



PARLIAMENT OF VICTORIA
Legislative Council
Economy and Infrastructure Committee

**Inquiry into the RSPCA
Victoria**

Parliament of Victoria
Economy and Infrastructure Committee

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Committee functions

The Economy and Infrastructure Standing Committee is established under the Legislative Council Standing Orders Chapter 23 — Council Committees and Sessional Orders.

The committee's functions are to inquire into and report on any proposal, matter or thing concerned with agriculture, commerce, infrastructure, industry, major projects, public sector finances, transport and education.

The Economy and Infrastructure Committee (References) may inquire into, hold public hearings, consider and report on other matters that are relevant to its functions.

The Economy and Infrastructure Committee (Legislation) may inquire into, hold public hearings, consider and report on any Bills or draft Bills referred by the Legislative Council, annual reports, estimates of expenditure or other documents laid before the Legislative Council in accordance with an Act, provided these are relevant to its functions.

Government Departments allocated for oversight:

- Department of Economic Development, Jobs, Transport and Resources
- Department of Education and Training
- Department of Treasury and Finance.

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Terms of reference

Inquiry into the RSPCA Victoria

That, pursuant to Sessional Order 6, this House requires the Economy and Infrastructure Committee to inquire into, consider and report on, no later than 22 August 2017, the Royal Society for the Prevention of Cruelty to Animals Victoria (Inc) in relation to —

- (1) the appropriateness and use of its powers pursuant to the *Prevention of Cruelty to Animals Act 1986*, including in the context of its other objectives and activities;
- (2) the appropriateness and use of funding provided by the Victorian Government, including in the context of its other objectives and activities; and
- (3) any other consequential matters the Committee may deem appropriate.

Chair's foreword

I am pleased to present the Final Report of the Economy and Infrastructure Committee's Inquiry into the RSPCA Victoria, to the Legislative Council.

The Committee received this reference from the Council on 17 August 2017.

The Report primarily looks at two issues: the use of its powers by the RSPCA Victoria; and its expenditure of government funding.

For the most part it appears that the objections raised by stakeholders in relation to RSPCA Victoria relate to the organisation's historical practices.

For example the organisation has in the past been involved in animal rights activism, in some instances campaigning against activities that are legal in Victoria, such as duck shooting.

Some stakeholders suggested that RSPCA Victoria inspectors were involved in campaigns and action relating to commercial animals, overstepping their statutory function.

Since the Independent Review of the RSPCA Victoria Inspectorate in 2016 it has made good progress towards focusing on the prevention of cruelty to companion animals rather than engaging in animal rights activism.

The RSPCA Victoria now needs to focus on developing stronger stakeholder relationships. Many of the organisations the Committee engaged with believe that a more collegial approach to prevention of cruelty to animals would be of great benefit to the sector.

Both the government and the RSPCA Victoria should ensure greater transparency and provision of information about the role and powers of inspectors.

I thank all of those who provided submissions or appeared before the Committee to provide advice, in particular the RSPCA Victoria Chair and the CEO.

I thank the Committee Secretariat, Lilian Topic and Matt Newington, for preparing the report within a limited timeframe and for their professionalism.

Finally I thank my colleagues on the Committee for their work on this Inquiry.

I commend the report to the House.



Bernie Finn MLC
Chair

Findings and recommendations

2 Recent events and reviews

FINDING 1: Many of the issues identified in the Inquiry evidence relate to historical issues associated with RSPCA Victoria animal rights activism. Progress has been made to address these issues as a result of the *Independent Review of the RSPCA Victoria Inspectorate* in 2016.. . . . 11

3 Legislative powers and responsibilities of RSPCA Victoria

RECOMMENDATION 1: That the Victorian Government and RSPCA Victoria provide more transparency, information and detail with regard to the powers of RSPCA Victoria inspectors under the *Prevention of Cruelty to Animals Act 1986* and the Memorandum of Understanding between the RSPCA Victoria and the Victorian Department of Economic Development, Jobs, Transport and Resources.. . . . 19

RECOMMENDATION 2: That RSPCA Victoria ensure that it investigates cruelty to commercial animals in emergency situations only, in line with Division 2 of Part 2A of the *Prevention of Cruelty to Animals Act 1986*. 19

4 Ongoing concerns

FINDING 2: Stakeholder issues with the level of activism in some campaigns run by the RSPCA Victoria are justified. However, there was some confusion from stakeholders, and a number of the concerns raised related to campaigns run by RSPCA bodies in other jurisdictions. 25

RECOMMENDATION 3: That RSPCA Victoria in consultation with the Victorian Government consider ways to improve engagement and collaboration with animal stakeholder organisations. 26

FINDING 3: All government grant funding provided to RSPCA Victoria's inspectorate is used, and is required to be used, for inspectorate purposes only. 27

1.1 Terms of reference

On 17 August 2016, the Economy and Infrastructure Committee received a reference from the Legislative Council to look into the Royal Society for the Prevention of Cruelty to Animals, Victoria.

The reference stated that the Committee should inquire into the RSPCA in relation to two key areas. The Committee was asked to look into the way that the RSPCA Victoria uses its powers pursuant to the *Prevention of Cruelty to Animals Act 1986*. Further, the Committee was asked to look into the RSPCA's use of State Government funding.

The Committee was asked to report to the House by 22 August 2017.

1.2 Inquiry process

Evidence put before the Committee at hearings and in submissions overwhelmingly canvassed the RSPCA's actions with regard to promotion of animal rights.

Most witnesses and submissions supported the RSPCA's role in domestic animal welfare. Some stakeholders supported an extended role for the RSPCA in animal welfare, and indeed in promotion of animal rights. Other witnesses and submissions expressed the view that the RSPCA had overstepped its statutory role and obligations by participating in animal rights activism, and that the organisation should cease their inspectorate activities.

The Committee was keen to understand the role of the RSPCA and the views expressed by stakeholders. The Committee also examined the recommendations of the Comrie review and assessed the progress of the RSPCA in achieving the objectives outlined in the review.

1.2.1 Submissions and Public hearings

The Committee received 86 submissions to this Inquiry.

Submissions can be found on the Committee's website (www.parliament.vic.gov.au/eic).

The Committee conducted two days of hearings for the Inquiry into the RSPCA Victoria, hearing from 12 sets of stakeholders.

Witnesses included representatives of:

- Department of Economic Development, Jobs, Transport and Resources
- Dogs Victoria
- Victorian Farmers Federation
- Law Institute of Victoria
- Sporting Shooters' Association of Australia (Vic)
- Australian Veterinary Association
- RSPCA Victoria.

Full transcripts of evidence for the Inquiry can be found on the Committee's website.

This report looks at issues raised at hearings and in submissions.

Submissions canvassed a range of views of the work of the RSPCA. Many of those who made a submissions suggested that RSPCA Victoria required increased funding from the government for its activities. Others expressed their belief that the RSPCA oversteps its statutory functions and should not have a role in activism on animal rights, particularly in relation to activities that are legal in Victoria.

A number of stakeholders who appeared at the hearings for this inquiry were primarily concerned with the role of the RSPCA in relation to commercial animals.

The Committee thanks all contributors to this inquiry for the time and effort they put into making submissions and appearing at public hearings.

1.3 Chapter outline

This report focuses on key issues raised by stakeholders who contributed to the inquiry.

Chapter 1 is an introduction to the inquiry process.

Chapter 2 looks at events that led to the Comrie Review, discusses the recommendations resulting from the Review and the response to that review by RSPCA Victoria.

Chapter 3 focuses on the legislative powers and responsibilities of RSPCA Victoria and concerns raised to the Committee about the exercise of those powers.

