

立法會
Legislative Council

LC Paper No. CB(2)689/17-18

Ref : CB2/PS/2/16

Panel on Food Safety and Environmental Hygiene

**Report of the Subcommittee to Study Issues
Relating to Animal Rights**

Purpose

This report gives an account of the deliberations of the Subcommittee to Study Issues Relating to Animal Rights ("the Subcommittee") during its work period from 16 December 2016 to 15 December 2017.

The Subcommittee

2. At the meeting of the Panel on Food Safety and Environmental Hygiene ("the Panel") on 8 November 2016, members agreed that a subcommittee should be established under the Panel to study and follow-up on policies and measures relating to animal rights. The terms of reference and membership of the Subcommittee are set out in **Appendices I and II** respectively.

3. Under the chairmanship of Dr Hon CHIANG Lai-wan, the Subcommittee held a total of seven meetings since its activation in December 2016. The Subcommittee received views from deputations on promotion of responsible pet ownership and promotion of animal-friendly measures (including public rental housing, public transport and public open space) at two of the meetings. A list of the deputations which have given views to the Subcommittee is in **Appendix III**. The Subcommittee also conducted a visit to the Chong Hing Water Sports Centre ("CHWSC") and the Outward Bound Hong Kong in Sai Kung to facilitate members to obtain first-hand information on the ecological environment of the site for relocated stray cattle and the installation of cattle grid.

Deliberations of the Subcommittee

4. The Subcommittee has focused its deliberations on the following areas:
- (a) policy and measures to prevent and combat acts of animal cruelty;
 - (b) implementation of the Public Health (Animals and Birds) (Trading and Breeding) Regulations (Cap. 139B)¹;
 - (c) promotion of responsible pet ownership;
 - (d) management of stray animals and stray cattle;
 - (e) promotion of animal-friendly measures in public rental housing, public transport and public open space; and
 - (f) safety of commercial pet food products .

Policy and measures to prevent and combat acts of animal cruelty

Current legislations governing animal abuse

5. Under section 3(1)(a) of the Prevention of Cruelty to Animals Ordinance (Cap. 169) ("PCAO"), any person who cruelly beats, kicks, ill-treats, over-rides, over-drives, overloads, tortures, infuriates or terrifies any animal, or by wantonly or unreasonably doing or omitting to do any act, causes any unnecessary suffering to any animal commits an offence. Members note that in 2006, the maximum penalty under section 3 of PCAO increased from a fine of \$5,000 and six months' imprisonment to a fine of \$200,000 and three years' imprisonment. Members are gravely

¹ In order to strengthen the regulation of animal trading and dog breeding activities through licensing arrangements, the Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 ("the Amendment Regulation") was gazetted on 20 May 2016 to amend the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B) ("the Regulations") which regulate the activities of animal traders. To bring the Amendment Regulation into operation, the Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 (Commencement) Notice was gazetted on 25 November 2016 to appoint 20 March 2017 as the day on which the Amendment Regulation came into operation. The title of Cap. 139B was amended from the Public Health (Animals and Birds) (Animal Traders) Regulations to the Public Health (Animals and Birds) (Trading and Breeding) Regulations.

concerned that despite the revision of the maximum penalty under PCAO, the number of animal cruelty cases has not been reduced, but rather, increased. They consider that the penalty handed down by the court is not high enough to achieve the desired deterrent effect. There is a view that the court may impose heavier penalty on convicted cases if the maximum level of penalty prescribed by law is further increased.

6. The Administration has advised that the existing definition of "cruelty to animals" and the penalty level under PCAO are by and large comparable to other jurisdictions including the New South Wales, Queensland, New Zealand, the United Kingdom ("UK"), California, District of Columbia, Singapore, Japan, Taiwan and Macau. The maximum penalty under PCAO is heavier than most of these jurisdictions. According to the Administration, the Department of Justice ("DoJ") may file an appeal to court against the penalty imposed on a certain case if the Agriculture, Fisheries and Conservation Department ("AFCD") and DoJ consider it to be too light. The heaviest sentence handed down by the court for convicted cases under PCAO is 16 months of imprisonment. In the Administration's view, the current provisions of PCAO and the maximum penalty level are effective in deterring against acts of animal cruelty.

7. Under section 56 of the Road Traffic Ordinance (Cap. 374) ("RTO"), a driver of a vehicle shall stop the vehicle where an accident involving that vehicle occurs whereby damage is caused to, amongst others, an animal. The driver is 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" is defined to mean any horse, cattle, ass, mule, sheep, pig or goat. Members note that the Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals formed under the Panel in the Fifth Legislative Council has requested the Administration to consider the need to review and amend the definition of "animal" under RTO to include cats and dogs in the definition. Members have followed up this issue and are informed that the Administration has been reviewing the matter with reference to the practices in overseas jurisdictions, and, will upon conclusion of the review, consider amending the legislation to bring dogs and cats within the scope of section 56 of RTO.² Members hope that the Administration will take forward the necessary legislative exercise as early as possible.

