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Dealing with RSPCA cases

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Abstract: The Animal Welfare Sub-Unit of the NSW Department of Industry and Investment, in association with some members of the Extensive Livestock Industry and Development (ELID) sheep and beef team, have been developing procedures and training to help District Livestock Officers (DLOs) deal with RSPCA cases involving failure to provide animals with food. These procedures are being developed to ensure evidence collected will withstand a courtroom cross-examination. The resources developed will be extended to staff of various organisations involved in animal welfare cases with livestock. Several areas have been identified for future research that will improve these procedures.

Keywords: Animal welfare, livestock, training procedures, RSPCA.

Introduction

During recent years, increased seasonal variability and extensive dry periods have contributed to a rise in the number of animal welfare cases that District Livestock Officers (DLOs) in the NSW Department of Industry and Investment (DII) see in their districts annually. If an animal is not provided with proper and sufficient food, water and shelter it is an offence. Owners can be charged with aggravated cruelty if animals must be destroyed as part of an RSPCA investigation. The definition of cruelty is varied, from wounding, torturing and overworking animals, to neglect, abandonment, ear-cropping and debarking. Cruelty also includes laying poison bait, with the exception of that permissible by legislation. In many of these instances, such cases cannot be dealt with any other way than in the courtroom.

The Department has become more involved in animal welfare cases over the years by providing expert advice to the RSPCA and NSW Police or animal welfare organisations. It has become apparent that the Department needs to provide advice in a more consistent format, while being as objective as possible, using a set of procedures and operating practices that will stand up to the rigors of the court system and strengthen the position of Livestock Officers as expert witnesses. This understanding has resulted in the development of a number of different resources that will be used not only by DII Livestock Officers in the beef, dairy, sheep and goat industries, but also by various bodies such as the RSPCA, NSW Police, the Livestock Health and Pest Authority (LHPA) and other organisations. The process of developing these resources to date is described in this paper.

RSPCA cases—a typical description

Attending an RSPCA case is often a new or rare experience for a DLO. Generally, they

are contacted by an RSPCA Inspector who has already seen the property in response to a complaint made by a member of the public. The RSPCA must investigate the complaint and if grounds for the complaint are found, the RSPCA will then seek assistance from the DII so that it has independent supporting evidence. A DLO is then required to visit the property with the Inspector and possibly the police, if the situation warrants police assistance. As the manager or owner may be agitated it is common practice to have police support. Other specialists such as an independent vet, possibly stock and station agents who can value any stock and LHPA rangers may also attend. Some cases involve owners with mental illness or financial concerns. Therefore it is common to recruit the services of a mental health worker, and possibly a drought support worker to provide advice on financial assistance for animal transport to an abattoir, and fodder subsidies, etc. These are people who have qualifications to act as expert witnesses.

An expert witness is an individual who possesses specialised knowledge through skill, education, training, or experience beyond that of the ordinary person or juror/magistrate, and whose knowledge will aid the Trier of Fact (jury, judge, and arbitrator) in reaching a proper decision. It is the role of the RSPCA to lead the processes and procedures in these events. The role of the DLO as an expert witness is responsive. Their role is to take notes on what occurred during the visit and assume it will be used in court. Therefore documentation must be comprehensive.

The DLO's role is to record information from the visit and then to provide a report of advice to the owner, outlining recovery and management options for their stock, which they are expected to implement. The DLO should only provide advice in areas that

relate to their area of expertise. Information obtained during visitation will include feed on hand, type of feed and frequency of feeding, condition of stock (particularly for individually identified animals to enable monitoring), faecal samples for determination of rumen function, pasture condition and photographs. A visual record is extremely useful in court if the officer receives a subpoena. It is important that the information collected is standardised. Up until recently the Department had no set procedure for the collection of information for this purpose.

When the RSPCA decides to prosecute

Not all RSPCA-initiated visits will go all the way to court. After the initial inspection of the property is completed, the DLO keeps a record of his or her notes and will only assist further if contacted by the RSPCA. When issued with a subpoena, the DLO provides this information to the RSPCA, since it is the prosecutor. If the advice given by the officer to the owner is ignored and the condition of the animals continues to deteriorate, the RSPCA will humanely destroy animals deemed cruel to be kept alive. Following such action, court proceedings will commence and DLOs may then be required to act as expert witnesses. It is at this point that the DLO will need to provide a record of notes and recommendations will be made. Evidence needs to be as solid and as objective as possible. This ensures that the evidence has the least chance of being open to any interpretation other than it was cruel to keep the animal alive under the management in place at the time. Poor evidence can result in a loss of credibility, opening the DLO to strong questioning by the defence solicitor. If the advice of the expert witness is not disputed, it is likely that the DLO will not even be cross-examined in court, though they will still be summoned to attend on the day.

