



RSPCA POWERS

The truth behind the paranoia

Explaining why the RSPCA must instigate over 90% of the prosecutions under the Animal Welfare Act 2006 when they have no powers or statutory duty to do so.

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An Animal Rights & Wrongs UK Publication

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Why the RSPCA take on the role.

If you ask anyone who they think of reporting an incident of animal cruelty to and it is odds on that they will answer the RSPCA. Ask them who is legally responsible for investigating and prosecuting animal abuse in England and Wales and they will respond the same. Neither of these could be further from the truth, as the RSPCA as no statutory duty or powers to investigate cruelty complaints.

So, you might ask how come over 90% of animal abuse prosecutions are implemented by the RSPCA, a situation we have basically had since the RSPCA came into existence in 1824. There is and has been considerable farcical paranoia, misunderstanding and criticism about the role of the RSPCA and its prosecution powers. They have been criticised for the way they carry out enforcement and the fact they have a role in enforcement in the first place. This has come about because they have become the default go to agency because no one else has ever been interested. Governments, the police, local authorities and other charities despite all their declarations of high standards of animal welfare have never been interested in pursuing animal cruelty and abuse offences. Central Government has never shown any interest in assuming or paying for the full role that the RSPCA performs. So, without them there would be no controls over animal cruelty in the country, a situation the detractors of the RSPCA would relish.

“A major weakness of the Animal Welfare Act is that no state organisation is statutorily responsible for animal welfare. It is unacceptable that in a modern society no state organisation is responsible for animal welfare.” [Commons Select Committee, Nov 2016](#)

When the chance came for the Government to remedy the whole situation with the introduction of the Animal Welfare Act 2006 they made the usual complete hash of it by **failing to appoint anyone to enforce it and so official agencies like the Police and local authorities do not feel they have a *statutory duty* to bother.** It is almost beyond belief, but that is what happened. It could be almost argued that it was intentional as in reality there are

far too many people, organisations and other interests whose pastimes and businesses would be affected by too stringent animal cruelty and welfare laws.

Although national and local Authorities could appoint Inspectors under the law few bothered due to the expense and the specialist knowledge required. The Government just presumed they would. A survey in 2011 found that only 40% appointed Inspectors and only 17% of these dealt with companion animals or pets. This is because like most agencies local authorities give low priority to animal welfare matters.

So how does the RSPCA manage to prosecute without powers?

The RSPCA uses its right as a “private prosecutor” under [section 6\(1\) of the Prosecution of Offences Act \(POA\) 1985](#), which gives every individual in the country to power to instigate a prosecution. They use independent solicitors who act on behalf of the RSPCA (and the animals) as the RSPCA have no legal powers in their own right. They do not have to involve the Crown Prosecution Service (CPS). exercises its right It is an expensive niche area of law enforcement which no one really wants to get involved in. To put it into context, the RSPCA prosecute over 90% of cases taken under the Animal Welfare Act, 2006. Interestingly, the RSPCA is the only organisation that collects statistics on cruelty so without them we would not even know the level of cruelty in the country. With no one else apparently capable of doing the job it is lucky the RSPCA has stepped into the breach. But not everyone sees it that way.

The Paranoia

Basically, the paranoia stoked up over the mythical “RSPCA powers” came from organisations and interests whose hobbies, pastimes and businesses were threatened or interfered with by the RSPCA campaigning, investigating or prosecuting offences. The media and social media fell for it and joined in with the criticism.

In 2017 certain sections of the UK media reported, in their usual hysterical and overstated prose, that the RSPCA were in [talks with the police](#) and government seeking statutory powers under the Animal Welfare Act 2006 to enforce the legislation without a police presence which led to a lot of hand wringing even though most other countries go down this route successfully.

There are many organisations and agencies who feel that the RSPCA has muscled their way into the role as though it is an evil plot on their behalf. Most of these are those which do not want animal welfare orientated people interfering in pursuits which involve suffering to animals.

Simon Hart, UK Member of Parliament and a former head of the Countryside Alliance, an organisation dedicated to blood sports, was quick to jump in and stir up the controversy and commented:

“The RSPCA is a welfare charity not a private police force and the development is “appalling”.

Tim Bonner the chief executive of the same organisation added:

“The charity’s past record in this area would make it the last organisation on earth that you would want to grant powers of this nature to.”

Most people are under the impression that RSPCA Inspectors do have legal powers although they have never said this. They have been accused of wearing police style uniforms, using threatening behaviour, killing every animal they come across, trespassing and stealing animals. It is all ridiculous, but it appears that our nation of animal lovers wishes to give animal abusers a free reign in the UK.

UK MP's, Police chiefs and the Government at one point were all for trying to remove these *mystical powers* which obviously do not exist. The RSPCA prosecutes under the long-established entitlement in English Law that any person or organisation can bring a private prosecution against any law breaker, so to stop the RSPCA would mean stripping every person of this right.

The national police Chiefs' Council wanted the RSPCA to ["step back,"](#) and for a government agency to take over prosecutions. Luckily the [government ignored](#) all the outcry as they realised that the Police and local authorities were too overstretched and short of finance to take their place. The [National Police Chiefs Authority](#) like the idea of introducing a single statutory body funded by the Government and made up of ***‘associated professionals, support networks and relevant charity sector’*** to deal with welfare prosecution. Unfortunately, this would involve a large committee and we all know what happens when committees get involved - little action.