² According to the Administration's response to a written question raised by Hon Claudia MO at the Council meeting of 13 December 2017, the review is expected to complete within 2018.

8. Holding the view that Hong Kong is in lack of a well-conceived legislation on animal welfare, members have repeatedly urged the Administration to conduct a comprehensive review of the legal provisions regarding the protection of animal welfare and prevention of cruelty to animals with a view to consolidating and updating the relevant ordinances into a single piece of animal protection legislation. The Administration has advised that it does not see the need for enactment of a comprehensive and consolidated legislation on animal protection at the present stage. On the issue of protection for animal welfare, its key consideration is whether the existing legislations can achieve the objective of safeguarding the welfare of animals. It will keep in view the relevant legislative provisions on animal protection to ensure that they can serve its purpose and are up-to-date. The Administration has assured members that it will pay close attention to the international trend and propose legislative amendments as necessary, having regard to the unique local situation.

9. Notwithstanding the Administration's assurance, members maintain their view that it is desirable to consolidate and update the relevant ordinances concerning protection of animal welfare and prevent of animal cruelty to animals into a single piece of animal protection legislation. There is also a view that the policy responsibilities on animal protection are fragmented, and it will be desirable to transfer the policy responsibilities of the Food and Health Bureau relating to animal rights, welfare and protection to the Environment Bureau. The Administration has responded that the Government has from time to time reviewed the allocation of policy responsibilities among different bureaux/departments. At present, there is no plan for the change as suggested.

Law enforcement

10. Members in general consider that the Administration should consider establishing "animal police" teams in Hong Kong specially tasked to investigate into cases of animal cruelty and abandonment. They also consider that appropriate training should be provided to frontline enforcement officers to enhance their investigation capability of animal cruelty cases. There is also a suggestion that if a formal establishment of "animal police" teams is not possible in the near future, the Police should at least form a "loosely-knitted squad" in each district comprising designated police officers to be in charge of cases on animal cruelty.

11. According to the Administration, the Police attaches great importance to the prevention of animal cruelty cases and a multi-agency approach is adopted in investigating such cases. Animal cruelty cases received by the Police will initially be attended to by uniformed officers in the respective districts. Under the Animal Watch Scheme introduced in 2011, staff from AFCD and the Society for the Prevention of Cruelty to Animals can be invited to the scene to provide professional advice if necessary. If there is a prima facie case of cruelty to animals upon initial investigation, the case will be taken up by a crime investigation team. A Chief Inspector of Police will review the investigations conducted by different investigation teams to ensure consistency in their investigations. Relevant training is provided to the police officers to ensure that cases of cruelty to animals will be handled in a professional and consistent manner.

12. In addition, an arrangement is in place whereby the District Commander may, having regard to the manpower of the police district as well as the nature and prevailing trend of cases, assign animal cruelty cases to dedicated teams for handling. This arrangement allows the Police to flexibly deploy the limited resources of each district, thereby enhancing the overall effectiveness of its efforts in combating acts of cruelty to animals.

Implementation of the Public Health (Animals and Birds) (Trading and Breeding) Regulations (Cap. 139B)

13. Members are concerned about the implementation of the enhanced regulatory regime under Cap. 139B to put dog breeding and selling activities under licensing control. Concern is raised as to whether illegal animal trading and dog breeding activities have been reduced upon the implementation of Cap. 139B. To improve the implementation of Cap. 139B, some members have urged the Administration to consider requesting new dog owners to provide information and documentary proof on the sources of their dogs when they apply for a dog licence or update the dog owner information at the Animal Management Centres ("AMCs") and uploading the licensee/permittee lists of Dog Breeder Licence (Category A) ("DBLA"), Dog Breeder Licence (Category B) ("DBLB") and One-off Permit ("OOP") onto AFCD's website to facilitate prospective dog buyers to verify the sellers' status.

14. The Administration has advised that while it is not mandatory for new dog owners to provide information on the sources of their dogs when updating the dog owner information at AMCs, the Administration may

consider requesting for voluntary provision of such data in the future. The list of licensed pet shops is largely available on AFCD's website while the licensee lists of DBLA and DBLB will also be uploaded onto AFCD's website soon. Members of the public can also call the 1823 hotline to request for the licensee's/permittee's information.

