

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

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Panel on Food Safety and Environmental Hygiene

Subcommittee to Study Issues Relating to Animal Rights

**Minutes of the meeting
held on Monday, 19 April 2021, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon CHAN Hak-kan, BBS, JP (Chairman)
Hon Steven HO Chun-yin, BBS
Hon Elizabeth QUAT, BBS, JP
Hon SHIU Ka-fai, JP
Hon LAU Kwok-fan, MH

Members attending : Hon Michael TIEN Puk-sun, BBS, JP
Dr Hon CHIANG Lai-wan, SBS, JP

Member absent : Dr Hon CHENG Chung-tai

Public Officers : Item I
Dr CHUI Tak-yi, JP
Under Secretary for Food and Health

Miss Erica NG Lai-man
Deputy Secretary for Food and Health (Food) 1

Mr Amor WONG Yiu-tuen
Principal Assistant Secretary for Food and Health
(Food) 3

Dr Thomas SIT Hon-chung
Assistant Director (Inspection and Quarantine)
Agriculture, Fisheries and Conservation Department

Dr Shirley Veronica CHUK Sheung-ying
Senior Veterinary Officer (Animal Management)
Operations
Agriculture, Fisheries and Conservation Department

Dr Esther TO Man-wai
Senior Veterinary Officer (Animal Management)
Development
Agriculture, Fisheries and Conservation Department

Mr Crusade YAU Siu-kei
Chief Superintendent of Police (Support Branch)
(Support Wing)
Hong Kong Police Force

Ms Kitty CHIK Hsia-yu
Superintendent of Police (Field) (Support Branch)
Hong Kong Police Force

Clerk in attendance : Miss Connie AU
Senior Council Secretary (2) 5

Staff in attendance : Mr Ronald LAU
Council Secretary (2) 4

Miss Meisy KWOK
Legislative Assistant (2) 5

Action

- I. Latest developments on the enforcement actions to combat acts of animal cruelty and amendments to the Prevention of Cruelty to Animals Ordinance (Cap. 169)**
(LC Paper Nos. CB(2)968/20-21(01) and (02))

The Subcommittee deliberated (index of proceedings attached at **Annex**).

Action

2. At the invitation of the Chairman, Under Secretary for Food and Health briefed members on the latest developments on the enforcement actions to combat acts of animal cruelty and amending the Prevention of Cruelty to Animals Ordinance (Cap. 169), details of which were set out in the Administration's paper (LC Paper No. CB(2)968/20-21(01)).

Follow-up actions arising from the discussion

Admin

3. The Administration was requested to:
- (a) provide the number of complaints received and the number of prosecutions instituted against abandonment of animals in the past three years; and
 - (b) list out by year (i) the number of suspected animal cruelty reports received by the Police and the Agriculture, Fisheries and Conservation Department; (ii) the number of persons prosecuted in the relevant cases; and (iii) the number of persons convicted and the penalties imposed by the court in the relevant cases in the past five years. For item (iii), a breakdown by the type of cruelty acts involved should also be provided.

(Post meeting note: The Chinese and English versions of the Administration's response (LC Paper no. CB(2)1205/20-21(03)) were circulated to members on 18 June and 30 June 2021 respectively.)

II. Any other business

4. Members noted that the next meeting would be scheduled for Tuesday, 11 May 2021 to discuss "Publicity and public education for promoting animal welfare and responsible pet ownership".

5. There being no other business, the meeting ended at 12:18 pm.

**Proceedings of the meeting of the
Subcommittee to Study Issues Relating to Animal Rights
on Monday, 19 April 2021, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Latest developments on the enforcement actions to combat acts of animal cruelty and amendments to the Prevention of Cruelty to Animals Ordinance (Cap. 169)</i>			
000400-000937	Chairman Admin	Briefing by the Administration on the latest developments regarding the enforcement actions to combat acts of animal cruelty and amendments to the Prevention of Cruelty to Animals Ordinance (Cap. 169) ("PCAO") (LC Paper No. CB(2)968/20-21(01)).	
000938-001355	Chairman Admin	The Chairman's enquiry and the Administration's reply concerning the procedures adopted by the Police and the Agriculture, Fisheries and Conservation Department ("AFCD") for handling reports on suspected animal cruelty cases.	
001356-002211	Chairman Mr SHIU Ka-fai Admin	<p>Mr SHIU Ka-fai sought information on the progress of investigation of a number of suspected animal cruelty cases which had been widely reported in the media over the past year or so. The Administration advised that the Police had conducted arrest operation for some of those cases while a few of them were still under investigation. The Police had also arranged participants of the Animal Watchers Programme to assist in disseminating messages about caring for animals and prevention of cruelty to animals to the public.</p> <p>The Administration advised that upon investigation, most of the reports on suspected animal cruelty contained no evidence of human acts of animal cruelty and were related to nuisance or other circumstances instead. Among the reports received in 2019 and the first three quarters of 2020, the number of cases which involved suspected animal cruelty upon investigation was 54 and 41 respectively.</p> <p>Mr SHIU's enquiry and the Administration's response on whether or not abandonment of animals would constitute an offence under PCAO.</p>	
002212-003027	Chairman Mr Steven HO Admin	Mr Steven HO suggested that the Administration should review the prosecution procedures for suspected animal cruelty cases with a view to enhancing the effectiveness of the relevant work.	

