立法會 Legislative Council

LC Paper No. CB(2)870/16-17

(These minutes have been seen by the Administration)

Ref : CB2/PS/2/16

Panel on Food Safety and Environmental Hygiene

Subcommittee to Study Issues Relating to Animal Rights

Minutes of the meeting held on Tuesday, 17 January 2017, at 4:30 pm in Conference Room 3 of the Legislative Council Complex

Members present	: Dr Hon CHIANG Lai-wan, JP (Chairman) Hon Claudia MO (Deputy Chairman) Hon WONG Ting-kwong, SBS, JP Hon Michael TIEN Puk-sun, 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, JP Hon CHU Hoi-dick Hon SHIU Ka-fai Hon CHEUNG Kwok-kwan, JP Hon LAU Kwok-fan, MH Hon KWONG Chun-yu Hon Jeremy TAM Man-ho
Members absent	: Hon Starry LEE Wai-king, SBS, JP Hon CHAN Hak-kan, BBS, JP Hon LEUNG Che-cheung, BBS, MH, JP Hon Christopher CHEUNG Wah-fung, SBS, JP Hon Alvin YEUNG Hon HO Kai-ming Hon HUI Chi-fung

Hon Kenneth LAU Ip-keung, MH, JP Hon Nathan LAW Kwun-chung

Public Officers : <u>Items II and III</u> attending

Mr Daniel CHENG Chung-wai, JP Deputy Secretary for Food and Health (Food) 1 Food and Health Bureau

Mr Bill WONG Kwok-piu Principal Assistant Secretary for Food and Health (Food)3 Food and Health Bureau

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

Dr Mary CHOW Ka-wai Senior Veterinary Officer (Animal Management) Development Agriculture, Fisheries and Conservation Department

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

Item II

Mr KONG Man-keung Chief Superintendent of Police (Support Branch) (Support Wing) Hong Kong Police Force

Mr WONG Tak-cheung Superintendent of Police (Field Division) (Support Branch) Hong Kong Police Force

Ms Corey TSO Wing-in Senior Inspector of Police (Field Division) (Support Branch) Hong Kong Police Force

Clerk in attendance	:	Ms Alice LEUNG Chief Council Secretary (2) 6
Staff in attendance	:	Miss Connie AU Council Secretary (2) 6
		Miss Meisy KWOK Legislative Assistant (2) 6

Action

I. Application for late membership

[LC Paper No. CB(2)466/16-17(01)]

<u>The Subcommittee</u> accepted the application for late membership from Mr SHIU Ka-fai.

II. Policy and measures on handling and combating animal cruelty cases

(LC Paper Nos. CB(2)576/16-17(01) and (02))

2 <u>The Subcommittee</u> deliberated (index of proceedings attached at **Annex A**).

3 At the invitation of the Chairman, <u>Deputy Secretary for Food and</u> <u>Health (Food)1</u> briefed members on the Government's policy and measures on handling and combating animal cruelty cases, details of which were set out in the Administration paper (LC Paper No. CB(2)576/16-17(01)).

Follow-up actions arising from the discussion

Admin 4 The Administration was requested to provide written response to issues raised by members as set out in **Annex B**.

(*Post meeting note:* The Administration's response was circulated to members vide LC Paper no. CB(2)848/16-17(01) on 20 February 2017)

III. Review of the definition of cruelty to animals, and the relevant penalty under the Prevention of Cruelty to Animals Ordinance

5 <u>The Subcommittee</u> deliberated (index of proceedings attached at **Annex A**).

[LC Paper Nos. CB(2)576/16-17(03) and (04)]

6 At the invitation of the Chairman, <u>Deputy Secretary for Food and</u> <u>Health (Food)1</u> briefed members on the findings of its review of the definition of cruelty to animals, and the relevant penalty under the Prevention of Cruelty to Animals Ordinance, details of which were set out in the Administration paper (LC Paper No. CB(2)576/16-17(03)).