15. Members note from the information provided by the Administration that from 20 March 2017³ up to 30 September 2017, a total of 90 complaints have been received about offers to sell a dog without a licence or OOP on the Internet, and 17 decoy operations have been conducted by AFCD. In members' view, the Administration should proactively initiate decoy operations to detect illegal sale of dogs rather than acting on complaints only.

16. The Administration has pointed out that while the enhanced regulatory regime has only been operated for slightly over six months, there have already been successful enforcement actions that have prosecuted three cases of dog selling without OOP, with all three offenders convicted and fined. The Administration has further advised that around 30 staff are deployed to enforce Cap. 139B, a dedicated investigation unit is in charge of monitoring advertisements for animal trading activities on the Internet, and responding to related complaints. The investigation unit proactively looks for "animal for sale" advertisements posted on the Internet and takes appropriate follow-up actions on suspicious cases including illegal sale of dogs.

17. In response to some members' view that a ban on the selling of animals on the Internet should be imposed, the Administration has advised that one of the main reasons for requiring licensee/permittee to display the licence/permit number as well as the microchip numbers of the dogs on any advertisements (including on the Internet) is to facilitate the tracing and identification of illegal dog trading/breeding activities. The investigation unit of AFCD will verify the number of these advertisements to identify suspicious cases. In view of the global nature of Internet, it is considered impractical to prohibit the selling of animals over this platform. If the sale of dogs on the Internet were to be banned, sellers might resort to other private channels, making it more difficult for the Administration to detect illegal dog trading activities.

³ Please see footnote 1.

Promoting responsible pet ownership

Abandonment of animals

18. Members note with grave concern that no prosecution was initiated against abandonment of animals in the past three years and a penalty of \$500 only was imposed on a successful prosecution against animal abandonment in 2013. The Subcommittee has passed a motion requesting the Administration to study revising the penalties against animal abandonment to enhance the deterrent effect on animal abandonment.⁴

19. The Administration has explained that under section 22 of the Rabies Ordinance (Cap. 421), a keeper of an animal who, without reasonable excuse, abandons that animal commits an offence and is liable on conviction to a maximum fine of \$10,000 and imprisonment for up to six months. In addition, the keeper of a dog and any person who fails to control his/her dog properly by allowing it to loiter in public places commits an offence and is liable on conviction to a maximum fine of \$10,000 pursuant to section 23 of Cap. 421. While AFCD has been actively enforcing the law, successful prosecutions of a case of animal abandonment are few and far between, mainly because of the difficulties encountered in collecting sufficient evidence beyond the threshold of "reasonable doubt" to substantiate a case for prosecution against abandonment of the animal. Under such circumstances, AFCD will consider other enforcement actions, such as pressing charges against the keeper of a dog for failing to take proper control of the dog in public places pursuant to section 23 of Cap. 421.

Microchipping of cats

20. In order to facilitate cat owners to reclaim their cats that have gone astray and to facilitate the Government to identify the irresponsible cat owners, the Subcommittee has passed a motion requesting the Administration to consider the introduction of legislation to require cat owners to have their cats microchipped and licensed.⁵ Noting that Taipei has recently introduced a mandatory microchipping scheme for cats, the Administration has been asked whether it has any plan to introduce a similar arrangement in Hong Kong so as to facilitate cat owners to reclaim their missing cats.

⁴ For wording of the motion and the Administration's response, please refer to LC Paper No. CB(2)1179/16-17(01).

⁵ Please see footnote 4.

21. The Administration has advised that under the Rabies Regulation (Cap. 421A), all dogs over the age of five months old kept by any person are required to be vaccinated, microchipped and licensed. Such requirement is based primarily on the fact that the risk of pet dogs spreading rabies is relatively high and, for public health considerations, it is necessary to prevent and control the spread of rabies by dogs. On the other hand, pet cats are mostly kept indoors that present a lower risk of contracting and spreading rabies in the community. Although the current legislation does not require cats to be vaccinated or microchipped, cat owners may take their cats to practicing veterinary surgeons for vaccination against epidemic diseases and/or rabies and microchipping for identification purposes. The Administration is of the view that owing to the behavioral differences between dogs and cats, it is not suitable to impose the same legislative control on cats.

