

Notes for Independent Review of RSPCA Prosecutions

About The SHG

The Self Help Group for Farmers, Pet Owners and Others experiencing difficulties with the RSPCA (The SHG) is an organisation which was originally set up over 20 years ago to provide support and legal advice to people being investigated or prosecuted by the RSPCA.

We run a help line which provides general and legal advice for people who have run into difficulties in the field of Animal Welfare Law. Usually this involves the RSPCA, and crosses the boundaries between criminal and civil law. We put people in touch with solicitors who are experts in Animal Welfare Law.

The effect of the departure of Gavin Grant

Gavin Grant was not personally responsible for the actions of the RSPCA as a whole. Each individual within that organisation is responsible for what he or she does.

The people with ultimate responsibility for the actions of the RSPCA are the members of the ruling council. It is they who decided to hire Mr. Grant, knowing full well what his policies and character were.

The ruling council could, at any time had they disapproved of Mr. Grant's actions, have ordered him to stop, to change direction, or even fired him

Add to that the fact that the SHG has been in existence for over 20 years, for most of which Gavin Grant had no input into or influence over the RSPCA.

Responsibility lies firmly with the Ruling Council.

Portraying Gavin Grant as the sole cause and effect of all that is wrong in the RSPCA will allow the ruling council to walk away from their responsibilities.

Please see the SHG article discussing the issues raised in the leaked memo at

<http://theshg.wordpress.com/2013/09/20/the-rspca-just-dont-get-it-even-when-they-realise-that-their-brand-has-become-toxic/>

If the RSPCA did not prosecute who would?

Parliament made it very clear in the Animal Welfare Act 2006 (AWA) that the intention was for local authorities to be able to appoint a properly trained 'inspector' who would have all of the powers created by that Act. The police were also given the same powers. The RSPCA were given no powers whatsoever.

Both the police and the local authority have proper complaints procedures which culminate in independent external bodies, the IPCC and the local government ombudsman, providing proper protection for individuals who are being investigated.

The problem inherent in the RSPCA 'piggybacking' on police powers is that these protections for the individual defendant are bypassed. The police often seize animals or obtain a search warrant but do not remain at the premises while the RSPCA search, or the animals are removed.

Then, when people try to find out what has happened the police deny all knowledge or involvement, telling

people that the RSPCA seized their animals and are in charge of the case – even though they will go on to allow the RSPCA use of police interviewing facilities at the police station.

It would be wrong to blame the RSPCA for everything that has gone wrong, both previously with the Protection of Animals Act 1911 and currently with the AWA.

The police and local authorities are only too happy to shelve their responsibilities and will continue to do so while the RSPCA is available not only to investigate and fund any prosecutions and also to take any heat resulting from complaints.

The courts are not an adequate protection against an over zealous and persistent prosecutor. When the CPS was created the police had used the same argument as the RSPCA use now, that they only presented cases to the courts and it was the courts that made the decisions. This was not deemed to be sufficient protection on the grounds that the police could become too involved in the case and too eager to obtain a successful prosecution. A point clearly applicable when a campaigning organisation prosecutes.

At one time the RSPB used to bring private prosecutions. They no longer do so, referring any concerns or evidence they have to the police or other prosecuting authority. They stopped prosecuting because of similar concerns about their prosecutions.

No problems occurred. The proper authorities simply took up the slack. Why should there be any different outcome if the RSPCA stopped prosecuting?

In Scotland, although the SSPCA have powers under the Act, they must submit their cases to the Procurator Fiscal. We receive very few complaints from Scotland.

If the RSPCA stopped prosecuting, or was required to submit any evidence to the police for them to consider sending a file to the CPS, or to the local authority 'inspector' for them to consider first, it would still be open for the RSPCA to bring a private prosecution in those cases where the RSPCA disagreed with the decision.

If the RSPCA did bring a case in such circumstances they should be required to explain to the court why they believe the decision of the proper prosecuting authorities is wrong and obtain permission to proceed. Proper oversight from the CPS should, of course, continue throughout the case.

Private prosecutions brought by the RSPCA are not 'cheap' prosecutions. They utilise police resources, manpower and facilities. There have been concerns raised about the cost to the public purse when costs are paid out of central funds. There is a large cost to the NHS in terms of suicides and mental health.

Suicides, family breakdown, job loss

People have committed and attempted suicide, had nervous breakdowns, become unable to work due to stress and families have broken up.

This is huge cost to the NHS and the country.

The RSPCA do not take into consideration the vulnerability of the people they investigate. When people have committed suicide the RSPCA say that they have a 'duty' to investigate and need to ensure that people are banned from keeping animals in order to protect the animals, no matter how minor the infringement of the Animal Welfare Act may be.

