

## **Barristers Animal Welfare Panel**

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**Senate Education, Employment and Workplace Relations Committee Inquiry into higher education and skills training to support future demand in agriculture and agribusiness in Australia**

**Submission by Barristers Animal Welfare Panel**

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## Introduction

1. This submission addresses the term of reference: “the incorporation of animal welfare principles in agriculture education”. The burden of the submission is that proper animal welfare principles are insufficiently incorporated in agriculture education, if at all, and that it is in the wider public interest that they be so. This serious omission partly reflects long-standing attitudes in our agricultural sector to the proper treatment of animals, despite growing community and consumer concern about industry practice and animal welfare. Partly this omission reflects the insufficient protection of welfare standards by animal protection laws with their widespread subversion by codes of practice drawn up by federal and state agriculture ministers and their departments to serve or protect industry practice where it conflicts with animal welfare. Entrenched attitudes are thus nurtured and perpetuated by the law and the lobbying of industry bodies rather than an openness to the examination and adoption of improved or best practice. Remedial legislation if enacted would be likely slow in any event to change such entrenched attitudes, even assuming proper enforcement. Outmoded attitudes and inhumane practices are common. And in respect of such protection as there may be under such laws, there is little enforcement. Self-evidently, a law unenforced stands to be a law unobserved. It is thus by education that tomorrow’s generation of producers can be at least challenged to think about better welfare, and gradually adopt proper practice. In nearly any profession or business activity, desirable or best practice and standards are intrinsic to a course curriculum. But that it is not so in the significant case of agriculture education.
  
2. The OIE, the World Organisation for Animal Health, defines “animal welfare” as follows in the introduction to its recommendations for animal welfare:

*“Animal welfare means how an animal is coping with the conditions in which it lives. An animal is in a good state of welfare if (as indicated by scientific evidence) it is healthy, comfortable, well nourished, safe, able to express innate behaviour, and if it is not suffering from unpleasant states such as pain, fear, and distress. Good animal welfare requires disease prevention and veterinary treatment, appropriate shelter, management, nutrition, humane handling and humane slaughter/killing. Animal welfare refers to the state of the animal; the treatment that an animal receives is covered by other terms such as animal care, animal husbandry, and humane treatment.”<sup>1</sup>*

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1 OIE, Terrestrial Animal Health Code, art 7.1.1.

Plainly, “good animal welfare” travels well beyond routine animal husbandry and basic physical health.

3. Unfortunately, agriculture education in Australia would appear to commonly equate the notion of “animal welfare” with compliance with existing and seriously deficient legislative or other regulatory standards for animal health and management. As it is, codes of practice by their own terms only provide for ‘minimum standards’. So what is the broader complaint in this respect?

### **The deficient legal regime**

4. Simply put, State (and also federal) animal protection laws largely fail to protect animals. In fact, they institutionalise widespread animal suffering. Why? Because they, in effect, exempt the overwhelming mass of animals from their protection. How? By sanctioning "codes of practice" - usually favouring the interests of producers over animal welfare - as a defence or exemption from prosecution under the act. For example, the Code of Accepted Farming Practice for the welfare of poultry permits the confinement of a battery hen on a floor area about three quarters the size of an A4 sheet of paper. Such enduring close confinement would ordinarily fall within one of the act's cruelty offences.
5. As such confinement complies with the relevant code of practice, however, the act does not apply. In Victoria, for example, the act defines a "farm animal" to include "cattle, sheep, pigs, poultry". This means, for example, that intensively confined pigs and poultry may be exempted from the act's reach. Yet this is where acute suffering occurs daily. And in enormous numbers. Contemplate the sow's plight in a gestation stall or farrowing crate - Australia-wide about 250,000 annually. Or the plight of the nation's battery hens - 11 million annually. Or that of meat chickens - some 488 million annually. The challenge, then, also lies in the suffering of hundreds of millions of the nation's animals every year. Ultimately, to allay it will require the unqualified acknowledgement in these animal-protection statutes that animals should be treated humanely.
6. Who is responsible for initiating and creating these "codes of practice"? In Victoria, for example, it is the Minister for Primary Industries and his department - the very people charged under the act with its administration and enforcement.

