

1st August 2020

Justice Strategy & Programs

Department of Communities and Justice

RE: Review into Animal Abuse and Domestic and Family Violence

Animal Care Australia (ACA) welcomes the opportunity to contribute to this review and we thank you for including us as a stakeholder.

ACA opposes statements made by the Animal Justice Party in relation to domestic and family violence laws allowing animals to be offered lawful ‘personhood’. It is our assertion this would be detrimental to animal welfare, as it would make it harder for the human victims to leave and legally take their animals with them if they no longer ‘own’ them. Ownership of animals protects those animals in DFV situations.

We look forward to further contributing throughout the process.

Kind regards,



Michael Donnelly
President, Animal Care Australia.
0400 323 843

About Animal Care Australia:

Animal Care Australia (ACA) is a national incorporated association established to lobby for real animal welfare by those who keep, breed and care for animals. Our goal is to promote and encourage high standards in all interactions with the animals in our care.

Stakeholder Submission

New South Wales Review into Animal Abuse and Domestic and Family Violence

Prepared by Animal Care Australia Inc:
19th June 2020



Below are our responses to the individual questions appearing throughout the Consultation Paper along with additional explanation.

1. Based on the experiences of your organisation, how frequently is animal abuse in the context of DFV encountered? You may wish to include examples of types and frequent of animal abuse (including threats, patterns of behaviour and connections to other abusive behaviour).

ACA would like to emphasise that animals and their care are the most important and valued aspect of many of our member's lives. It is what keeps people enthused, improving general health of the community and may go a long way to help prevent or at least reduce the probability of relationship breakdown that often leads to DFV.

Having stated that, it is common knowledge that animals can be and have been used as bargaining chips and/or abused in DFV situations.

In the boarding industry there is a constant intake of animals that arrive due to DFV, with people boarding animals that have had threats made on them by partners.

Unfortunately with current laws stating the owner is the person listed on the microchip, this leads to cases where these animals are returned to an unsafe environment. This issue needs to be addressed.

Some ACA Species Representatives are aware of cases where people are staying in relationships as their partners have threatened to do harm to their animals, and leaving is not an option due to the fact there are currently no refuges (safe havens) that allow animals to accompany the victims. This leaves them with no choice but to stay for the welfare of their animals

ACA is also aware some perpetrators of violence towards other people have at some stage abused and/or intentionally tortured and/or killed an animal.

Legislators need to be mindful to not inadvertently discourage animal keeping which may prove detrimental to the cause.

2. Does the existing law on DFV provide the appropriate recognition, coverage or protection for animal abuse in DFV contexts?

Based on the "Law Reform" notes there are numerous legal avenues possible to protect animals when the violence directed towards the animal allows the court to view the abuse as DV against a person. This generally makes sense but could be more clearly articulated within legislation to enable better public education and awareness.

The cruelty offence inflicted on the animal itself (whether tied to DV or not) should be dealt with under POCTAA. ACA supports larger penalties for such offences and we are in consultation with NSW DPI over this matter.

ACA notes a particular concern that ADVO does not outline or define that animals are protected or included within the protection of property. The inclusion of animals

and pets needs to be specific. ADVOs should be able to specify that animals are protected as property of the “protected person”.

Media statements by the AJP that animals should be offered lawful personhood would be detrimental to animal welfare, as it would make it harder for the human victims to leave and legally take their animals with them. If animals are not owned by the victim, they may be less likely to leave as the risk that they will lose their animals to the perpetrator, or the animals will be harmed in their absence is much greater. Ownership of animals protects those animals in DFV situations.

In addition, owners of animals need protection to assist them to care for their animals. Many DFV victims never report the abuse or go to Court. Many never leave the abusive situation at all, and many leave without assistance.

3. Should the CDPV Act be amended to more explicitly acknowledge harm to animals as a ground for seeking an ADVO and/or as a mandatory prohibition included in an ADVO? Are changes needed to examples of potential orders, or to offences?

N.B. The Department is already considering clarifications to the CDPV Act to explicitly call out the protection of animals in the mandatory orders and definitions around ‘intimidation’.

Cruelty to animals under the care of a protected person should be explicitly acknowledged as a ground for seeking an ADVO. ACA would support such grounds be including within the CDPV Act.

The act of cruelty should be pursued under POCTAA. These offences should be considered separately, and appear on criminal records separately.

The protection of animals needs to be clearly defined, clarified and understood by all those involved within the DFV situation.

