



## **RSPCA RESPONSE TO THE WOOLER REVIEW**

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In 2013 the RSPCA commissioned an independent review of its prosecution activity. This [review](#) was conducted by Mr Stephen Wooler CB, former Chief Inspector of HM Crown Prosecution Service Inspectorate, whose findings and report were published by the Society on 1 October 2014.

The review contained 33 recommendations suggesting how the Society could change its processes to bring its enforcement work more in line with 21st century expectations and to maintain confidence, particularly by providing accountability and improving transparency.

The Society welcomed the review when it was published and agreed to assess and respond to all the recommendations. The Society gave itself 18 months to achieve this goal. The Society is committed to taking action on the recommendations in the review, where appropriate, in line with its charitable objectives.

In the past 18 months the Society has undertaken a detailed review of all its processes, which has resulted in the implementation of new practices. Some of the procedures will need further time to be embedded and assessed but the Society is satisfied that it has now thoroughly examined each of the recommendations and put in train steps it believes will improve public confidence, accountability and transparency, whilst continuing to further the Society's charitable purposes for the public benefit through the enforcement of animal welfare legislation.

This paper summarises how the Society has responded to the recommendations:

### **Overview of the RSPCA role : strengths and weaknesses and the need for change. [ rec. 1 ]**

The Society has started discussions with statutory agencies and Government to bring the role of RSPCA Inspectors in line with those in Scotland to have the power to seize an animal in distress. This would be achieved by appointing RSPCA inspectors as "Inspectors" under the Animal Welfare Act 2006 (AWA) for some of the purposes of that Act.

### **The RSPCA enforcement role ( Investigation) [ rec. 2-5 ]**

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The Society is engaging with the National Police Chiefs Council (NPCC) with the aim of agreeing joint operational guidance to assist the police and RSPCA Inspectors on our involvement in animal welfare issues.

The Society will continue refresher training for its inspectors to provide up to date guidance on procedures and legislative change.

On animal sanctuaries, the Society is considering the need for better licensing and regulation for these activities. Whilst there is no regulation yet in England or Wales, the Society will continue its engagement with the Welsh Government who are currently considering the issue, and to subsequently review the learnings from that before progressing in England. The RSPCA is able to provide evidence of the welfare problems caused by unregulated sanctuaries.

If a licensing regime for animal sanctuaries were to be introduced in England and Wales the RSPCA would accept that the primary enforcement role should rest with the licensing authority.

Until any such licensing scheme is in force, the RSPCA has introduced an enhanced decision making process in respect of animal sanctuaries. If a prosecution is proposed the decision must now be ratified, at a higher level, by both the Head of Prosecutions and the Chief Legal Officer.

The Society acknowledges that its complaint procedure needed to be improved and made more transparent. A National Complaints procedure, which includes an escalation process, has been implemented. A training course is in place and will be delivered to all relevant staff. We will also make it easier for complainants to deliver complaints and provide clearer information on the RSPCA website about how to make a complaint.

We have agreed to establish an independent external complaints reviewer who will consider and adjudicate on unresolved complaints about our Inspectorate as a final avenue of referral.

### **How the RSPCA discharges its prosecution function [ rec. 6- 21]**

Hayley Firman, a barrister who worked with the CPS, has been appointed as Head of Prosecutions fulfilling the recommendation that RSPCA Prosecutions should have a trained lawyer at its head.

The review recommended that the prosecution department should establish itself as a self contained unit within the Society. We are confident that an adequate separation is in place. The inspectorate function operates under a separate bespoke management and governance structure (namely the Inspectorate). The prosecution team functions in accordance with its own specific operational guidance, management and governance structure. In essence, each operates and is managed under separate structures and independently of each other and thus the decision makers are free to make their decisions

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objectively and independently. The communications part of the RSPCA is also a separate function under separate management and cannot intervene with the Prosecution process. The Society instructs independent lawyers to prosecute on its behalf. These conduct an independent review of the case and can advise on any decisions made at any stage of the proceedings.

The Society has improved its systems and processes in the prosecution department including developing standard guidance and policies around the application of the evidential and public interest test and setting out in a more transparent manner how we reach decisions using this test. A new system for recording the reasons for decisions indicating how the evidential and public interest tests of the Code for Crown Prosecutors have been applied has been introduced.

