



RECOMMENDATIONS Q1 (2021)

5 RECOMMENDATIONS PRESENTED TO
HON ANTON REFALO
(MINISTER FOR AGRICULTURE,
FISHERIES, FOOD AND ANIMAL RIGHTS)

BY

THE OFFICE OF THE COMMISSIONER
FOR ANIMAL WELFARE

Recommendations were made between
December 2021 and March 2021

COMMISSIONER'S NOTE



When I was first appointed Commissioner for Animal Welfare in November 2020, it soon became clear that the general public confuses the role of Commissioner for Animal Welfare with the role of the Director of Animal Welfare Directorate.

Since my appointment also coincided with the resignation of the Director of the Animal Welfare Directorate (with no replacement to date), this misconception and confusion of roles was further engrained in people's perceptions.

In addition, media reports referring to the Commissioner of Animal Welfare as Czar or Top Chief, further contributed to the delusion that as Commissioner for Animal Welfare, I should, and can implement government policies, provide investigative resources, and process individual reports of abuse or neglect.

In reality, the main function of The Commissioner for Animal Welfare, is purely consultative. As specified in The Animal Welfare Act CAP439 Article 44A (2e) :

"The Commissioner for Animal Welfare is to make recommendations to the Minister and the Council on the making of standards, guidelines and regulations relating to animal welfare."

In fulfilment of this function, this report includes the five official recommendations that were made by my office, to Minister Anton Refalo between December 2020 and March 2021.

In addition to these recommendations, The Office of the Commissioner for Animal Welfare fully endorses the suggestions and amendments recommended by the Animal Welfare Council, namely in The Keeping of Wild Animals in Zoos Regulations, and Regulation of Dog/Cat breeding establishments.

A handwritten signature in blue ink, appearing to read 'Alison Bezzina'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Alison Bezzina
Commissioner for Animal Welfare



RECOMMENDATION 1

Enable the Director of Animal Welfare Directorate and Veterinary Regulations Directorate to temporarily ban someone from keeping more animals after a confiscation. This ban would apply until the court decides otherwise, or confirms decision.

RECOMMENDATION 2

Increase the sizes of dog enclosures that are legally acceptable by law

RECOMMENDATION 3

*On Friday 26th March it was announced that this recommendation will be implemented after the Easter Holidays

Amend the law to give the court a wider possibility to ban people found guilty of animal cruelty from owning other animals.

RECOMMENDATION 4

Dogs should not be permanently kept on roofs, garages, and yards.

RECOMMENDATION 5

*The public consultation on this matter closed on 7th December 2021. It is understood that the results are still being reviewed.

Stop cub petting in zoos.



RECOMMENDATION 1

Enable the Director of Animal Welfare Directorate and Veterinary Regulations Directorate to temporarily ban someone from keeping more animals after a confiscation. This ban would apply until the court decides otherwise, or confirms decision.

Current Situation:

CAP439, 44B gives the Director of Animal Welfare or Veterinary Regulations the right to confiscate animals that are in imminent danger or for other grave reasons. Confiscations are few and far between and are not done lightly. Many a time, confiscations are followed by a court case.

The Problem:

Court cases take long, sometimes years. And yet, once someone has had their animals confiscated by Animal Welfare there is nothing that stops them from getting more animals as of the next day. This results in more cruelty to more animals and because bad owners don't change overnight, it usually also translates into more inspections and more confiscations by the Animal Welfare Department and/or VRD.

One such example is that of Mr. Sergio Borg. In a period of a single year, Animal Welfare have had to confiscate his animals multiple times, each time at great cost to the department in terms of time and resources, and at the cost of more animals suffering.

Sadly this is not an isolated case.

Commissioner's Recommendation:

Following a confiscation, the Director of Animal Welfare or Veterinary Regulations should have the power to temporarily ban a person from owning or keeping any animals at least until the court case is concluded, after which the court can decide to uphold or dismiss the Director's decision.