Animal abuse is widely recognised as a precursor to later escalations of abuse. Early recognition of previous animal abuse could help future victims be identified earlier.

a. Does the legislation need to recognise that the animal was harmed with a specific intention (e.g. an intention to coerce or control)?

In relation to DFV, the animal abuse requires a specific intention to intimidate, harass, coerce, control, etc. the person. This is a different offence to the actual animal abuse itself, which should be pursued within the confines of POCTAA.

Unintentional harm or neglect should not be prosecutable instead these should lead to programs that educate animal owners on better animal husbandry.

b. How should different types of animals be recognised under such a framework (e.g. assistance animals, pets, livestock)?

In relation to DFV, it is not the type of animal that is significant, rather it is the intent of the perpetrator to use animal abuse (or the threat thereof) as a means to intimidate, harass, coerce, control, etc. their victim.

To determine if this intent is reasonable, the court should be able to draw upon evidence of the knowledge the perpetrator would reasonably know of the nature of the relationship between the animal(s) and the victim. A perpetrator who is aware of a strong personal attachment between the victim and the abused animal could be grounds for imposing more severe penalties.

The connection to the owner or victim should be the important consideration in recognising coercion or control attempts.

4. Should the ADVO conditions include an optional explicit order in relation to the custody or care of animals?

ADVO conditions regarding custody of animals are fraught with issues as animal abuse is not proven and likely at the time the ADVO is sought the abuse is a claim by the “protected person”. Often custody battles include who keeps animals and pre-empting custody based on an ADVO claim may conflict with natural justice in many instances.

On the other hand, victims of DFV should not be in a position where they stay within a DFV situation simply to remain with and protect their animals. In a similar manner to the consideration of children or property, animals should permit similar constraints when issuing the ADVO. Being specific protects animals owned by victims from additional ongoing abuse. This inclusion must be based on a reasoned assessment of the evidence in each case.

We must require and rely upon the good judgement of a Magistrate to impose appropriate animal custody/care conditions based on a reasoned assessment of the evidence in each case

The actual animal abuse offence should be investigated on its own merits. A guilty outcome would then no doubt affect final custody of the animal.

5. Does awareness need to be raised amongst legal and DFV professionals, and amongst people at risk of or experiencing DFV that an ADVO covers and protects against animal abuse? How can current protections be better applied to address and manage animal abuse in DFV contexts?

ACA support raising awareness of the researched link between DFV and animal abuse. The inclusion of the term ‘animals’ within the legislation for DFV as part of property will assist legal professionals to understand and adequately advise victims of their protection.

Victims of abuse may not attempt to leave if the risk of losing their animals is deemed to be high. Victims may stay in abusive situations longer than they should if they feel their animals are at risk.

Victims need to know that there are resources and facilities available to help. The current lack of ‘somewhere to go’ leaves victims feeling trapped and continuing to endure ongoing abuse and abuse towards their animals.

6. How effective are current approaches at detecting where animal abuse and DFV are both present? What could be improved to enhance the likelihood that the intersection of DFV and animal abuse is correctly detected and subsequently investigated and enforced?

Improved information sharing between enforcement agencies is supported. Access to such information must be monitored and logged to enable future statistical research and to prevent misuse.

Education and resources need to be available to enforcement officers in animal welfare as well as police and other emergency services. Law enforcement and DFV case workers need to ask DFV victims if animals are involved and/or at risk of being harmed or threatened to being harmed.

An ACA members’ personal note:

“The NSW Police Force’s Domestic Violence Safety Assessment Tool (DVSAT), a mandatory tool applied to assess the level of threat to human victims, includes as one of its mandatory questions ‘has your partner ever harmed or killed a family pet or threatened to do so?’

From my own personal experience, I was never asked that question, even when I expressed concern for my animals as police wanted to prevent me from staying in my own home to care for them, “for my safety”. I was given the option of they would get the RSPCA in for the animals. No thanks.”

a. Are current operational arrangements supportive of a coordinated approach between agencies? How can this be improved further?

The current operational arrangements appear to be supportive of a coordinated approach between agencies it is law enforcement and DFV case workers that are usually the first to respond to a DFV situation. When a DFV situation is responded to, animals are not the priority unless an attending officer actually takes it upon themselves to notice if animals are present and then take the appropriate steps for the coordination between relevant agencies to occur. Improved transparency and public reporting of statistics will assist in ensuring information is exchanged between agencies due to a higher public awareness.

b. Do enforcing and investigating agencies have the appropriate scope of powers when dealing with animal abuse to be able to account for DFV contexts?