Chapter 4 looks at ongoing issues that need to be addressed by RSPCA Victoria.

Much of the evidence presented to the Committee in submissions and at public hearings stated that RSPCA Victoria had, over its years of operation, shifted its focus from advocating for the prevention of cruelty to animals, to animal rights activism.

It was argued that the organisation's law enforcement responsibilities, for which it receives state funding, are at odds with its campaigns against lawful activities such as duck hunting and jumps racing. Much of the evidence presented in submissions and at public hearings discussed the perception that the RSPCA Victoria has lost its focus. Stakeholders also suggested that the RSPCA is involved with commercial animals, a role that it should not play.

2.1 Background

The Committee received evidence highlighting issues that raise questions as to the operation of RSPCA Victoria, including several high profile incidents concerning the organisation's response to reports of animal cruelty.

Stakeholders suggested that the activities of RSPCA Victoria have contributed to a loss of faith in the organisation.

2.1.1 Framlingham

In 2003, RSPCA Victoria inspectors wrongfully euthanised 131 cattle in Framlingham Forest after receiving reports of starving cattle on land owned by the Framlingham Aboriginal Trust.

The cattle were undernourished because they had previously been on a farm in New South Wales that was experiencing drought and hardship. They had been moved to the Framlingham farm to recover. The cattle owners were reportedly not present at the time that the cattle were euthanised.

RSPCA Victoria charged the owners with cruelty but the case was dismissed in Ballarat Magistrates' Court.

In subsequent litigation, RSPCA Victoria was found to be negligent and the cattle owners were awarded costs for the considerable financial loss they incurred due to the destruction of their cattle.¹

The Committee also received a submission from the cattle owners which provided a detailed summary of events of the RSPCA's prosecution.²

¹ Holdsworth & Ellison v RSPCA [2015] VCC 390 (31 March 2015).

² JA Heath Inland Holdings, *Submission*, No. 43.

2.1.2 Bulla

In 2016, RSPCA Victoria was accused of incompetently performing an investigation into reports of animal cruelty in which 20 horses had died and another 23 were suffering from starvation.

Neighbours of owner Bruce Akers contacted RSCPA Victoria to report concerns about emaciated horses on a Bulla property. However, a series of procedural failures led to a delayed response, which prolonged the suffering of the horses. Mr Akers was also reportedly known to RSPCA Victoria for past animal cruelty offences.

Several stakeholders raised this case as evidence to indicate RSPCA Victoria was unable to respond to serious cases of animal cruelty.

RSPCA Victoria later addressed this failure in its annual report, stating:

While we deeply regret the circumstances in which the full extent of the neglect of the Bulla horses was revealed, we are proud that our work with Horse Shepherd Equine Sanctuary and Racing Victoria has meant that 23 horses are being successfully rehabilitated and have begun to be rehomed.³

2.2 Conduct of the Comrie review

On 25 May 2016, RSPCA Victoria Chief Executive Officer Dr Liz Walker announced an independent review of the organisation's inspectorate. RSPCA Victoria engaged former Victoria Police Chief Commissioner Neil Comrie AO APM to conduct the review.⁴

Issues that contributed to instigation of the review include:

- rising cruelty reports
- significant changes in the social landscape
- public concern about RSPCA Victoria's capacity to deal with large scale, serious cruelty incidents (including the Bulla case discussed above).⁵

The review began with a stakeholder consultation process that invited submissions on the following three questions:

- What is the scale of animal cruelty in Victoria?
- What resourcing and approaches need to be put in place to ensure animal cruelty is being adequately investigated and prosecuted and community expectations are being met?
- Are there any ways RSPCA Victoria could use the resources it has right now more effectively and efficiently?

³ RSPCA Victoria, *Annual report 2015-16*, RSPCA Victoria, Melbourne, 2016, p. 16.

⁴ Response to the Independent Review of RSPCA Victoria's Inspectorate Final Report, RSPCA Victoria, p 1.

⁵ *ibid.*

Although animal cruelty is outside the terms of reference of this Inquiry, the remaining two questions examined similar issues that the Committee has considered in this report. These issues relate to RSPCA Victoria's use of its powers and resources.

The final report for the review was released in September 2016. It made 2 findings and 22 recommendations, which included:

- an internal assessment of RSCPA Victoria's budgetary position, and if necessary preparing a budget submission to the Victorian Government for incremental increases
- improving the safety culture of the inspectorate
- staff management improvements
- an organisational restructure
- improvements to collaboration and cooperation
- improvements to the inspectorate, including:
 - updated accommodation
 - reviewing equipment provided to inspectors
 - better use of volunteers to assist with reports that are not the primary responsibility of the inspectorate
- Domestic Animals Act:
 - reduce workload on DAA, eventually having all DAA work done by councils
- actively pursuing court costs
- lobbying government for the ability to issue infringement notices

The Comrie review made recommendations that can be broadly grouped into four categories: operational management, collaboration, legislation and activism.

BOX 2.1: Findings and recommendations of the Independent Review of the RSPCA Victoria Inspectorate

Finding 1: That the RSPCA Board has authorised the CEO to:

- a. commence the necessary processes to acquire a case management/intelligence software platform for the Inspectorate
- b. proceed with the necessary arrangements to secure the secondment of a Victoria Police intelligence analyst to the Inspectorate for a twelve-month pilot period.

Finding 2: The RSPCA Board has authorised the CEO to take all steps necessary to secure the location of a specialist prosecutor within the Police Prosecutions Unit.

Recommendation 1: Following implementation of all recommendations in this Report, the RSPCA reassess their budgetary position and the demand for Inspectorate services at that time and if warranted, take the necessary steps to develop a budget submission to the Victorian Government for an incremental increase to their recurrent budget allocation.

Recommendation 2: That the RSPCA take all necessary action to improve the safety culture at the Inspectorate.

Recommendation 3: That the RSPCA implement measures to retain valuable staff in the Inspectorate, including establishing incremental salary levels that recognise experience and responsibility and also adopt more contemporary, flexible working arrangements such as part-time employment and job sharing.

Recommendation 4: That the RSPCA consider all viable options for the efficient recruitment of Inspectors, including group assessments and the development of a priority list to be drawn upon when future vacancies occur.

Recommendation 5: That the People and Culture Department of the RSPCA in conjunction with the management of the Inspectorate, undertake a training needs analysis of the role of Inspector. A robust, skills based, accredited training program should then be developed to meet the specific needs of RSPCA Inspectors and successful completion of this program should be an obligatory component of the probationary period leading to authorisation of an Inspector under the POCTAA.

Recommendation 6: That, as far as possible, the RSPCA remove peripheral and corporate administrative functions from the Inspectorate to allow it to focus on operational responsibilities, especially supervision.

Recommendation 7: That supervisory responsibility and accountability be strengthened in the Inspectorate by the creation of new roles of Team Leader and Senior Inspector within a regional service delivery model.

Recommendation 8: That the RSPCA provide the necessary structure, support functions, training and development to ensure that the Inspectorate Manager, Team Leaders and Senior Inspectors provide strong leadership as well as meeting their management obligations.

Recommendation 9: That the RSPCA introduce a new structure and operating model.

Recommendation 10: That the RSPCA ensure that radio monitoring is the shared responsibility of Inspectorate administrative staff from 8am to 6pm each week day on a two-hourly rotational basis.

BOX 2.2: Findings and recommendations of the Independent Review of the RSPCA Victoria Inspectorate *(continued)*

Recommendation 11: That the RSPCA review its existing memoranda of understanding, standard operating procedures and protocols with other organisations to ensure that these arrangements reflect the proposed operating environment of the Inspectorate, including the new approach to case management.