Follow-up actions arising from the discussion

Admin 7 The Administration was requested to provide written response to issues raised by members as set out in **Annex B**.

(*Post meeting note:* The Administration's response was circulated to members vide LC Paper no. CB(2)848/16-17(01) on 20 February 2017)

IV. Any other business

8 <u>Members</u> noted that the next meeting was scheduled for Tuesday, 21 February 2017 at 10:45 am to discuss "Promotion of responsible pet ownership". <u>Members</u> agreed that relevant deputations be invited to present their views on the subject.

9 There being no other business, the meeting ended at 6:29 pm.

Council Business Division 2 <u>Legislative Council Secretariat</u> 28 February 2017

Action

Proceedings of the meeting of the Subcommittee to Study Issues Relating to Animal Rights on Tuesday, 17 January 2017, at 4:30 pm in Conference Room 3 of the Legislative Council Complex

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
Agenda item I – A	pplication for late member	rship	
000729-000834	Chairman	Opening remarks	
		The Subcommittee accepted the application for late membership from Mr SHIU Ka-fai.	
Agenda item II – H	Policy and measures on ha	undling and combating animal cruelty cases	
000835-001419	Chairman Admin	Briefing by the Administration on its policy and measures on handling and combating animal cruelty cases (LC Paper No. CB(2)576/16-17(01)).	
001420-002047	Chairman Mr CHAN Chi-chuen Admin	Expressing concern about the handling of "community animals", Mr CHAN Chi-chuen enquired:	
		 (a) if the Administration had issued any guidelines on the catching of "community animals" and the incidence of "community animals" being injured during the catching process and being euthanized subsequently; 	
		(b) the average period an unclaimed "community animal" was allowed to stay in the Animal Management Centres ("AMCs") before euthanasia was performed; and	
		(c) whether the Administration had any plan to extend the microchipping scheme to cats.	
		The Administration explained the process that AMCs adopted in handling stray animals caught in the community prior to performing euthanasia on those unclaimed ones as a last resort. The Agriculture, Fisheries and Conservation Department ("AFCD") collaborated with some animal welfare organizations ("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.	
		The Administration also advised that:	

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
		 (a) AFCD had four AMCs across the territory. The animal capture method adopted by AFCD, such as the use of dog-catching poles and animal cages etc., was approved by the World Organization for Animal Health; 	
		(b) it was extremely rare for a stray animal to be seriously injured when it was captured; and	
		 (c) the primary purpose of requiring all dogs over the age of five months old to get vaccinated, microchipped and licensed under the Rabies Regulation (Cap. 421A) was to prevent and control the spread of rabies. Although the existing legislation did not require cats to be vaccinated, microchipped and licensed, cat owners might took their cats for microchipping as they thought fit. The need for extending the microchipping scheme to cats had to be further studied in the light of the practical need in Hong Kong as well as overseas practices. 	
002048-002552	Chairman Ms Claudia MO Admin	Referring to a recent suspected animal cruelty case being reported to AFCD by an animal welfare concern group, Ms Claudia MO expressed grave concern that AFCD was unable to identify the owner of the dog concerned despite it was microchipped.	
		As regards the revised regulatory regime for the sale and breeding of dogs under the Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 ("the Amendment Regulation"), Ms MO maintained her view that only one type of licence with high threshold should be issued to dog breeders instead of the tiered licensing regime introduced under the Amendment Regulation as the latter would encourage more people to breed dogs. She considered that the public should be encouraged to adopt animals instead of buying from shops and dog breeding/trading activities should be completely banned in the long run.	
		The Administration responded that the main objective of the Amendment Regulation was to put dog breeding activity under regulation.	
002553-003441	Chairman Mr KWONG Chun-yu Admin	Mr KWONG Chun-yu called on the Administration to establish immediately an "animal police" team in Hong Kong.	
		The Administration advised that:	