The powers exist, but the incentives or requirement to follow through does not. It needs to be easier for police to include animals in their processes, and easier for police to access animal welfare enforcement information and resources

c. Are systems suitable for information sharing and coordinated enforcement by relevant agencies?

As stated in 6a the system is suitable however it is not common knowledge to first responders of DFV situations, and therefore not utilised.

7. Is there a role for animal welfare organisations and veterinarians in screening for DFV? If yes, what support is needed (e.g. increased resourcing, specialised training, cross-training with law enforcement and social services)? Would a scheme of cross-reporting between service providers and professions that deal with animal abuse and DFV useful? Are there any existing barriers to reporting animal abuse more broadly by animal welfare organisations and veterinarians?

A cross reporting requirement is supported. Any compliance officer or other professional who suspects DFV should be required to pass their concerns to the appropriate authority via their superiors. There are situations where it is appropriate for this information to be anonymous.

In stating this, veterinarians need to be offered resources to help them identify and assist DFV victims and their animals. Vets are often the first to identify abuse in animals.

8. Are DFV services currently able to cater for the animals of their clients, either on-site or in partnership with other service providers? What are the barriers faced in providing/accessing such services? What can be done by government to support these services (e.g. funding, training and education, awareness raising)?

In general, ACA supports the keeping of pets in all forms of accommodation particularly in refuges for victims of DFV. Indeed all research indicates the inclusion of pets in the lives of everyone is overwhelmingly beneficial. It is poor legislation that restricts this ability.

Some specialised services exist in some areas but these are not common. Few women's shelters are equipped to house small pets let alone larger animals such as horses or large dogs. Currently victims must find their own animal accommodation or surrender their animals permanently at a time when they may have no available shelter for themselves or their children.

This needs to be improved and could be achieved quickly and at low cost with a foster home program connected to DFV support shelters and other housing

programs. Foster carers should be provided or reimbursed costs for feed and vet care while the displaced owner is being assisted by authorities. Access to visit and spend time with the animals is absolutely essential for the wellbeing of the humans and their animals.

A foster system would be preferable to a temporary shelter situation, to help reduce the animals in distress that has been brought about by separation from their caregivers.

The system should clearly document the foster agreement (including what rights the foster carer has to seek vet care etc) to reassure the owner that they are not losing their animals, as well as to protect the foster carer.

9. Are animal welfare services equipped to support animals at risk of abuse in DFV contexts (e.g. sheltering/fostering animals at risk)? Are there barriers to access for such services (e.g. waiting lists or lack of availability, costs for long term sheltering/fostering)? What can be done by government to support these services (e.g. funding, training and education, awareness raising)?

RSPCA and AWL do not offer temporary accommodation for animals owned by any displaced person.

Limited services are available, and finding out about such services is difficult. It needs to become common knowledge and resources and financial assistance made more readily available.

Victims of DFV rely on their animals for emotional support, possibly more than other animal owners. The support for their animals is crucial to getting support for the human victims.

The obvious solution to this lack of temporary animal care facilities is to remove restrictions on animal keeping more generally to open up the available spaces. Animal keeping should be encouraged in all forms of accommodation.

10. What barriers exist to the provision of longer term accommodation for persons fleeing DFV who have animals? How can we ensure that persons experiencing DFV with their animals be supported to stay safe in their own home?

Long term financial assistance or discounts on vet services and medical supplies would be ideal. This assistance should continue for the duration of the time the victim and their children receive other assistance and services. Similarly their animals should receive support services.

Services such as kennels/shelters that can house the animals while the person/family is re-settled should be supported by government to ensure the animals' ongoing care until the victims circumstances are finalised and they are re-settled.

11. Are there specific considerations or barriers that need to be examined for individuals in rural and regional NSW?

Isolation from people, law enforcement as well as human and animal welfare services is the biggest barrier factor in rural and regional situations. Local resources and transport are issues. Community stigma would prevent people in small communities leaving and seeking local support, or long distances to transport animals away from a dangerous situation could prevent them from leaving.

Being rural, facilities/shelters would need to cater for larger animals such as livestock and horses, and likely larger numbers of animals requiring shelter and support.

Additional financial assistance will definitely be paramount in ensuring these concerns can be overcome.

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b. Do enforcing and investigating agencies have the appropriate scope of powers when dealing with animal abuse to be able to account for DFV contexts?

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The system should clearly document the foster agreement (including what rights the foster carer has to seek vet care etc) to reassure the owner that they are not losing their animals, as well as to protect the foster carer. The foster agreement should include how long the agreement is in place, what happens at the end of the agreement, how to extend it or end it early, and who to contact to discuss it.

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