Codes are produced within the Australian Primary Industries Ministerial Council system. Like its federal and other state counterparts, the Victorian Department of Primary Industries, for example, is a member of the committee which prepares national model codes. In Victoria, these codes are then incorporated into the animal protection legal regime by the Governor in Council on the recommendation of the Minister for Primary Industries.

7. The bias of the codes on threshold welfare questions is obvious. Take the model Domestic Poultry Code, 4th edition. Its introduction tritely observes: "It is noted that there are particular behaviours such as perching, the ability to fully stretch and to lay eggs in a nest that are not currently possible in certain (caged) poultry housing systems. It is further noted that the ability to manage disease is influenced by the housing system. These issues will remain the subject of debate and review."

Matters central to the almost universally acknowledged bleak existence of the battery hen are thus put on hold. Indeed, the preface to the model code notes: "The following Code will be further reviewed in 2010, although an earlier review will be implemented if technologies offering significant welfare benefits are available." Similar statements appear in the Victorian code published in December 2003.

As it is, the various departments have refused since last year to review the model code for poultry.

8. Meanwhile, Council of Europe conventions and European Union legislation provide ultimately for banning battery hens, and their phasing out in the interim.

In the United States and Canada, each country's largest pork producer has flagged that it will phase out sow gestation stalls in acknowledgement of public opinion and consumer sentiment. Further, the supermarket chain Coles announced in July 2010 that it will impose a ban from 2014 on pig meat that is bred using the controversial "shopping trolley-sized" steel pens in which sows are confined for their 16 week pregnancies. In addition, Tasmanian government has announced that it will phase out from 2014-2017 the use of sow stalls in that state.

Further, Coles has announced that it will phase out battery hen produced eggs and introduce its own brand of free range eggs. This reflects surveys of its customers that they would buy free-range eggs if they were more affordable. So, Coles has also announced that it will subsidise the cost of a carton of eggs by up to 18 per cent so that such eggs are rendered more affordable to its customers.

9. Further, enforcement of what remains of the protective reach of state animal protection statutes is left in substantive respects to the RSPCA, a charity with limited resources. In an age in which individuals may be backed by a producer body or a fighting fund, how can a charity also be expected to risk an adverse costs outcome in a difficult or protracted prosecution? Only the state has the resources necessary to enforce a public interest statute, especially such a potentially wide-ranging one. It should do so, but the department's enforcement record is a modest one.
10. On the detection of offences, the vital power to permit random inspection of premises (such as a battery hen shed) lies tightly controlled in Victoria by the Minister for Primary Industries or his delegate. This power is exercised sparingly. Other state statutes do not even provide for this power. Otherwise, for an RSPCA or police inspector to have the necessary "reasonable grounds" to enter premises would need a departing employee to make a complaint (infrequent) or the co-operation of the relevant producer (unlikely). Inspectors' other powers of inspection are also materially deficient.
11. Whilst the foregoing outline highlights the codes dealing with intensive production of animals in order to more simply illustrate the bias in favour of producer interest over animal welfare, the codes on nearly every species or practice they govern in respect of farm animals exhibit this bias. And, as noted, there is little enforcement.

### **The current approach to incorporating animal welfare principles in agriculture education**

12. Agriculture courses would appear to incorporate animal welfare principles in two principal ways. First, some courses incorporate modules the focus of which is management of animals to maintain their basic minimal health, but without reference to 'animal welfare'. All too often, such modules instruct in management of animals adopting some degree of intensive farming practices. Second, certain courses explicitly use the term "animal welfare", but appear to equate this with the low welfare thresholds provided for in current codes of practice.
13. Thus, both these teaching models characterise animal welfare as little more than the implementation of code-sanctioned husbandry practices to purportedly secure an animal's minimum physical health and wellbeing. Such a characterisation though fails to acknowledge that an animal's health can be at risk from , for example, stress or behavioural deprivation and consequent emotional needs, or that some practices or husbandry are inimical to animal welfare

