



The Hong Kong Veterinary Association

21st June 2019

Dr Hon KWOK Ka-ki
Chairman
Panel on Food Safety and Environmental Hygiene
Legislative Council
Hong Kong

Dear Chairman and members

HKVA Submission regarding proposals to enhance animal welfare – amendment of CAP 169,
The Prevention of Cruelty to Animals Ordinance

The Hong Kong Veterinary Association (HKVA) fully supports the review of CAP 169, as a vital step forward to improve animal welfare in Hong Kong. Being the oldest and largest veterinary association in Hong Kong we welcome the chance to put forward our views to the Panel on Food Safety and Environmental Hygiene

Duty of Care

The expansion of the scope of CAP 169 to include a duty of care for all animals is a positive step forward, and is in line with similar pro-active animal welfare legislation in other jurisdictions. It is, however, important that the legislation is very clear to whom this duty of care applies, and should include animal abandonment as a failure of duty to care.

The HKVA supports the introduction of Codes of Practice to educate and advise those responsible for looking after animals to a high standard of care. Veterinary surgeons frequently see animals whose carers have failed to seek medical attention in a timely manner, resulting in unnecessary suffering. Changes to the legislation requiring all persons to be aware of the needs and requirements (in sickness and in health) of animals under their care is crucial to improving animal welfare and placing the responsibility firmly on the carers to educate themselves.

The HKVA also supports the implementation of improvement notices and penalties. In addition we request consideration for on the spot fines, together with a mechanism that if the same person repeatably commits offences over a period of time, these offences can be escalated to more serious and higher penalties. We believe that improvement notices serve to stop neglect before it becomes cruelty and are much more pro-active than waiting for abject cruelty to arise.

For breach of duty of care we would support a maximum penalty of 5 years imprisonment and a HKD 200,000 fine.

Prevention of Cruelty

The HKVA full supports the provision of mechanisms within the new legislation (including disqualification orders) for protecting animals from those parties who have committed acts of cruelty. We also support the inclusion of the release of an animal into an unsuitable environment in the definition of animal cruelty.

Furthermore, as veterinary surgeons we see animals which have undergone mutilations such as tail docking and ear cropping, whilst these cruel and unnecessary operations are included in the CAP 529 (the Veterinary Surgeons Registration Ordinance - VRSO) we believe they should also be addressed under CAP 169. In the UK Animal Welfare Act 2006, these mutilation procedures are banned, any person requesting, allowing or performing such operations is held liable to prosecution for causing unnecessary suffering.

An issue which veterinary surgeons see not infrequently are deliberate poisonings, which obviously cause unnecessary suffering, pain and distress to the animals concerned. We would request that poisoning be included in the new definition of cruelty, with consideration to the possession of poisons or poisoned bait to be an offence.

Another area we would like to see covered in the new legislation is the banning of devices that have the potential to cause unnecessary suffering such as electric shock collars, prong collars and glue traps.

Reporting of cruelty is also something that the HKVA would like clarified, either under this legislation or CAP 529 (the VRSO). Veterinary surgeons need to know they will not be subject to client confidentiality issues or reprisals if they report suspected cruelty offences to enforcement officers, and that they will receive the full support of the law if they do so. Currently there is no mention of this in either CAP 529 or CAP 169.

We fully support the introduction of the option of making the offence indictable with higher penalties. As such for the offence of animal cruelty we would recommend an increase in the maximum penalty to 10 years imprisonment and a HKD 1,000,000 fine.

As there is scope for the offence to be kept at summary level we would also support an increase in the maximum penalty for this offence to 5 years imprisonment and a HKD 500,000 fine.

Enforcement powers

The HKVA is in favour of allowing additional powers to enforcement officers to enter premises and rescue animals at risk and potential risk. We also believe these animals should be released from detention in a timely manner, and note that in some cases animals have been held for several months to over one year which is not acceptable on welfare grounds.

Noting there is often a considerable cost for groups taking on the rehabilitation and care of these animals, the onus should be placed on the offender to be responsible in some way for these costs. In some jurisdictions the suspect is required to pay a bond if they refuse to give up their animals. If the suspect is found not guilty the bond is returned, however, if they are found guilty the bond is forfeited and used towards covering the animal care costs.

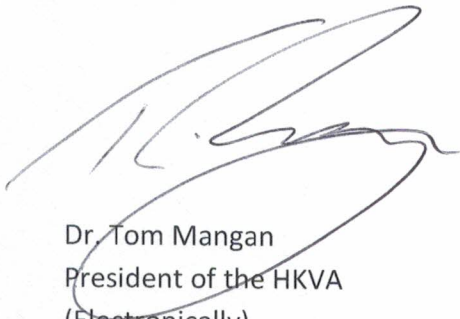
The HKVA recommends that the scope of persons involved in enforcement be enlarged to cover trained individuals for instance inspectors from the Society for Prevention of Cruelty to Animals (Hong Kong). These individuals could help in areas of enforcement such as improvement notices and assisting the Police and Agriculture, Fisheries and Conservation officers. Obviously there would need to be a mechanism in place to ensure such persons are suitably trained, but this should be the case with all officers involved in enforcement.

We would also recommend that the time bar for offences under CAP 169 be extended to 3 years. We understand for indictable offences there is no time bar, but for summary offences we believe that the current 6 month period is too short and allows offenders to avoid justice.

In closing, we would like to thank the government for moving forward with this review, and fully support all amendments, but hope our additional suggestions will be noted and considered. However, we would like to point out that improving legislation will only succeed if it is backed by robust enforcement mechanisms and education of the general public to understand their responsibilities.

Should you have any enquiries in relation to this submission please do not hesitate to contact me at president@hkva.org

Yours sincerely



Dr. Tom Mangan
President of the HKVA
(Electronically)