RECOMMENDATION 2

Increase the sizes of dog enclosures that are acceptable by law

Current Situation:

According to SL. 439.21 Schedule (Regulation 4.2) the minimum space per dog enclosure must never be less than the sizes indicated in this table



Withers height of dog	Minimum floor area	Minimum length of shortest side
<30cm	(1+N) x 1m sq	1m
30-50cm	(1+N) x 1.2m sq	1.2m
>50cm	(1+N) x 1.5m sq	1.2m

(N refers to the number of dogs in the same enclosure)

In practice this means that keeping a medium sized dog (15kg) such as a fox terrier whose wither is around 30cm or less, in an enclosure that is 2m X 1m, is deemed acceptable by law.

For reference, this is what a 2mX1m enclosure looks like and even though it is clearly too small, the same law specifies that an enclosure of this size shall be provided with a sleeping area and an exercise area!



RECOMMENDATION 2...CONTINUED

Increase the sizes of dog enclosures that are legally acceptable by law

The Problem:

Clearly such a restricted area cannot possible provide a sleeping and exercise area, and moreover goes against another part of the Animal Welfare Act, specifically Cap 439(8)(4) which says ".....animal needs include the provision of suitable environment... allowance for the animal to exhibit normal behavioural patterns, provision of suitable housing....."

Moreover, S.L 439.21 (Keeping of Dogs regulations) 3(1) which prohibits tethering or restraining of a dog "to any stationary object...." was introduced because such restrains are considered cruel. Whilst an enclosure does not restrain a dog to a stationary object, if not big enough, as is suggested by the dimensions specified in SL. 439.21, it is just as restrictive, and cruel, if not more.

Commissioner's Recommendation:

It is therefore my recommendation that the minimum enclosure size is drastically revised (increased) to make enclosures are more humane, more in line with the spirit of the law, and less contradictory to other parts of same law.



RECOMMENDATION 3

*On Friday 26th March it was announced that this recommendation will be implemented after the Easter Holidays

Amend the law to give the court a wider possibility to ban people found guilty of animal cruelty from owning other animals.

Current Situation :

S.L 437.101 (Legal Notice 199 of 2011) – (5)(g) specifies that “Any person convicted of cruelty to animals shall be forbidden from owning a dog or applying for a further dog license for such a period as may decided by the court.”

This was a great addition to the law, but since it was written specifically under S.L. 437.101 which deals with Electronic Identification of Dogs Regulations, it can only be applied by the courts if the charges includes a breach of this particular S.L.

The problem:

In practice therefore, if a perpetrator is found guilty of animal cruelty but not of breaching S.L. 437.01 (i.e. not microchipping their dog), the courts cannot apply this ban regardless of how hideous their crime against animals is.

In her sentencing document dated 22nd February 2021, in the case against Kevin Spiteri (who in a rage threw his dog down two storeys and killed it), Magistrate Dr. Donatella M. Frendo Dimech highlighted this anomaly in the law and explained how it stopped her from imposing a well-deserved ban on Mr. Spiteri from ever owning any animals.



RECOMMENDATION 3...CONTINUED

Amend the law to give the court a wider possibility to ban people found guilty of animal cruelty from owning other animals.

Extract from the Final Sentence - Police Vs Kevin Spiteri (Feb 2021) -
Magistrate Dr Donatella M. Frendo Dimech :

"Finally, this Court cannot but observe that despite the severity of the offences provided for under the Animal Welfare Act, this Act does not provide for any similar sanction as existing under Regulation 5(9) of the Electronic Identification of Dogs Regulations, (S.L. 437.101), wherein a person who is found guilty of an offence of animal cruelty may be prohibited from keeping a dog for that period which the Court deems adequate.

In cases such as the current one, a person has shown that never during his lifetime should he be trusted with keeping any animal, this Court is precluded from giving a similar order as the Animal Welfare Act does not provide for any similar sanction as a consequence of a guilty verdict under that Act."

Commissioner's Recommendation:

My recommendation is that the law is changed in a way that gives the court a wider opportunity to impose this ban wherever cruelty, abuse or neglect of animals is involved, and not only a ban on the ownership of dogs but on the ownership of all animals.

It is also recommended that when such a ban is imposed on anyone, no one in their household would be allowed to own animals either.

According to sought legal advice this can be achieved by including a well written clause in the principal Animal Welfare Act CAP 439.

Courts should have the opportunity to impose this ban from the first conviction.