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
		 (a) it attached great importance to the prevention of animal cruelty cases and in this regard, the Hong Kong Police Force ("the Police") introduced the Animal Watch Scheme ("AWS") in 2011 in collaboration with AFCD, the Society for the Prevention of Cruelty of Animals ("SPCA") and veterinary associations with a view to tackling these cases through education, publicity, intelligence gathering and investigation; 	-
		 (b) to solely rely on the Police was not the most effective way to tackle animal cruelty cases. A multi-agency approach was adopted by the Police when investigating such cases and the professional input from various parties including AFCD as well as SPCA etc. would be enlisted; 	
		(c) dedicated team for handling animal cruelty cases was not found in overseas countries like the United States, the United Kingdom and Australia, while the idea of establishing an "animal police" team once mooted in the Netherlands was eventually not pursued; and	
		(d) "animal police" was only a general term. While some people referred it to a dedicated team within the police establishment responsible for investigating animal cruelty cases, some other people might refer it generally to an animal organization assisting the police in investigating animal cruelty cases.	
		Mr KWONG did not submit to the reasons provided by the Administration for not establishing an "animal police" team, he suggested that a multi-disciplinary "animal police" team could be established.	
003442-004500	Chairman Dr Elizabeth QUAT Admin	On Dr Elizabeth QUAT's suggestion that a comprehensive review should be conducted on 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 responded that the Government was open-minded about enhancing and amending the relevant ordinances if necessary.	
		Dr QUAT said that the Democratic Alliance for the Betterment and Progress of Hong Kong was of the view that the Administration should	

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
		 ultimately establish an "animal police" team. In response to Dr QUAT's enquiry, the Administration advised that: (a) training would be provided to all probationary inspectors and recruit constables to enhance their awareness and ability to handle animal cruelty cases. In 	
		addition, AFCD and SPCA would provide lectures and seminars to keep frontline officers abreast of relevant crimes and their trend. The Police had also introduced an e-learning software for providing a learning platform to ensure that cases of cruelty to animals were handled in a professional and consistent manner; and	
		 (b) on the law enforcement front, animal cruelty cases received by the Police would initially be attended by uniformed officers in various districts. Under AWS, staff from AFCD and SPCA could also be called to the scene to provide professional advice if necessary. If there was a prima facie case of cruelty to animals upon initial investigation, the case would be taken up by the crime investigation team. A Chief Inspector of Police would review the investigations conducted by different investigation teams to ensure consistency in their investigation. Depending on the manpower of the police district, the nature and prevailing trend of cases, each district might consider assigning cases to dedicated teams in the interest of ensuring comprehensive and focused investigation. 	
004501-005046	Chairman Mr CHU Hoi-dick Admin	 In response to the enquiry of Mr CHU Hoi-dick, the Administration advised that: (a) the Food and Health Bureau ("FHB") was reviewing if dogs and cats could be covered within the scope of section 56 of the Road Traffic Ordinance (Cap. 374); and 	
		(b) to tackle the problems relating to the keeping of dogs on construction/open storage sites, AFCD had, in addition to conducting on-site inspections, provided funding to AWOs for offering free or low-cost neutering services to dogs and to educate the owners concerned about the importance of having their dogs neutered. AFCD had also issued a code of practice for keeping dogs on construction sites.	