When animals have to be destroyed

The decision to destroy animals can be the result of an initial inspection, or subsequent inspections if the situation has deteriorated. Such a decision may be made by the RSPCA following a number of attempts to rectify a situation where sufficient improvement has not occurred. Often this is a result of the owner not following the advice given or for financial and other reasons they cannot deal with the situation and have continued to neglect the welfare of the animals.

Under the *Prevention Of Cruelty To Animals Act*, sections 24J and 26AA, animals that are injured or in a state described as "so diseased or in such a physical condition that it is cruel to be kept alive" are also euthanased immediately upon arrival at the

property under veterinary advice. After animals are yarded and fat scored and/or weighed and faecal and blood samples are taken (if required), the final decision to destroy is made by the private veterinarian present. The owner may also use their own veterinarian if they wish. Photographs and video are taken of all the animals by the RSPCA. Animals to be destroyed are drafted off and shot at close range. Carcasses are photographed by the RSPCA and animals will be identified. All of this information will be used to prosecute the case. Animals are buried in a pit dug by a local commercial excavator.

Under no circumstances should DLOs visit a site without an RSPCA officer in attendance.

Publications and procedures—training and extension

As part of the process in developing a standard set of procedures, DII has begun developing a set of anatomical descriptors supported by drawings. The descriptors classify animals (beef cattle, dairy cattle, sheep and potentially goats) into body condition scores within the Fat Score 1 range. They also contain management recommendations, which include guidelines for transport.

The descriptors are to be used by DII, LHPA and RSPCA staff when assessing livestock condition and their potential for recovery or need for euthanasia. These standards provide an objective assessment giving strength to the DLO's recommendations in the courtroom.

A set of operating procedures has been drafted, which includes farm visit protocols and collection of evidence. These are yet to be finalised by the NSW DII legal branch. The purpose is to create a systematic and consistent approach across the Department. It is envisaged that DLOs will feel more confident when dealing with RSPCA cases if they have a detailed set of procedures to follow. Without such procedures DLOs can feel somewhat unprepared as they are unaware of what is required both in the field and in the courtroom. RSPCA cases are often very distressing and can involve conflict and sometimes hostility. Having a clear procedure to follow helps the DLO to deal with such difficult circumstances.

Staff from the Animal Welfare Sub-Unit have recently reviewed the legislation involved in these processes. Technical material is currently being developed using 'best science' to support DLOs and to reduce the questioning from defence solicitors or barristers about the credibility of their advice.

It is proposed that there will be a training workshop in 2010 to educate DLOs in the

new procedures. The training will also involve RSPCA and NSW Police officers as they too play a major role with DLOs in these situations.

The Future

Opportunities

At present, a checklist for property visits is under development. This will be used in conjunction with physical descriptors when attending a property. This will ensure all the correct information is gathered and recorded, enabling consistent decisions to be made.

The training program, due to be rolled out in 2010, will be used to educate DLOs on what to look for in livestock suffering from neglect and under-nutrition and how to use the checklist. There will also be legal training provided within this program.

It is proposed that there will be a core team of experts within the beef, dairy and sheep teams, who are interested and/or experienced in animal welfare cases. This team will act in developing the training program and provide support to district officers dealing with local RSPCA cases. A champion Beef and Sheep Livestock Officer will co-ordinate the process and work with other industry teams.

It is a possibility in the near future that an amendment will be made to the Prevention of Cruelty to Animals Act to allow the seizure and selling of animals off a property by the RSPCA. At present animals cannot be forcibly taken and sold, due to the restrictions of the Act. This change however, could have great potential in reducing the incidence, severity and duration of distress of animals in some of these cases.

Research prospects

The beef industry research team has previously explored various ideas that involve

research focusing on physiological and behavioural indicators of animals that could provide more objectivity in animal welfare cases. There has been previous research completed in the UK, which investigated the potential objective indicators of long-term under-nutrition in cattle (Agenas et al. 2006). There were no objective indicators identified from the literature study and the field study was performed on nourished cattle, generating reference ranges that could not be used in an animal welfare situation. Conclusions from this work stated that there are several blood measures that need to be combined to assess the nutritional state of an animal and that establishing whether an animal was undernourished was very difficult to determine.

Opportunities exist for further research. However, due to difficulties from an animal ethics perspective this work would need well developed experimental protocols. Research such as this would have the potential to provide objective evidence as to the extent to which an animal is suffering from under-nutrition. Furthermore, this will assist the DLO in a court situation by providing objective evidence of neglect of and cruelty to livestock. These research ideas are preliminary at present and prospects for research have been primarily discussed concerning beef cattle, though similar research will also be necessary for other species.

References

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