Keeping dogs on construction sites

22. Members are concerned about the problems associated with dogs being kept on construction sites. They have pointed out that many dogs are being left unattended in construction sites or abandoned after the completion of the relevant construction works and become stray dogs. Although dogs have to be vaccinated, microchipped and licensed under Cap. 421A, many of the dogs kept in these sites are not microchipped. Members have also pointed out that although the "Code of Practice for Keeping Dogs on Construction Sites" ("Code of Practice") issued by AFCD specifies that at least one person, preferably a company representative of the site, should take responsibility for the proper behaviour and welfare of, and liabilities for any dogs kept on the site, such requirement has no binding power on the person in charge of construction sites. Members consider that such arrangement is far from satisfactory from enforcement point of view and have passed a motion requesting AFCD and the Buildings Department ("BD") to consider requiring "safety supervisors" of constructions sites to be the person to assume the aforesaid responsibility.⁶

23. According to the Administration, AFCD will conduct inspections to construction sites to check for non-compliance with the Code of Practice. In addition AFCD has provided funding to Animal Welfare Organizations ("AWOs") for offering free or low-cost neutering services to dogs and to educate the owners concerned. AFCD, with the assistance of BD, will actively promote the Code of Practice to the

⁶ Please see footnote 4.

construction industry and encourage compliance by all relevant parties, with a view to safeguarding the health and welfare of dogs. On the suggestion of requiring "safety supervisors" to assume the responsibility of the proper behaviour and welfare of, and liabilities for any dogs kept on construction sites, the Administration has advised that BD regulates the planning, design and construction of buildings and associated works on private land under the powers conferred by the Buildings Ordinance (Cap. 123) ("BO") which prescribes building design and construction standards as well as regulates the construction safety and the quality supervision of construction work. Since keeping of dogs on construction site is not related to construction safety and the quality supervision of construction work, it is not within the remit of BO's regulation.

Management of stray animals

"Trap-Neuter-Return" trial programme

24. Members are of a consensus view that the "Trap-Neuter-Return" ("TNR") trial programme, which is currently implemented in two designated trial sites in Cheung Chau and Tai Tong, Yuen Long, should be extended to other districts. Noting that several District Councils ("DCs") did not support the TNR trial programme when the Administration conducted the consultation in 2007, the Administration has been urged to endeavor to lobby for the support of DCs.

25. The Administration has advised that the TNR trial programme, which was launched in 2015, will be completed in 2018. According to the Administration, the independent consultant commissioned by AFCD to monitor the progress and assess the effectiveness of the trial programme is of the view that there is no clear trend of change in the dog population over the first two years of trial programme and it is premature to draw any conclusion at this stage about the effectiveness of the programme. AFCD will consider the way forward upon the scheme's completion. The Administration is open-minded about introducing the trial programme in other districts and the current trial programme will provide useful information for considering the way forward. Noting the Administration's response, members consider that the issue should be suitably followed up when the TNR trial programme is completed in 2018.

26. Some members have expressed concern that the provisions of certain Ordinances such as the Pleasure Grounds Regulation (Cap. 132BC) and Cap. 421 which restrict the feeding of animals are impeding the

implementation of voluntary TNR programmes conducted by animal welfare groups. According to the Administration, the purpose of restricting the feeding of animals under section 20 of Cap. 421 is to discourage the congregation of animals and gathering of stray dogs so as to control the spreading of rabies disease in Hong Kong. To clear way for the implementation of the TNR trial programme, the Administration has made certain legislative exemption and will make appropriate arrangements if the TNR programme is to be extended to other districts in future.

Promoting animal adoption

27. Members consider that the Government should take the lead in promoting animal adoption in order to minimize the need for euthanasia. To this end, AFCD should provide adoption service at its AMCs and provide more financial assistance to animal welfare groups to improve and expand their work in the promotion of animal welfare, including the operation of voluntary TNR programme and provision of animal adoption service. The Administration should also consider assisting animal welfare groups to address the space shortage problem in keeping captured stray animals.

28. The Administration agrees with the view of the Subcommittee that promoting animal adoption is a way to address the problem of stray animals and the Administration will continue to promote adoption through publicity and education. The Administration has advised that AFCD has been collaborating and providing partial funding to various AWOs as long as resources permit to support their work in promoting animal welfare and better animal management and it has set aside \$1.5 million in 2017-2018 for application by AWOs. AFCD is currently partnering with 16 AWOs in providing animal re-homing service in different districts throughout the territory. Compared with the four AMCs, these AWOs can provide more locations to service the public and better meet the current demands of the community. AFCD will actively liaise with other AWOs with a view to further increasing the number of AWO partners, and enhancing re-homing service. As for the suggestion of providing animal adoption service at AMCs, the Administration has responded that such arrangement will require long-range planning with regard to the facility, manpower and financial resources.