### The lack of “animal welfare” modules in courses

14. Agriculture courses which instruct on husbandry requirements and methods of managing livestock often do so under a rubric of descriptive phrases such as “animal health”. Here “animal health” can mean no more than husbandry of livestock in line with legal requirements.
15. The Australian Agricultural College Corporation in Queensland, for example, offers a Diploma in Agriculture that includes a module on developing livestock health and welfare strategies. To demonstrate competency for this unit, students are required to have “knowledge of *codes of practice* with regard to animal welfare and animal health practices”.<sup>2</sup> [emphasis added]
16. Or again, take the elective module “Animal Health Care” taught as part of the Advanced Diploma in Agriculture - Animal Husbandry at ACS Distance Education. “Animal welfare and control” is listed as one of the topics to be covered in the introductory material. Yet, the course notes for the subject describe the codes of practice as clarifying “what is meant by cruelty of [sic] animals” and the “*minimum* management standards to achieve *basic* welfare requirements of animals”.<sup>3</sup> [emphasis added]
17. One final example may be found in the RITE's Certificates II and III in Agriculture: students are expected to demonstrate “a working knowledge of livestock behaviour, health and nutritional requirements and the application of safe and humane livestock handling skills” whereby “[c]ompetency requires an awareness of *legislative requirements* with regard to animal welfare”.<sup>4</sup> [emphasis added]
18. As to courses which appear to treat welfare as physical wellbeing only, we note the following examples:
  - (a) the Bachelor of Agriculture at Charles Sturt University offers subjects covering topics such as

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2 AACC, *External Diploma Course Guide* (February 2011)

<[http://www.agriculturalcollege.qld.edu.au/resources/courses/2011/ext\\_course\\_guide\\_2011.pdf](http://www.agriculturalcollege.qld.edu.au/resources/courses/2011/ext_course_guide_2011.pdf)>.

3 ACS Distance Education, *Animal Health Care* (2011) <<http://www.acs.edu.au/Courses/animal-health-care-165.aspx>>.

4 RITE, *Certificate II in Agriculture* (June 2011)

<[http://www.rite.com.au/Docs/certificate\\_II\\_agriculture\\_study\\_plan.pdf](http://www.rite.com.au/Docs/certificate_II_agriculture_study_plan.pdf)>.



animal feed, nutrient digestion, reproductive anatomy and fertility management of livestock:<sup>5</sup> the focus would appear to be on management of animals in a commercial or industrial context without reference to emotional wellbeing or the risk of stress;

- (b) the Rural Industry and Training Extension Ltd's ("RITE") Certificate IV in Agriculture,<sup>6</sup> incorporates modules on developing livestock feeding plans and overseeing animal marking operations: the focus would appear to be on husbandry practices and management of animals in an "operational" sense. RITE's Certificate III in Agriculture (Beef Production) has this same emphasis on husbandry practices, as evidenced by the fact that modules relating directly to the animals cover topics such as:

- ♣ livestock husbandry practices;
- ♣ animal health control programs;
- ♣ administering medication to animals; and
- ♣ basic hoof care procedures;<sup>7</sup>

- (c) the University of Queensland's Certificate in Agriculture, which provides the Animal Studies and Applied Animal Production courses;<sup>8</sup> and

- (d) Rural Industries Skill Training's Managing Sheep Health and Managing Beef Health courses, both of which give prominence to health and fertility issues that may affect a commercial enterprise.<sup>9</sup>

19. Without access to course materials, it is of course difficult to identify the detail of these programs. The Committee may have more scope and success in this regard. What seems to be the case though is that there is in particular insufficient attention to the emotional wellbeing of animals

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5 Charles Sturt University, *Bachelor of Agriculture* (2011) <<http://www.csu.edu.au/courses/undergraduate/agriculture/course-overview>>. See also Charles Sturt University, *Bachelor of Agriculture* (2011) <<http://www.csu.edu.au/courses/undergraduate/agriculture/course-structure>> for subject outlines.

6 RITE, *Certificate IV in Agriculture* (June 2010) <[http://www.rite.com.au/Docs/certificate\\_IV\\_agriculture\\_study\\_plan.pdf](http://www.rite.com.au/Docs/certificate_IV_agriculture_study_plan.pdf)>.

7 RITE, *Certificate III in Agriculture (Beef Production)* (June 2011) <[http://www.rite.com.au/Docs/certificate\\_III\\_agriculture\\_study\\_plan.pdf](http://www.rite.com.au/Docs/certificate_III_agriculture_study_plan.pdf)>.