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
		 The Administration was requested to: (a) provide the number of complaints received, the number of prosecutions instituted, the number of successful prosecutions as well as the penalties handed down by the court in the past three years against acts of cruelty to dogs on construction/open storage sites; and (b) provide the number of dogs/cats being killed in road accidents in recent years. 	Admin (items (a)(i) and (c) of Annex B refers)
005047-005519	Chairman Admin	 In response to the Chairman's enquiry, the Administration reiterated its enforcement details against reported cases of cruelty to animals. It further advised that members of the public could report any suspected cases of cruelty to animals by calling the Police (Tel: 999), AFCD (Tel: 1823) or SPCA's 24-hour hotline (Tel: 2711 1000). The Chairman considered that the Administration should encourage members of the public to adopt stray animals. In response, the Administration advised that: (a) it had been promoting adoption through education and publicity; (b) unclaimed stray animals which were assessed by a veterinary surgeon to be in good health, having a gentle temperament and suitable for adoption would be transferred to AWOs for adoption by members of the public; and (c) only animals unclaimed or not adopted at the end of the process would be euthanized. In some cases, animals pending adoption would stay in AMCs for as long as a month. 	
005520-010120	Chairman Ms Claudia MO Admin	Referring to the suspected animal cruelty case mentioned by Ms Claudia MO, the Administration advised that they would continue to follow-up the case and try to contact the owner concerned.Ms MO suggested that if a formal "animal police" team could not be established in the near future, the Police should at least form a "loosely-knitted squad" in each police district comprising designated police offices to handle animal cruelty cases.The Administration responded that a similar	

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
		arrangement was currently in place as the District Commander might, having regard to the manpower of the police district, the nature and prevailing trend of cases, assign animal cruelty cases to dedicated teams. However, there were practical difficulties in appointing designated police officers for the task due to rotation of officers' posts on a periodic basis. The Administration welcomed suggestions from members on ways to refine the arrangement for enhancing the investigation work.	
		In response to the Chairman's enquiry about the enforcement work of AFCD in respect of animal cruelty cases, the Administration advised that the four AMCs under AFCD were responsible for various enforcement works on animal-management, including the investigation and prosecution work under the Prevention of Cruelty to Animals Ordinance (Cap. 169) ("PCAO").	
010121-010744	Chairman Dr Elizabeth QUAT Admin	Dr Elizabeth QUAT said that some owners had cruelly treated their dogs by putting them in a small cage, the dimension of which was out of proportion to the size of the dog concerned or limiting the mobility of the dog to a small area by tying it with a short leash etc. She expressed dissatisfaction that when such cases were reported to the Police, the complaints would easily be disposed-off on the grounds that the animals concerned were supplied with food and fresh water and no cruelty case could be substantiated. The Administration stressed that owners who permitted any unnecessary suffering to be so caused to any animal was in contravention of PCAO.	
		The Administration was requested to advise whether there were successful prosecutions in the past three years against owners who permitted any unnecessary suffering to be so caused to any animal, for example, by putting an animal in a case, crate or basket of such small dimensions as to subject it to unnecessary pain or suffering; if yes, of the details.	Admin (item (b) of Annex II refers)

010745-011025Chairman
AdminBriefing by the Administration on the findings of
its review of the definition of cruelty to animals,
and relevant penalty under PCAO (LC Paper No.
CB(2)576/16-17(03))

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
011026-011539	Chairman Ms Claudia MO Admin	Ms Claudia MO pointed out that while the maximum penalty under PCAO had been raised in 2006, the penalty handed down by the court on convicted animal cruelty cases still fell short of achieving the desired deterrent effect. Ms MO enquired whether PCAO was under the purview of FHB and whether the Administration would consider further increasing the maximum penalty under PCAO.	
		The Administration affirmed that FHB was the policy bureau responsible for PCAO. It further advised that:	
		 (a) the Department of Justice ("DoJ") might file an appeal to court if AFCD and DoJ considered that the penalty imposed on a certain case was too light; and 	
		(b) the level of penalty under PCAO was comparable to other countries.	
		The Chairman also considered it necessary to review the penalty under PCAO.	
011540-012347	Chairman Dr Elizabeth QUAT Admin	Pointing out that the number of animal cruelty cases had not been reduced despite the increase in the maximum penalty under PCAO in 2006, Dr Elizabeth QUAT asked the reason(s) for that and enquired whether the Administration would consider making animal abandonment an offence under PCAO.	
		The Administration responded that:	
		(a) the increase in the number of animal cruelty cases was possibly due to the raised public awareness and concern for animal welfare and heightened attention to stray cats in the past 10 years. Stray cats were particularly susceptible to attack by stray dogs owing to the smaller body size of cats and in a number of suspected cases of cruelty to cats, post-mortem examination of the carcasses revealed that the fatal injuries were caused by dogs or over-drove by cars;	
		 (b) while abandonment of animal was an offence under the Rabies Ordinance (Cap. 421), it was difficult to prove the deliberate intent of an owner to abandon his/her animal. More often, AFCD would prosecute the owners concerned by invoking section 23 of Cap. 421 for their failure to keep the dogs under control; 	

