

Executive Summary

Direct Investigation Report

Regulatory Work on Dog Keepers' Obligations by Agriculture, Fisheries and Conservation Department

Introduction

In Hong Kong, the number of pet-keepers is growing and the awareness about care for animals is getting stronger in the community. The Rabies Ordinance was initially enacted to protect public health and safety. Licensing, microchipping and vaccination of dogs, however, are no longer just necessary preventive measures against a rabies outbreak, but also legal obligations for strict compliance imposed on dog keepers in order to protect dog welfare (under the law, “dog keepers” does not simply refer to persons who own dogs or apply for dog licences. Unless where interpretation of the law is involved, people who own or keep dogs are collectively referred to as “dog keepers” in general hereafter).

2. As the Government department responsible for safeguarding animal welfare, the Agriculture, Fisheries and Conservation Department (“AFCD”) should on the one hand advise and educate animal keepers to properly take care of and manage their animals, and on the other exercise its statutory powers to take appropriate enforcement action against offenders, so that they would know the consequences of breaking the law.

Our Findings

3. Our direct investigation has identified the following aspects for improvement with respect to AFCD’s regulatory work on dog keepers’ obligations.

(I) Should Initiate More Proactive Follow-Up Action on Suspected Violations of Law by Dog Keepers

4. AFCD points out the need to strike a balance between protection of dog welfare and stringent enforcement. For instance, the Department would not rashly prosecute dog keepers who failed to license their dogs, with a view to preventing rabies and encouraging those dog keepers to apply for dog licences. We consider that in handling

issues relating to the keeping of and caring for pets, relying merely on draconian punishment is not advisable. Nevertheless, sole reliance on self-discipline of dog keepers is not sufficient either. AFCD should take sterner follow-up action on suspected violations of law by dog keepers to bring home to irresponsible dog keepers the consequences of offences.

5. With respect to cases involving violations of law by dog keepers, AFCD can consider collating and taking reference from experience in handling past cases with a view to reviewing related work arrangements for more rigorous investigation and evidence collection, thereby raising the chance of successful prosecution and achieving deterrent effect on offenders. Besides, AFCD should strive to handle similar cases in a consistent manner to obviate doubts about unfair treatment. In cases where it decides not to prosecute, other administrative measures can be considered in light of the nature and circumstances of individual cases. Such measures include issuance of an advice or a warning letter to the dog keeper concerned, and making a record of the incident to facilitate future follow-up action as necessary.

(II) Should Strictly Require Dog Keepers to Observe Legislative Requirements

(1) Strengthen Follow-up work on cases involving failure to license, vaccinate and microchip a dog in a timely manner

6. At present, AFCD would take actions against dog keepers who have failed to license their dogs or renew the dog licence only when their dogs have not been properly controlled or have bitten people. We consider such enforcement action too passive to deter offenders. AFCD should be more proactive and strictly require dog keepers to observe the legislative requirement and discharge their statutory duty to license their dogs. In addition, AFCD should conduct random dog licence inspections at public places where dogs gather (instead of running licence checks only in response to complaints), and require dog keepers to license their dogs or renew the licence by a specified deadline. Enforcement action should be taken against dog keepers who flout the requirement.

(2) Improve licence renewal reminders to dog keepers

7. Under the prevailing arrangement, AFCD would send licence renewal reminders to dog keepers who apply for a dog licence at an Animal Management Centre (“AMC”) under the Department. Dog keepers who apply for a licence via private

veterinary clinics would receive licence renewal reminders only if they have provided their email address to AFCD at the time of application. We consider that AFCD should make proactive use of the information in the Enhanced Animal Licensing and Enforcement System (“EALES”)¹ to send notifications to all dog keepers whose dog licence is about to expire to remind them to renew the licence and re-vaccinate their dogs by a specified date.

(3) Raise dog licensees’ awareness of notifying AFCD promptly of change in contact information and identity of dog keeper

8. Our investigation has found a number of instances in which the dog keepers’ information in the EALES was inaccurate or outdated. As a result, AFCD could not trace the dog keepers and ascertain their identities, let alone taking further enforcement action against offenders. We consider that AFCD should strictly enforce the requirement that dog licensees should notify the Department of change in address as soon as possible. When processing licence renewal applications, AFCD should also ask the applicants to make a written declaration on the veracity of their contact information, and state clearly the possible legal liability for making false declaration. The electronic platform to be developed by AFCD, in addition to allowing veterinary clinics to directly input licence application information, can also include a function to process changes of licensees and updates on contact information of dog keepers.

(III) Need to Review Current Administrative Arrangements

(1) Set time frame for veterinary clinics to submit licence applications

9. In addition to microchipping and vaccination services, veterinary clinics also submit dog licence applications to AFCD on behalf of dog keepers. Nevertheless, processing time for such applications varies among clinics. We consider that AFCD should formulate relevant guidelines requiring veterinary clinics to submit dog licence applications to AFCD within a specific time frame after microchipping and vaccinating the dogs concerned. Moreover, to ensure the accuracy of applicants’ contact information, AFCD should also consider strengthening its liaison with dog keepers. For instance, after completing the processing of an licence application that is submitted via veterinary clinic, AFCD can notify the dog keeper directly of licence issuance by electronic means (such as SMS message to mobile phones or email).