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		<p>The Administration responded that in making a decision on whether or not to prosecute in each case, the Department of Justice ("DoJ") would act in accordance with the Prosecution Code and it would not commence a prosecution unless there was a reasonable prospect of conviction in the case. The Administration advised that it would propose in the forthcoming legislative amendment exercise to introduce an indictable offence under PCAO in cases of serious animal cruelty with a view to further combating acts of cruelty to animals and posing greater deterrent effect. As there was no specific time bar for prosecution of indictable offences, law enforcement officers would have sufficient time to investigate more complex or serious cases. Apart from that, the Administration also intended to increase the penalties substantially for the offence of cruelty to animals convicted by indictment to reflect the gravity of the offence.</p> <p>In response to Mr HO's enquiry on what constituted cruelty to animals under PCAO, the Administration advised that the definition of "cruelty to animals" under PCAO was an act or failure to act causing unnecessary suffering to animals. To prevent negligence in caring for animals, the Administration would propose to amend PCAO to introduce a "duty of care" on persons responsible for animals to provide for the animals' welfare needs. To complement this proposed new requirement, AFCD planned to promulgate Codes of Practice for types of animals commonly kept in Hong Kong, such as cats and dogs, to give practical guidance on how to provide for the welfare needs of animals as required by good practice. Mr HO considered that the Administration should strengthen publicity to educate the public on no cruelty to animals and illustrate with examples the types of behaviour which might be regarded as cruelty to animals under the law.</p>	
003028-003834	Chairman Admin	<p>On the Chairman's suggestion about setting up a dedicated hotline by AFCD for reporting suspected animal cruelty cases, the Administration advised that if the public came across any suspected case of animal cruelty, they could telephone and report to the 999 Report Centre or report to AFCD or the Society for the Prevention of Cruelty of Animals ("SPCA"). Upon receipt of an animal cruelty report by the Police, uniformed police officers would be deployed to the scene to look into the matter. If the case was found to involve animal cruelty, the designated crime investigation team of the police district concerned would follow up. The Police would invite AFCD and SPCA</p>	

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		<p>officers to provide professional advice and assistance at the scene of an animal cruelty case where necessary. The Administration further advised that since the 999 Report Centre had been providing round the clock service to the public, the suggestion of setting up a dedicated hotline by AFCD had to be considered in the light of the division of work between departments and the availability of resources. Nevertheless, AFCD would render assistance when required, including outside normal office hours for emergency cases.</p> <p>The Chairman enquired if specialized training would be provided to officers of the "Animal Crime Police Teams". The Administration advised that the Police would provide relevant training for officers from time to time. Besides foundation training on handling animal cruelty cases, the Police would collaborate with other stakeholders to organize talks and workshops to enhance the professionalism and capability of police officers in investigation of such cases. Overseas experts in the relevant fields would also be invited to share their experience.</p>	
003835-004731	Chairman Mr Michael TIEN Admin	<p>Mr Michael TIEN hoped that the Administration could expedite the amendment of PCAO. The Administration advised that it was pressing ahead with the drafting of the legislation and seeking the advice of DoJ on the details and provisions of the amendment bill. The Administration would strive to present the amendment bill to the Council as soon as possible in the Seventh Legislative Council.</p> <p>Mr TIEN recalled that he had followed up a case a couple of years ago concerning a Chihuahua which had been abandoned by its owner, he was concerned whether or not the proposed amendments to PCAO could effectively combat abandonment of animals. The Administration advised that currently animal abandonment was an offence under the Rabies Ordinance (Cap. 421). The Administration would also propose to specify that release of an animal which caused it to suffer was an act of cruelty to animals. Mr TIEN queried why enforcement action had not been taken against the owner of the abandoned Chihuahua under Cap. 421 despite the dog was microchipped and as such AFCD should have the owner's information. The Administration responded that it did not have the information regarding the case mentioned by Mr TIEN on hand but in general AFCD would make their best effort to contact the owners concerned based on the information stored in the pet's microchip.</p>	