Time marker	Speaker(s)	Subject(s)/Discussion	Action
		 (c) there were around 200 to 300 cases of successful prosecution a year under section 23 of Cap. 421, the maximum penalty thereunder was a fine of \$10,000; as regards the abandonment of animal, there was a successfully prosecution in 2013 charging a penalty of some \$500; and (d) AFCD would review with DoJ the prosecution threshold for abandonment of animals. Dr QUAT expressed concern about the light penalty for abandonment of animals. The Administration was requested to provide the number of complaints received, the number of prosecutions instituted, the number of successful prosecutions as well as the penalties handed down by the court in the past three years against: (a) abandonment of animals; and (b) failure to keep dogs under control in accordance with section 23 of Cap. 421. 	Admin (item (a)(ii) and (a)(iii) of Annex II refers)
012348-013124	Chairman Mr CHAN Chi-chuen Admin	Mr CHAN Chi-chuen commented that in order to achieve the desired deterrent effect, strict law enforcement was equally important other than raising the penalty level. He asked about the Administration's stance on enforcement against animal cruelty and whether any difficulties were encountered due to the lack of enforcement power against certain animal cruelty acts under the existing law. He opined that usually the penalty handed down by the court was only a fraction of the maximum level prescribed by law, and so raising the maximum penalty level should lead to heavier penalty. The Chairman wondered whether AFCD was in a better position to enforce the animal cruelty legislations. In response, the Administration advised that while AFCD was empowered to investigate and initiate prosecution against cases of animal cruelty under PCAO, the Police was still needed, in particular, for cases that required detailed investigation and evidence collection. The round-the-clock availability of the Police was also critical to deter and prevent animal cruelty.	
013125-013551	Chairman Dr Elizabeth QUAT Admin	cruelty. In response to Dr Elizabeth QUAT's enquiry, the Administration explained the reasons for requiring dogs to be licensed, microchipped and vaccinated.	
		Dr QUAT reiterated her request for microchipping of cats. The Administration	

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
		responded that owing to the differences in the behaviour of cats and dogs, it was not suitable to impose the same legislative control over these two types of animals. The need for a separate legislative regime for the management of cats had to be further studied. Dr QUAT stressed again the need for a comprehensive review of the current legislations	
		on animal protection.	
013552-013902	Chairman Ms Claudia MO Admin	Ms Claudia MO opined that although dogs had to be vaccinated, microchipped and licensed under the current legal provisions, many of the dogs kept in the construction or open storage sites were not microchipped. She queried whether AFCD had manpower to inspect these construction or open storage sites in particular those in the New Territories and investigate the suspected animal cruelty cases.	
		In response to Ms MO's enquiry, the Administration explained the enforcement issues regarding abandonment of animals and section 23 of Cap. 421. It also explained that for cases which involved bodily attack to the public by the animal, the penalty handed down by court for violation of Cap. 421 would usually be heavier.	
013903-014535	Chairman Mr KWONG Chun-yu Admin	In response to Mr KWONG Chun-yu's enquiry regarding the guidelines adopted by AFCD on euthanasia of animals, the Administration responded that the guidelines were drawn up with reference to relevant international standards. AFCD had collaboration with 15 animal adoption organizations which would keep abandoned animals and provide adoption services, thus reducing the number of animals eventually euthanized.	
		The Administration was requested to provide the guidelines adopted by AFCD on euthanasia of animals.	Admin (item (d) of Annex II refers)
		In response to Mr KWONG's suggestion that the Administration should consider incorporating the subject of caring for animals into the curriculum of local schools so as to raise public awareness of the need to combat animal cruelty cases, the Administration advised that the matter was under the Education Bureau's purview.	
		As regards Mr KWONG's suggestion of allowing pet animals to board public transport on selected days, the Administration advised that the subject	

