CSR programme through identifying suitable sites for the relocation of cattle. Besides, the feasibility of sterilizing cattle chemically with the use of a contraceptive drug named Gonacon were being studied and if proven to be effective, AFCD would be able to sterilize cattle without the need for surgical operation.

20. There was a suggestion that the Administration should explore more effective measures for managing stray cattle, including lending support to animal welfare groups for identifying suitable sites in the rural areas for developing open cowsheds/shelters for stray cattle with the provision of fodder and water. The Administration advised that it would consider the feasibility of the proposals from animal welfare groups on the merits of each case, taking into account factors including the location of the site proposed, the land use status of the site identified, and how the animal welfare group intended to go about taking care of the stray cattle.

Promoting responsible pet ownership

21. While some members were of the view that the Administration should consider making animal abandonment an offence under PCAO and introducing punitive measures against acts of animal abandonment, some other members considered it more appropriate for the Administration to devise, implement and fortify public education and publicity programmes for disseminating messages on caring for animals and responsible pet ownership. According to the Administration, abandonment of animals was an offence under the Rabies Ordinance (Cap. 421) which stipulated that a keeper of any animal who, without reasonable excuse, abandoned that animal committed an offence and was liable on conviction to a fine of \$10,000 and to imprisonment for six

months. While relevant government departments would continue to enforce the law diligently, the Administration considered that public education was most important for safeguarding and promoting animal welfare. AFCD had established a dedicated team to coordinate publicity efforts in this regard.

22. Members considered that the Administration should explore the extension of the microchipping and licensing schemes to cats and other kinds of animals which were commonly kept as pets, so as to help owners reclaim their missing pets and prevent the abandonment of pets by irresponsible owners. The Administration explained that the primary purpose of requiring all dogs over the age of five months old to get vaccinated, microchipped and licensed under the Rabies Regulation (Cap. 421A) was to prevent and control the spread of rabies. The risk of infected cats spreading rabies was relatively lower than in the case of infected dogs. Although the existing legislation did not require cats to be vaccinated, microchipped and licensed, cat owners might, as they think fit, took their cats to practising veterinary surgeons for vaccination (against feline epidemic diseases or rabies) and microchipping (for identification purposes).

Safety of pet food products in Hong Kong

23. Members were gravely concerned about the absence of a dedicated legislation regulating the safety of pet food products sold in Hong Kong. In members' view, the Administration should put in place a regulatory regime for pet food products available in the market, regardless of whether they were pre-packaged, processed or homemade food, locally produced or imported from places outside Hong Kong.

24. According to the Administration, there were presently no commonly adopted standards at the international level on the safety of pet food. However, the Administration saw merits in conducting regular testing on pet food products available in the territory. The Administration further advised that the study would target to test around 200 to 300 products during a two-year period through random sampling of commercial pet food products for dogs, cats and other companion animals that were sold through retail outlets such as pet shops, supermarkets and veterinary clinics. The focus of the test would be on a few common microbial contaminants and substances of concern. The Administration aimed to commence the study by the end of 2016 and the test results would enable its assessment, on a more informed basis, whether and the extent to which the safety of pet foods was a concern and how existing measures on pet food products might be enhanced.

Measures for enhancing animal welfare

25. In some members' view, there was insufficient activity space for the interaction of human beings and animals within the communities. They urged the Administration to formulate an animal-friendly policy to better protect the welfare of animals and introduce appropriate measures so as to increase the room for survival for animals, including reviewing the policy on the keeping of animals by tenants living in public rental housing ("PRH") estates and examining the practice of allowing animal owners to board public transport with their animals.

26. The Administration advised that since PRH estates were densely populated with very limited space in domestic blocks and public areas, keeping of dogs might cause adverse effects to the environmental hygiene. Hence, except under special conditions, dog keeping in PRH was not permitted under the tenancy agreement of PRH estates. Under the current legislative provisions, pets, other than a guide dog accompanying a blind person, were not permitted on rail and franchised buses. However, operators of other public transport, which had relatively more space in the compartment, might allow at their discretion passengers to carry pets on board.

27. Some members considered that the Administration should strengthen its cooperation with AWOs and consider providing non-profit making AWOs with more financial assistance for them to improve their work in the promotion of animal welfare and animal adoption. According to the Administration, AFCD had been collaborating with AWOs in the efforts to enhance animal welfare and promote better animal management. In 2016-2017, \$1.5 million was being set aside by AFCD for interested AWOs to apply for funding support.

Relevant questions raised at Council meetings

28. A list of relevant questions raised by Members at Council meetings in the Fifth LegCo is in **Appendix II**.

Relevant papers

29. A list of relevant papers available on the LegCo website is in **Appendix III**

Recommendations of the Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals formed under the Panel on Food Safety and Environmental Hygiene in the Fifth Legislative Council

The Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals recommended that the Administration should:

- (a) by making reference to the present animal protection legislation in developed countries/places, comprehensively review and amend, as and where necessary, the Prevention of Cruelty to Animals Ordinance (Cap. 169) and classify "intentional abandonment of animals" as an act of animal cruelty;
- (b) consider increasing the maximum penalties under the existing legislation for animal cruelty offences so as to increase the deterrent effect;
- (c) by drawing reference from overseas experience, put in place a regulatory framework for monitoring the quality, hygiene and safety of commercial pet food products available in Hong Kong for pet consumption;
- (d) step up its public education and publicity efforts to promote care for animals and responsible pet ownership as well as animal adoption, with a view to reducing the number of animal abandonment and animal trading;
- (e) set up more Animal Management Centres or animal shelters under the Agriculture, Fisheries and Conservation Department and consider providing subsidy to recognized animal adoption organizations, so that they can have sufficient resources for keeping abandoned animals, thereby reducing the need for euthanizing abandoned animals;
- (f) co-operate with District Councils and community animal welfare organizations to fully implement the "Trap-Neuter-Return" trial programmes across the territory;
- (g) explore the extension of the microchipping and licensing schemes to cats and other kinds of animals which are commonly kept as pets;
- (h) explore more effective measures for managing stray cattle, including lending support to animal welfare groups for identifying suitable sites in the rural areas for developing open cowsheds/shelters for stray cattle with the provision of fodder and water so that the cattle can live in a safe and natural environment without having to wander around anymore, thereby mitigating the nuisances caused by stray cattle to the local community; and

- (i) formulate an animal-friendly policy to better protect the welfare of animals and introduce appropriate measures to create a more friendly environment for animals, including allowing animal owners who are adequately equipped to board public transports with their pet animals and reviewing the policy on the keeping of animals by public housing tenants.

**Relevant Council questions
raised by Members in the Fifth Legislative Council**

Committee	Date of meeting	Question
Legislative Council	23.1.2013	Official Record of Proceedings Pages 5174 to 5179 (written question raised by Hon Claudia MO on "Measures preventing cruelty to animals")
	20.3.2013	Official Record of Proceedings Pages 7591 to 7597 (written question raised by Dr Hon Helena WONG on "Prevention of cruelty to animals")
	17.4.2013	Official Record of Proceedings Pages 8255 to 8259 (written question raised by Hon Claudia MO on "Handling of Animals Caught and Received by AFCD")
	3.7.2013	Official Record of Proceedings Pages 14431 to 14436 (written question raised by Hon WONG Kwok-hing on "Handling of Stray Cattle")
	16.10.2013	Official Record of Proceedings Pages 626 to 628 (written question raised by Dr Hon Helena WONG on "Combating Crimes of Cruel Treatment of Animals")
	6.11.2013	Official Record of Proceedings Pages 1796 to 1807 (oral question raised by Hon Michael TIEN on "Prevention of Cruelty to Animals ")
	22.1.2014	Official Record of Proceedings Pages 5813 to 5816 (written question raised by Hon Albert CHAN on "Methods Used in Catching Stray Dogs")

Committee	Date of meeting	Question
Legislative Council	22.1.2014	<u>Official Record of Proceedings Pages 5834 to 5839 (written question raised by Hon Gary FAN on "Handling of Animals Received or Caught by Argiculture, Fisheries and Conservation Department")</u>
	19.2.2014	<u>Official Record of Proceedings Pages 7224 to 7227 (written question raised by Hon CHAN Hak-kan on "Prevention of Cruelty to Animals")</u>
	26.3.2014	<u>Official Record of Proceedings Pages 9058 to 9062 (written question raised by Hon LEUNG Che-cheung on "Relocation of Stray Cattle")</u>
	10.6.2015	<u>Official Record of Proceedings Pages 12827 to 12833 (written question raised by Hon James TO on "Animal Welfare")</u>
	17.6.2015	<u>Official Record of Proceedings Pages 13128 to 13138 and A4 to A5(oral question raised by Hon CHAN Hak-kan on "Protection of Animals' Rights")</u>
	14.10.2015	<u>Official Record of Proceedings Pages 106 to 109 (written question raised by Hon Hon LEUNG Kwok-hung on "Stray Dogs")</u>
	28.10.2015	<u>Official Record of Proceedings Pages 535 to 540 (written question raised by Hon CHAN Hak-kan on "Animal Abandonment")</u>

Committee	Date of meeting	Question
Legislative Council	11.5.2016	<u>Official Record of Proceedings Pages 8655 to 8658 (written question raised by Hon Claudia MO on "Legislative Proposals on Enhancing Regulation of Animal Trading, as well as Breeding and Selling of Dogs")</u>
	1.6.2016	<u>Official Record of Proceedings Pages 10906 to 10911 (written question raised by Hon CHAN Hak-kan on "Promotion of Animal Welfare and Prevention of Acts of Cruelty to Animals")</u>

Council Business Division 2
Legislative Council Secretariat
15 December 2016

**Relevant papers on
Issues Relating to Animal Welfare and Cruelty to Animals**

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	14.6.2011 (Item VI)	Agenda Minutes
	14.1.2014 (Item V)	Agenda Minutes
	9.12.2014 (Item III)	Agenda Minutes Administration's follow-up paper on strategy in tackling the issue of stray cattle (LC Paper No. CB(2)1502/14-15(01))
Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals	25.4.2016 (Item I)	Information note on "Regulation of pet food in selected overseas places" prepared by Research Office, Information Services Division of the Legislative Council Secretariat (IN02/15-16)
Panel on Food Safety and Environmental Hygiene	-	Report of the Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals
	14.6.2016 (Item V)	Agenda Minutes