Euthanasia of stray animals

29. Some members hold a strong view that it is inhumane to euthanize stray animals and have requested the Administration to consider

adopting the "zero euthanasia" of stray animal policy. They have pointed out that Taiwan has already implemented the "zero euthanasia" of stray animal policy starting February 2017. The Subcommittee has passed a motion urging the Administration to, among others, set up re-homing centres for stray animals and review its policy of setting out to catch "community animals" upon receiving complaints from members of the public.⁷

30. The Administration has advised that AFCD collaborates with some AWOs to encourage animal adoption by the public and provide such services with a view to reducing the need for euthanizing abandoned animals. The number of stray animals in the community had been reduced by 50% over the past five years. AFCD will transfer suitable animals to AWOs for adoption by the public, and only those assessed to be unsuitable for re-homing due to health or temperament reasons will be euthanized. According to the Administration, a number of international animal organizations, including the World Organization of Animal Health, agree that in situations where the number of stray dogs caught remains high or the dogs are not fit for adoption despite the deployment of various management measures, euthanasia will be an appropriate and humane solution. As Taiwan has adopted the "zero euthanasia" of stray animal policy for a short period only, its implementation and assessment are subject to further observation. AFCD has undertaken to pay close attention to the development and closely monitor the measures on the management of stray animals adopted by the international community with a view to improving its stray animal management measures having regard to the unique local situation.

Management of stray cattle

31. Management of stray cattle is another subject of concern of the Subcommittee. Members note that some deputations hold a strong view that it is not appropriate to relocate the stray cattle to CHWSC under the "Capture-Sterilization-Relocation" ("CSR") programme implemented by AFCD. In these deputations' view, the land in CHWSC is barren and the vegetation there is not right for the cattle's diet. These deputations have also criticized AFCD for taking calves away from their mothers and relocating them to CHWSC. The Subcommittee has passed a motion urging the Administration to formulate a sustainable policy on the conservation of cattle and evaluate the health conditions and adaptability

⁷ For wording of the motion and the Administration's response, please refer to LC Paper No. CB(2)1624/16-17(01).

of the relocated cattle.⁸

32. The Administration has explained that CHWSC has a suitable habitat for cattle and the relocated cattle are found to be by and large healthy. The Administration has also clarified that AFCD will not remove calves (that are not weaned) away from their mothers under the CSR programme except under special circumstances and AFCD will ensure that the calves are able to forage properly before releasing them to CHWSC. AFCD's veterinary surgeons will perform check-up and assessment on the cattle prior to relocation. While AFCD does not trace the whereabouts of individual cattle, its staff will visit the areas frequented by cattle on a weekly basis to monitor their health and conditions of the relocation sites. If injured cattle are found or reported by the public, AFCD will deploy staff to follow up the cases and provide appropriate treatment. The Administration has stressed that the objective of AFCD's work in stray cattle management is to protect the welfare of these cattle so that they can live in the natural environment and there is no question of inhumane handling or unsustainability of the cattle involved.

33. Some members have expressed disappointment that despite that the suggestion of installation of cattle grid in Sai Kung Country Park has already been discussed for a couple of years, there has been no progress at all. In these members' view, cattle grid can help minimize the chance for stray cattle to enter urban areas, thereby reducing the nuisance to the public and protecting the safety of both the cattle and the public. These members consider that the Administration should follow up the matter as appropriate.

34. The Administration has advised that AFCD is consulting the departments concerned, including the Transport Department ("TD") and the Highways Department, on the possible location(s) of cattle grid(s) to be installed in Sai Kung Country Park, their technical feasibility, practicability, and impacts on pedestrians and other road users. According to TD, cattle grids are used in farms on private land in overseas countries to prevent cattle from going outside the farms. In view of the overseas experience in such designs, there are potential safety hazards to road users if they are installed on public roads.⁹

⁸ Please see footnote 7.

⁹ Please refer to LC Paper No. CB(2)1231/16-17(07) for information on the potential hazards to road users if cattle grids are installed on public roads as provided by the Administration.

Promoting animal-friendly measures

Dog keeping in public rental housing

35. Members note that dog keeping is prohibited in public rental housing ("PRH") estates except for (a) permitted dogs under the Temporary Permission Rule¹⁰ and (b) service dogs (including guide dogs for visually impaired tenants and companion dogs for tenants who have strong special needs for mental support). Tenants who keep prohibited dog(s) or animal(s) in leased premises without the prior written consent will be allotted five penalty points without warning under the Marking Scheme implemented by the Hong Kong Housing Authority ("HA") to strengthen control against hygiene-related misconduct in PRH estates since 2003. Members in general consider that the policy on dog keeping at PRH estates should be relaxed. There is a suggestion that the Administration should consider, as a pilot scheme, adopting a relaxed policy on dog keeping in the newly built PRH estates. A motion was passed by the Subcommittee urging the Administration to studying a further relaxation of the dog keeping policy in PRH estates.¹¹