Recommendation 12: That the RSPCA take the action necessary to provide relevant policies, procedures and templates to Inspectors online.

Recommendation 13: That the RSPCA undertake a review of the accommodation arrangements for the Inspectorate and take the necessary steps to provide accommodation that meets the operational needs of that group under the proposed operating model.

Recommendation 14: That the RSPCA undertake an equipment needs analysis to ensure that the equipment issued to Inspectors enables them to undertake their duties more safely and efficiently.

Recommendation 15: That the RSPCA utilise specially selected and suitably trained and supported volunteers to assist with reports that are not the primary responsibility of the Inspectorate. This will involve direct contact with identified complainants to advise them of referrals or the actions taken by the RSPCA or to offer other advice, information or educational material. This may include seeking additional advice from complainants where critical information may be missing from relevant reports.

Recommendation 16: That the RSPCA:

- a. engage with Department of Economic Development, Jobs, Transport and Resources (DEDJTR) to identify strategies to reduce the workload related to Domestic Animals Act 1994 matters that is currently, by default, being directed to the RSPCA;
- b. engage with local government to ensure that there is a clear understanding of the future focus for the Inspectorate on animal cruelty and that Domestic Animals Act 1994 matters directed to the Inspectorate will be referred to the relevant local government (and complainants advised accordingly); and
- c. develop and implement a communications strategy to better inform and educate the community that the future role of the Inspectorate is to be confined to prevention of cruelty to animals and that the Inspectorate will no longer respond to Domestic Animals Act 1994 reports.

Recommendation 17: That the RSPCA ensure that the prosecutor responsible for POCTAA prosecutions actively pursues the payment of court costs awarded to the RSPCA.

Recommendation 18: That the RSPCA actively pursue with the State Government the authority to issue infringement notices:

- a. for lower level offences that are not to the requisite level of seriousness to warrant criminal prosecution; and
- b. for failing to meet the requirements of Notices to Comply issued under Section 36G of POCTAA.

BOX 2.3: Findings and recommendations of the Independent Review of the RSPCA Victoria Inspectorate *(continued)*

Recommendation 19: That the RSPCA engage with the State Government to seek an amendment to the POCTAA to allow for the fostering out and/or transfer of ownership of seized animals held for extended periods pending the resolution of court proceedings.

Recommendation 20: That the RSPCA further explore with DEDJTR the viability of licensing the keeping of horses as an aid to better management of animal welfare and cruelty reports.

Recommendation 21: That RSPCA Victoria, while continuing its legitimate advocacy role, discontinue its public activist campaigning against the existing laws of this State.

Recommendation 22: To ensure that effective governance and accountability arrangements are in place regarding the implementation of the recommendations in this report, the RSPCA:

- a. ensure that one senior executive in the organisation is the accountable officer for the delivery of these recommendations;
- b. make that officer responsible for the preparation of the implementation plan for consideration of approval by the Board;
- c. task a Board committee to oversight regular reports on progress against the implementation plan; and
- d. publish progress on implementation of these recommendations in RSPCA annual reports for the next three years

2.2.1 Operations management

Removing unnecessary work from the inspectorate to allow it to focus on serious animal cruelty cases was a key focus of the review, as was addressing operational shortcomings and inefficiencies.

The review recommended that functions such as human resources, procurement, transport and administration could be more appropriately performed for the inspectorate by the broader organisation.

The review also recommended that RSPCA Victoria adopt measures to improve recruitment, training and retention of staff. These include providing flexible employment options and incremental salary advancement, undertaking periodic recruitment campaigns, providing training that addresses key competencies, and restructuring the inspectorate to enable greater leadership and supervision.

Implementation of a case management system was recommended to enable the inspectorate to triage animal cruelty reports.

This would allow for redirecting of the roughly 50 per cent of reports that do not require an Inspector to investigate, either because they relate to the *Domestic Animals Act 1994* (Vic), and are therefore the responsibility of local government, or because they do not involve animal cruelty.

For inspectors whose workloads are currently unsustainable, this would free significant time to focus on serious animal cruelty cases.

2.2.2 Collaboration

Further efficiencies could be achieved through improved collaboration between RSPCA Victoria and other agencies responsible for animal welfare and cruelty reports.

For example, the current burden of responding to Domestic Animals Act complaints that are the responsibility of local government could be alleviated by engaging with the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) and local government.

The review also recommended establishing formal arrangements for sharing intelligence with Victoria Police. It also recommended the secondment of an intelligence analyst from Victoria Police to the RSPCA Victoria inspectorate and the creation of a specialist prosecutor within the Police Prosecutions Unit.

These measures are expected to reduce expenditure on external legal services, improve in-house expertise and reduce delays in responding to reports and potential prosecutions.

2.2.3 Legislation

The review also recommended that RSPCA Victoria pursue legislative amendments to improve its capacity to prevent animal cruelty.

Suggested reforms included attaining authority to issue infringement notices for lower level offences that do not meet the threshold for criminal prosecution, as well as for failure to meet the requirements of Notice to Comply.

The review also recommended that RSPCA Victoria seek reform to allow for fostering out and/or the transfer of ownership. This is to prevent seized animals from experiencing the stress and suffering associated with prolonged periods of confinement pending the resolution of court proceedings.

2.2.4 Activism

Stakeholders expressed concern during the Comie review about the activist role adopted by RSPCA Victoria, with the final report noting ‘the position of government officials was that the reputation of RSPCA as a trusted partner had been compromised by its activism.’⁶

The review found that RSPCA Victoria’s involvement in activism against lawful activities has been harmful to the organisation, both in reputational and operational terms.

Accordingly, the final report recommended that RSPCA Victoria discontinue public activist campaigning against existing laws in order to repair relationships with key stakeholders.

2.3 RSPCA Victoria’s response to the review

RSPCA Victoria accepted the report and each of its recommendations, without reservation.

Several recommendations were acted upon before the final report was released, with the board agreeing to pursue acquisition of a case management/intelligence software platform and to further discuss the embedding of a Victoria Police intelligence analyst within the inspectorate. In addition, a Sergeant Analyst from Victoria Police has acted in an advisory capacity for RSPCA Victoria.

In its correspondence to the Inquiry, Victoria Police provided a progress update on outcomes since placement of the intelligence analyst in RSPCA Victoria inspectorate. It stated that this has resulted in:

- enhanced ‘safety triage’ protocols for all jobs received
- training for new engagement protocols for police assistance
- new risk assessment forms
- 54 full risk assessments resulting in referrals to councils and a criminal offence referred to Victoria Police
- 31 police referrals, due to the nature and risk of the persons investigated
- ongoing assessment and development of an RSPCA Victoria inspectorate case management/intelligence software platform.⁷

Victoria Police also suggested that they are currently developing and assessing enhanced communications capabilities in consultation with RSPCA Victoria so that they can future-proof their relationship beyond the secondment of its officers to the inspectorate.

⁶ Neil Comrie AO, APM, *Independent review of the RSPCA Victoria Inspectorate — Transformation of the RSPCA Victoria Inspectorate*, 2016, p. 59.

⁷ Victoria Police, *Correspondence*, 14 July 2017.

The RSPCA Victoria Board also implemented a new structure and operating model in accordance with the report, which includes a regional service delivery model and team leader roles.

Since implementing a new triage model for animal cruelty complaints, between 15 and 20 per cent of complaints have been diverted from the caseload of inspectors to the intake and referral team.

