

ROYAL NEW ZEALAND SOCIETY FOR THE PREVENTION  
OF CRUELTY TO ANIMALS INCORPORATED

8 October 2008

Jockey Jensen  
Director  
MAF Enforcement Directorate  
PO Box 106231  
Auckland

Dear Jockey

RE: CORPORATE RISK'S REPORT DATED 30 JUNE 2008

Attached is a review from Simon Meikle, Barrister and Solicitor, of Corporate Risk's report concerning the actions of inspector Jim Boyd. Simon has examined the allegations made in the report and Jim's responses, and has seen fit to reject the allegations. Accordingly, the SPCA does not see the need to pursue the matter further.

Should you wish to view any of the detailed information from Jim on which Simon has based his assessment, please let me know.

Yours sincerely

  
Peter Mason  
National President

PO Box 11557, Manners Street, Wellington 6034

cc David Bayvel

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for the Protection of Animals

The Royal New Zealand SPCA  
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WELLINGTON 6142

Attention: Mr Peter Mason

Dear Sir

Reference: [REDACTED] and the Corporate Risks report dated 30 June 2008

You have asked me to review the Corporate Risks report dated 30 June 2008 (the report), [REDACTED] responses and advise the Royal New Zealand SPCA on whether or not it needs to take any action.

I adopt the report's sub titles (that identify the incidents complained of) appearing at paragraphs 4.2 to 4.12 inclusive of the report.

Andalusian Filly: [REDACTED]

In essence, the complainants assert that [REDACTED] failed to act promptly in respect of a horse that had been 'beaten' about its head with wood.

The assertion that the horse has been 'beaten' about the head with a wooden object is hearsay and if not excluded in its entirety should be treated with little or no weight.

[REDACTED] advises that [REDACTED] was informed of a horse being slung in a tree by a [REDACTED] on 14 February 2008. [REDACTED] further advises that [REDACTED] had been told that the horse was eating hay and drinking water and that the horse was located on [REDACTED] property and clearly visible to passing traffic on SH1.

[REDACTED] spoke with [REDACTED] and [REDACTED] partner [REDACTED] on either 14 or 15 February 2008. [REDACTED] was advised that the horse had struck its head on a post during training and that the vet [REDACTED] had prescribed equipalazone for the horse.

[REDACTED] was able to confirm that this prescription was correct by ringing the [REDACTED] Veterinary Practise. Accordingly, [REDACTED] concluded that the horse had been injured and that it was receiving the necessary assistance (by being in a sling and receiving medication).

At no time was [REDACTED] advised of the allegations of beating.

During the evening of 14 February 2008 [REDACTED] rang [REDACTED] to advise her that he had dealt with her concerns. At 8:39 am on 15 February 2008 [REDACTED] phoned [REDACTED] expressing [REDACTED] gratitude for [REDACTED] assistance.

Despite the fact that the complainants assert the horse had been ill treated they did not make a complaint to [REDACTED] and consequently no investigation ensued. It is also noteworthy that the vet in attendance (3.3.14 of the report) did not make a complaint and that the vet has not provided [REDACTED] expert opinion on the cause of the injuries to the horse's head.

For the following reasons the complaint is rejected;

- the evidence concerning the source of the horse's injury is hearsay;
- the complainants and the vet did not lodge a complaint with [REDACTED];
- [REDACTED] promptly followed up the complaint by telephone calls and a verification call to the vet;
- [REDACTED] cannot be expected to act on a complaint (as asserted by the complainants) if he wasn't informed of it.

#### Euthanasing horse. [REDACTED]

The complainant asserts that [REDACTED] incompetently euthanased the horse by shooting off the muzzle of the horse causing it to run wounded, around the paddock for ten minutes before being successfully shot dead.

[REDACTED] described approaching the tethered horse to within approximately 1 metre. Unfortunately [REDACTED] .22 magnum rifle misfired. As [REDACTED] tried to clear the misfire the horse became increasingly nervous and broke its tether.

