

LegCo Panel on Food Safety and Environmental Hygiene
Subcommittee on Issues Relating to Animal Welfare
and Cruelty to Animals

**Government's responses to the follow-up items
requested by the Subcommittee**

Purpose

This note sets out the Government's responses to the issues raised by Members of the Subcommittee at the meeting on 16 February 2016. Members asked the Government to advise on the following –

- (a) the relevant guidelines issued by the Agriculture, Fisheries and Conservation Department (AFCD) on keeping of dogs in construction sites, the relevant number of complaints received, inspections and prosecutions, as well as the responsibility of relevant parties in case of cruelty to dogs that took place in construction sites;
- (b) the differences between “animal welfare” and “animal rights” with supporting documents issued by internationally renowned animal welfare organisations, and whether and how the use of euthanasia in handling stray animals in Hong Kong aligned with the international trend;
- (c) response to the suggestions that the Police should study and make reference to the overseas experience in the investigation of animal cruelty cases, and explore if a mechanism/system could be put in place for members of the public/animal welfare groups to enquire about the progress of the Police's investigation of animal cruelty cases; and
- (d) overseas practices in handling road accidents involving knocking down or killing of cats and/or dogs and consider the need to review and amend the relevant provisions in the Road Traffic Ordinance (Cap. 374), and/or other animal-related legislations on this aspect.

Our Responses

(a) Keeping of dogs and cruelty to dogs in construction sites

2. According to the Code of Practice for the Keeping of Dogs on Construction Sites in Hong Kong issued by AFCD (**Annex A**), upon closure of a site or when the site is no longer compatible for keeping dogs, the dogs must be re-homed or moved to a new location. If there is no alternative, the responsible person of the site may surrender the dogs to AFCD.

3. According to AFCD's record, the complaints received in the past three years about stray or unattended dogs being found near construction sites were mainly related to dog nuisance. The number of complaints about dog nuisance in construction sites received in each of the past three years was 100, 79 and 78 respectively. In response to these complaints, over 200 inspections were conducted each year to investigate and remove dogs as appropriate. Since all dogs over the age of five months old should be microchipped, licensed and vaccinated against rabies as required under the Rabies Regulation (Cap. 421A), cases involving improper control of such dogs would be investigated and followed up. If there are reports of suspected cruelty cases taking place in construction sites, as in other cases, the authorities would conduct investigation and take prosecution actions under the Prevention of Cruelty to Animals Ordinance (Cap 169) if there is sufficient evidence. Depending on the evidence, the licensee and the keeper of the dogs concerned may be liable to be prosecuted under the relevant Ordinances. In the past three years, AFCD had received two complaints concerning suspected cruelty to dogs in construction sites. Four follow-up inspections were conducted. There was no evidence of cruelty in these cases.

(b) Differences between “animal welfare” and “animal rights”, and the use of euthanasia in handling stray animals

Animal welfare and animal rights

4. According to the World Organisation for Animal Health (OIE), “animal welfare” is related to how an animal is coping with the conditions

in which it lives. It states that “an animal is in a good state of welfare if (as indicated by scientific evidence) it is healthy, comfortable, well nourished, safe, able to express innate behavior, and if it is not suffering from unpleasant states such as pain, fear, and distress. Good animal welfare also requires disease prevention and appropriate veterinary treatment, shelter, management and nutrition, humane handling and humane slaughter or killing.”¹

5. The term “animal welfare” encompasses an animal’s physical state, its mental state and its ability to fulfill its natural needs and desires. Humans are morally and ethically obliged to consider the well-being of animals, especially when animals are used for food, in animal experimentation, as pets, or in other ways. For further discussion about the concept of “animal welfare”, please refer to **Annex B**.

6. The concept of “animal welfare” emphasises the fundamental responsibility of humans on animals, particularly when they are used for food, research, as working animals, and as pets, etc. The concept of “animal rights”, on the other hand, is different. Animals are considered to have basic rights against cruelty and mistreatment and have the right to good welfare, but the animal rights movement, as it is generally understood, goes beyond that by advocating that animals should be conferred rights similar to those of humans. In other words, the animal rights movement advocates that animals should not be treated as property of humans and that they should have a fundamental right to life and freedom similar to that of humans.

7. In line with what is being practiced and preached by the mainstream international organisations, including the OIE, and many other animal protection agencies, the Government promotes animal welfare. The legal protection of animals against cruelty and maltreatment also underlines the animal welfare concept that places responsibility on humans to treat animals properly. Our policy to promote in the community a culture of care for animals with a view to protecting animal welfare should be seen against the above backdrop. AFCD plays an important role in animal management (including the

¹ The OIE website
(http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre_aw_introduction.htm)

management of pets and stray animals), prevention of animal cruelty and promotion of animal welfare. In carrying out its duties, AFCD has all along ensured that public health and safety are safeguarded at all times and that our animal management policy aligns with the international trend and practices.