36. The Administration has advised that the mission of HA is to provide affordable quality housing to persons with genuine housing needs. In formulating the policy of animal keeping in PRH estates, the primary consideration of HA is to build a harmonious community whereby the different interests of all PRH tenants are being respected at large. Considering that dog keeping may induce noise and hygiene nuisance in densely populated PRH estates with limited flat size and common area, dog keeping is not allowed in PRH estates under the Tenancy Agreement unless discretionary approval has been obtained from HA on specific health grounds or under the "Temporary Permission Rule". The

¹⁰ The Hong Kong Housing Authority ("HA") has implemented the Marking Scheme in PRH estates since May 2003 in view of residents' concern about environmental hygiene. In concert with the tenancy agreement, "Keeping animal, bird or livestock inside lease premises without prior written consent of the Landlord" is one of the misdeeds under the Marking Scheme and the term "animal" covers dogs. Allotted points will be valid for two years, if a tenant accumulates 16 valid points, HA will issue a Notice-to-quit to the tenant to terminate the tenancy. Nevertheless, to avoid the possible abandonment of large number of dogs by tenants, HA subsequently implemented the "Temporary Permission Rule" in November 2003 which is a one-off measure to allow PRH tenants to continue keeping small dogs that has been kept in PRH units before 1 August 2003 until the dogs' natural death.

¹¹ For wording of the motion and the Administration's response, please refer to LC Paper No. CB(2)1933/16-17(01).

Administration is of the view that prospective tenants awaiting allocation of PRH units should be treated on par with other tenants and comply with the same terms of the Tenancy Agreement after they have been offered PRH units in order to uphold a harmonious community. According to the Public Housing Recurrent Survey conducted in 2016, majority of the interviewees objected to the relaxation of the dog keeping policy in PRH estates. In the light of this, HA will maintain the existing dog keeping policy in PRH estates at the present stage.

37. In response to the concern of the deputations about the difficulties in providing guide dog puppies with the necessary training in PRH estates, the Administration has assured members that it will continue to discuss with relevant stakeholders on the keeping of guide dog puppies in PRH estates and critically consider such request.

Pet keeping in private residential development

38. Some members share the concern of some deputations about the lack of information in the sales brochure of first-hand residential property regarding the relevant Deed of Mutual Covenant ("DMC") provisions on pet keeping in the development concerned. According to the Administration, section 23 of the Residential Properties (First-hand Sales) Ordinance (Cap. 621) provides that the sales brochure for a first-hand residential development must not set out any information other than the information required or authorized by Cap. 621 and information on keeping of animals/pets is not among the information so required or authorized. That notwithstanding, section 19(1) of Cap. 621 has stipulated that the sales brochure must first set out the steps that a person is advised to take for the person's own protection before making a purchase decision. For the purpose of this section, the Sales of First-hand Residential Properties Authority has issued the "Notes to Purchasers of First-hand Residential Properties" in which prospective purchasers are reminded to check DMC on whether animals can be kept in the residential property. Under Cap. 621, vendors must make available at the sales office and on the website designated by the vendor a copy of DMC (or draft DMC) for inspection by prospective purchasers free of charge and as such prospective buyers can access the relevant information to make an informed decision.

Boarding public transport with animals

39. Members note that in response to a proposal from a member, one franchised bus operator has indicated its willingness to explore the feasibility of allowing passengers to board the buses with designated

animals (such as dogs) provided that animals are within certain size limit and under the reasonable care of the passengers concerned. Some members consider that public transport like MTR and franchised buses should have the capacity during non-peak hours to accommodate passengers boarding with animals.

40. The Administration has responded that the current legislative provisions governing different modes of public transport services do not impose any restriction on a guide dog accompanying the visually impaired to be carried on board. Public transport modes, which have relatively more space in the compartment (including public light buses, taxis, non-franchised buses and ferries), can allow passengers to carry pets on board at their discretion. For rail and franchised buses, pets other than a guide dog accompanying the visually impaired, are not permitted under their respective laws or regulations. Given the compartments of trains and franchised buses have limited space and are very crowded in certain periods, there is a need for the Administration to balance various concerns, including reaction of pets in a crowded and confined environment as well as the impact on other passengers in considering whether to allow passengers to carry pets on board. The Administration has stressed that it has noted members' views and will continue to keep in view the public views on the issue to decide whether or not to change the existing arrangement. Members are assured that TD will continue to encourage the operators of public light buses, taxis, non-franchised buses and ferries to provide appropriate assistance to passengers with pets. Some members consider that the above issue will be more appropriate to be followed up by the relevant Panel.