Together with the recruitment of an inspectorate leader and five new inspectors, these changes have reduced the number of investigations open at any given time from 1550 in 2016 to around 540 now, RSPCA Victoria CEO Dr Liz Walker told the Committee.⁸

Since the Comrie review, RSPCA Victoria stated that it no longer advocates against Victorian laws and all public campaigns thereafter have focused exclusively on direct owner care of animals.⁹

Progress of the review is assessed quarterly by RSPCA Victoria's audit, risk and finance committee in consultation with the chief executive officer and head of the Inspectorate. Bernie Delaney, Chairman of RSPCA Victoria, anticipated that all recommendations would be implemented by the end of 2017. He also stated this would be subject to an ongoing review process.¹⁰

FINDING 1: Many of the issues identified in the Inquiry evidence relate to historical issues associated with RSPCA Victoria animal rights activism. Progress has been made to address these issues as a result of the *Independent Review of the RSPCA Victoria Inspectorate* in 2016.

⁸ Dr Liz Walker, Chief executive officer, RSPCA Victoria, *Transcript of evidence*, 31 May 2017, p. 53.

⁹ Ibid.; Sophie Buchanan, Head of prevention, RSPCA Victoria, *Transcript of evidence*, 31 May 2017.

¹⁰ Bernie Delaney, Chairman, RSPCA Victoria, *Transcript of evidence*, 31 May 2017, p. 63.

Legislative powers and responsibilities of RSPCA Victoria

The RSPCA is a community-based charity that works to prevent cruelty to animals by actively promoting their care and protection.¹¹

RSPCA Victoria is a state branch of RSPCA Australia. The organisation operates as a federation, with each state and territory society a member of the federal body. All RSPCA policy is developed by RSPCA Australia and adopted on unanimous agreement from the state bodies.¹²

RSPCA Victoria's inspectorate is empowered to investigate animal cruelty complaints under the *Prevention of Cruelty to Animals Act 1986*.

The inspectorate receives a large number of animal cruelty reports each year. For 2015–16:

- 21,345 animal cruelty offences were reported
- 12,022 animal cruelty reports were received
- 1,146 charges were laid.¹³

3.1 Legislative powers of inspectorate

The *Prevention of Cruelty to Animals Act 1986* provides for RSPCA Victoria's primary investigatory powers. The purpose of the Act is to:

- (a) prevent cruelty to animals
- (b) to encourage the considerate treatment of animals
- (c) to improve the level of community awareness about the prevention of cruelty to animals.¹⁴

'Cruelty' has a specific definition under section 9 of the Act.

Responsibility for enforcement of the Act is shared across multiple agencies, including:

- RSPCA Victoria

¹¹ RSPCA Victoria, 'About us', viewed 3 August 2017, <www.rspcavic.org>.

¹² Dr Liz Walker, Chief executive officer, RSPCA Victoria, *Transcript of evidence*, 31 May 2017, p. 52.

¹³ RSPCA Victoria, *Annual report 2015–16*, RSPCA Victoria, Melbourne, 2016, p. 15.

¹⁴ *Prevention of Cruelty to Animals Act 1986* (Vic), 46 of 1986, section 1.

- Department of Economic Development, Jobs, Transport and Resources
- Game Management Authority
- Department of Environment, Land, Water and Planning
- Victoria Police
- around 59 local councils.¹⁵

RSPCA Victoria officers are appointed as inspectors by the Minister for Agriculture on nomination by the RSPCA Victoria.¹⁶ RSPCA Victoria inspectors are required to undergo an approved training program before they can be appointed as an inspector under the Act.¹⁷

Inspectors have powers to monitor compliance with control orders, as well as emergency powers in specific circumstances.¹⁸ The Victorian Ombudsman oversees the use of RSPCA Victoria inspector powers under the Act.¹⁹

3.1.1 Non-emergency situations

In non-emergency situations, an inspector may apply to a magistrate for a search warrant if there are reasonable grounds to believe that an animal is abandoned, diseased, distressed or disabled, or if the welfare of an animal is at risk.²⁰

3.1.2 Powers in relation to control orders

Where a control order has been made, RSPCA Victoria Inspectors have powers to enter premises (other than a dwelling) and:

- search for an animal
- seize an animal
- retain possession of an animal
- examine an animal
- take samples from an animal
- take and keep photographs or digital records of an animal.²¹

¹⁵ RSPCA Victoria, *Submission*, No. 46, p. 7.

¹⁶ *Prevention of Cruelty to Animals Act 1986* (Vic), 46 of 1986, section 18.

¹⁷ Department of Economic Development, Transport, Jobs and Resources and the Royal Society for the Prevention of Cruelty to Animals (Victoria), *Memorandum of Understanding*, 2016, p. 5.

¹⁸ *Prevention of Cruelty to Animals Act 1986* (Vic), 46 of 1986, sections 22–24D.

¹⁹ Michael Rosier, Executive Director, Biosecurity, Department of Economic Development, Jobs, Transport and Resources, *Transcript of evidence*, 17 July 2017, p. 4.

²⁰ *Prevention of Cruelty to Animals Act 1986* (Vic), 46 of 1986, section 24G.

²¹ *Ibid.*, S. 21C(1).

3.1.3 Emergency powers

Table 3.1 details the emergency powers of inspectors where they have reasonable grounds to believe a specified situation is occurring, in accordance with section 23 of the Act.

Table 3.1 Emergency powers of inspectors under the *Prevention of Cruelty to Animals Act 1986*.

Situation	Powers of inspectors
Baiting, trap-shooting or the use of animals as lures is occurring.	Enter the premises, inspect and examine any animals, equipment or facility believed to be used for these purposes.
Animals capable of chewing cud have been confined without food or water for more than 36 hours.	Enter the premises and feed and water the animals, with any assistance necessary.
An animal is entangled, tethered or bogged.	Free any animal entangled, tethered or bogged, without removing it from the premises.
An animal is showing signs of pain and suffering due to injury or disease.	Inspect the animal to determine whether veterinary treatment is required.
An animal is behaving in a way that will cause death or serious injury to any person or another animal.	Enter the premises and contain any animal or destroy any animal.

Source: Compiled by the Economy and Infrastructure Committee.

Subject to Ministerial authorisation, an inspector may seize and dispose of any animal for which there are reasonable grounds to believe that it is in such a condition that it is likely to become distressed or disabled and that any action to remove this possibility is unlikely to occur.²²

The following factors are to be considered in such a determination:

- there are a number of animals likely to become distressed or disabled
- the likely cost of holding and caring for the animal
- the physical state of the animal
- whether it is reasonable or practicable for the animal to be retained.²³

Where such an authorisation is made, an inspector may enter any premises and seize, dispose or retain possession of the animal, and feed, water and otherwise care for it.²⁴

An inspector may also recover reasonable costs from an owner on behalf of any person who provided food or water to an animal in accordance with the Act.²⁵

²² Ibid., S. 24FA.

²³ Ibid., S. 24FA(5).

²⁴ Ibid., S. 24FC.

²⁵ Ibid., S. 24B.

3.1.4 Inspectorate's response to animal cruelty complaints

There are a number of options available for RSPCA Victoria when it investigates complaints. An overview is as follows:

Initial planning

- General research on the owner or person in charge of animals, such as previous dealings with RSPCA Victoria, the police, or other authorities.
- Logistical and risk assessment of the property to be visited.
- Referral to another organisation or agency if necessary.

Investigation

- Enter property and assess situation. May issue a notice to comply or seize an animal.
- May lead to prosecution.

