

DATE 30 July 2024

Supplementary Questions

- 1. As one of the approved charitable organisations with enforcement powers under section 34B of the Prevention of Cruelty to Animals Act (1979) (the POCTA Act). How does RSPCA currently manage compliance and enforcement under the POCTA Act in NSW?**

RSPCA NSW enforces the *Prevention of Cruelty to Animals Act 1979* (NSW) (**POCTAA**) both responsively (to complaints received) and proactively (usually in the context of animal trade code compliance). RSPCA NSW employs four teams of inspectors across NSW (Northern, Southern, Central and Metropolitan) to investigate reports of animal cruelty and, where warranted, exercise powers under POCTAA. RSPCA NSW is authorised pursuant to Part 2A POCTAA to enter land, apply for search warrants, examine animals and where warranted, seize animals. Section 34AA POCTAA authorises RSPCA NSW to commence proceedings in the NSW Local Court for breaches of the Act, Regulations or Code of Practices. Where appropriate RSPCA NSW can also issue written directions under s24N, penalty infringement notices and formal cautions. While multiple organisations can enforce POCTAA, 99% of the community's interactions with the POCTAA are through RSPCA NSW.

If this question refers more specifically to RSPCA NSW enforcement of the electrical devices restriction under POCTAA and the regulations, RSPCA NSW employs a range of enforcement options depending on the circumstances. In some cases, where owners have electric collars fitted on their animals (usually dogs) RSPCA NSW takes a strong educational role, informing owners of the law, seizing the collar, and providing advice as to alternative training techniques, alternative confinement strategies, such as fencing, and behavioural enrichment. Inspectors will also refer to canine behaviourists and trainers for additional guidance. Where owners comply with directions, and there are no injuries occasioned, the animals are otherwise in good body condition and apparently well treated, there may be no further enforcement action undertaken.

In other situations, Inspectors have become aware of companies headquartered in QLD selling shock collars in NSW, and in those cases, collars have been seized and penalty infringement notices issued against the offending company. In one matter recently, the defendant company court elected the PIN and the company was convicted and sentenced in the Local Court to the PIN amount, which was a \$1500 fine.

The final situations are examples where shock collars are fitted on dogs where other breaches of POCTAA, or the code (often the breeding dogs and cats code) are also detected. In those cases, Court Attendance Notices are filed against the defendant for the multiple offences. This doesn't happen

regularly, but the above information is given to provide context to the Committee as to the enforcement action undertaken by RSPCA NSW in these situations.

2. If virtual stock fencing is legalised with a list of mandatory safeguards, what resources and data does RSPCA need to effectively monitor and enforce compliance?

If virtual stock fencing is legalised with strict mandatory safeguards, RSPCA NSW anticipates it would require the following resources and data to effectively monitor and enforce compliance:

- A comprehensive code is required in advance of the repeal of the legislative restriction from the use of electric shock devices. It is inappropriate to repeal legislative protections which have been well understood and deployed under POCTAA since 2012 without consulting stakeholders to develop and deploy a robust mandatory code of practice in advance.
- Moreover, that code of practice needs to be enforceable in accordance with the s24G POCTAA animal trade provisions to permit proactive enforcement of these provisions. This is particularly important in the early stages of any amendment to guard against error and misuse. The remote location of livestock prevents them from ready observation by passers by or other members of the public. Consequently, relying solely on cruelty reports to identify offences requiring investigation is unlikely to be a sensitive mechanism of identifying issues in the livestock context.
- Access to real-time, and retrospective data: Direct access to real-time data from virtual fencing systems would be an efficient way to monitor animal interactions and identify some welfare issues promptly.
 - The extent to which these data could inform compliance failures, such as unresponsiveness to cattle who are failing to learn the system, is unknown until a sample of data is made available and guidance and training provided by technical experts of virtual fencing manufacturers.
 - Estimates are also needed on the likely number of producers to take up this technology to understand the scale and types of operations (beef, dairy, intensive or extensive). This may provide insights on to what extent animals can be easily examined by Inspectors in the field.
- Collaboration with technology providers: Strong collaboration with virtual fencing technology providers to ensure that the systems used comply with animal welfare standards and facilitate easy data sharing and support.
- Training for Inspectors: Comprehensive training programs for inspectors on the specifics of virtual fencing technology, including its operational mechanisms, data interpretation and potential welfare impacts.
- Additional personnel: Increased personnel to handle the rise in monitoring and enforcement activities related to the use of virtual fencing. Some bolstering of the regional inspectorate and an administrative role would be anticipated as necessary to prioritise this enforcement activity.
 - There are safety issues for inspectors accessing rural properties. There are several circumstances where the investigation of cruelty complaints has required assistance from NSW Police Rural Crime particularly where there are concerns regarding firearms on site. This is time and labour intensive. Some positive undertaking and

