

# Review of Animal Welfare Act

**LGA Submission**

**March 2023**

## Introduction

The Local Government Association of South Australia (LGA) welcomes the opportunity to make input into the State Government's 2023 Animal Welfare Act Review (the Review) to ensure the laws governing animal treatment stay up-to-date with community expectations.

As the closest sphere of government to communities, the LGA finds itself in a particularly unique position to make contributions to the Review that reflect the broader concerns of local communities. The LGA undertakes to work constructively and collaboratively, to help achieve positive reforms with its submission very much focused on achieving the best outcome for the South Australian community.

The Review is seeking feedback on how the current animal welfare laws are working and how they might be improved. The LGA's submission pertains to Part 5 of the *Animal Welfare Act 1985* (the Act) which relates to Enforcement. The questions regarding 'Part 5 – Enforcement' for which the Review seeks contributions as stated in page 11 of the Community Consultation Paper are:

- Do you agree that the compliance powers set out in Part 5 of the Act are appropriate for the administration and enforcement of the Act, regulations and codes of practice?
- Do you agree that the penalties and expiations for contraventions are appropriate to discourage offending under the Act?
- Do you agree that the provisions of the Act that enable this model of shared enforcement are appropriate?

## LGA Recommendations/Responses

*Do you agree that the compliance powers set out in Part 5 of the Act are appropriate for the administration and enforcement of the Act, regulations and codes of practice?*

The LGA notes that the Royal Society for the Prevention of Cruelty to Animals (RSPCA) is currently under-resourced, limiting their capacity and ability to implement the Act. This results in many community members unable to obtain a timely response from the RSCPA. This, in turn, results in frustrated community members calling upon councils to enforce animal welfare offences. Councils are already responsible for the enforcement of the *Dog and Cat Management Act 1995* and, on average, devote far more resources to this statutory function than they raise from dog and cat registration fees (i.e. the dog and cat management function is subsidised by general rates revenue). Councils are limited in their resources (funding, capacity, and time etc.) and do not have capacity to accept a transfer of the State Government's current responsibility for administering and enforcing the Act.

Consequently, the LGA submits that the State Government should allocate more funding and resources (including human resources) to the RSPCA to enable them to adequately enforce the Act. This would reduce the pressure on councils from community members to take on responsibility (animal welfare) for which they have no jurisdiction and are not adequately resourced to execute.

*Do you agree that the penalties and expiations for contraventions are appropriate to discourage offending under the Act?*

The LGA notes that the consequence for most offence types set out in the Act is a maximum penalty. These offences are not expiable. Therefore, the RSPCA (or whoever is contracted by the Department for Environment and Water (DEW) to carry out enforcement under the Act) is limited to prosecuting alleged offenders, an enforcement approach that is expensive and time consuming. Consequently, the LGA submits that enhanced or expanded ability to expiate would provide an easier and more efficient enforcement option, and also generate income for the enforcement agency. Expiation notices can routinely be issued by an Authorised Officer and day-to-day operations generally require little or no oversight from a lawyer (unlike prosecution proceedings), representing another cost-saving opportunity.

*Do you agree that the provisions of the Act that enable this model of shared enforcement are appropriate?*

Generally, the LGA notes that the model of shared enforcement is currently appropriate. Local government is not responsible for enforcing the Animal Welfare Act. The sole exception is at the District Council of Ceduna; because of the extreme remote location, a range of particular local circumstances, and the lack of enforcement by DEW or contractors, the council itself requested powers to enforce the Animal Welfare Act.

The LGA submits that unless a council makes a specific request, local government should not enforce the Animal Welfare Act. The State Government should not mandate enforcement of the Act on local government agencies or impose new regulatory requirements on councils pursuant to that Act. The LGA submits that enforcement of the Act is beyond the scope and core responsibilities of councils. However, where local government agencies or councils elect to enforce animal welfare under the Act, the State Government should provide additional resourcing to those councils.

## Summary

Based on the arguments set out in this submission, the LGA recommends that:

1. The State Government allocates extra funding and resources to support the administration of the Act, through their contract arrangements with the RSPCA.
2. The State Government should expand the type and number of offences within the Act that carry an expiation amount to provide an alternative, cost effective enforcement pathway for offences under the Act.
3. The State Government should not mandate local government to enforce the Act. Decisions to enforce the Act should be the prerogative of councils and where they decide to do so, the State Government should allocate ongoing resourcing to those councils.