A couple in their late 50's/early 60's were prosecuted over horses. This couple had publicity value because of what they did. A bad winter and other factors beyond their control meant that the horses were deep littered instead of being cleaned out each day. It was clear that the couple were

vulnerable and ill. Husband had a long history of mental illness and self harmed arriving in court with his arms slashed and bleeding. He was taken away in an ambulance. The prosecution tried to persuade the court to proceed in his absence against his wife despite the fact that she was distraught at what had happened to her husband and was in no state to even follow proceedings. His wife then did exactly the same.

After many months and medical reports a 2nd trial took place.

Prosecution costs were in the region of £80,000 and they tried to get the court to put a charging order on the couple's house as this was their only asset and they had no other source of income. Long legal battles followed over this. Eventually the court decided against it although other people have not been so lucky.

The final outcome was £250 costs each and banned from keeping horses. Can appeal ban after 12 months.

Two people came close to committing suicide and still the RSPCA did not give up, nor did they seem to care how much it cost. Where was the help and kindness one would expect from a charity? The offer to send in some volunteers to clean out the horses and help generally?

For those whose animals are pets, these animals are usually part of the family. Sometimes they are the only companion(s) of an elderly or lonely person. If the animals form part of a business then the loss of breeding stock and bad publicity can cause the business to fail even if the people concerned are eventually cleared in court.

Employers and potential employers are approached and told that an investigation or prosecution is ongoing.

Details of the people, their home address and even the case against them seem to leak onto social media sites leading to bullying and harassment. Some people have even had to flee the country for their safety.

Dean and Dianne Webb had to flee the country and are afraid to return home even though they were completely cleared. Note that the RSPCA disposed of £10,000 worth of pedigree cats, some with irreplaceable breeding lines before the appeal was heard.

<http://www.telegraph.co.uk/comment/columnists/christopherbooker/7920217/Did-the-RSPCA-drive-a-man-to-suicide.html>

<http://www.telegraph.co.uk/comment/columnists/christopherbooker/7932214/RSPCA-End-this-cruelty-to-animal-owners.html>

<http://www.dailymail.co.uk/news/article-2334136/SPECIAL-INVESTIGATION-Five-suicides-One-common-thread-They-fell-foul-RSPCA.html>

Targeting of vulnerable people. Disabled. Elderly. Children. Mentally ill.

The RSPCA refuses to act in the same way as charities such as the Cinnamon Trust <http://www.cinnamon.org.uk/home.php> or Help the Aged who work to keep elderly people and their (often) elderly animals together. Many prosecutions brought by the RSPCA could be avoided if only a little help was given. A dog could be groomed or treated for fleas instead of being removed from someone who is elderly, housebound and has health problems such as arthritis. The difference in approach between the Cinnamon Trust and the RSPCA.

A woman in her 80's who had 8 whippets and had never been in court in her life was prevented

from seeing her much loved dogs, which were being held by the RSPCA, because *the dogs* became too upset when she left after visiting them. Surely evidence of the bond between owner and dogs? Prosecution costs were about £69,000. Costs awarded were £250. The woman eventually received a conditional discharge.

People generally are prevented from visiting their animals while they are awaiting not only prosecution but a decision on whether they will be prosecuted. These are still their animals, their property. The heartache this causes is immeasurable. Especially if the animal in question is elderly and dies or is a puppy and grows up before the case is determined.

People may be told in the middle of their trial that their animal has died while in RSPCA care. No allowance is made for the emotional distress this causes, and they are expected to carry on as if nothing had happened.

In the case of Annette Nally not only did the RSPCA provide details of the wrong dog in court, they admitted the dog had been dead for about six months, and although they promised Annette her dogs body back they later admitted that they had lost it. Annette was found not guilty of any offence.

<http://the-shg.org/08%20February%202008.pdf>

Difficulty in contacting RSPCA during an investigation

Once animals have been removed the only means of contacting the RSPCA is their help line. Messages are left for the RSPCA inspector who does not then contact the people involved, sometimes for weeks on end. When they do make contact it is to demand an interview..

The Inspector refuses to allow visits to the animals.

The Inspector refuses to allow veterinary inspection by a vet of the people's choice.

The Inspector is said to have gone on holiday or is on sick leave and no-one else can deal with the case.

All of this damages any potential defence case.

Trespass, sign over, cautions

People often find the RSPCA in their fields or in their outbuildings. They refuse to leave when asked. This is trespass.

