

**For discussion
on 19 April 2021**

**LegCo Panel on Food Safety and Environmental Hygiene
Subcommittee to Study Issues Relating to Animal Rights**

**Latest developments on the enforcement actions to combat acts of
animal cruelty and amendments to the Prevention of Cruelty to
Animals Ordinance (Cap. 169)**

PURPOSE

This paper briefs 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) (the Ordinance).

**ENFORCEMENT ACTIONS TO COMBAT ACTS OF ANIMAL
CRUELTY**

2. The Government attaches great importance to animal welfare. Our policy objective is to ensure that animals and people co-exist harmoniously in Hong Kong. In achieving this, we need to strike a balance between the well-being of Hong Kong people and the welfare of animals. Therefore, we adopt a multi-pronged approach to take vigorous enforcement actions against acts of animal cruelty and conduct public education on animal welfare.

3. The Ordinance is the main legislation to safeguard animal welfare, prohibiting and punishing acts of cruelty towards animals. Under the Ordinance, any person who cruelly beats, kicks, ill-treats, overrides, 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 and shall be liable on conviction to a fine of \$200,000 and imprisonment for three years.

4. Relevant Government departments take enforcement actions according to the Ordinance. If the public come across any animal cruelty case, they can immediately telephone and report to the 999 Report Centre or report to the Agriculture, Fisheries and Conservation Department (AFCD). The Police and AFCD both conduct investigations and

prosecutions in relation to animal cruelty cases. Generally speaking, upon receiving reports of suspected animal cruelty, the Police and/or AFCD will conduct investigation, and initiate prosecution if there is sufficient evidence.

5. Upon receipt of report of a suspected animal cruelty case, the Police will deploy uniformed police officers to the scene to look into the matter. If the case is found to involve animal cruelty, the “Animal Crime Police Team” of the police district concerned will conduct investigation. Under the co-operation mechanism established among the Police, AFCD and the Society for the Prevention of Cruelty to Animals (SPCA), the Police may invite AFCD and SPCA officers to provide professional advice and assistance at the scene of an animal cruelty case where necessary. If necessary, AFCD will conduct post-mortem examination to find out the cause of animal deaths. After the investigation, the Police will pass the animal concerned to AFCD or SPCA for treatment and custody. SPCA provides medical services to maltreated animals and operates a 24-hour hotline to gather information on animal cruelty cases from the public, so as to assist the work of law enforcement officers.

6. On the other hand, if reports were made to AFCD (usually not involving actual cruelty to animals), they will be followed up and investigated by the Inspection and Quarantine Branch under AFCD. Such work includes examining the health conditions of the animals and whether they are injured, and whether necessary space, food and water were provided to the animals, and collecting circumstantial evidence at the scene etc. If necessary, AFCD may contact the Police for joint operations.

7. To combat animal cruelty, the Police has since 2018 established designated crime investigation teams in 22 police districts to handle animal cruelty cases. To better reflect the role of these crime investigation teams, these teams have been officially named "Animal Crime Police Team" with effect from 28 February 2021. “Animal Crime Police Teams” comprise officers who are equipped with experience and skills in investigating and handling other serious crimes. They will take up the animal cruelty cases in their respective districts. Teams from various districts will share their experience on investigations with each other. The Police also provides relevant officers with training on handling animal cruelty cases. At the same time, AFCD has all along established a division dedicated to combating acts of animal cruelty and has been providing subvention to SPCA annually for this purpose. Funding is provided to SPCA for hiring officers to conduct patrols and inspection work and assist the Police and

AFCD in investigations, as well as operating the telephone hotline etc.

8. On education and training of investigation officers, topics on the handling of animal cruelty have been incorporated in the Police's foundation training course, continuation training course and standard criminal investigation training course. AFCD and SPCA officers are invited from time to time to give talks on the multi-agency approach for investigating such cases, with a view to enhancing frontline police officers' professional knowledge in handling animal cruelty cases. At the same time, the Police has uploaded e-learning software to their Intranet to help frontline officers learn more about the investigation of animal cruelty cases and relevant legislations. The Police has also set up an online depository for the Animal Crime Police Teams to share their investigation experience and knowledge, as well as provide relevant training for officers from time to time.

ANIMAL WATCHERS PROGRAMME (AWP)

9. The Police is actively implementing the AWP to pool together efforts of animal lovers at the community level through a four-pronged approach of education, publicity, intelligence gathering and investigation, so as to raise public awareness on prevention of cruelty to animals, encourage the public to make reports in a timely manner, as well as provide information that can help investigation. Participants of the AWP may, through planning and participating in various animal welfare promotional activities, disseminate messages on caring for animals and prevention of cruelty to animals to the community. Besides, the Police will coordinate and consolidate their collaboration with stakeholders, including relevant government departments, animal welfare organisations and animal lovers.

REPORTS ON SUSPECTED ANIMAL CRUELTY

10. The Police and AFCD received a total of over 200 to over 300 reports on suspected animal cruelty cases annually. Upon investigation, most of these reports were found not to involve animal cruelty, but related to nuisance or other circumstances. For example, the Police and AFCD received a total of 199 reports on suspected animal cruelty in 2020 (as at 30 September), over 60% of which were actually related to noise and odour nuisance upon investigation, or contained no evidence of human acts of animal cruelty (including discoveries of suspected attacks by other animals, or the injured animals mentioned in the report could not be found during investigation etc). Moreover, over 10% of the cases might have involved negligence in taking care of the animals, but not to the extent of animal

cruelty, such as failure to provide sufficient space for activity and failure to maintain a hygienic living environment etc. For these cases, AFCD officers would give verbal advice on responsible pet ownership, proper care of pets and improvement suggestions to the owners concerned after inspecting the scene.