Use of euthanasia in handling stray animals

8. The OIE is an intergovernmental organisation responsible for improving animal health worldwide, with 180 Member Countries. It promulgates standards and practices for better protection of animal health and promotion of animal welfare.

9. Since 2004, the OIE has been developing animal welfare standards for inclusion in the Terrestrial Animal Health Code². In Article 7.7.6 of the Terrestrial Code³, the OIE sets out a number of control measures for stray and feral dogs which can be considered after taking into account the local circumstances and context. The OIE also agrees that in situations where the number of stray dogs caught remain high or the dogs are not fit for adoption despite the deployment of various stray dog management measures, euthanasia would be an appropriate and humane solution. AFCD has actively deployed the control measures as recommended by the OIE. Euthanasia is adopted as a last resort. With the continuous efforts by AFCD over the years, the total number of dogs required to be euthanised has dropped from 6,561 in 2011 to 2,421 in 2015, representing a reduction of 63%.

10. In fact, euthanasia of stray animals has been used quite widely in European countries as one of the methods for stray animal control. According to a study commissioned by the World Society for the Protection of Animals (WSPA) and the Royal Society for the Prevention of Cruelty to Animals International in 2006-2007⁴, three of the 30 countries covered in the study did not permit the culling of healthy

² Terrestrial Animal Health Code issued by the OIE
(http://www.oie.int/en/international-standard-setting/terrestrial-code/access-online/?htmfile=titre_1.7.htm)

³ Chapter 7.7 on stray dog population control under Terrestrial Animal Health Code issued by the OIE
(http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre_aw_stray_dog.htm)

⁴ Stray Animal Control Practices (Europe):
http://www.fao.org/fileadmin/user_upload/animalwelfare/WSPA_RSPCA%20International%20stray%20control%20practices%20in%20Europe%202006_2007.pdf

stray dogs and instead required them to be kenneled for life (i.e. Germany and Italy) or released back to street after neutering (i.e. Greece). Countries such as the UK, the US, Australia, Japan and Singapore, etc. have all adopted euthanasia in handling stray animals.

(c) Investigation of animal cruelty cases

11. The Police have been maintaining close cooperation and sharing experience, including overseas best practices, with AFCD, Food and Environmental Hygiene Department and the Society for the Prevention of Cruelty to Animals (SPCA) through the regular inter-departmental working group to enhance the detection and prevention of animal cruelty cases. At the district level, animal cruelty cases are investigated by crime investigation teams which have the relevant professional investigation skills and experience, including those involving cruelty to animals. Expert advice and assistance from AFCD and SPCA staff will also be sought to assist the Police's investigation into animal cruelty cases. The Police will continue to make the best endeavours to conduct investigations so as to bring to justice those who committed cruelty to animals. The Police will also continue to utilise and explore appropriate platforms, including the inter-departmental working group and the Animal Watch Scheme, to enhance communication and exchange with the public and animal welfare groups.

(d) Handling road accidents involving knocking down or killing of cats/and or dogs

12. At present, section 56 of the Road Traffic Ordinance (Cap. 374) provides that 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 required to report the accident to the Police as soon as practicable. For the purpose of this provision, "animal" is defined to mean any horse, cattle, ass, mule, sheep, pig or goat. Members have asked us to conduct research into the practices in other places and consider whether the above provision should be amended to include cats and dogs in the definition. We are studying the matter and will provide our response at a later time.

13. It is perhaps worth noting that under the Prevention of Cruelty to Animals Ordinance (Cap. 169) (the Ordinance), 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 and shall be liable on conviction to a fine of \$200,000 and imprisonment for three years. In other words, if a person intentionally causes suffering to cats and/or dogs by knocking it down by a vehicle, subject to the evidence available, he/she may be liable to be prosecuted under the Ordinance. Relevant government departments will take enforcement action under and in accordance with the Ordinance where circumstances so warrant. We encourage members of the public to report to the Police if and when they witness any such incidents.

Food and Health Bureau
Agriculture, Fisheries and Conservation Department
March 2016



本守則適用於所有飼養狗隻的建築地盤。為了保障員工及公眾的安全，並保障動物福利，請建築地盤的管理人員和負責巡視建築地盤的人員遵行本宣傳單張所列的守則。

This code sets out the control measures for all construction sites with dogs. For the safety of your staff, the public and the welfare of animals, both controllers and inspection officers of construction sites are advised to abide by the measures listed in this leaflet.



1

所有超過五個月大的狗隻必須接受預防狂犬病疫苗注射、植入微型晶片，以及領取牌照（可以要求本署到場為狗隻發牌）。

All dogs over five months of age must be vaccinated against Rabies, microchipped and licensed in the name of the responsible person. (This can be done on site upon request to this department.)



2

無論任何時候，均須有最少一名地盤人員負責地盤所飼養狗隻的行為、福利和法律責任，該名負責人最適宜由該地盤的公司代表擔任。

At least one person, preferably a company representative of the site, should take responsibility at all times for the proper behaviour and welfare of, and liabilities for any dogs kept on the site.