Great pressure is applied to get people to sign over animals. Especially animals that will be easy to sell. People are told that unless they sign over some of their animals the RSPCA will be back with the police and take all of their animals. They are told that they will be arrested. They are told that they will have to pay incredibly high costs to the RSPCA for keeping their animals. They are not told that they will only have to pay what the court orders if they if they are found guilty.

If we sold you double glazing in your home there would be a cooling off period during which you could cancel our agreement. The reason for this is the vulnerability of a person in their own home.

How much more vulnerable are people faced with an RSPCA inspector in police style uniform? Or a number of RSPCA employees and police during a raid? With no chance of obtaining legal advice? There are cases going through the civil courts with people acting as litigants in person desperately trying to overturn signing animals over under such circumstances.

Animals are removed by trickery. An RSPCA inspector will say “Please can I take your dog (cat , whatever) to a vet just to put my mind at rest – you won't have to pay for it” So a trusting and reasonable person allows this to happen. What they don't realise is that they will not see their animal again because they are going to be prosecuted.

People are sometimes persuaded to sign a caution admitting their guilt. They may do this against legal advice, or without any advice because they have been told they can have their animal back if they sign. When the animal is elderly or very young the prospect of long incarceration in kennels while a case is prepared and brought to court means that it could die or grow up in kennels away from its owners. We know of many people who have made this decision.

In one case a judge stopped the prosecution as they tried to introduce evidence that 2 RSPCA inspectors had administered a written caution to the person they were questioning. He pointed out that it was unlawful for this to be administered by anyone other than a policeman.

The problem is that people do not realise that the caution was unlawful. So they go through the rest of their lives not volunteering because they would have to face a CRB check. Not applying for jobs where they would work with vulnerable people, declaring it for insurance purposes and so paying more than they need. Not travelling to countries where they would have to declare it for visa purposes. Their lives are disrupted. Their careers derailed. Their futures blighted.

Disposal of animals or neutering before the case is heard

The RSPCA regularly applies to the magistrates for permission to dispose of animals before the trial itself is heard. There is no legal aid available for these hearings because they are civil applications in the magistrates court, so people often go to court without legal representation.

A couple who were driven out of the country as a result of the pre-case publicity were cleared on all charges. They could not have their £10,000 breeding stock of pedigree cats back. The RSPCA had neutered and sold them. They had applied to the court under S.20 and won. The couple appealed. The criminal trial took place before the appeal hearing. The RSPCA had gone ahead with the disposal of the animals despite the fact that the lodging of the appeal should have suspended any previous court orders. The couple are now taking expensive civil action to try and obtain redress.

<http://www.telegraph.co.uk/lifestyle/pets/10206462/Couple-forced-to-flee-UK-after-false-RSPCA-claim.html>

[Also note that there is no legal aid available either to make a S. 20 AWA application for return of animals or to defend an RSPCA application to dispose of animals. This is not the only case where people have proved their innocence but have lost their animals..](#)

Attacks on experts and legal representatives in the form of complaints to professional standards bodies.

This has received enormous publicity recently. It has made it very difficult for people to find legal representation or expert witnesses who are prepared to risk their future by standing against the RSPCA.

It is not only the professionals who are bullied by the RSPCA. For instance, German Shepherd Rescue were threatened with action for breach of copyright for using the acronym 'RSPCA'. How could any newspaper write an article about the organisation without naming them?

<http://the-shg.org/08%20October%202009.pdf>

Problems associated with a campaigning body acting as the main prosecutor for animal welfare offences

An example of the difference between a professional approach and the approach of a campaigning organisations is the case of a ten year old boy who befriended a jackdaw which had been dive bombing children at his school. The RSPCA visited the family and said that the bird would have to go. It took the intervention of the police wildlife officer to declare that the bird had become imprinted and so it would be dangerous to the bird if it was released into the wild. Common sense prevailed.

http://www.sunderlandecho.com/news/local/home_tweet_home_as_jackdaw_jack_becomes_a_bird_of_stay_1_3356932

It is difficult to see how an organisation that believes many of the activities it is investigating should be prohibited, and many of the types of animals should not be kept, can claim to be a fair and objective prosecutor.

Cases taken over by CPS

The RSPCA have said that they have a duty to investigate and prosecute, that they comply with the Code for Crown Prosecutors and have never had a case taken over by the CPS, whose job it is to quality control private prosecutions. This is not exactly true. Before the Parliamentary debate on RSPCA prosecutions the RSPCA had been ordered to drop a charge by the CPS in a case that we were involved in against a dog rescue charity.

It is strange that the Attorney General appeared not to know about this fact although we do not, of course, know if he depended on the RSPCA to provide the information he quoted on the CPS investigating and taking over RSPCA prosecutions.