[REDACTED] attempted a side headshot (with the .22 magnum rifle) but it was 50mm too low and did not stop the horse that then ran approximately 150 metres into the next paddock. [REDACTED] was then able to destroy the horse with [REDACTED] next shot. The elapsed time between the first unsuccessful shot and the destruction of the horse would have been 2-4 minutes.

[REDACTED] accepts that this was a most unfortunate occurrence and constitutes one of now four occasions when destruction of an animal has not been instant. [REDACTED] is an SPCA inspector of many years standing and has destroyed many animals in the course of that role.

[REDACTED] informed the complainant [REDACTED] at the time of [REDACTED] destruction that [REDACTED] rifle had misfired; [REDACTED] accepted this explanation.

[REDACTED] asserts that the muzzle of the horse was not shot off as the .22 magnum rifle could not cause that level of damage. Note that [REDACTED] inspected the horse after its destruction and found no evidence of the harm asserted by [REDACTED].

The incident described by [REDACTED] occurred "18 months to 2 years ago". [REDACTED] has not made a complaint under the Animal Welfare Act 1999. One would have thought that the actions described by [REDACTED] would have engendered such a complaint.

Given [REDACTED] frank explanation and [REDACTED] failure to make a complaint under the Act at the time, accept [REDACTED] explanation and reject the complaint of [REDACTED].

#### Puppies at Russell with Dog Control

The complainants appear to assert that [REDACTED] was prepared to authorise dog control officers to euthanase a stray bitch and its two pups irrespective of the requirement to hold them for seven days and, generally, contrary to s141 of the Animal Welfare Act 1999 (the Act).

[REDACTED] advises that [REDACTED] received a call from the District Council concerning a stray dog, which may or may not have had mange, and its two pups. Normally this would be the responsibility of the District Council however the SPCA had a verbal agreement that it would take sick or injured dogs and pups of less than 12 weeks of age. As the call was a low priority call and [REDACTED] was approximately 1 hour away, [REDACTED] requested [REDACTED] the District Council Dog Control to uplift the animals. Unfortunately both these [REDACTED] were on other jobs and/or further away from the dogs than [REDACTED].

Because of this, [REDACTED] uplifted the dogs within approximately three hours. The bitch and pups were in good condition apart from a mild flea allergy being present on the bitch. The bitch and pups were vaccinated and another person took them to the kennels. The bitch and pups, as strays, were held for seven days and were then euthanased by the kennel manager.

[REDACTED] did not authorise the destruction and did not inform [REDACTED] that [REDACTED] would sign a destruction order in respect of them.

I accept [REDACTED] denial that [REDACTED] told [REDACTED] that [REDACTED] would sign a destruction order. There seems to be no reason why [REDACTED] would do this given that neither [REDACTED] were in a position to uplift the dogs.

The dogs were treated in accordance with the Act by [REDACTED]

The complaint is rejected.

Foal caught in fence. [REDACTED]

The use of the words "caught" is unsubstantiated. The complainants [REDACTED] and [REDACTED] refer to the foal being tethered/tied to a fence.

The complaint seems to relate to the allegation that [REDACTED] was late in investigating the fact that the foal was tied to the fence.

[REDACTED] has no recollection of this situation in January 2008 (being the date identified by [REDACTED] [REDACTED] presumed that this was an incident that was reported to [REDACTED] on 25 September 2007. [REDACTED] did not attach urgency to the job and it was clear that [REDACTED] had not seen the foal.

[REDACTED] attended the job on 27 September. The foal was dead and hanging from a rendering frame. The foal appeared to be in good body condition and he could not establish a cause of death. [REDACTED] photographed the carcass and endeavoured to find the property owner. [REDACTED] found out, from a passer by, that the owner was [REDACTED] left the property as [REDACTED] had to attend an urgent job.

[REDACTED] subsequently made contact with the [REDACTED] who explained that [REDACTED] attended to the foal every day but that someone kept moving the foal from its tethered position and had placed it near a bank.

[REDACTED] informed [REDACTED] that [REDACTED] found the foal injured on 26 September and had destroyed the foal and hung it for the dogs. There was no reason to disbelieve [REDACTED] and no further investigation was carried out.