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		<p>Mr TIEN expressed the view that the Administration's proposal of empowering the court to disqualify a person convicted of the offence of animal cruelty from keeping animals within a specified period or permanently could hardly be regarded as a punishment for the wrongdoer. The Administration clarified that the proposal was intended to prevent the person concerned from continuing to keep animals in the future and harming other animals again. It was already provided in PCAO that any person who committed an offence under the Ordinance shall be liable on conviction to a fine of \$200,000 and imprisonment for three years.</p>	
004732-005617	<p>Chairman Ms Elizabeth QUAT Admin</p>	<p>Ms Elizabeth QUAT expressed disappointment about the slow progress of the Administration in taking forward the proposed amendments to PCAO. While acknowledging the Police's efforts in combating animal cruelty cases, Ms QUAT noted with concern that only some twenty-odd persons were prosecuted each year for acts of cruelty to animals. She enquired if the Administration had encountered difficulties in the relevant law enforcement and prosecution works.</p> <p>The Administration advised that one of the biggest challenges in investigating animal cruelty cases was that the animals concerned could not communicate with human beings regarding what had happened to them or who had caused their injuries. Most of the time, the Police could only rely on circumstantial evidence and the evidence provided by experts like veterinary officers in order to establish the facts of a case. Notwithstanding the difficulties, the crime detection rate and the conviction rate of animal cruelty cases were over 60% and 70% respectively in the past few years, which compared favourably with those of other types of crimes.</p> <p>Ms QUAT considered it important to nurture positive values in students at an early age and education to promote the messages on caring for animals and respect for life should be enhanced. The Administration responded that the topic of caring for animals had already been incorporated into the school curriculum. The Administration would provide further details when it briefed the Subcommittee on its publicity and education work in promoting animal welfare and responsible pet ownership at the coming meeting.</p>	
005618-010426	<p>Chairman Mr SHIU Ka-fai Admin</p>	<p>Mr SHIU Ka-fai's enquiry and the Administration's response regarding the publicity and public education programmes implemented by AFCD in promoting</p>	

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		<p>animal welfare. Mr SHIU considered that AFCD should strengthen publicity to educate pet owners on responsible pet ownership and remind prospective pet owners to think carefully before getting a pet. He enquired if consideration would be given to require first time animal keepers to fulfill certain basic requirements before they were allowed to keep pets.</p> <p>The Administration advised that AFCD had produced education leaflets and posters on animal welfare for distribution and display at various places, including veterinary clinics and pet shops, on a voluntary basis. In order to enhance the welfare of animals, the Administration would propose to amend PCAO to introduce a "duty of care" on persons responsible for animals. The Administration was of the view that by imposing a "duty of care" on animal keepers, prospective pet owners would be encouraged to give serious consideration to their decisions on getting pets.</p> <p>On Mr SHIU's suggestion of requiring pet buyers to contribute to a pool of funds to support the work of animal welfare organizations ("AWOs"), the Administration advised that the proposal would require the consensus of the community.</p>	
010427-011222	Chairman Admin	<p>The Chairman expressed concern that the penalties imposed by the court on convicted animal cruelty cases were inadequate to reflect the gravity of the offence. He considered that AFCD and DoJ should reflect to the court about the community's grave concern in this regard, and that DoJ should apply for review of sentence if the penalty imposed was too lenient.</p> <p>The Administration advised that DoJ had invited the Court of Appeal ("CoA") to lay down guidelines for the sentencing of the offence of cruelty to animals during an appeal for review of sentence for a case in 2019. CoA held that it was inappropriate and impossible for the court to lay down any sentencing tariff for the offence. CoA had, however, pointed out in its judgement that because of the evil nature of cruelty to animals, the court would in principle impose a deterrent sentence for the offence. The Administration advised that it would keep in view the penalties handed down by the court on convicted animal cruelty cases, and if AFCD and DoJ considered that the penalty imposed on a certain case to be manifestly inadequate, DoJ would submit an application to the court for review of sentence as appropriate.</p>	