Some CPS local offices appear to get the impression that the RSPCA is a 'prosecuting authority'.

<http://theshg.wordpress.com/2012/02/14/are-the-rspca-a-prosecuting-authority-or-not/>

The case that prompted this article involved a dog rescue organisation which was completely cleared in court, and the CPS ordered the RSPCA to drop one of the charges – had there been time to continue discussions with the CPS before the final hearing it is possible that the case would never have gone to court.

The RSPCA regularly prosecute vulnerable people. The disabled, the elderly, children and the mentally ill. We maintain that these are all people who would not be prosecuted by the CPS in such circumstances as it would be in breach of the public interest test in the Code for Crown Prosecutors.

We also have to ask how a campaigning body which often opposes the very activity it is investigating can be unbiased in terms of CPS guidelines?

The CPS is, finally, becoming more willing to look at RSPCA prosecutions but it has taken a long campaign and many requests from our clients. Other cases are now being investigated by the CPS and some have been dropped.

Targeting rescues seen as competitors for funding

Any quick search of social media or forums discussing animal welfare will show the distress that people running small sanctuaries feel when the RSPCA is mentioned. They and their supporters believe that they are likely to be targeted if they criticise the RSPCA, if they are seen to be too successful in fund raising, or

if a high profile raid is needed to drive an RSPCA publicity campaign.

There are many examples. The dog rescue mentioned earlier. Rosedene Rescue. Pat Seager. These people and their supporters are not likely to trust the RSPCA again.

The right to bring a private prosecution

The traditional right for any individual to bring a private prosecution originally saw two individuals of relatively equal standing and wealth pitted against each other.

We suggest that the prosecution of an often impecunious individual, whose understanding of the law may be limited, by a wealthy campaigning organization more akin to a multi-million pound business than a charity creates such an inequality of arms that a fair trial is never possible

The defendant may not even be legally represented, or represented by a solicitor who is not a specialist in animal welfare law.

The defendant may not have an expert witness. They are usually people who have never been in court before. People who believe that if they just explain what happened everyone will understand.

We believe that the right to prosecute animal welfare offences should be limited to specified prosecutors or the police. Special interest groups whose prosecutions are tainted by political campaigns or the belief that the activities they are investigating and prosecuting should not be legal should not be allowed to bring private prosecutions or to be involved in any way.

RSPCA statistics

The RSPCA will tell you that they have a 98% success rate in their prosecutions. Note that in the Parliamentary debate it was suggested that the RSPCA might be boosting their success rate by including cautions.

The SHG has looked at RSPCA statistics before and found them wanting.

From peer reviewed criminological research published in "Crime, Law and Social change 55, 5(2011) 375-389"

“Despite the plethora of legislation since the nineteenth century, there remains little systematic statistical evidence regarding trends and patterns in recorded animal abuse. As Pierpoint and Maher ([35] pp.485-6) note, the little that is known about the prevalence of reported animal abuse is derived from court records and animal welfare charities. Throughout this period it would appear that the RSPCA has consistently brought the majority of prosecutions to the courts. However, there is a major evidential hole awaiting any attempt to assess systematically the trends in prevalence of animal abuse both over time and cross-sectionally at any given time in Britain. Most significantly, it was accepted by the Secretary of State for Environment, Food and Rural Affairs in the post-legislative assessment of AWA in December 2010 that there was no national enforcement database regarding the enforcement of the Act despite the original intention of this being part of a regulatory impact assessment [11].

Furthermore, animal cruelty offences recorded by the police are not collected by the Home Office – we therefore have little other than anecdotal testimony in the absence of sustained criminological research to rely on in dealing with the seeming growth in the problem, for example, of abuse of dogs and their involvement in crime and anti-social behaviour (see Hughes et al. [26]).

http://peer.ccsd.cnrs.fr/docs/00/68/77/38/PDF/PEER_stage2_10.1007%252Fs10611-011-9292-7.pdf

It is false economy if the system in place forces people into the position of feeling that they have to appeal the original judgement.

The number of defendants who pleaded not guilty in prosecutions brought by the RSPCA is almost 3 times greater than that in prosecutions brought by the CPS, the number of defendants who appealed in prosecutions brought by the RSPCA is almost 3 times greater than in prosecutions brought by the CPS and the number of defendants who were successful in their appeals in prosecutions brought by the RSPCA is over 4 times greater than successful appeals in prosecutions brought by the CPS.