Prosecution

- Inspector must conduct a full and thorough investigation and gather evidence.
- RSPCA Victoria conducts and funds its own prosecutions.
- Penalties are generally fines and/or imprisonment (up to two years for a serious offence). A magistrate may also issue person a disqualification order, banning the person from owning further animals.²⁶

3.2 Jurisdiction of RSPCA Victoria's inspectorate

A memorandum of understanding (MoU) between RSPCA Victoria and the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) assists in coordinating investigation activities.²⁷ The MoU recognises that RSPCA Victoria enforces the *Prevention of Cruelty to Animals Act 1986* as an agent for the Government and is accountable to the relevant minister.²⁸

Under the MoU, RSPCA Victoria is primarily responsible for investigation of companion animals and non-commercial animal welfare issues. DEDJTR is primarily responsible for investigation of commercial livestock animal welfare issues.²⁹

²⁶ RSPCA Victoria, 'How does RSPCA Victoria's Inspectorate work?', viewed 1 August 2017, <www.rspcavic.org>.

²⁷ Department of Economic Development, Transport, Jobs and Resources and the Royal Society for the Prevention of Cruelty to Animals (Victoria), *Memorandum of Understanding*, 2016.

²⁸ Ibid., p. 4.

²⁹ Agriculture Victoria, 'Prevention of cruelty to animals legislation', viewed 3 August 2017, <agriculture.vic.gov.au>.

‘Commercial animals’ are defined as more than 10 livestock animals of one species or more than 50 poultry, where keeping the animals is a significant or primary business of the person or organisation. It does not include:

- wildlife
- animals kept in zoos
- riding schools
- horses used in standard bred or thoroughbred racing or for rodeos
- pet shops
- greyhound racing.³⁰

Dr Liz Walker, RSPCA CEO, explained to the Committee that RSPCA Victoria is responsible for animal cruelty reports relating to:

- dogs
- cats
- other pets
- horses
- livestock in quantities of less than 10.³¹

At a public hearing, Michael Rosier, Executive Director Biosecurity at DELWP, noted that the MoU requires RSPCA Victoria to keep its enforcement role separate from its other policies, so as to not compromise its enforcement role under the Act.³² As discussed previously, clarification of the respective roles and accountabilities of each authorised agency is also under way in response to the Comrie review.³³

RSPCA Victoria inspectors have limited authority under the *Domestic Animals Act 1994*. These primarily relate to identifying, investigating and prosecuting illegal intensive domestic animal breeding establishments, also known as puppy and kitten factories.³⁴

Nonetheless, as discussed in Chapter 1, a significant portion of animal cruelty reports received by RSPCA Victoria relate to Domestic Animals Act complaints that are the responsibility of other agencies.

Since the introduction of a triage system, implemented in accordance with the Comrie review recommendations, such complaints are now diverted to the relevant agency, which is typically a local council.³⁵

³⁰ Department of Economic Development, Transport, Jobs and Resources and the Royal Society for the Prevention of Cruelty to Animals (Victoria), *Memorandum of Understanding*, 2016, p. 3.

³¹ Dr Liz Walker, Chief executive officer, RSPCA Victoria, *Transcript of evidence*, 31 May 2017, p. 56.

³² Michael Rosier, Executive Director, Biosecurity, Department of Economic Development, Jobs, Transport and Resources, *Transcript of evidence*, 17 July 2017, p. 4.

³³ Neil Comrie AO, APM, *Independent review of the RSPCA Victoria Inspectorate — Transformation of the RSPCA Victoria Inspectorate*, 2016, p. 6.

³⁴ *Ibid.*, p. 5.

³⁵ Dr Liz Walker, Chief executive officer, RSPCA Victoria, *Transcript of evidence*, 31 May 2017, p. 57.

3.2.1 Appropriateness of powers

Stakeholders noted that RSPCA Victoria is in the unique position that it is a registered charity that has enforcement powers. Some considered this to be inappropriate, given that RSPCA Victoria is also an advocacy organisation and not truly independent.

The Committee also received anecdotal evidence where RSCPA Victoria inspectors overstepped the boundaries of the MoU to investigate animals in primary production.

At a public hearing, representatives of Agriculture Victoria clarified that RSPCA Victoria inspectors were given limited authority under the MoU to investigate animal cruelty. Dr Dwayne O'Brien, Director, Animal Health and Welfare at Agriculture Victoria, clarified this was intended for efficiency purposes:

... there could be a circumstance where they have a report that there are five animals at risk, and when they tend to the property they find that there are a lot more than that. And if the case was, when they investigated that, that it was unsubstantiated and no further action was required, then they would complete the investigation and close it. So that is a circumstance where they have entered, they have carried out their duties as an inspector but no further action is required.³⁶

Michael Rosier, Executive Director, Biosecurity, added:

... if there are animal health and welfare operational staff that would normally respond to an issue of animal cruelty in regard to commercial livestock but for whatever reason are unable to attend to that in a timely manner — if they are responding to an outbreak of anthrax or something like that — then the MOU does provide for the ability for other authorised staff under the act to be able to come in and assist with that for the benefit of better animal welfare outcomes.³⁷

A number of stakeholders who provided submissions for this Inquiry called for the establishment of an 'independent office of animal welfare' to remove responsibility for animal welfare from RSPCA Victoria and the Minister for Agriculture. However, the Committee considers there is no reason to suggest that RSCPA Victoria is unable or unwilling to fulfil its Inspectorate function.

As the Comrie review found, 'no other organisation in Victoria is as well-equipped in terms of experience and capability as the RSPCA to deal with animal cruelty reports'.³⁸ In addition, the Committee notes that state branches of the RSPCA have similar powers throughout all Australian jurisdictions. Anne Cole, Director, Biosecurity Assurance at Agriculture Victoria also emphasised this:

36 Dr Dwayne O'Brien, Director, Animal Health and Welfare, Agriculture Victoria, *Transcript of evidence*, 17 July 2017, p. 5.

37 Michael Rosier, Executive Director, Biosecurity, Department of Economic Development, Jobs, Transport and Resources, *Transcript of evidence*, 17 July 2017, p. 5.

38 Neil Comrie AO, APM, *Independent review of the RSPCA Victoria Inspectorate — Transformation of the RSPCA Victoria Inspectorate*, 2016, p. 9.

... the model in Victoria is not unique. It is a model that is adopted internationally and in other states of Australia. The RSPCA fills a really important role in the Victorian community in meeting community expectations with regard to animal welfare. The government recognises this role and provides the annual grant to contribute to the costs of its inspectorate. It is a tried and tested model.³⁹

The Committee notes that clarifying the roles and responsibilities for agencies under the *Prevention of Cruelty to Animals Act 1986* is included in the Victorian Government's draft action plan for animal welfare.

However, the Committee is nonetheless concerned about evidence of RSPCA Victoria inspectors acting beyond their remit. In the Committee's view, a more transparent process would address these concerns.

RECOMMENDATION 1: That the Victorian Government and RSPCA Victoria provide more transparency, information and detail with regard to the powers of RSPCA Victoria inspectors under the *Prevention of Cruelty to Animals Act 1986* and the Memorandum of Understanding between the RSPCA Victoria and the Victorian Department of Economic Development, Jobs, Transport and Resources.

RECOMMENDATION 2: That RSPCA Victoria ensure that it investigates cruelty to commercial animals in emergency situations only, in line with Division 2 of Part 2A of the *Prevention of Cruelty to Animals Act 1986*.

3.2.2 Lower level infringements

The Committee heard from some stakeholders who considered that RSPCA Victoria should have authority to issue infringement notices for lower-level offences. This would require amending the powers of inspectors under the *Prevention of Cruelty to Animals Act 1986*.