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		<p>In response to an enquiry from the Chairman, the Administration advised that according to the relevant provisions of the Probation of Offenders Ordinance (Cap. 298) and the Mental Health Ordinance (Cap. 136), the court might, as it deemed fit, order the person convicted of animal cruelty to receive psychological counselling or attend courses on caring of animals.</p> <p>The Chairman was also concerned that AWOs and volunteers might, in rescuing or taking care of stray animals, be caught by the law inadvertently and he hoped that appropriate exemptions could be granted to them under PCAO. The Administration advised that whether or not an individual was in violation of the relevant provisions of PCAO would depend on the facts and circumstances of each case.</p>	
011223-012124	Chairman Mr Michael TIEN Admin	<p>Mr Michael TIEN reiterated his grave concern about the way in which AFCD had handled the case concerning the abandoned Chihuahua. Mr TIEN was of the view that the enforcement efforts of AFCD in combating animal abandonment were inadequate and AFCD should exhaust every possible means to track down the owners of the abandoned animals.</p> <p>The Administration assured members that AFCD would deal with all suspected animal abandonment cases seriously and would make their best effort to contact the owners concerned. That said, the Administration pointed out that the primary purpose of Cap. 421 under which animal abandonment was made an offence was to prevent and control the spread of rabies. The Administration hoped that enforcement work in relation to abandonment of animals could be enhanced after amendment of PCAO in which it was proposed to specify release of an animal which had caused it to suffer to be an act of cruelty to animals, and to introduce an indictable offence in cases of serious animal cruelty. The Chairman suggested that the Administration should liaise with Mr TIEN after the meeting to address Mr TIEN's concern about the case on the abandoned Chihuahua.</p> <p>At the request of Mr TIEN, the Administration undertook to provide the number of complaints received and the number of prosecutions instituted against abandonment of animals in the past three years.</p>	<p>Admin (paragraph 3(a) of the minutes refers)</p>

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		<p>In response to the Chairman's enquiry, the Administration advised that in the interest of the welfare of animals, veterinary surgeons could render suitable medical treatment to an animal in emergency situations if the owner could not be reached for obtaining his/her prior consent.</p>	
012125-013003	<p>Chairman Ms Elizabeth QUAT Admin</p>	<p>Ms Elizabeth QUAT reiterated her disappointment at the slow progress in amending PCAO. She considered that pending the legislative amendment, the Administration should step up the public education and publicity programme to advise the public against abandonment of pets and cruelty to animals. Ms QUAT echoed the Chairman's view regarding the need to apply for review of sentence if the penalty imposed by the court on convicted animal cruelty case was too lenient. She also urged DoJ to liaise with the court in respect of the need to draw up sentencing guidelines for offences on cruelty to animals.</p> <p>The Administration updated members on the progress and timeframe of the legislative amendment exercise regarding PCAO. Members were also advised that in the past couple of years, the court had imposed imprisonment sentence in a number of convicted animal cruelty cases. At the request of Ms QUAT, the Administration undertook to provide (i) the number of suspected animal cruelty reports received by the Police and AFCD; (ii) the number of persons prosecuted in the relevant cases; and (iii) the number of persons convicted and the penalties imposed by the court in the relevant cases in the past five years. For item (iii), a breakdown by the type of cruelty acts involved would also be provided.</p> <p>At 12:11 pm, the Chairman extended the meeting for 15 minutes.</p>	<p>Admin (paragraph 3(b) of the minutes refers)</p>
013004-013513	<p>Chairman Dr CHIANG Lai-wan Admin</p>	<p>Dr CHIANG Lai-wan expressed concern about the safety of pet food products available for sale in Hong Kong as a recent test conducted by the Consumer Council on 20 models of canned or boxed dog food revealed that 80% of them had failed to fully comply with the recommended amounts stated in international guidelines on nutrient contents for complete pet food. She questioned why the test findings of the Consumer Council appeared to be so different from the test results of the Study on Pet Food Products in Hong Kong commissioned by AFCD earlier on, the latter of which indicated that none of the samples was tested with an unsatisfactory result.</p>	

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		<p>The Administration advised that the test commissioned by AFCD was to test the presence of harmful microbes and substances in pet food while the one conducted by the Consumer Council was mainly to test the nutritional content of pet food. The Administration further advised that pet owners should feed their pets with food suitable for their life stage and seek the veterinary's advice where necessary.</p> <p>The Chairman and Dr CHIANG urged AFCD to continue to closely monitor the safety of pet food products in Hong Kong.</p>	
013514-013546	Chairman Admin	The Chairman said that according to media reports, a growing number of animals were being abandoned as more people were emigrating overseas recently, he considered that the Administration should devise appropriate measures to deal with the problem of animal abandonment so arisen.	
<i>Agenda item II – Any other business</i>			
013547-013630	Chairman	<p>Items for discussion at next meeting</p> <p>Closing remarks</p>	

Council Business Division 2
Legislative Council Secretariat
 12 August 2021