They stated that:

“Under the Animal Welfare Act 2006 there is no one agency that is held responsible or accountable for enforcement of animal welfare. This means there are inconsistencies, however the Police, local authorities and animal welfare charities do seek to work together to deal with serious cruelty to animals.”

But to complicate matters they have also suggested that the RSPCA has a conflict of interest in both investigating and prosecuting.

Who should be investigate and prosecuting cruelty offenders?

Don't expect other animal welfare charities to do so because straying into areas involving campaigning against and prosecuting animal cruelty is contentious as well as expensive and risks alienating donors so most animal charities steer well clear and prefer instead to concentrate on the aftermath of irresponsible ownership of animals.

We should in fact be reporting suspected animal cruelty to the Police, our local authorities and the Department for the Environment, Farming and Rural Affairs (DEFRA), as they do all have the powers.

Reporting animal cruelty to the Police.

Try reporting it to a Police call centre and they will automatically refer you to the RSPCA and in practice the UK police generally feel they have no statutory duty. The National Police Chiefs Council (NPCC) stated they are happy to: ***“signpost reports of animal welfare to the RSPCA and only provide a police response in emergency cases.”***

In all fairness the Police are overstretched and are out of their depth or comfort zone when it comes to animal cruelty issues. Many officers no doubt have the attitude that they have better things to do and may not like animals anyway. They also admit that their front-line officers rarely use or even know about the Act and many forces rely on a few ‘specialist’ dog and wildlife crime officers to deal with animals.

Reporting Animal Cruelty to DEFRA.

Most people have probably never heard of DEFRA let alone contact them to report cruelty to animals, but you can cruelty to the local Department for the Environment, Farming and Rural Affairs (DEFRA) if it concerns aspects of the care, welfare and transport of livestock, slaughterhouses and animals in general, but the number of inspectors and inspections is woefully inadequate. **In 2016 they only managed to visit 1,676 farms out of 362,151 that were due [inspection for animal welfare](#) - just 0.46%. The potential for missed cases of suffering is huge.**

Reporting animal cruelty to local authorities.

Local government authorities, usually the environmental health department inspectors, are responsible for licensing premises and animal welfare in dog breeding, pet shops, riding stables and most places where animals are kept. Like the Police they have no statutory duty to enforce the Animal Welfare Act, but the Animal Welfare Act has discretionary powers for national and local authorities to appoint ‘inspectors’, but because of the cost and training required only 60% did so when the law was introduced and of these only 17% had inspectors dealing with companion animals. Many have withdrawn them over the last decade due to the costs involved. Environmental Health Inspectors are far too busy anyway trying to make sure our local kebab shops are hygienic to have time investigating animal cruelty.

Different in Scotland

It works differently in Scotland where they appear to take animal cruelty more seriously and in fact until recently had much higher punishments. The Scottish SPCA (SSPCA) are designated as a ***‘Specialist Reporting Agency’***, who report the facts of a case of cruelty to the Crown Office and Procurator Fiscal Service. They decide whether the evidence warrants a prosecution and is in the ‘public interest’. In this way it protects the SSPCA from any criticism or blame of victimisation or conflict of interest.

Many believe this is the way forward and ensures an independent and unbiased approach, but in reality, the Crown Prosecution Service (CPS) is yet another overstretched agency which

would give animal cruelty a low priority and probably have a differing viewpoint from those who deal with cruelty daily resulting in very few prosecutions being taken.

UK lags far behind in their powers to enforce animal welfare laws.

Although in the UK there is consternation at the thought of the RSPCA being given legal powers, most other comparable countries have no such hang-ups and, in this respect,, we lag far behind. Humane Society and SPCA officers in countries like the USA, Australia and New Zealand mostly have police powers and no one worries about them wearing police style uniforms.

New Zealand are way ahead of the game and the UK could learn a lot from them. They have 75 warranted Inspectors with exclusive powers to investigate and prosecute and have law enforcement training like the police being able to issue fines and charge people.

In **Australia** except for the Northern Territory, where the State authorities investigate and prosecute animal cruelty offenders, the SPCA inspectors have commendable powers to enter property and seize animals and evidence without police involvement, issue on the spot fines and warning notices and prosecute. In the USA, most Humane Society and SPCA officers have [similar powers to](#) the police and most of them are [armed for protection](#).

When I was a Humane Society inspector in the Bahamas, I was also a Royal Bahamian police officer which was extremely useful particularly when I needed 'back up', which was often!

As everyone thinks the RSPCA already has these powers why not give powers to them.

So, what is all the panic about? Many misguided critics still want the RSPCA's so-called 'power of prosecution' taken away from them, but if you are a true animal lover it's about time that we got behind the RSPCA and for us to get in step with other countries around the world who see no problem in doing it right. Honestly, without the RSPCA no one would be interested in protecting our animals from cruelty - certainly not other animal charities who are too busy re-cycling unwanted pets. Let's give the RSPCA more powers in the same way as Australia, New Zealand and the USA. You know it makes sense.

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