41. The Subcommittee has passed a motion requesting the Government to instruct MTR to study the feasibility of introducing animal compartments.¹² According to MTR's response, it endeavours to provide passengers with a safe, reliable and comfortable journey. Having considered the interest of passengers at large, it is of the view that the prevailing policy of prohibiting passengers from boarding MTR trains with animals should not be changed.

¹² The wording of the motion is: "This Subcommittee requests the Government to instruct the railway company to study the feasibility of introducing animal compartments by making reference to the experience of Stockholm Metro operated by its fully owned overseas subsidiary in allowing animals aboard and submit a report to this Subcommittee within six months; as well as to expeditiously conduct a territory-wide public consultation on the introduction of animal compartments and report the outcome of the consultation to the Legislative Council.". For MTR's response relayed by the Administration, please refer to LC Paper No. CB(2)1886/16-17(01).

Pet gardens

42. According to the Administration, the Leisure and Cultural Services Department ("LCSD") provides 44 pet gardens for use by the public. While members welcome the increase in the number of pet gardens managed by LCSD, some members share the view of deputations that the number of pet gardens in Hong Kong is still not sufficient and some of them are inconveniently located.

43. Members are advised that additional pet gardens will be provided in Yau Tsim Mong district, Shamshuipo district as well as Central and Western district in 2017. LCSD is open to proposals for provision of more pet gardens at leisure venues. Since the general public has diverse views on the designation of venues to which the public may be allowed to bring their pets, LCSD has to balance different needs of the public and consider carefully issues relating to environmental hygiene, public health and facility management, etc. If there are genuine local demands, suitable sites and support from the relevant District Councils and local communities, LCSD will open more suitable venues for provision of pet gardens.

Enhancing the safety of commercial pet food products

44. On members' concern about the lack of legislation governing the safety of commercial pet food products in Hong Kong, the Administration has advised the Subcommittee in May 2017 that it is important to raise the awareness of pet owners on the proper selection of pet food through enhanced publicity and education. In order to assess whether and the extent to which the safety of pet food is a concern, AFCD will commission a study to test pet food products available in the Hong Kong market.¹³ The contractor of the study will conduct sampling and testing of commercial pet food products in Hong Kong over a period of two years. It is planned that a total of six rounds of random sampling of pet food products will be conducted. Majority of the samples will be drawn from the most common forms of pet food products for dogs and cats, such as dry food and canned food, with the remaining samples comprising semi-moist food, freeze-dried food, and frozen food as well as feed for other species like birds and rodents. Each round will sample 60 pet food products, resulting in a total of 360 pet food products tested by

¹³ According to the Administration's response to a written question raised by Hon Claudia MO at the Council meeting of 13 December 2017, AFCD has commissioned the study in October 2017.

the end of the study. A number of harmful substances and microbes, such as Salmonella, Aflatoxin and Melamine, and certain heavy metal, etc. will be tested with reference to the standards adopted in some overseas jurisdictions such as US, EU, Japan and Australia etc.

45. In response to members' enquiry about the handling of local pet food incidents, the Administration has advised that AFCD identifies pet food incidents mainly through regular surveillance of announcements from related overseas authorities (e.g. the US Food and Drug Administration). It has also established contacts with some of these authorities and local importers to facilitate the identification of pet food incidents, in particular, those with local relevance and follow up as necessary. According to the Administration, importers of pet food products are generally cooperative in handling pet food incidents and they will initiate product recalls and/or remove them from shelf as necessary. On some members' suggestion that information on local pet food recalls should be uploaded onto AFCD's webpage for public's reference, the Administration is of the view that all arrangements on pet food recalls are the responsibility of the importers concerned and the feasibility of the suggestion has to be further considered having regard to issues like the intellectual property right of the trademarks concerned etc.

Way forward

46. Members understand that the Subcommittee should cease its work upon completion of the 12-month period¹⁴, but consider it desirable for the Subcommittee to continue to follow up or further examine the following issues:

- (a) the proposed introduction of a concept of positive duty of care on animal keepers which is a new initiative in the Chief Executive's 2017 Policy Address;
- (b) way forward for the TNR programme for stray dogs upon completion of the trial programme in 2018;
- (c) implementation of Cap. 139B which will be subject to review in about two years after its commencement on 20 March 2017;
- (d) review of the current legislations on safeguarding animal

¹⁴ The 12-month work period is from 16 December 2016 to 15 December 2017.

rights and enactment of a comprehensive and consolidated legislation on animal protection;

- (e) policy and measures to handle and combat animal cruelty cases including establishing specialized teams of "animal police" throughout Hong Kong;
- (f) management of stray animals including stray cattle; and
- (g) publicity and public education for promoting animal welfare.