8 The University of Queensland, *Animal Studies (ANIM1909C)* (2011) Courses and Programs <[http://www.uq.edu.au/study/course.html?course\\_code=ANIM1909C](http://www.uq.edu.au/study/course.html?course_code=ANIM1909C)>; The University of Queensland, *Applied Animal Production (ANIM1910C)* (2011) Courses and Programs <[http://www.uq.edu.au/study/course.html?course\\_code=ANIM1910C](http://www.uq.edu.au/study/course.html?course_code=ANIM1910C)>.

9 Rural Industries Skill Training, *Managing Sheep Health* <<http://www.rist.com.au/sites/default/files/courses/brochures/RIST%20Managing%20Sheep%20Health-Web.pdf>>; Rural Industries Skill Training, *Managing Beef Health* <<http://www.rist.com.au/sites/default/files/courses/brochures/RIST%20Managing%20Beef%20Health-Web.pdf>>.

beyond notions of basic physical health.

20. In contrast, the animal behaviour course offered by ACS Distance Education comprises, amongst other things:
- △ social behaviour, such as the formation of animal societies and social orders, communications, and play;
  - △ handling animals, including how handling techniques affect animal psychology; and
  - △ behavioural problems, including psychotic and neurotic behaviour.<sup>10</sup>

While the course does not expressly focus on welfare or deliver training specific to agriculture industries, it advocates the importance of having an understanding of animal behaviour when working with animals generally. This is encouraging, having regard to the breadth of evidence that exists to support the notion that animals are capable of complex emotions including fear and anxiety.<sup>11</sup> It is contended that students should have the opportunity to think critically about the notion of animal welfare instead of just instruction in industry practice or minimum legal requirements heavily skewed to producer commercial interest.

### The importance of “animal welfare” to Australia's international reputation

21. The image of Australia as an animal welfare-conscious nation is portrayed internationally by the Department of Foreign Affairs and Trade. DFAT promotes Australia as a place where animal welfare is important regardless of “whether [animals] are in the wild, used for the production of food or fibre, used as companion animals or for work, sport, recreation or display, or used in research and teaching”.<sup>12</sup>

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10 ACS Distance Education, *Animal Behaviour* (2011) <<http://www.acs.edu.au/courses/animal-behaviour-283.aspx>>.

11 See, for example, Liverpool John Moores University, *Animal Emotions Research* (September 2005) <<http://www.ljmu.ac.uk/NewsCentre/67668.htm>>; David Dobbs, *Do Animals Feel Empathy?* (24 July 2007) *Scientific American* <<http://www.scientificamerican.com/article.cfm?id=do-animals-feel-empathy>>; ScienceDaily, *Emotions Help Animals Make Choices, Research Suggests* (3 August 2010) <<http://www.sciencedaily.com/releases/2010/08/100803212013.htm>>, which discusses Michael Mendl, Oliver HP Burman and Elizabeth S Paul, *An Integrative and Functional Framework for the Study of Animal Emotion and Mood* (2010) *Proceedings of the Royal Society B: Biological Sciences* <<http://rspb.royalsocietypublishing.org/content/277/1696/2895.full?sid=9c810389-2034-4d71-b0b2-e70f8d57b6d5>>. See also the list of papers on animal sentience at Compassion in World Farming, *Scientific Papers on Animal Sentience* (2010) <[http://www.ciwf.org.uk/animal\\_sentience/science/research/scientific\\_papers/default.aspx](http://www.ciwf.org.uk/animal_sentience/science/research/scientific_papers/default.aspx)>.

12 Department of Foreign Affairs and Trade, *Animal Welfare* (May 2008) <[http://www.dfat.gov.au/facts/animal\\_welfare.html](http://www.dfat.gov.au/facts/animal_welfare.html)>.



22. Further, the federal Department of Agriculture website touts the importance of animal welfare standards and best practice in Australia.
24. It is to be hoped that greater training in animal welfare may lead to a more adequate underpinning of such claims.

### **The importance of animal welfare standards for domestic markets**

25. There is growing community awareness by the Australian consumer of methods of production and the origin of their food. This applies to the origin of meat, eggs and other animal products. The ongoing debate about food labelling is a key example. Recent moves to address this growing community awareness by Australia's grocery retail giants, Coles and Woolworths, are further evidence of this. In the case of Woolworths, for example, it removed caged eggs from its in-house brand in 2009.