This was previously discussed in the Comrie review, which noted:

RSPCA Inspectors do not have the authority to issue infringement notices for most breaches of the [*Prevention of Cruelty to Animals Act 1986*] ... The only courses of action available to them are to issue Notices to Comply or to initiate a prosecution before the courts.⁴⁰

The review also noted that local government officers can issue infringement notices for offences under the *Domestic Animals Act 1994*.⁴¹

Accordingly, the review recommended that RSPCA Victoria actively pursue with the Victorian Government the authority to issue infringement notices:

- for lower level offences that are not to the requisite level of seriousness to warrant criminal prosecution

³⁹ Anne Cole, Director, Biosecurity Assurance, Agriculture Victoria, *Transcript of evidence*, 17 July 2017, p. 5.

⁴⁰ Neil Comrie AO, APM, *Independent review of the RSPCA Victoria Inspectorate — Transformation of the RSPCA Victoria Inspectorate*, 2016, p. 56.

⁴¹ Ibid.

- for failing to meet the requirements of Notices to Comply issued under section 36G of the *Prevention of Cruelty to Animals Act 1986*.⁴²

In its submission the Law Institute of Victoria supported the recommendation, noting that this could keep cases out of the court system. However, it qualified its support for use in cases for strict liability offences, consistent with common law principle and presumption of innocence.⁴³

The Committee agrees that consideration should be given to allowing for lower-level infringements under the Act.

3.2.3 Financial indemnity and civil liability protection

Some stakeholders considered RSPCA Victoria's lack of financial indemnity as a deterrent to prosecuting animal cruelty cases. Whilst Courts may order that prosecution costs are payable to RSPCA Victoria, the Committee understands this is a rare occurrence.

In addition, stakeholders noted any fines imposed during an animal cruelty prosecution are payable to government rather than RSPCA Victoria.

In its submission, RSPCA Victoria proposed legislative reform for protection from civil liability for:

- individual inspectors, for actions taken legally and in the course of their enforcement duties
- RSPCA Victoria as an organisation, for those actions taken by inspectors.⁴⁴

It considered that civil liability should not be extended in the case of negligence, misconduct or malfeasance.⁴⁵

RSPCA Victoria noted that this protection is extended to inspectors with similar powers in most Australian jurisdictions.⁴⁶

RSPCA Victoria also highlighted two civil matters in Victorian courts which were challenging the organisation's authority to act in line with warrants issued under the *Prevention of Cruelty to Animals Act 1986*. It stated that both matters represent significant legal and financial exposure to the organisation.⁴⁷

To address this, RSPCA Victoria recommended that the organisation receive protection from civil liability in similar terms as those under section 74 of the *Victoria Police Act 2013*.⁴⁸

⁴² Ibid.

⁴³ Law Institute of Victoria, *Submission*, No. 85, p. 4.

⁴⁴ RSPCA Victoria, *Submission*, No. 46, p. 9.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

In its submission the Law Institute of Victoria addressed RSPCA Victoria's recommendations for protection from civil liability. It highlighted that the protections under the Victoria Police Act were included from a 'very different' policy context:

Prior to the *Victoria Police Act* police officers were regarded as autonomous agents under common law and were therefore personally liable for their actions, unless they acted 'in good faith'. Section 74 of the *Victoria Police Act* clarified that the State is liable for the actions of individual police except where the 'conduct giving rise to the police tort was serious or wilful misconduct by the police officer' (s 74(2)). We assume, however, that, unlike police officers, that the ordinary principles of vicarious liability would apply to RSPCA officers. The new provisions in the *Victoria Police Act* were therefore aimed at a different issue to that facing the RSPCA.⁴⁹

It also went on to note that other state organisations bear their own liability.⁵⁰

The Law Institute of Victoria considered there could arguably be a disincentive for RSPCA Victoria to improve policies and training to prevent incidences that could lead to civil litigation, if civil liability is transferred to the Victorian Government. It stated that it is important legal principle that aggrieved people have legal recourse against an organisation or employee that wrongfully used enforcement powers.⁵¹

However, the Law Institute of Victoria acknowledged that RSPCA Victoria's inspectorate was acting on behalf of the state. It suggested that greater funding could provide RSPCA Victoria with more options for protection against lawsuits, such as purchasing insurance or creating a litigation fund.⁵²

The Committee agrees that protections from civil liability such as those in the *Victoria Police Act 2013* would be inappropriate for RSPCA Victoria. Further, there is no evidence to indicate that lack of financial indemnity has stopped RSPCA Victoria from actively pursuing prosecution for animal cruelty charges.

⁴⁹ Law Institute of Victoria, *Submission*, No. 85, p. 3.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*

4 Ongoing concerns

RSPCA Victoria has made significant progress since the Comrie review in 2016. Many concerns raised by stakeholders to the inquiry are issues currently being addressed in its implementation of the review's recommendations. However, the Committee agrees that some areas of stakeholder concerns are legitimate and should be proactively addressed by RSPCA Victoria and the Victorian Government.

4

4.1 Activism vs advocacy

A key issue raised by stakeholders was the view that RSPCA Victoria had shifted from a legitimate animal advocacy role to animal rights activism. Dr Tim Adams, Chief Executive Officer of Dogs Victoria, summarised:

I guess there is a general view within industry that they may have been influenced in recent years, maybe for even up to a decade, by ideologies that might pull them towards an animal rights flavour. We think that is to the detriment of the core purpose of the organisation and certainly to the detriment of the animals and the people that own them.⁵³

The Committee also heard some anecdotal evidence that linked RSPCA Victoria to extremist animal activist groups.⁵⁴

Stakeholders highlighted several campaigns by the RSPCA that targeted industries and activities that were legal and promoted by government. To these stakeholders, this appeared to be a conflict of interest, given that RSPCA Victoria receives funding from the Victorian Government to undertake its Inspectorate role.

For example, representatives from the Sporting Shooters Association Australia (Victoria) raised concerns about the emotive language used in campaigns against industries and activities such as:

- duck hunting
- dairy cows
- greyhound racing
- layer hens
- live exports
- meat chickens

⁵³ Dr Tim Adams, Chief executive officer, Dogs Victoria, *Transcript of evidence*, 31 May 2017, p. 4.

⁵⁴ David Laird, Hunting development manager, Sporting Shooters Association of Australia (Victoria), *Transcript of evidence*, 31 May 2017; National Greyhound Racing United, *Submission*, No. 59.

- pig farming
- whips in horse racing.⁵⁵

When these concerns were raised with representatives from RSPCA Victoria, they noted that many of these campaigns had ceased following the Comrie review, or were campaigns run by RSPCA Australia.

At a public hearing, Sophie Buchanan, head of prevention at RSPCA Victoria, clarified:

... we have not run any public advertisements or any public campaigns on anything other than direct owner care of their animals since March 2016, and certainly none since we accepted the recommendation from the Comrie review against public activist campaigning. We are confident that all of our current communications are entirely in line with the review's recommendation which, to quote it directly, was that we continue our legitimate advocacy role ... and discontinue our public activist role against the existing laws of this state.⁵⁶

Dr Liz Walker, Chief Executive Officer, also stated:

... we are not stepping away from our desire to achieve change in legislation, policy or individual behaviour. Improving animal welfare is required of us in our constitution. Rather, we are focusing on using the right approaches with the right groups in ways that build trust and collaboration.⁵⁷

At the time of writing, RSPCA Victoria's website promoted campaigns on the following issues:

- layer hen welfare and battery cages
- live exports
- the greyhound racing industry
- whips in racing
- animal testing in cosmetics
- jumps racing.⁵⁸

In addition, it also linked to campaigns on RSPCA Australia's website on a number of these issues.⁵⁹

The Committee notes the concerns of inquiry stakeholders. Further, RSPCA Victoria has acknowledged that a number of past campaigns were overly emotive and conceded that there is a perception of a conflict of interest in actively campaigning against legal activities.