As far as a complaint has been raised, it is rejected.

Dogs, Orongaroa Road, Umawera

The assertion that the dog had died at the end of its chain is hearsay. Neither of the complainants viewed what they have described.

[REDACTED] received a message, left after hours, on Saturday 5 January 2008. The message recorded sketchy instructions to the property.

In the early morning of 6 January 2008, [REDACTED] left for what [REDACTED] understood to be the property. The dog or dogs were not located. Other dogs located were in good condition. The owners of these

dogs informed [redacted] that a skinny dog had wandered out of the bush having been lost. They informed [redacted] that they tied the dog up and fed it and that the owner had since collected it.

As the complaint was from an anonymous complainant [redacted] was unable to advise that person of the outcome.

As far as there is a complaint; it is rejected.

Dog under house in [redacted] (sic)

This complaint appears to relate to the failure of [redacted] to uplift an undernourished dog.

[redacted] advises that [redacted] remembers the circumstances but [redacted] has no recollection of speaking with [redacted] recalls speaking with a woman called [redacted]. On [redacted] first visit [redacted] talked with [redacted] and noted that the dog was not present at the flats which contained 4 separate units. On [redacted] second visit the dog was also not there. [redacted] left a large pack of dog biscuits in the hope that the tenants could catch the dog.

The [redacted] SPCA did not possess any dog traps. Only the animal control unit. [redacted] did not promise a trap.

[redacted] has no recollection of dealing with [redacted]

As far as a complaint is alleged; it is rejected.

[redacted] cat (sic)

It is unclear what the nature of the complaint is.

Nonetheless, [redacted] advises that [redacted] was called to the property to help cull some wild cats.

Prior to [redacted] involvement a friend of [redacted] had also attempted to shoot some of the cats.

When [redacted] was present [redacted] was able to shoot several wild cats and attempted to shoot the cat Scotty which was clearly injured.

Neither the complainants nor [redacted] are able to say whether or not [redacted] shot was the cause of further injuries to Scotty.

As far as a complaint is raised; it is rejected.

Dogs Euthanased.

It is unclear what complaint is made.

[redacted] states that the dogs were surrendered to [redacted] were not re-homeable as they would be seriously distressed by being placed in kennels.

[redacted] states that they were destroyed on the basis of animal welfare grounds.

In the absence of clear evidence from the complainants and a precise complaint I am left in the position of accepting [redacted] comments.

Incident

A complaint alleging [redacted] failure to uplift a stray dog. [redacted] says the dog was neither ill nor injured and consequently the SPCA was not obliged to pick up the dog. [redacted] suggested [redacted] contact dog control who have a responsibility to uplift stray dogs.

[redacted] reports that [redacted] was angry and that [redacted] hung up on [redacted] when [redacted] declined to pick up the dog that was subsequently reunited with its owner.

The complaint is rejected.

Euthanasing Animals without Warrant

These allegations relate to the year 1999.

These allegations have been dealt with by the Royal New Zealand SPCA and [redacted] was subsequently cleared of any wrong doing.

The complaint is rejected.

Horse [redacted] Road 24 April 2006

It appears that the complaint is that [redacted] did not act quickly in inspecting the horse, thus causing its death.

[redacted] reports that [redacted] accompanied the complainant [redacted] to the property about a week after [redacted] referred the horse to [redacted]. On this occasion the horse could not be located. [redacted] reported that the horse was old, on good grass and of a bright demeanour but looking emaciated. [redacted] was concerned that there was little flat ground for the horse.

[redacted] reports that [redacted] was concerned about the horse and that it was likely that it would need to be put down on account of its age.

As it happened the horse was removed to a property (not that of its owner) and drenched by [redacted] (who is not the owner).

[redacted] failure to locate the horse is not a cause of its death. The horse, apparently died as a consequence of being strangled.

The complaint is not accepted.

I do not accept the report's conclusion (paragraph 7) as far as the conclusion relates to alleged breaches of the Act by [redacted].

I am of the view that the Royal New Zealand SPCA need take no further action in respect of the report.

Yours faithfully

Simon Meikle

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