A copy of the EFRA submission containing these figures can be found at:

<http://the-shg.org/Final%20reply.htm>

See also <http://the-shg.org/Shgawb.htm>

From <http://the-shg.org/6th%20August%202007.pdf>

Anyone who has seen the figures recently released by the RSPCA would believe that the introduction of the Animal Welfare Act 2006 has caused a 20% drop in convictions when comparing the years 2005/6.

A glance at the graph below shows this to be completely untrue. Conviction rates have been falling steadily since 1998. The exception to this trend was the dramatic rise in 2005 followed by a return to steady falls as reflected in the 2006 figure

[. . .]

Ernest Vine of the SHG said: “What we really need to know is what caused the dramatic rise in convictions during 2005. Did the massive publicity the RSPCA received during the run up to the introduction of the Animal Welfare Act have an affect on the decisions made by Magistrates? If so, this illustrates the dangers of allowing a politically campaigning organisation to bring prosecutions without the sort of scrutiny and checks imposed on police investigations by the Crown Prosecution Service.”

From <http://the-shg.org/03%20Oct%202006.pdf>

The RSPCA claims that cruelty figures have risen. Their own figures for the past ten years show that cruelty convictions are actually lower now than in 1995. (Sheet 2).

It is clear that the figures released by the RSPCA have, at best, been misunderstood.

Perhaps of more relevance to the issue of prosecutions that has been triggered by the Heythrop Hunt prosecution, from

<http://theshg.wordpress.com/2012/12/18/they-say-you-get-the-legal-service-you-pay-for>

Gavin Grant of the RSPCA claims a 98% success rate in cases they bring and claims that the RSPCA prosecuted the Heythrop Hunt themselves because the CPS returns cases to them on the grounds that there is not sufficient evidence.

The RSPCA claim to apply the Code for Crown Prosecutors. Clearly they apply it in a very different way from the CPS.

There are questions to be answered:

How many cases have the RSPCA referred to the CPS?

Did they refer them directly or via the police?

What do the CPS say about the cases they refused to prosecute?

What does this say about the cases the RSPCA bring regularly in the courts?

How does the claimed 98% success rate vary between unrepresented Defendants, Defendants represented by a local solicitor and Defendants represented by specialist solicitors, barristers and expert witnesses?

How many of the claimed 98% lost by default because they misunderstood and [failed to attend the first hearing](#)?

What check is there on the RSPCA's claimed success rates? Criminological research certainly [casts doubts on some of their claims](#).

This prosecution highlights the dangers of allowing campaigning organisations to act as prosecutors with the inevitable damage to the public perception of the law and the legal system.

The Potential for an Independent Reviewer

The SHG has been campaigning for proper control over the RSPCA and its activities.

During the review of the Charities Act we suggested that a Charities Ombudsman with the powers to investigate and deal with the wide range of complaints that are not within the remit of the Charities Commission. Even such minor problems as being unable to contact the people concerned to find out what has happened deserve proper consideration and to be properly addressed. We receive many complaints about the RSPCA help line and the unavailability of inspectors when people need to know what has happened to their animals or they need to arrange access for their vet.

<http://the-shg.org/Charities%20Act%20Review%20Consultation.htm>

The then head of the Charities Commission, Dame Suzi Leather also supported this idea, but Parliament decided against it.

We see no evidence that Parliament would be any more receptive to the creation of either a general Charities Ombudsman or a more specialist RSPCA Ombudsman. Nevertheless, the SHG would certainly support either providing they were an independent government organisation.

There is no need for such an independent regulator to be publicly funded. Other industries are expected to fund their regulators as part of the cost of being allowed to operate.

Can the RSPCA turn itself around in terms of prosecutions?

Our view is that the damage has been done. Even we are surprised at the anger and hostility expressed towards the RSPCA by people who support animal welfare, let alone their traditional opponents.

<http://www.petforums.co.uk/introductions/244095-hello-rspca-166.html>

We believe that the RSPCA should stop prosecuting and leave it to the professionals.

Further information

We have only touched on the surface of the many problems inherent in RSPCA prosecutions.

There are issues such as witness coaching, independent vets who go to work for the RSPCA as soon as the case they were giving evidence in has ended, and the way people are told that if they plead guilty their child/spouse/other vulnerable individual will not be prosecuted.

In one case where the RSPCA had clearly broken the law they produced a document in court which they said they had filled in to give themselves permission to break the law!

Please see the following for further information:

SHG

<http://the-shg.org>

RSPCA-Animadversion

<http://rspca-animadversion.org.uk>

The SHG Blog

<http://theshg.wordpress.com>

SHG Press releases

<http://shgpressreleases.wordpress.com/>

Archived Press Releases

<http://the-shg.org/SHGPressReleases.htm>

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The SHG