A protocol has been developed identifying cases which must be referred to the Head of Prosecution for decision or advice.

The Head of Prosecutions will be responsible for monitoring the consistency of approach when certificates under section 31 of the AWA are issued.

The RSPCA is committed to improve how we work with youth offenders and and we are committed to improving liaison between the Prosecutions Department and the education department and the Youth Offending Teams. This is being achieved by better communications and changes in the management structure.

The Society is committed to ensuring we have the right skill set in the Prosecution's team and is reviewing the level of skills as part of the internal restructure and putting in place a new management system.

### **The Gathering and presentation of Veterinary evidence [rec. 22 - 26 ]**

The RSPCA has agreed that veterinarians should only be asked to sign a s18 AWA certificate (which enables the police to exercise statutory powers to take an animal into possession or alleviate an animal's suffering) when they can personally verify the facts. Updated guidance has been given to the Inspectorate to ensure compliance.

Defining suffering for court proceedings is challenging and, after consultation with the RCVS and veterinary practitioners, it has been agreed that it is appropriate to rely on the Oxford English Dictionary definition.

Our guidance for veterinarians that we use will include a suggested common standard for body condition scoring.

To improve transparency and harmonise how the Society delivers veterinary evidence to the courts, we have established a non-exclusive 'panel' of veterinarians using RCVS accreditations. It is hoped such an approach will strengthen relationships with the veterinary profession, speed up case progression and reduce costs.

The RSPCA has agreed and implemented a new Expert Witness policy, which clarifies when

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additional opinion is to be obtained in addition to the examining veterinarian's expert opinion.

The Chief Veterinary Officer's role now encompasses an advisory role to the Inspectorate and Prosecutions department on veterinary issues in prosecutions to provide a veterinary oversight within the RSPCA.

### **Costs [ rec. 27 - 28]**

The Head of Prosecution is undertaking a full review of the structure of the prosecution team, and processes, including the cost and terms of engagement of the external legal providers that are instructed to ensure that quality of service is retained whilst maintaining value for money for the work that they do. This includes plans to introduce of a national standard fee scale and consistent terms of engagement. The department is considering the use of the direct access scheme for the instruction of Barristers in appropriate cases to determine whether this has the potential to reduce costs.

### **The RSPCA involvement in hunting prosecutions [rec. 29]**

The RSPCA has agreed to change its process on prosecuting red coat hunts. If the RSPCA receives a complaint regarding a hunt a preliminary assessment and investigation, if appropriate, will be conducted but the matter will then be referred to the relevant police force who will be invited to conclude the investigation before referring the case to the CPS for assessment.

If the police decline to conclude an investigation in these circumstances, it remains open for the RSPCA to complete its own investigation and to consider whether or not a prosecution should be instigated.

### **Management and Governance [rec 30-33]**

The Head of Prosecutions is establishing an oversight group to sit quarterly to be presented with a sample of decisions/cases made within the department. The panel can give feedback about the decision making and case management and will provide the opportunity for comments on areas of improvements where necessary. This panel will also provide a process for annual reviews of the prosecution function in the Society.

The Society has developed a new process in how prosecution cases are externally communicated. Cases will now only be made public in communications for six months post the end of the court proceedings. In addition any communications on a court case will no longer contain any fundraising request to separate out the prosecution function from the campaign and fundraising function.

### **Farming issues and Freedom Food**

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The RSPCA is reviewing its process on prosecuting farmers and investigating farm related complaints. The RSPCA will continue to receive complaints on farm related issues. It is looking into the feasibility of passing on any farm related complaint that requires an investigation to the two statutory agencies, the relevant Trading Standards Department via the Animal Health and Plant Agency (APHA). If the local authority is not able to or refuses to take a case from the RSPCA, it remains open for the RSPCA to complete its own investigation and to consider whether or not a prosecution should be instigated.

The RSPCA is updating its process of investigating farms that are members of the RSPCA Assured assurance scheme Freedom Food, to ensure complete separation and independence from the scheme. If the local authority is not able to take the case, the RSPCA will investigate the case and if necessary take court proceedings. This will be done independently of the RSPCA Assured scheme.

End.