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Panel on Food Safety and Environmental Hygiene

Subcommittee to Study Issues Relating to Animal Rights

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 17 January 2017**

Policy and measures on handling and combating animal cruelty cases

Purpose

This paper provides background information on the Administration's policy and measures for handling and combating animal cruelty cases. It also summarizes the major views and concerns expressed by the Legislative Council ("LegCo") Members on the subject.

Background

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. Policy matters relating to animal welfare and management are under the oversight of the Food and Health Bureau while the Agriculture, Fisheries and Conservation Department ("AFCD") is the executive department 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 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.

5. 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 the Food and Environmental Hygiene Department ("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.

6. 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.

Members' major views and concerns

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

Measures to combat cruelty to animals

Animal Watch Scheme ("AWS")

8. Members noted that in 2011, the Police had introduced 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. AWS aimed at consolidating cooperation among various stakeholders and enhancing the efficacy of the Police's efforts in the investigation of such cases. Some Members raised concern about the effectiveness of AWS. According to the Administration's reply to a written question raised by Mr CHAN Hak-kan at the Council meeting of 9 November 2016, the Police had reviewed the effectiveness of AWS in early 2016 and all stakeholders considered that the Scheme had been operating well and was effective in combating acts of animal cruelty. The Police would further review AWS whenever appropriate based on actual needs.

Inter-departmental special working group

9. Concern was also raised about the work progress of the inter-departmental special working group, including whether it had proposed any effective measures to combat cruelty to animals. The Administration advised that the inter-departmental special working group was set-up in 2011 by AFCD, in conjunction with the Police, FEHD, and SPCA 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 and review guidelines for improving efficiency in the detection and prevention of animal cruelty cases. In addition, it would organize training courses for enhancing skills to handle animal cruelty cases and 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.

Suggestion of establishing "Animal police"

10. 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. Appropriate training should also be provided to frontline enforcement officers in order to enhance their investigation capability.

11. 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. Depending on the manpower of the police district, the nature and prevailing trend of cases, the Police might consider assigning cases to dedicated teams in the interest of ensuring comprehensive and focused investigation. The District Commander concerned would decide whether to set up designated units to handle animal cruelty cases having regard to local needs. The Police would continue to provide training to frontline officers to enhance their awareness and ability to handle cruelty to animal cases. The Administration stressed that the Police, in collaboration with different stakeholders, had been combating cruelty to animals through a four-pronged approach including education, publicity, intelligence gathering and investigation. The Administration considered the existing mechanism generally effective and had no plan to establish an "animal police" team.

Offences under relevant legislation

Prevention of Cruelty to Animals Ordinance

12. Some Members considered that the current penalty levels might not have sufficient deterrence against acts of animal cruelty. 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.

13. 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.

14. Members had different views on whether the Administration should consider making animal abandonment an offence under PCAO and introducing punitive measures against acts of animal abandonment. 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.

Road Traffic Ordinance (Cap. 374) ("RTO")

15. Members noted that section 56 of 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. There was suggestion 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.

16. In response to the request of the Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals formed in the Fifth LegCo, the Administration had studied the relevant practices and related legislation in Singapore, the United Kingdom ("UK") and New York State of the United States. It was found that the relevant legislative provisions in Singapore and UK were similar to the present section 56 of RTO, except that their scope covered dogs as well. The relevant legislation in New York, on the other hand, covered both dogs and cats, among others. Taking into account (a) the occurrence of road incidents involving the knocking down of dogs and cats by vehicles in recent years, (b) the fact that in some accidents, the vehicle driver left without causing the animals to receive attention, (c) the public concerns about animal welfare and (d) the practices adopted in other places, the Administration undertook to review the legislation, with a view to bringing dogs and cats within the scope of section 56 of RTO.

Relevant papers

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

**Relevant papers on
Policy and measures on handling and combating animal cruelty cases**

Committee	Date of meeting	Paper
Legislative Council	23.1.2013	<u>Official Record of Proceedings Pages 5174 to 5179 (written question raised by Hon Claudia MO on "Measures preventing cruelty to animals")</u>
	20.3.2013	<u>Official Record of Proceedings Pages 7591 to 7597 (written question raised by Dr Hon Helena WONG on "Prevention of cruelty to animals")</u>
	16.10.2013	<u>Official Record of Proceedings Pages 626 to 628 (written question raised by Dr Hon Helena WONG on "Combating Crimes of Cruel Treatment of Animals")</u>
	6.11.2013	<u>Official Record of Proceedings Pages 1796 to 1807 (oral question raised by Hon Michael TIEN on "Prevention of Cruelty to Animals ")</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>
	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>

Committee	Date of meeting	Paper
Legislative Council	28.10.2015	Official Record of Proceedings Pages 535 to 540 (written question raised by Hon CHAN Hak-kan on "Animal Abandonment")
	1.6.2016	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")
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
Legislative Council	9.11.2016	Official Record of Proceedings Pages 311 to 315 (written question raised by Hon CHAN Hak-kan on "Efforts to combat crimes of cruelty to animals")

Council Business Division 2
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