

# LCQ14: Protecting rights and interests of animals

Following is a question by the Hon Edward Leung and a written reply by the Secretary for Environment and Ecology, Mr Tse Chin-wan, in the Legislative Council today (February 26):

Question:

It has been reported that a domestic cat fell to its death from a building in Pak Shek Kok, Tai Po, earlier on. The flat in question was repeatedly found by members of the public in August and December last year with domestic cats perched precariously on the glass balcony fence. The Hong Kong Society for the Prevention of Cruelty to Animals had followed up and given advice, but was unable to effectively prevent the incident concerned. Moreover, there are views that the Prevention of Cruelty to Animals Ordinance (Cap. 169) does not have sufficient deterrent effect as the threshold for prosecution is rather high (e.g. "it is difficult to prove that the domestic cat was caused "any unnecessary suffering" before falling to its death in the aforesaid case). In this connection, will the Government inform this Council:

(1) of the respective numbers of reports received by the authorities in the past three years of cats being in dangerous positions, and the respective numbers of cases of cats falling from a height resulting in injury and death; the number of prosecutions instituted by the Government in respect of such cases under Cap. 169, and the number of convicted cases and the average penalty imposed by the court;

(2) as it is learnt that some cases of cats falling from a height resulting in injury or even death involve keepers who have not installed cat safety nets at home, have left windows open or have even kept cats on balconies, whether the authorities have instituted prosecutions and obtained convictions in such cases; whether they will consider amending the legislation to stipulate that it is an offence for any person who knowingly or recklessly performs an act prejudicial to the life or well-being of an animal, so as to strengthen the protection of the rights and interests of animals under the law; if so, of the details; if not, the reasons for that; and

(3) given that the Government, in its paper submitted to the Panel on Food Safety and Environmental Hygiene of this Council on May 22, 2022, proposed to amend Cap. 169 to introduce a positive "duty of care" for animals, and it has been reported that the Government is preparing to amend the legislation, whether the Government will, at the same time, make reference to the approach in the Protection of Children and Juveniles Ordinance (Cap. 213) by authorising the Director of Agriculture, Fisheries and Conservation to take timely possession of an animal where there is reason to believe that the animal is likely to be in moral or physical danger, and to recover from the pet owner the costs of caring for it during that period; if so, of the details; if not, the reasons for that?

Reply:

President,

The Government adopts a multi-pronged approach to curb acts of cruelty to animals. This includes exploring raising penalties for offences under the Prevention of Cruelty to Animals Ordinance (Cap. 169) (the Ordinance) to enhance deterrence, taking stringent enforcement actions against illegal acts, and continuing to enhance relevant public awareness through education and promotion activities.

Having consulted the Security Bureau, the reply to the question from the Hon Edward Leung is as follows:

(1) and (2) At present, the Ordinance clearly stipulates that any person who does or omits to do any act which causes unnecessary suffering to an animal is liable to the offence of cruelty to animals, and could be sentenced to a maximum fine of \$200,000 and imprisonment for three years upon conviction. The Agriculture, Fisheries and Conservation Department (AFCD) and the Hong Kong Police Force (HKPF) are responsible for enforcing the Ordinance.

In the past three years (i.e. from 2022 to 2024), the AFCD received 15 reports of cats in dangerous positions or suspected to have fallen from a height resulting in injury and death, among which 10 cases involved cats falling from a height resulting in injury and death. After investigating the abovementioned cases, there was no evidence to suggest that someone had contravened the Ordinance. The HKPF does not maintain a breakdown of the number of reports and cases related to cats.

The Government has been studying amendments to the Ordinance, where one of the directions being explored is to impose a positive "Duty of Care" on persons responsible for animals, requiring them to take proper care of the welfare of animals (including diet, environment, health, and behaviour). Meanwhile, the AFCD has been actively promoting information on the fulfilment of the "Duty of Care" through various channels such as thematic website, social media and roving exhibitions.

(3) At present, the Ordinance already empowers the HKPF and the AFCD to seize the animals involved when there is reason to suspect that an offence under the Ordinance is being or has been committed, and the AFCD will arrange for their care as necessary. In addition, we will also study amending the Ordinance to empower the Court to require a person convicted of contravening the Ordinance to pay for the cost of taking care of the detained animals.