A survey conducted for the pig and egg industry by Professor Grahame Coleman of Monash University showed that 60% of those surveyed agreed that the welfare of animals is a major concern, and 71% agreed that farm animal welfare is an important consideration.<sup>13</sup> Major fast food retailers such as Burger King and McDonald's have world-wide amended policies to include only free-range eggs, and are increasingly sourcing pork from producers who do not use sow-stalls.<sup>14</sup> They cite consumer pressure as the main driving factor.<sup>15</sup>

26. Education and training should thus reflect these changing public perceptions and consumer demands for animal products where the animals are raised humanely. For the market will ultimately dictate change in producer practice. And tomorrow's producers need to be armed to meet this looming widespread challenge, aside from the further public interest question of animal welfare.

### **The incorporation of animal welfare principles in other fields**

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13 Grahame Coleman, Animal Welfare Science Centre, Monash University, *Public Perceptions on Animal Pain and Animal Welfare* (May 2007) <[http://www.daff.gov.au/\\_\\_data/assets/pdf\\_file/0006/299103/grahame-coleman.pdf](http://www.daff.gov.au/__data/assets/pdf_file/0006/299103/grahame-coleman.pdf)>.

14 Glenys Oogjes, *Problems with Current Animal Protection – Sentient Animals Slipping through the Net* (23 December 2009) Department of Agriculture, Fisheries and Forestry <[http://www.daff.gov.au/animal-plant-health/welfare/aaws/aaws\\_international\\_animal\\_welfare\\_conference/problems\\_with\\_current\\_animal\\_protection\\_-\\_sentient\\_animals\\_slipping\\_through\\_the\\_net](http://www.daff.gov.au/animal-plant-health/welfare/aaws/aaws_international_animal_welfare_conference/problems_with_current_animal_protection_-_sentient_animals_slipping_through_the_net)>.

15 Ibid.

27. We take but one example in the reasonably analogous field of veterinary science where animal health and welfare are similarly mainsprings to those one would expect animate producers in the field of animal production. In the field of veterinary science animal welfare principles are introduced to university students at an undergraduate level by way of policies, practices and advisory committees. The Animal Welfare Policy of the University of Sydney Faculty of Veterinary Science, for instance, states:<sup>16</sup>

*“The care and well-being of animals will be paramount in the teaching, research, consultation and clinical activities of the Faculty. The education of veterinary undergraduates will be focussed on animals and their welfare to develop veterinary professionals who will be scientific advocates for the welfare of animals in all contexts...The Faculty will uphold the legislation and codes of practice governing the use of animals. It will adopt best practice to ensure animal well-being.”* [emphasis added]

28. The University of Sydney Faculty of Veterinary Science describes itself as “proactive in promoting the welfare of animals”.<sup>17</sup> It also has an Animal Welfare Advisory Committee comprising Faculty and University staff, undergraduate students and an external veterinarian, with terms of reference which include “developing policy, advising the Faculty and other University bodies on animal welfare and provid[ing] input and advice to organisations and individuals outside of the University.”<sup>18</sup>
29. Similarly, the University of Queensland School of Veterinary Science has established the Centre for Animal Welfare and Ethics (“CAWE”), a body which recognises the increasing international attention being given to animal welfare and “develops innovative practices, guidelines and management strategies to protect animals, enhance their health and ensure their welfare”.<sup>19</sup> It conducts research and investigation into animal welfare issues relating to [amongst others] primary industry, making recommendations to develop and improve industry practice and strategies.<sup>20</sup>

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16 The University of Sydney Faculty of Veterinary Science, *Animal Welfare Policy* (17 March 2010) <<http://sydney.edu.au/vetscience/documents/policies/AnimalWelfarePolicy.pdf>>.

17 The University of Sydney Faculty of Veterinary Science, *Animal Welfare at the Faculty of Veterinary Science* (12 October 2011) <[http://sydney.edu.au/vetscience/future\\_students/undergraduate/animal\\_welfare.shtml](http://sydney.edu.au/vetscience/future_students/undergraduate/animal_welfare.shtml)>.

18 Ibid.

19 The University of Queensland School of Veterinary Science, *Centre for Animal Welfare and Ethics* (2011) <<http://www.uq.edu.au/vetschool/?page=150041>>.

20 The University of Sydney Faculty of Veterinary Science, *Strategy* (2011) <<http://www.uq.edu.au/vetschool/strategy>>.