acknowledgement should be made, by the producer, that by employing these devices they are subject to inspections by law enforcement.

- RSPCA NSW would likely require assistance from District Veterinarians where further veterinary advice is needed in any inspection or investigation.
- Full recurrent operational funding: It is crucial that RSPCA NSW receives full, recurrent operational funding to support these enhanced monitoring and enforcement activities. The legalisation of virtual stock fencing would increase costs for our animal welfare law enforcement agency, and appropriate funding would be necessary to ensure effective compliance and enforcement.
 - With advancement in technologies like virtual livestock fencing comes the obligation and opportunity to meaningfully safeguard animal welfare by modernising law and increasing standards. However, there are concomitant costs that would be associated with an increase in enforcement activity, if there is a desire for real and robust oversight of the new technology. The use of these devices by large scale and remote primary producers in NSW would increase the associated compliance costs for enforcement agencies to deploy staff in the field. It is also likely that, in cases where enforcement action was necessary, there would be a need for mustering of cattle, and additional resourcing from other agencies, NSW Police Rural Crime, Local Lands Services including District Veterinarians, and others.
- RSPCA NSW advises against the repeal of the POCTAA protections at this time. The Act has been repeatedly amended in an ad hoc and piecemeal fashion. This has led to unintended and adverse consequences for law enforcement outcomes and animal welfare. It is recommended that NSW Department of Primary Industries be permitted to resource and prioritise the review and replacement of POCTAA, rather than conducting repeated analysis of further ad hoc amendments. More extensive research and robust regulatory frameworks are necessary to mitigate potential welfare risks before considering legalisation.

3. Have any virtual stock fencing companies or researchers consulted with RSPCA in the development of in-built animal welfare protections or suggested uses for the technology?

RSPCA Australia has been in contact with one virtual fencing company and several virtual fencing researchers. It is not possible to say whether our engagement has led to specific research projects being initiated, or whether our advice influenced technology design.

We note that RSPCA Australia is currently a member of the Virtual Fencing Stakeholder Reference Group providing advice to the Animal Welfare Task Group on mechanisms to harmonise virtual fencing animal welfare regulations across jurisdictions.

RSPCA Australia some engagement with one virtual fencing company going as far back as 2015 when they met with the company and heard about the project work due to commence with CSIRO using a prototype of the current model. This was an opportunity to express our concerns about a system that uses an electric shock to modify the animal's behaviour, including individual animals not learning, time needed to adjust to frequent repositioning of the virtual fence, unpredictability of receiving the shock, long-term effects (affective state), and the need for safeguards to prevent abuse.

RSPCA has also engaged with CSIRO on various occasions to better understand how the technology works and how animals respond, and what further research might be required. At the end of 2020,

Agersens and CSIRO presented to interested RSPCA staff, providing an update on research outcomes and future commercial release of the device. Agersens and CSIRO were open to suggestions for further research and, over the years, much of the research has been carried out except with respect to the longer-term implications for animal welfare.