漁農自然護理署
Agriculture, Fisheries and Conservation Department

九龍長沙灣道 303 號長沙灣政府合署 5 樓
5/F, Cheung Sha Wan Government Offices, 303 Cheung Sha Wan Road, Kowloon

1823 電話中心 1823 Call Centre (852) 1823

網址 Website www.afcd.gov.hk

die cut area



die cut area

建築地盤
飼養狗隻
守則
Code of Practice
for Keeping Dogs on
Construction Sites



3

狗主必須清理狗隻留下的糞便。
Dog keepers must remove all excreta
left by their dogs.



4

時刻把狗隻約束在地盤內。
Keep your dogs within the site at
all times.



5

為地盤內所有狗隻絕育。
Neuter all dogs on site.



6

不得遺棄狗隻。若建築地盤完工或不再在
該處飼養狗隻，必須妥善安置有關狗隻，
把其遷往新地點。如沒有其他可供選擇的
安排，地盤主管須把狗隻送交本署動物管
理中心。

No dogs should be abandoned. Upon closure of
a site or when the site is no longer compatible for
keeping the dog(s), the animal(s) must be re-homed
or moved to a new location. As a last resort, the
person-in-charge of the site may surrender them to
the Animal Management Centre of this department.



7

請勿餵飼流浪狗隻。
Do not feed feral dogs.

8

任何人士若遺棄動物、無牌畜養狗隻、容許狗隻在
公眾地方到處流浪或未能在公眾地方恰當地管理其
狗隻、讓狗隻亂吠或以其他方式滋擾鄰居或途人、
讓狗隻襲擊、騷擾或驚嚇任何人或動物，均可能觸
犯《狂犬病條例》或其他法例。

Acts which contravene the Rabies Ordinance or other laws
in Hong Kong include abandoning animals, keeping dogs
without a licence, allowing dogs to stray in public places or not
exercising proper control on dogs in public places, keeping
any dog accustomed to annoying neighbours or passers-by by
barking or other behaviour, and setting on any dog to attack.

Definition and Assessment of Animal Welfare

According to the World Organisation for Animal Health (OIE), the internationally recognised “Five Freedoms”¹ provide valuable guidance on animal welfare. The freedoms were first promulgated in 1979 by the UK’s Farm Animal Welfare Council. The five freedoms are:

- (i) Freedom from hunger or thirst – by ready access to fresh water and a diet to maintain full health and vigour.
- (ii) Freedom from discomfort – by providing an appropriate environment including shelter and a comfortable resting area.
- (iii) Freedom from pain, injury, and disease – by prevention or rapid diagnosis and treatment.
- (iv) Freedom to express normal behaviour – by providing sufficient space, proper facilities and appropriate company of the animal’s own kind.
- (v) Freedom from fear and distress – by ensuring conditions and treatment which avoid mental suffering.

2. Whilst the five freedoms are one of the internationally recognised ways of assessing the welfare of animals, they concentrate on avoidance of negative experiences. More recently, good animal welfare is seen not just as avoidance of negative experiences but including the promotion of positive experiences. With this in mind, the notion of the five domains of potential animal welfare compromise was first put forward in 1994². The five domains are nutrition, environment, health, behaviour and mental state. An animal’s welfare can be considered to be good if its needs in all the five domains are met. This can be accomplished by managing animals in a way that avoids negative mental states and promotes positive mental states. Even more recently, the concept of “Quality of Life” (QoL) has been put forward as a model to describe animal welfare³. The QoL concept tries to look at the welfare of an animal over the whole of its life instead of just taking a ‘snapshot’ of an animal’s welfare at a single point in time. Whilst an animal’s welfare may be better at some points in its life than in others, we should aim for a positive balance overall and we should be able to say that an animal has a life worth living, or, even better, a good life.

¹ Report on “Farm Animal Welfare in Great Britain: Past, Present and Future” issued by Farm Animal Welfare Council in October 2009 (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319292/Farm_Animal_Welfare_in_Great_Britain_-_Past__Present_and_Future.pdf)

² TC Green and DJ Mellor. Extending ideas about animal welfare assessment to include ‘quality of life’ and related concepts. *New Zealand Veterinary Journal* 59(6), 263-271, 2011.

3. It is important to note that animal welfare is science-based and it can be objectively assessed using scientific methodology³. Observations of animal behaviour can be used to assess animals' preferences, strength of motivation, things or situations they try to avoid, occurrence of abnormal behaviors and many other things. Physiological functions such as heart rate or steroid levels can also be measured to determine an animal's response to a given situation and therefore conclude whether or not welfare is affected and how it is affected. Many scientific journals are dedicated to publishing research on animal welfare and global knowledge of this subject is expanding all the time.

Agriculture, Fisheries and Conservation Department
March 2016

³ Hemsworth et al. Scientific assessment of animal welfare. *New Zealand Veterinary Journal* 63(1), 24-30, 2015.