RECOMMENDATION 4

Dogs should not be permanently kept on roofs, garages, and yards.

Current Situation:

Dogs are highly social animals. Humans have made them so when they domesticated them over thousands of years.

The Animal Welfare Act (CAP 439), takes this into consideration when it rightly so refers to the universally accepted five freedoms.

CAP 439 (8)(4) states "....animal needs include the provision of suitable environment, provision of a healthy diet, allowance for the animal to exhibit normal behavioural patterns, provision of suitable housing, segregation from other animals where necessary and protection from pain, suffering, injury and diseases."

The Problem:

Many dogs in Malta and Gozo are kept on roofs, yards, and garages with very little human interaction. Dogs that are left in isolation with little to no companionship can develop severe emotional distress and sometimes even physical conditions. Lack of social bonding often leads to a depressed immune system which increases the chance of illness. In essence, left in isolation, even when provided with adequate shelter, food and water, can lead to weakness, aggression, depression and poor health.

Dogs are domestic animals and the very definition of the word 'domestic' refers to the running of a home and family relations. A yard, a roof or a garage are not part of any home; they are usually just an extension of it, reserved for unwanted stuff or stuff that needs to be kept out of sight.

In addition, dogs left alone on roofs, yards and garages are the number one cause of animal-related public disturbance.

Clearly this should not be a dog's permanent home and as protectors of all animals, the Animal Welfare Directorate should not be condoning or even closing an eye on this practice.



RECOMMENDATION 4...CONTINUED

Dogs should not be permanently kept on roofs, garages, and yards.

Commissioner's Recommendation:

CAP 439 (8)(4) of the Animal Welfare Act clearly states that suitable housing and adequate environment should be provided at all times, for all animals.

Given that a dog is a domestic animal that craves human companionship, a suitable environment should be interpreted to include adequate human companionship, and a yard, a garage or a roof should not be considered adequate.

Animal Welfare Officers should therefore be trained and instructed to interpret the law in its true spirit and discourage owners from keeping their dogs on roofs, garages or yards.

The punishment established in the AW Act applies to those who do not provide a suitable environment for their dog, and without adequate human companionship, there is no suitable environment.



RECOMMENDATION 5

*The public consultation on this matter closed on 7th December 2021. It is understood that the results are still being reviewed.

Stop cub petting in zoos.

Current Situation:

Zoos allow wild cubs to be pet and bottle-fed by the general public including children. This is usually advertised at a price and offered with a photo opportunity.

The Problem:

As stated in a report written by Commissioner Denis Montebello, in collaboration with Four Paws International, back in August 2020, "...the petting of wild cubs, has no conservation benefits, is of no benefit to the animals and could cause psychological and sometimes even physiological problems long term."

Unlike domestic animals, even if a wild animal is born in captivity, their species requirements have not developed to a point where direct interaction with the public can be beneficial in any way.

Commissioner's Recommendation:

Regulation 4(8) of the Draft Legal Notice (The Keeping of Wild Animals in Zoos Regulations) should revert back and published how it was originally proposed on 9-11-2020

It should read as per below and enforced accordingly :

"The zoo keeper will be responsible for the health and welfare of the animals under his care. For this reason, no animal or cub will be exposed to or handled by the public with the scope of petting or taking pictures or any other interaction, since this may compromise the normal mother/cub relationship and may also compromise the psychological integrity of the animal and the safety of the public."



FINAL NOTE

“It takes nothing away from a human to be kind to an animal. But it does take education, awareness, and proper enforcement of the law.”

In addition to the aforementioned five recommendations The Office of The Commissioner for Animal Welfare has also dealt with countless reports from the general public, launched two educational books for primary school children, participated in numerous media interviews, and embarked on a strategic social media campaign to promote different aspects of animal welfare.

It is our steadfast belief, as an office, that educating the public and raising awareness is key to reducing cases of abuse and neglect organically. When law enforcement works hand in hand with this educational effort, a significant difference in the lives of animals will be made and felt.

I hereby take the opportunity to thank every member of my team for their collaboration and motivation to make a difference. Without their experience and knowledge, I would not have been able to hit the ground running as Commissioner.



Alison Bezzina
Commissioner for Animal Welfare