⁵⁵ Caitlin Pearson, Marketing and communications manager, Sporting Shooters Association of Australia (Victoria), *Transcript of evidence*, 31 May 2017, p. 33; David Laird, Hunting development manager, Sporting Shooters Association of Australia (Victoria), *Transcript of evidence*, 31 May 2017, pp. 33–34.

⁵⁶ Sophie Buchanan, Head of prevention, RSPCA Victoria, *Transcript of evidence*, 31 May 2017, p. 59.

⁵⁷ Dr Liz Walker, Chief executive officer, RSPCA Victoria, *Transcript of evidence*, 31 May 2017, p. 53.

⁵⁸ RSPCA Victoria, 'Our campaigns', viewed 2 August 2017, <www.vic.rspca.org.au/>.

⁵⁹ Ibid..

However, a number of concerns raised in inquiry evidence related to campaigns run by RSPCA Australia and other state RSPCA bodies. The Committee accepts these examples illustrate the broader cultural shift of the RSPCA in Australia away from advocacy to activism. However, these campaigns are neither the responsibility of RSPCA Victoria nor within the scope of this inquiry's terms of reference.

The Committee also sees no reason to restrict RSPCA Victoria's legitimate campaigning for change in government policy and law relating to animal cruelty. However, it believes that RSPCA Victoria should be mindful of the issues raised in the Comrie review and this Inquiry.

FINDING 2: Stakeholder issues with the level of activism in some campaigns run by the RSPCA Victoria are justified. However, there was some confusion from stakeholders, and a number of the concerns raised related to campaigns run by RSPCA bodies in other jurisdictions.

4.2 Stakeholder engagement

Some animal organisations felt that RSPCA Victoria had been reluctant to engage with key stakeholders.

For example, Banksia Park Puppies stated:

The RSPCA has interacted with other industries such as with pigs and hens and we believe a similar engagement with breeders would be highly beneficial. There has not been a strategic focus on working with dog breeders to improve standards and welfare outcomes. Given our own commitment to improved industry standards, we would welcome greater engagement with the RSPCA on these issues to proactively deliver better animal welfare outcomes.⁶⁰

Dogs Victoria suggested coordinating fostering of dogs when a member is being investigated by a statutory authority and animals have been seized. Its submission noted that it had proposed establishing an MoU with RSPCA Victoria, and later at a public hearing representatives noted that discussions to achieve this had begun.⁶¹

Dogs Victoria Chief Executive Officer Dr Tim Adams and RSPCA Victoria noted that this would require amendments to the *Prevention of Cruelty to Animals Act 1986*.⁶²

The Committee notes that RSPCA Victoria's increased engagement with Victoria Police has been considered a success and has helped address historical resourcing issues. Further collaboration with peak industry stakeholders would also address resourcing issues and help improve RSCPA Victoria's image.

⁶⁰ Banksia Park Puppies, *Submission*, No. 52, p. 2.

⁶¹ Dr Tim Adams, Chief executive officer, Dogs Victoria, *Transcript of evidence*, 31 May 2017, p. 2.

⁶² *Ibid.*, p. 3. RSPCA Victoria, *Correspondence*, 30 June 2017

RECOMMENDATION 3: That RSPCA Victoria in consultation with the Victorian Government consider ways to improve engagement and collaboration with animal stakeholder organisations.

4.3 Funding

Since 2007, the Victorian Government has provided an annual sum of \$1 million to RSPCA Victoria to fund its inspectorate functions under the *Prevention of Cruelty to Animals Act 1986*.

In addition, RSPCA Victoria's special investigations unit has received extra funding to investigate and prosecute illegal, large-scale domestic animal breeding businesses. Funding totalled \$2.25 million (including a \$750 000 capital grant) in 2014–15 and \$2 million in 2015–16. An additional \$1 million will be provided annually over the next three financial years.⁶³

Financial data from 2015–16 provided by RSPCA Victoria noted that the expenditure of the inspectorate exceeded the income from government grants, court ordered costs and sundry income. This resulted in a \$1.275 million deficit which was funded through RSPCA Victoria's non-government income streams.⁶⁴

RSPCA Victoria's audited income in 2015–16 was \$34.9 million, with \$37.6 million expenditure.

4.3.1 Appropriateness

The Committee received conflicting evidence from stakeholders on the appropriateness of the amount of funding provided from the Victorian government to RSPCA Victoria.

Under its Memorandum of Understanding with the Department of Economic Development, Jobs, Transport and Resources (DEDJTR), RSPCA Victoria is required to use all grant funding provided to the inspectorate for inspectorate activities only.⁶⁵

Some stakeholders considered the funding levels too low, noting the discrepancy between the amount of funding provided to the inspectorate and the total cost associated with supporting RSPCA Victoria's statutory functions. The Comrie review previously noted that RSPCA Victoria's recurrent government funding has not increased despite the number of reports having risen by 20 per cent in the previous four years.⁶⁶

⁶³ RSPCA Victoria, *Submission*, No. 46, p. 8; RSPCA Victoria, *Annual report 2015–16: General purpose financial statements for the financial year ended 30 June 2016*, Melbourne, 2015, p. 9.

⁶⁴ RSPCA Victoria, *Submission*, No. 46, p. 8.

⁶⁵ Department of Economic Development, Transport, Jobs and Resources and the Royal Society for the Prevention of Cruelty to Animals (Victoria), *Memorandum of Understanding*, 2016, p. 11.

⁶⁶ Neil Comrie AO, APM, *Independent review of the RSPCA Victoria Inspectorate — Transformation of the RSPCA Victoria Inspectorate*, 2016, p. 38.

In addition, Michael Rosier, Executive Director, Biosecurity at Agriculture Victoria, noted the funding was not intended to cover all costs incurred by the inspectorate.⁶⁷

However, other stakeholders considered it inappropriate for RSPCA Victoria to receive government funding while actively campaigning against legal activities.

For example, the Sporting Shooters Association of Australia (Victoria) considered that government funding to RSPCA Victoria should be withdrawn. At a public hearing, David Laird, Hunting Development Manager, explained:

We feel it is totally inappropriate to fund a society that is running emotive, inaccurate and misleading anti-hunting campaigns when hunting is a lawful and legitimate recreational and pest management activity in the state. RSPCA has run extensive and expensive ad campaigns in Western Australia as well as Victoria opposing hunting ...

It is also our view that any educational programs delivered by the RSPCA and funded by government should be independently reviewed to ensure appropriate and factual content. If this committee finds that RSPCA funding should be continued, we feel that rigorous reporting criteria should be applied to ensure those funds are spent appropriately and not used to fund any campaigns that seek to undermine legal activities that are currently endorsed by government.⁶⁸

Further, the Committee also heard from stakeholders who believed RSPCA Victoria's inspectorate funding would be more efficiently used through an independent animal welfare office due to:

- RSCPA Victoria's annual income from other sources
- its relatively small jurisdiction to investigate animal cruelty complaints
- the percentage of complaints that are not prosecuted.

Dr Liz Walker noted that RSPCA Victoria was reassessing its financial and operational requirements for discussion with DEDJTR in the future.⁶⁹ This is in line with recommendation 1 of the Comrie review.

As stated above, RSPCA Victoria's inspectorate operates at a loss, with the remaining funding supplied through RSPCA Victoria's other income streams.

The Committee anticipates that any budgeting issues for its inspectorate will be addressed through assessments of its financial requirements with DEDJTR.

FINDING 3: All government grant funding provided to RSPCA Victoria's inspectorate is used, and is required to be used, for inspectorate purposes only.

⁶⁷ Michael Rosier, Executive Director, Biosecurity, Department of Economic Development, Jobs, Transport and Resources, *Transcript of evidence*, 17 July 2017, p. 3.