NUMBER OF CASES INVOLVING POSSIBLE ANIMAL CRUELTY AND SUCCESSFUL PROSECUTIONS

11. For cases that were found to possibly involve actual animal cruelty after investigation, most of them involved cruelly kicking, beating, ill-treating or torturing the animals kept by oneself or others, causing unnecessary suffering to the animals, whilst some involved severe negligence in taking care of the animals, killing or poisoning the animals. The number of persons prosecuted by the Police and AFCD against suspected animal cruelty in the past five years and the penalties imposed are listed at Annex.

PROPOSED AMENDMENTS TO PREVENTION OF CRUELTY TO ANIMALS ORDINANCE (CAP. 169)

12. In order to enhance animal welfare in Hong Kong and to require persons responsible for animals to take positive steps in providing animals for their welfare needs, the Government proposed to amend the Ordinance and has conducted public consultation, results of which were reported to the Legislative Council Panel on Food Safety and Environmental Hygiene in April last year. The majority of the respondents agreed with the overall proposal to amend the Ordinance. We hope that the proposed amendments to the Ordinance can strengthen the deterrent effect against animal cruelty or negligence of care, and the proposals can raise public awareness on animal welfare and proper care for animals.

13. To prevent negligence of caring for animals, we propose to introduce a “duty of care” under the Ordinance on persons responsible for animals, to provide for their welfare needs. The Ordinance will set out the welfare needs of animals, covering appropriate nutrition, suitable living environment, the ability to express normal patterns of behaviour and protection from pain, suffering, disease and injury etc. To complement the newly introduced duty of care and provide clear guidance to animal owners, AFCD will promulgate Codes of Practice for types of animals commonly kept in Hong Kong, to give practical guidance on how to provide for the welfare needs of animals as required by good practice. Duty of care will apply to any person responsible for an animal, not only

the owner, but also a person in charge of, or having custody of the animal, whether permanently or temporarily, and it will apply to all situations where animals are kept. If a child under 16 years is responsible for an animal, his/her parents or guardian would also be responsible for the animal. However, animals living in a wild state and not under the control of any person are excluded from any requirement of duty of care, since no person can be considered directly responsible for them.

14. We propose that if the responsible person breaches the duty of care, to an extent where risk to welfare of the animal is relatively low and the situation can be rectified, authorised officers may issue an improvement notice, requiring the responsible person to improve and meet the welfare needs of the animal within a specified period of time. The authorised officer will follow up on the case and ensure that proper steps are taken in accordance with the improvement notice. Failure to comply with an improvement notice within the specified period may lead to prosecution for contravention of duty of care. Serious contraventions of duty of care would result in immediate prosecution. We will consider views received from the public consultation when determining the penalty for the breach of duty of care.

15. The current underlying principle of the definition of “cruelty to animals” under the Ordinance is an act or failure to act causing unnecessary suffering to animals. This continues to be effective in the present day and is very much similar to those adopted by some jurisdictions (e.g. the United Kingdom, Queensland, New South Wales and Singapore). However, in view of cases in recent years, we propose to specify that abandonment of an animal which causes it to suffer (e.g. including some acts of release of animals into unsuitable environment), is an act of cruelty to animals. This can help regulate some activities that are more common in Hong Kong. Furthermore, we propose that any persons who administers poisons to an animal without lawful authority or excuse would also commit an offence of animal cruelty. We also propose that unnecessary operations on animals, such as tail docking, ear cropping, debarking and declawing etc. should be prohibited under the Ordinance and be considered as animal cruelty, unless the operation is performed by a veterinary surgeon in the interest of animal welfare. We intend to promulgate a list of such prohibited operations.

16. In addition, to further combat cruelty to animals and pose greater deterrent effect, we propose to introduce an indictable offence in cases of serious animal cruelty. There is no specific time bar for prosecution of indictable offences, giving law enforcement officers sufficient time to

investigate more complex or serious cases. For the offence of cruelty to animals convicted by indictment, we intend to increase the penalties substantially, in response to public views. We hope the heavier penalties will reflect the gravity of the offence and be more effective in deterring acts of animal cruelty.

17. We propose to empower the courts to disqualify a person convicted of the offence of animal cruelty or breach of duty of care, from keeping animals within a specified period or permanently, and deprive him/her of any animal(s) currently being kept. It can help prevent the person concerned from continuing to keep animals in the future and harming other animals again. The disqualification order may also prohibit the convicted person from participating in the keeping of animals with others or dealing with animals. AFCD will devise a system to monitor disqualified persons and conduct inspections to check whether they have contravened the court's disqualification order.

ADVICE SOUGHT

18. We are now pressing ahead with the drafting of the legislation and seeking the advice of the Department of Justice on the details and provisions of the amendment bill. Once the bill is completed, we will submit it to the Legislative Council in the next term for deliberation as soon as possible. We hope to strengthen our efforts in the enforcement against animal cruelty and increase the deterrent effect of such offences, and at the same time, elevate from prevention of animal cruelty to promotion of good animal welfare, so as to better protect animals.

INVITATION FOR COMMENT

19. Members are invited to note and comment on the contents of this paper.

**Food and Health Bureau
Security Bureau
Agriculture, Fisheries and Conservation Department
Hong Kong Police Force
April 2021**

Annex

Number of persons prosecuted by the Police and AFCD for suspected animal cruelty in the past 5 years and penalties imposed

Year	Number of persons prosecuted	Penalties imposed	
		Fine (\$)	Range of imprisonment
2016	15	5,000	28 days to 6 months
2017	24	4,000	7 days to 1 year
2018	28	2,000 to 6,000	14 days to 1 year
2019	29	2,000 to 8,000	14 days to 10 months
2020 (As at 30 September)	12	Not applicable	14 days to 8 months