¹ The EALES contains information such as the names, addresses and telephone numbers of dog keepers, and the rabies vaccination history of dogs.

(2) Enhance arrangements with animal welfare organisations for handling lost dogs

10. Animal welfare organisations (“AWOs”) do not have information of registered dog keepers. So, upon catching or receiving a microchipped dog, they can only call AFCD for follow-up action. We opine that there may be omissions in verbal information. To minimise the risk of mistakes, AFCD should strengthen its current communication mechanism with AWOs. For instance, AFCD can allow AWOs to provide information about the dogs they have caught to the Department by electronic communication. Clear records can speed up case processing and facilitate the Department’s examination of evidence and follow-up actions in the future.

(3) Refine arrangements for reclaiming lost dogs by dog keepers

11. Our investigation has found that persons other than the registered dog keepers can take away dogs from the AMCs under AFCD. As such, with respect to the arrangements for reclaiming un-microchipped dogs, AFCD should consider requiring the person who comes forward to reclaim a dog to provide more information to confirm his/her keeper status so that dogs would not be mistakenly taken away.

(4) Handle properly cases of change of licensee

12. There are inadequacies in the handling and confirmation of change of dog licensees by AFCD staff. AFCD should handle such applications prudently, step up staff training and remind staff to verify carefully the information provided by both the new and original dog keepers and obtain the written confirmation of both parties in order to protect their interests.

(IV) Need to Improve Efforts in Reducing Dogs Surrendered by Dog Keepers

13. AFCD has been educating the public and advising them against abandoning their pets. Yet, its practice of accepting dogs surrendered by their keepers may provide opportunities for some dog keepers to evade their legal obligations. The Department indicates that it is considering to stop receiving dogs surrendered by keepers without good reasons. We are of the opinion that before implementing such an arrangement, AFCD must first strengthen the regulation of dog keepers’ obligations under the law, strictly require dog keepers to license their dogs and provide accurate contact information to the Department, and take follow-up actions against dog keepers in breach

of the law (such as abandoning their dogs). In addition to stepping up publicity, AFCD should consider other measures to prompt those dog keepers intending to give up their dogs to think twice and consider thoroughly whether it is their only option. For instance, AFCD can require that dog keepers must make an appointment in advance for going through the formalities of surrendering a dog.

(V) Should Step Up Publicity on Dog Licence Renewal and Updating of Licensee Information

14. Our investigation has found that some dog keepers do not have sufficient understanding of their legal obligations, such as their duty to renew the dog licence or to notify AFCD of change in contact information and change of licensee in a timely manner. We consider that AFCD should step up public education in this aspect.

Recommendations

15. In light of the above, The Ombudsman has made 11 recommendations to AFCD, as follows:

- (1) take appropriate and effective measures to follow up more strictly on suspected violations of law by dog owners and strengthen investigation and evidence collection; in cases where AFCD decides not to prosecute, to consider other administrative measures (such as issuing advices or warning letters to remind dog keepers to observe the statutory requirements) and make relevant records of the cases;
- (2) conduct random dog licence inspections at public places where dogs gather, require dog keepers to license their dogs or renew the licence by a specified deadline, and take enforcement action against non-compliant dog keepers;
- (3) make use of the information in the EALES to send notifications to dog keepers whose dog licence has expired or is about to expire, requiring them to renew the dog licence by the specified deadline. The notification should state outright the legal consequences of non-compliance. AFCD can also consider revising the dog licence application form to clearly inform applicants that their contact

information would be used for the purpose of sending licence renewal notifications;

- (4) require dog licence applicants to make a written declaration at the time of licence renewal applications (including applications submitted via private veterinary clinics) on the veracity of their contact information, and let them understand the legal consequences of making false declaration;
- (5) formulate guidelines to require organisations and veterinary clinics that assist in dog licence applications to submit the applications to AFCD within a specific a time frame after microchipping and vaccinating a dog; start as soon as possible the development of an electronic platform that allows veterinary clinics to submit dog licence applications; and for licence applications submitted via private veterinary clinics, consider notifying the dog keepers directly of licence issuance by electronic means;
- (6) in the long run consider permitting members of the public to submit electronically applications for changing dog keeper contact information and change of licensee;
- (7) strengthen its current communication and liaison mechanism with AWOs, consider allowing AWOs to provide information about the dogs they have caught to AFCD by electronic communication so as to facilitate immediate follow-up by the Department;
- (8) with respect to the arrangements for reclaiming un-microchipped dogs, consider requiring the person who comes forward to reclaim a dog to provide more information to confirm his/her keeper status;
- (9) handle prudently applications relating to change of licensee, step up staff training and remind staff to verify carefully the information of both the new and original dog keepers and obtain the written confirmation of both parties;
- (10) explore more measures to prompt dog keepers intending to give up their dogs to think twice and consider thoroughly whether it is their only option; and

- (11) step up publicity and public education on dog keepers' responsibility to renew dog licence and notify AFCD of change in contact information and change of licensee in a timely manner.

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