⁶⁸ David Laird, Hunting development manager, Sporting Shooters Association of Australia (Victoria), *Transcript of evidence*, 31 May 2017, p. 34.

⁶⁹ Dr Liz Walker, Chief executive officer, RSPCA Victoria, *Transcript of evidence*, 31 May 2017, p. 60.

4.4 Resourcing

In evidence to the Inquiry, stakeholders raised concerns of the disparity between the number of cruelty reports and prosecutions by RSPCA Victoria. Some attributed this to under-resourcing of the RSPCA Victoria inspectorate. This was also a key issue highlighted in the Bulla horses case discussed previously.

Nicky Neville-Jones from the Law Institute of Victoria's Animal Welfare Working Group, stated that under-resourcing had an impact on RSPCA Victoria's enforcement ability:

... the enforcement issue is one of the most concerning issues and the ability of the RSPCA to enforce at this point is compromised because of the lack of resources that it has, and if the RSPCA are unable to enforce, then animal welfare is not being protected.⁷⁰

Similarly Dr David Middleton, President-elect of the Australian Veterinary Association's Victorian Division, considered that RSPCA Victoria's Inspectorate was under resourced to deal with the increasing complexity of additional elements involved in cruelty reports:

Coming back to the question earlier, when you take the scope of those cases, the RSPCA is well and truly under-resourced to deal with those issues, and especially when you think that they are drawing on the generosity of the citizens in order to run the show. As veterinarians, when we become involved — either being requested to make investigations of animal health in relation to cruelty or being called upon as expert witnesses in cruelty cases — we really do not have anywhere to go other than the RSPCA in order to develop a case that is meaningful in animal cruelty terms. So there are complexities there that I think are outside the current scope of the RSPCA that need to be addressed. I think resourcing is a part of that, but training is also going to be a part of it.⁷¹

Resourcing was addressed in the Comrie review, which made a series of recommendations about resource requirements and for better use of existing resources. As discussed previously, there has been significant progress made in this regard.

Sophie Buchanan, Head of Prevention at RSPCA Victoria, attributed the disparity between complaints and prosecutions to a general misunderstanding of what constitutes cruelty under the Act:

... one of the things that we continually observe is that community understanding of what constitutes an offence under the Prevention of Cruelty to Animals Act and the reality of the act are quite separate. Community expectations about welfare are quite high, but the threshold for an offence under the act is quite significant. Even though these are summary offences, the level of harm that has to be proven that an animal has suffered makes the threshold for investigation and prosecution quite significant.

⁷⁰ Nicky Neville-Jones, Animal Welfare Working Group, Law Institute of Victoria, *Transcript of evidence*, 31 May 2017, p. 25.

⁷¹ Dr David Middleton, President-elect, Australian Veterinary Association Victorian Division, *Transcript of evidence*, 31 May 2017, p. 47.

So rather than vexatious, the majority of unsubstantiated complaints or reports that we receive relate more to people's misunderstanding of what would constitute an offence.⁷²

The Committee anticipates that RSPCA Victoria's ongoing internal review process will address any further significant resourcing issues.

72 Sophie Buchanan, Head of prevention, RSPCA Victoria, *Transcript of evidence*, 31 May 2017, p. 57.

Appendix 1

Submissions

Submission no.	Name
1	Robert Richardson
2	Animal Cruelty Hotline
3	Name withheld
4	Caren Halliwell
5	Peter Holt
6	Not available
7	Kathleen McQuade
8	Ashley Welsh
9	David Moore
10	Blair Findlay
11	Daniel Ryan
12	Justine Curatolo
13	Georgina Cooper
14	Alana Bacon
15	Tracy Neave
16	Not available
17	William Allen
18	Maitland Lawyers
19	Judy Bloom
20	Simon Webster
21	Patricia Hoelmer
22	Upmarket Pets
23	Jen Miles
24	Pam Treeby
25	Dr Sue Schofield
26	Carmen Warrington
27	Evelyn Elvey
28	Leonie Brown
29	Michelle Farrell
30	Barbara Ramsay
31	Nikola James
32	Robin Ramsay
33	Dr Tamasin Ramsay
34	George Wyatt

Submission no.	Name
35	Adam Carson
36	Darren Wooster
37	Wendy Talbot
38	Patrick Maguire
39	Not available
40	Michael Oakes
41	Not available
42	Pets Australia
43	JA Heath Inland Holdings
44	Animal Justice Party Victoria
45	Trish Fernleigh
46	RSPCA Victoria
47	Not available
48	Not available
49	Elizabeth Chapman
50	Ellen Ash
51	Canary and Cage Bird Federation of Australia
52	Banksia Park Puppies
53	Peter Fraser
54	Field and Game Australia and Australian Deer Association
55	RSPCA Australia
56	Not available
57	Not available
58	Lawyers for Animals
59	National Greyhound Racing United
60	Not available
61	Robert Kenney
62	Helen Kenney
63	Not available
64	For the Love of Wildlife
65	Not available
66	Not available
67	Victorian Farmers Federation
68	Robert Booty
69	Dr Stephen Tate
70	Dr Malcolm Caulfield
71	Jeanette Woolerton
72	Sporting Shooters Association of Australia (Victoria)
73	Dogs Victoria
74	Not available

Submission no.	Name
75	Peta Mcrae
76	Iain Wilson
77	Australian Veterinary Association (Victorian Division)
78	Linda Kitson
79	Unique French Bulldogs
80	Victorian Dog Rescue and Resource Group
81	Animal Liberation Victoria
82	Edgar's Mission
83	Not available
84	Not available
85	Law Institute of Victoria
86	Not available

Appendix 2

Public Hearings

A2

Monday 17 July – Legislative Council Committee Room, Parliament House Spring Street, East Melbourne

Name	Title	Organisation
Mr Michael Rosier	Executive Director, Biosecurity	Agriculture Victoria, Department of Economic Development, Jobs, Transport and Resources
Ms Anne Cole	Director, Biosecurity Assurance	
Dr Dwane O'Brien	Director, Animal Health and Welfare	

Wednesday 31 May 2017 – Meeting Room G1, 55 St Andrews Place, East Melbourne

Name	Title	Organisation
Dr Tim Adams	Chief Executive Officer	Dogs Victoria
Ms Sylvia Power	Field Officer	
Mr Leonard Vallance	Livestock Group President	Victorian Farmers Federation
Mr Brian Ahmed	Egg Group Vice-President	
Ms Nicky Neville-Jones	Animal Welfare Working Group	Law Institute of Victoria
Ms Kate Browne	Policy Lawyer	
Mr David Laird	Hunting Development Manager	Sporting Shooters Association of Australia (Victoria)
Ms Caitlin Pearson	Marketing and Communications Manager	
Dr Paul Martin	Victorian Division President	Australian Veterinary Association
Dr David Middleton	Victorian Division President-elect	
Dr Liz Walker	Chief Executive Officer	RSPCA Victoria
Mr Bernie Delaney	Chairman	
Ms Sophie Buchanan	Head of Prevention	

Extract of proceedings

Legislative Council Standing Order 23.27(5) requires the Committee to include in its report all divisions on a question relating to the adoption of the draft report.

All Members have a deliberative vote. In the event of an equality of votes, the Chair also has a casting vote.

The Committee divided on the following questions during consideration of this report. Questions agreed to without division are not recorded in these extracts.

Committee Meeting – 9 August 2017

Ms Hartland moved, That Finding 3 be adopted and stand part of the report.

The Committee divided.

Ayes	Noes
Mr Gepp	Mr Bourman
Ms Hartland	Mr Finn
Mr Leane	Mr O’Sullivan
	Mr Ondarchie

Question negatived.

