

'Animal cruelty' complaints—a guide

This fact sheet is for general information purposes and is not legal advice. It provides a brief overview only of this area of the law. If you require legal advice relating to your particular circumstances you should contact the ADO or your solicitor.

There is no national animal welfare law in Australia. Instead, each State and Territory has its own laws. Animal welfare is regulated by the *Prevention of Cruelty to Animals Act 1979* in NSW and by the *Animal Welfare Act 1992* in the ACT.

What is 'animal cruelty' under ACT and NSW law?

In general, it is a **criminal offence** to do any of the following:¹

- Cause pain to an animal
- Abuse, terrify or torment an animal
- Injure, wound or overwork an animal
- Expose an animal to excessive cold or heat



'Aggravated cruelty' is when a person commits an offence of 'cruelty' but also causes the animal serious injury, or kills the animal.² In the ACT, the person must have intended to do this, or not cared about causing death or serious injury.

What are the maximum penalties for 'animal cruelty'?

A person found guilty of a criminal offence of animal cruelty or aggravated cruelty can be fined or sent to prison. The maximum penalty for animal cruelty in the ACT is \$32,000 and 2 years' imprisonment. This increases to \$48,000 and 3 years' imprisonment for aggravated animal cruelty. In NSW, the maximum penalty is \$44,000 and 1 year imprisonment for animal cruelty, or \$110,000 and 2 years' imprisonment for aggravated animal cruelty. Persons found guilty of animal cruelty or neglect under animal welfare laws can also be banned from owning animals for a certain period. In the ACT these persons are listed on RSPCA ACT's website.³

What if a person 'neglects' an animal?

'Animal neglect' is also a criminal offence under ACT and NSW law. This can include:

- Abandoning an animal⁴
- Failing to provide appropriate food, water and shelter⁵
- Injuring an animal and failing to take appropriate steps—which may include vet treatment—to alleviate the pain suffered by the animal, and failing to report the injury to a person who is meant to be in charge of the animal (or to a relevant authority)⁶
- Failing to exercise certain animals kept in confined spaces⁷
- Confining animals in a manner that causes injury, pain or excessive distress⁸



¹ See for example *Animal Welfare Act 1992* (ACT) s 6A and *Prevention of Cruelty to Animals Act 1979* (NSW) s 4(2).

² *Animal Welfare Act 1992* (ACT) s 7A, *Prevention of Cruelty to Animals Act 1979* (NSW) s 4(3).

³ <http://www.rspca-act.org.au/about-us/inspectorate-prosecutions>. The current bans are from 5 years up to life.

⁴ *Animal Welfare Act 1992* (ACT) s 6G, *Prevention of Cruelty to Animals Act 1979* (NSW) s 11.

⁵ *Animal Welfare Act 1992* (ACT) ss 6B and 6C, *Prevention of Cruelty to Animals Act 1979* (NSW) s 8.

⁶ *Animal Welfare Act 1992* (ACT) ss 6B and 10, *Prevention of Cruelty to Animals Act 1979* (NSW) ss 14 and 5(3).

⁷ *Animal Welfare Act 1992* (ACT) ss 6(F) and 9(1), *Prevention of Cruelty to Animals Act 1979* (NSW) s 9(1). In the ACT this offence does not apply if the conduct complies with a code of practice (s 20). In NSW this offence does not apply to stock animals or animals 'usually kept in captivity by means of a cage' (s 9(1A)).

⁸ *Animal Welfare Act 1992* (ACT) s 9.

What do I do if I see something that looks like animal cruelty or neglect?

You are not legally obliged to report animal cruelty and neglect. If, however, you do witness animal cruelty or neglect, you should report it as soon as possible to the authorities listed below.

Who has the power to investigate animal cruelty?

Even though they are **criminal** offences, animal cruelty and animal neglect are mainly investigated by the RSPCA which is a private charity.⁹ The Animal Welfare League (another charity) can also investigate animal cruelty and neglect in NSW.¹⁰ Sometimes the police investigate complaints of animal cruelty (e.g. if it happens after hours). Inspectors have the power to enter premises with the consent of the occupier. If they don't have the occupier's consent, they can enter:

- if they are commercial premises and it is during business hours, or
- if the inspector has a warrant to examine or help any animal in or on the premises, or
- in cases of emergency.¹¹

It is up to the inspectors to decide if they will investigate a complaint of animal cruelty or neglect. In NSW, legal proceedings for an animal cruelty offence must be begun within 3 years after the date an officer first receives evidence of the alleged offence.¹² In the ACT, a prosecution may be begun at any time if the offence is punishable by more than 6 months imprisonment.¹³ Otherwise, a prosecution must begin within 1 year after the day the alleged offence was committed.

How do I make a complaint?

You can contact the RSPCA on 1300 278 3589 (NSW) or 0407 078 221 (ACT), or via their websites.¹⁴ The Animal Welfare League NSW also responds to reports of animal cruelty on (02) 8777 444.¹⁵ You can also report animal cruelty to Animal Liberation's anonymous free-call hotline 1800 751 770. If it is a genuine emergency (i.e. you see an animal being abused after hours), contact the police via their 'Police Assistance Line' on 131 444 (NSW and the ACT).

To assist the investigation, you should note as much information as possible, including:

- Your name and contact details (not required for Animal Liberation's hotline).
- The time and date of the alleged offence.
- The names and contact details of the people involved, or at least a description of the people.
- The location of the alleged offence and details of what you saw and heard.
- Details of the animal (e.g. their breed and appearance) and their condition and environment.
- The extent of the welfare issue, and whether the animal needs immediate attention.
- If possible, photos of the affected animal.
- Any other information you think may help an inspector, such as names and contact details of any witnesses who saw the alleged cruelty or neglect.

What if I am being investigated for animal cruelty?

You will only be investigated for animal cruelty or neglect if inspectors reasonably suspect an offence has been or is being committed. If you have a complaint about the RSPCA you should raise it directly with the RSPCA inspector. By clearly explaining your complaint you will give the inspector a chance to respond and you may be able to resolve the issue. If the issue isn't resolved, in rare cases you may be able to refer the matter to the Commonwealth/ACT or NSW Ombudsman.¹⁶

⁹ <http://www.rspca-act.org.au/> and <https://www.rspcansw.org.au/>.

¹⁰ <https://www.awlnsw.com.au/>.

¹¹ *Animal Welfare Act 1992* (ACT) s 81, *Prevention of Cruelty to Animals Act 1979* (NSW) ss 24E, 24F and 24G.

¹² *Prevention of Cruelty to Animals Act 1979* (NSW) s 34(4).

¹³ *Legislation Act 2001* (ACT) s 192.

¹⁴ <https://www.rspcansw.org.au/contact/report-a-cruelty-case> (NSW), <http://www.rspca-act.org.au/contact/report-animal-cruelty> (ACT).

¹⁵ <https://www.awlnsw.com.au/report-cruelty/>.

¹⁶ Complaints about the RSPCA may be referred to the Ombudsman in very limited circumstances—for example, if a government agency has engaged the RSPCA to investigate you.