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
		would be discussed in future meetings of the Subcommittee.	
014536-015326	Chairman Mr CHU Hoi-dick Admin	Mr CHU Hoi-dick considered that the comparison provided in the Administration paper (LC Paper No. CB(2)576/16-17(03)) was too simple and a comparison on other aspects like the penalty level handed down by the court and the number of animal cruelty cases etc. should also be included in order to have a full picture of the subject. The Administration explained that as the focus of the current discussion was on the definition of "cruelty to animals" and the relevant penalty level as prescribed by law, information on other aspects had not been collected.	
		Expressing the view that the public might have more confidence in AFCD with regard to law enforcement against animal cruelty, Mr CHU enquired whether AFCD would strengthen their manpower for the purpose.	
		The Administration advised that:	
		 (a) the four AMCs under AFCD were responsible for various law enforcement works concerning animal-management, including the licensing and microchipping of dogs, the licensing of pet shops and the handling of animal cruelty cases etc. Each AMC had about 50 staff members with some 70% of them belonging to junior grades; and 	
		(b) with the reduction in the number of stray animals in recent years, AFCD would consider putting more focus of its work on the handling of animal cruelty cases through internal redeployment of staff.	
015327-015505	Chairman Ms Claudia MO Admin	Ms Claudia MO said that with the reduced number of stray animals in recent years, she hoped that the Administration would consider stopping the use of euthanasia for handling unclaimed stray animals.	
		The Administration responded that it had endeavoured to promote animal adoption in order to reduce the need for euthanasia.	
015506-015745	Chairman Dr Elizabeth QUAT Admin	Dr Elizabeth QUAT urged that the Administration should provide more financial assistance to AWOs so that they could expand their neutering and adoption services for stray animals.	

Time marker	Speaker(s)	Subject(s)/Discussion	Action required		
		The Administration advised that it had provided funding support to AWOs for offering free/low-cost neutering services as well as adoption services. A 3-year Trap-Neuter-Return trial programme was also launched in 2015 with an aim to reducing stray animals.			
Agenda item IV – Any other business					
015746 -015949	Chairman Dr Elizabeth QUAT	Date of next meeting and item for discussion. Members' agreement that relevant deputations be invited to the next meeting to present their views on the subject.			

Council Business Division 2 Legislative Council Secretariat 28 February 2017

Panel on Food Safety and Environmental Hygiene

Subcommittee to Study Issues Relating to Animal Rights

List of follow-up actions

Date of meeting	Follow-up action required	Administration's response
17 January 2017	 The Administration was requested to: (a) provide the number of complaints received, the number of prosecutions instituted, the number of successful prosecutions as well as the penalties handed down by the court in the past three years against: (i) acts of cruelty to dogs on construction/open storage sites; (ii) abandonment of animals; (iii) failure to keep dogs under control in accordance with section 23 of the Rabies Ordinance (Cap. 421); (b) advise whether there were successful prosecutions in the past three years against owners who permitted any unnecessary suffering to be so caused to any animal, for example, by putting an animal in a case, crate or basket of such small dimensions as to subject it to unnecessary pain or suffering; if yes, of the details; (c) provide the number of dogs/cats being killed in road accidents in recent years; and	response

Date of meeting	Follow-up action required	Administration's response
	(d) provide the guidelines adopted by the Agriculture, Fisheries and Conservation Department on euthanasia of animals.	

Council Business Division 2 Legislative Council Secretariat 28 February 2017