47. Members envisage that the Subcommittee should need to continue its work for another 12 months to wrap up the Subcommittee's study and deliberation of its observations and recommendations, having regard to the above issues which need to be followed up or further examined by the Subcommittee. With the endorsement of the Panel and the House Committee of the proposal for continuation of work of the Subcommittee¹⁵, the Subcommittee is permitted to extend the period of its work for another 12 months and put on the waiting list for re-activation when a vacant slot is available.

Advice sought

48. Members are invited to note the work of the Subcommittee.

Council Business Division 2
Legislative Council Secretariat
12 January 2018

¹⁵ The Panel and the House Committee endorsed the proposal for continuation of work of the Subcommittee at their meetings on 14 November 2017 and 1 December 2017 respectively.

Panel on Food Safety and Environmental Hygiene

Subcommittee to Study Issues Relating to Animal Rights

Terms of Reference

To study and follow-up on policies and measures relating to animal rights, and to put forward recommendations where necessary.

Subcommittee to Study Issues Relating to Animal Rights

Membership list *

Chairman	Dr Hon CHIANG Lai-wan, JP
Deputy Chairman	Hon Claudia MO
Members	Hon Starry LEE Wai-king, SBS, JP Hon CHAN Hak-kan, BBS, JP Hon Steven HO Chun-yin, BBS Hon CHAN Chi-chuen Hon CHAN Han-pan, JP Hon Alice MAK Mei-kuen, BBS, JP Dr Hon Elizabeth QUAT, BBS, JP Hon CHU Hoi-dick Hon HUI Chi-fung Hon LAU Kwok-fan, MH Hon KWONG Chun-yu Hon Jeremy TAM Man-ho

(Total : 14 members)

Clerk	Ms Alice LEUNG
Legal Adviser	Ms Wendy KAN

* Changes in membership are shown in Annex to Appendix II.

Annex to Appendix II

Subcommittee to Study Issues Relating to Animal Rights

Changes in membership

Member	Relevant date
Hon LEUNG Yiu-chung	Up to 18 December 2016
Hon Tanya CHAN	Up to 2 January 2017
Hon YIU Si-wing, BBS	Up to 15 January 2017
Hon Wilson OR Chong-shing, MH	Up to 16 January 2017
Hon SHIU Ka-fai	Since 17 January 2017 Up to 24 October 2017
Hon HO Kai-ming	Up to 1 February 2017
Hon LEUNG Che-cheung, SBS, MH, JP	Up to 7 March 2017
Hon Alvin YEUNG	Up to 8 March 2017
Hon Alice MAK Mei-kuen, BBS, JP	Up to 25 May 2017 Rejoined on 25 October 2017
Hon Kenneth LAU Ip-keung, BBS, MH, JP	Up to 15 October 2017
Hon WONG Ting-kwong, GBS, JP	Up to 18 October 2017
Hon Michael TIEN Puk-sun, BBS, JP	Up to 24 October 2017
Hon Christopher CHEUNG Wah-fung, SBS, JP	Up to 24 October 2017
Hon CHEUNG Kwok-kwan, JP	Up to 24 October 2017

According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.

Panel on Food Safety and Environmental Hygiene

Subcommittee to Study Issues Relating to Animal Rights

List of deputations which have given oral representation to the Subcommittee

1. Animal Earth
2. Animal Saver HK
3. Animal-Friendly Alliance
4. Animals Asia Foundation Limited
5. Association for Tai O Environment & Development (Cattle Concern Group)
6. Cats Society (Hong Kong) Limited
7. Cheung Chau Animal Care
8. Concern Group for Pets
9. Give Dogs A Home
10. Green Animals Association Ltd.
11. HK Paws Guardian Limited
12. Hong Kong Rabbit Society
13. Hong Kong Seeing Eye Dog Services Limited
14. Hong Kong Society of Herpetology Foundation
15. Liberal Party Pet's Right Concern Unit
16. Mongrel Dog Lovers
17. MUB Dog Shelter
18. Paws Hero
19. Sai Kung Shap Sze Heung Cattle Concern Group
20. Society for Abandoned Animals Ltd
21. Society for the Prevention of Cruelty to Animals (HK)
22. Tai Po Community Animal Concern Group
23. 大嶼山黃牛關注組
24. 元朗牛友
25. 城鄉動物隊

List of deputations/individuals which/who have provided written submissions only

1. A member of the public
2. AELLA Asia
3. Committee on Youth, Business and Professionals Alliance for Hong Kong
4. Jacqueline LEE
5. Mongrel Club
6. Protection of Animals Lantau South
7. Sai Kung Buffalo Watch
8. Sai Kung Cattle's Angel
9. 14 鄉黃牛關注組
10. 新界東動物關注組
11. 環保生態保育協會