

LCQ9: Combating animal cruelty

Following is a question by the Hon Lau Kwok-fan and a written reply by the Secretary for Environment and Ecology, Mr Tse Chin-wan, in the Legislative Council today (April 2):

Question:

The Prevention of Cruelty to Animals Ordinance (Cap. 169) has not been updated since its amendment in 2018. The Government proposed in 2019 to amend the Ordinance to step up efforts to combat animal cruelty, but the specific bill has not yet been introduced into this Council to date for scrutiny. In this connection, will the Government inform this Council:

- (1) as the Government indicated in its reply to a question raised by a Member of this Council on February 26 this year that it would complete the law drafting work as soon as possible after collating the views of the stakeholders concerned and introduce the proposed legislative amendments into this Council, of the specific timetable of the relevant work and the direction of the legislative amendments; whether it has encountered difficulties in the course of preparing for the legislative amendments; if so, of the details;
- (2) as it is learnt that the community generally considers that the penalties for offences of cruelty to animals under the existing legislation (with the maximum penalty being a fine of \$200,000 and imprisonment for three years) fail to reflect the seriousness of some cases (such as cruelty resulting in death and organised cruelty) and to pose sufficient deterrent effect, whether the Government will consider substantially raising the maximum penalty, for example, by increasing the maximum fine to \$2,000,000, and raising the maximum term of imprisonment to seven years, so as to satisfy the principle of proportionality;
- (3) as the Government has indicated that it will study the introduction of the concept of "Duty of Care" in Cap. 169 mandating persons responsible for animals to take proper care of the welfare of animals, but it is learnt that the community has rather strong and diversified views in this regard, whether the authorities will amend Cap. 169 in phases by raising the maximum penalty in the first place, followed by amendments and enhancements to the Ordinance as appropriate and necessary at the next phase;
- (4) as there are views that the existing evidential threshold in Cap. 169 is too high, for example, requiring law enforcement agencies to prove that the perpetrator has the intent of "deliberately causing cruelty to animals" in order to secure a conviction, resulting in a large number of cases not proceeding to judicial proceedings due to insufficient evidence, whether the authorities will draw up dedicated prosecution guidelines so as to lower the evidential threshold and boost the conviction rate; if so, of the details; if not, the reasons for that; and

(5) apart from amending the existing legislation, of the details of the Government's other specific work in preventing cruelty to animals; whether the authorities will enhance public awareness of animal protection through publicity and educational efforts; 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 deterrent effect, taking stringent enforcement actions against illegal acts, and continuing to enhance relevant public awareness through education and promotion activities.

Having consulted the Security Bureau and the Department of Justice, the reply to the question from the Hon Lau Kwok-fan is as follows:

(1) and (3) The Government has been studying amendments to the Ordinance. The directions being explored in the legislative amendment include imposing 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); raising penalties for animal cruelty offences; and enhancing enforcement power, etc. In preparing the bill, it is necessary to consult the relevant stakeholders again on some of the proposals. After collating the views, we will finalise the legislative amendment proposals, implementation arrangement, and law drafting work promptly. Once the work is completed, we will consult the Legislative Council on the proposal.

(2) Currently, any person who does or omits doing any act and causes unnecessary suffering to an animal, may constitute an offence for animal cruelty. Upon conviction, the maximum penalty is a fine of \$200,000 and imprisonment for three years.

The Government is studying raises to the penalties for animal cruelty offences to reflect more clearly the gravity of the offence, and to introduce an indictable offence to allow enforcement officers more time to instigate prosecution on complex or serious cruelty cases, in order to further enhance deterrent effect. In finalising the proposal on penalty, the Government will make reference to overseas experience, local penalties for relevant criminal offences, and views of stakeholders, etc.

(4) The existing offences under the Ordinance cover different forms of cruelty to animals, including causes any unnecessary suffering to an animal by wantonly or unreasonably doing or omitting to do any act; neglects to supply animal in confinement with sufficient food and sufficient fresh water; conveys an animal in such a manner as to subject it to unnecessary pain or suffering, etc. The Ordinance provides that an owner shall be deemed to have

permitted cruelty if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefrom, proof of intention to cause cruelty to animals is not required.

In making a decision of whether or not to prosecute in each case, the relevant departments make an objective and professional assessment of the available evidence and applicable law, and strictly act in accordance with the Prosecution Code issued by the Department of Justice. The current practice has worked well and we consider it not necessary to formulate a specific prosecution guideline.

On the other hand, according to the information of the Agriculture, Fisheries and Conservation Department (AFCD), over 90 per cent of the reports were found to be not related to animal cruelty after investigation, but nuisance or other situations, such as frequent noise from animals or odour from the premises where the animals were kept, and this misled the reporters into thinking that the animals suffered from acts of cruelty.

(5) The Hong Kong Police Force (HKPF), the AFCD and the Society for the Prevention of Cruelty to Animals (SPCA) jointly implement the Animal Watch Scheme to proactively prevent and detect suspected cases of animal cruelty through multi-agency collaboration. The HKPF would also invite the AFCD and the SPCA officers to provide professional advice at the scene of an animal cruelty case and assist thereafter where necessary.

On publicity and education, through various channels including the Animal Watchers Programme, the "Be a Responsible Pet Owner" thematic website and roving exhibitions, the HKPF and the AFCD are respectively promoting the message of preventing cruelty to animals at the community level and online platforms; encouraging the public to report cases timely and to provide information that aids investigations; as well as raising public awareness of animal welfare.

The AFCD has also launched a series of "Duty of Care" publicity programmes, including the production of posts on social media platforms to share information on how to take proper care of animals, and the recent launch of the "Animal Welfare Project: The Adventures of Meow" promotional video, which aims to educate the public on the content and importance of "Duty of Care" in an interesting manner.