

OIA24-0711

11 February 2025

Grace Haden  
fyi-request-28229-00c63c84@requests.fyi.org.nz

Dear Ms Haden

Thank you for your email of 29 August 2024, to the Ministry for Primary Industries (MPI), requesting information relating to SPCA accountability and prosecutions. Your request has been considered under the Official Information Act 1982 (OIA).

I apologise for the delay in responding to you. This delay is due to an administration error.

As you are aware, the Royal New Zealand Society for the Prevention of Cruelty to Animals Incorporated (SPCA) holds 'approved organisation' status under section 189 of the Animal Welfare Act 1999. An approved organisation may recommend individuals to be appointed as inspectors for the purposes of the Act.

I shall respond to each part of your request below:

1. *What policies and protocols govern the RNZSPCA's access to private property, specifically in circumstances where the owner of the property was either not notified of a visitation or otherwise absent from that property?*

The Animal Welfare Act 1999 and, in some circumstances, the Search and Surveillance Act 2012, govern inspectors' powers of entry onto private property.

Power of entry onto private property is specifically outlined in the following acts:

- S127 of the Animal Welfare Act 1999  
[https://www.legislation.govt.nz/act/public/1999/0142/latest/DLM51259.html?search=w\\_096be8ed81d3ba07\\_127\\_25\\_se&p=1&sr=2](https://www.legislation.govt.nz/act/public/1999/0142/latest/DLM51259.html?search=w_096be8ed81d3ba07_127_25_se&p=1&sr=2)
- S110 Search and Surveillance Act 2012  
<https://www.legislation.govt.nz/act/public/2012/0024/latest/DLM2136804.html>

2. *How often can the RNZSPCA visit a property before it is considered harassment?*

This appears to be a request for comment, rather than a request for official information. Under the OIA, an agency is not obliged to form an opinion. You may wish to seek your own legal advice on this question.

3. *What records are kept with respect to complaints being made against RNZSPCA inspectors?*

The Memorandum of Understanding between MPI and the SPCA (a copy of which you already hold) provides that if either party receives a complaint about the other's staff, it will refer the complaint to that other party for investigation.

MPI Animal Welfare Compliance's general call log includes a note of complaints received about SPCA inspectors and transferred to SPCA for investigation.

MPI does not hold a record of complaints made directly to SPCA, about SPCA inspectors.

4. *How many complaints against RNZSPCA inspectors have been made in the last five years?*

Our records show that between 2020 and 2024, MPI received 22 complaints about SPCA inspectors. Please note, as mentioned above MPI only hold information on complaints made directly to us.

a. *What types of complaints have these been?*

Twenty of the complaints related to investigations or enforcement action taken by the SPCA. One alleged a lack of support by SPCA to other rescue organisations. One complaint alleged that an SPCA veterinarian had allowed a vet nurse to castrate three cats.

b. *How many complaints have been upheld in that same period?*

MPI does not hold this information. Therefore, this part of your request is refused pursuant to section 18(g) of the OIA, *as the information requested is not held by the department or venture or Minister of the Crown or organisation and the person dealing with the request has no grounds for believing that the information is held by another government agency.*

However, the SPCA has advised MPI that none of the complaints referred by MPI for investigation have resulted in a recommendation by SPCA for the Minister to revoke an inspector's warrant.

5. *Prosecutions by the RNZSPCA are private prosecutions and are recognised by the supreme court as such SC 58/2019 [2020] NZSC 97 documents are not filed in compliance with the requirements of the criminal procedure act (CPA) S26 because the matter goes through a crown prosecution and masquerades as a crown prosecution.*

- a. *What considerations / dispensations have been given by MPI that this is not in line with the requirements of section 13 CPA and section 26 and a breach of the fair hearing provision of the bill of rights S 25 (a)?*
- b. *Please provide all correspondence, policies and information which you hold with regard to the crown undertaking such prosecutions despite the limitation due to the definition "private prosecution" is defined in s 5 of the Act essentially as a prosecution that is not a public prosecution nor a prosecution "commenced by or on behalf of a local authority, or other statutory public body or board."*
- c. *Please provide the legal references relied on to consider the RNZSPCA be considered a local authority, or other statutory public body or board.*
- d. *If such evidence exists, please provide evidence that has been taken to correct the supreme court decision referred to above at [126] The range and nature of private prosecutors and prosecutions is wide and varied. In its 2000 report on criminal prosecutions, the Law Commission identified five categories of private prosecutors -(c) organisations accepted as having an interest in enforcing particular statutes, such as the Society for the Prevention of Cruelty to Animals (SPCA);*

This question, and the sub-questions included with it, are more closely connected with the activities of the SPCA rather than MPI. However, as the SPCA is a private incorporated society, it is not subject to the OIA and therefore MPI is unable to transfer this part of your request under the OIA. MPI does not hold information which would fall within scope of your request. You have previously asked MPI similar questions, see our letters to you dated 6 September 2022 (OIA22-0654), 1 November 2022 (OIA22-0774) and 4 July 2023 (OIA23-0318).

MPI understands that you have raised concerns with the Attorney-General and with Crown Law regarding Crown Solicitors representing the SPCA and that Crown Law has responded to you (refer to letters to you from Crown Law dated 19 July 2021, 15 May 2024, and 19 June 2024, which are available on the FYI website).

Therefore, As the SPCA is not subject to the OIA and MPI does not hold the information requested, this part of your request is refused pursuant to section 18(g)(i) of the OIA, *that the information requested is not held by the department or venture or Minister of the Crown or organisation and the person dealing with the request has no grounds for believing that the information is held by another department (for itself and for a departmental agency hosted by it or an interdepartmental executive board serviced by it) or interdepartmental venture or Minister of the Crown or organisation, or by a local authority.*

Should you have any concerns with this response, I would encourage you to raise these with the Ministry for Primary Industries at [Official.InformationAct@mpi.govt.nz](mailto:Official.InformationAct@mpi.govt.nz). Alternatively, you are advised of your right to also raise any concerns with the Office of the Ombudsman. Contact details are: Office of the Ombudsman, PO Box 10152, Wellington 6143 or at [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Glen Burrell', with a stylized, cursive script.

Glen Burrell  
**Director Compliance and Response**