

## How does RSPCA Victoria's Inspectorate work?

This document provides a high level outline of how the Inspectorate responds to, investigates and prosecutes animal cruelty matters.

### What happens when the Inspectorate receives a report?

In general, Inspectors do some research on the owner or person in charge<sup>1</sup> of the animals to find out whether they have had previous dealings with us, or other authorities such as local council or police.

They assess risks and logistics including the physical aspects of the property they are visiting, and the number of animals involved. Once this initial planning is complete, the Inspectorate will prioritise workload accordingly and, if necessary, organise a visit to the property at the first available opportunity.

In some cases, another organisation or agency may be better placed to respond – for example, if current workload will delay a visit, or where wildlife or large numbers of livestock are involved, RSPCA Victoria will refer these cases to another agency authorised under the [Prevention of Cruelty to Animals Act 1986](#) (POCTAA), such as council or police.

### When can an Inspector enter a property?

POCTAA gives RSPCA Inspectors emergency powers to enter a property (but not go inside a person's home) without a warrant if they reasonably believe that animals are abandoned, distressed or disabled, have been without food or water for extended periods, are in pain or suffering from injury or disease, are entangled, or if baiting, luring or animal fighting is suspected.

An Inspector can apply to a Magistrate for a search warrant for a person's premises, including homes, if an animal is:

- believed to be abandoned, diseased, distressed or disabled
- believed to be at risk
- (or has been) subjected to an act of cruelty
- in the care of someone who is disqualified from owning or keeping certain animals.

If an Inspector does not have power to enter a property under POCTAA, the Inspector can only enter with the consent of the owner.

### What can an Inspector do if they find animal welfare issues?

If an Inspector identifies that an animal's welfare is at risk or reasonably suspects that a cruelty offence is being committed or is about to be committed, there are a range of options available. The Inspector will consider the circumstances of the case before deciding how to respond to improve the animal's welfare.

Inspectors can work with the animal's owner to provide guidance and education about animal care, husbandry, and health, and ensure they understand their legal obligations to provide this care. If an Inspector believes that a POCTAA offence is being committed or about to be committed, they can issue one or multiple notices to comply (NTCs).

---

<sup>1</sup> For all further references to 'owner' in this document, read as 'owner or person in charge of the animal/s'

If an animal needs veterinary treatment, and the Inspector is able to contact the owner, the owner must be given the opportunity to arrange that treatment themselves.

If an owner fails to follow the directions given on a notice to comply (see below), and the animal's welfare is determined to be at risk, the Inspector has the power to seize the animal.

If an Inspector finds an animal believed to be abandoned, distressed, or disabled the Inspector can issue a notice of intent to seize an animal. If the owner does not make contact with the Inspector within 48 hours, the Inspector can seize the animal.

Inspectors also have the power to humanely euthanase animals that are so severely sick or injured that the animal would continue to suffer if it were to remain alive. This occurs very rarely.

Prosecution is also an option if an Inspector believes a POCTAA offence has been committed. So, at the same time as tending to an animal's welfare, Inspectors are carrying out a criminal investigation and gathering the necessary evidence to make sure offences can be prosecuted in court.

### **What is a Notice to Comply?**

A notice to comply (NTC) is a legal direction issued to an owner by an Inspector, which requires them to prevent or cease animal cruelty offences. Each NTC includes a date by which the owner must comply.

For example, one NTC might require an owner to treat all their animals for worms, another might require better shelter for the animal, or that food or water be made more accessible.

Inspectors make decisions about how soon an owner or person in charge must comply, depending on what the notice covers. An animal under notice can remain in the owner's care during the notice period, but if it is sold or given to someone else, a new notice is issued to the new owner.

### **When can an Inspector seize an animal?**

A wide range of seizure powers are available to Inspectors through emergency powers, warrants, and ministerial authorities.

Once due process has been followed, an Inspector can use emergency powers to seize an animal that is abandoned, distressed or disabled, if the Inspector believes that its welfare is at immediate risk. A warrant issued by a court can also be used to seize an animal subject if cruelty, a prohibited procedure, baiting, luring, fighting, or a disqualification order is reasonably suspected.

Once seized, the animal stays in RSPCA Victoria's care while the matter is investigated.

### **What offences can lead to prosecution?**

POCTAA and its associated regulations are very specific about the [cruelty offences](#) that RSPCA Victoria can prosecute, and about the [penalties](#) and [disqualification orders](#) (banning people from owning or keeping animals) that magistrates and judges can issue to people who are found guilty of cruelty offences.

### **What is the legal process once the animal has been seized by the RSPCA?**

As with any criminal matter, RSPCA Victoria Inspectors have to prove 'beyond reasonable doubt' that an offence has occurred and charges can be laid.

Once they've investigated an issue, an Inspector can lay charges and prosecute an owner. In some cases, though, it isn't appropriate to prosecute. In these instances, Inspectors can return seized animals to the

owner and either not take any further action, issue an Advisory Letter about the owner's obligations under the Act, or issue a Warning Letter to the owner.

### **How long do prosecutions take to get to court?**

Before a prosecution gets to court, an Inspector must conduct a full and thorough investigation and gather all the evidence needed to prove the cruelty charges, including identifying who was responsible for committing the offences.

Investigation often takes a long time, and involves a lot of forensic evidence gathering – partly because animals can't give witness statements. Once a prosecution is prepared, RSPCA Victoria works to get it scheduled into the court calendar.

### **Who pays for prosecutions?**

RSPCA conducts and funds its own prosecutions.

Occasionally, a court will order people found guilty of animal cruelty to make a donation to RSPCA Victoria, or order them to pay part of RSPCA Victoria's costs of conducting the case.

However, all court-ordered fines (as opposed to donations or court costs) are paid to the Government, not to RSPCA Victoria.

### **What penalties do people who are found guilty get?**

POCTAA and its associated regulations is very clear about the [penalties](#) and [disqualification orders](#) (banning people from owning or keeping animals) that magistrates and judges can issue to people who are found guilty of cruelty offences.

In general, penalties depend on the severity of the matter, prior criminal history of the accused, and mitigating circumstances.

Most offences carry sentences up to 246 penalty units (a fine that currently works out to around \$37,300) or 12 months' imprisonment. Offences resulting in the death or serious disablement of an animal carry maximum sentences of 492 penalty units (around \$74,600) or two years' jail for each offence.

### **Can a person be banned from ever owning animals?**

A magistrate or judge can ban someone found guilty of a serious cruelty offence from being in charge of any animal for up to ten years. If they've been found guilty of animal cruelty and subject to a previous banning order before – either in Victoria or elsewhere – they can be banned for life.

Breaching a ban is also an offence, which can lead to large fines or up to two years in jail.