

## LCQ7: Prevention of cruelty to animals

Following is a question by the Hon Claudia Mo and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (October 28):

Question:

It has been reported that in February this year, 30 animals were suspected to have been thrown from height in Sham Tseng, among which 18 died and 12 were injured. Last month, the Department of Justice (DoJ) decided, after reviewing the findings of the Police's investigation, not to initiate prosecutions against the suspects involved in the case on grounds that the totality of the evidence was insufficient to establish a reasonable prospect of conviction. DoJ's decision has aroused strong dissatisfaction and queries among the public, and some members of the public have criticised the Government for disregarding justice and animal life by condoning perpetrators of cruelty to animals. In this connection, will the Government inform this Council:

- (1) whether DoJ can give an account of the basis for reaching the conclusion that the totality of the evidence was insufficient to establish a reasonable prospect of conviction in the aforesaid case, so as to allay public concerns;
- (2) whether DoJ will review afresh the totality of the evidence in the aforesaid case and consider initiating prosecutions against the suspects concerned, so as to seek justice for the animals that died or were injured in the case;
- (3) as DoJ has reportedly said that it would take follow-up actions if the law enforcement agencies uncovered new evidence and sought legal advice from DoJ in relation to the case, whether the law enforcement agencies have conducted afresh investigations into the case, with a view to finding new evidence for DoJ to consider the institution of prosecutions; if so, of the progress and the anticipated time needed; if not, the reasons for that;
- (4) given that the offences in the Prevention of Cruelty to Animals Ordinance (Cap. 169) are only triable summarily but there is no time limit prescribed in the Ordinance for initiating prosecution, and it is stipulated in the Magistrates Ordinance (Cap. 227) that the time limit for prosecution under such circumstances should be six months, whether the Government will expeditiously amend Cap. 169 to stipulate a longer time limit for prosecution, so as to afford the law enforcement agencies more time to investigate cases relating to cruelty to animals; if so, of the details and timetable; if not, the reasons for that; and
- (5) whether it will consider amending the legislation to extend the requirement that dog owners must arrange to have their dogs microchipped to encompass cats and other types of animals which are commonly kept, so as to

facilitate the tracing of the identities of the keepers and ensure that they fulfil the duty of care to take proper care of the animals they keep?

Reply:

President,

Having consulted the Department of Justice (DoJ) and the Security Bureau, my response to the question is as follows:

(1) to (3) Regarding the incident about animals suspected to have been thrown from height in Sham Tseng, the Police had launched a full investigation immediately after receiving the report, and submitted the investigation results to the DoJ after completing the investigation. As for the DoJ, in making a decision of whether or not to prosecute in each case, prosecutors must make an objective and professional assessment of the available evidence and applicable law, and act in accordance with the Prosecution Code. If there is no reasonable prospect of conviction, the prosecuting department will not commence a prosecution.

Having taken into account all relevant evidence in the case referred to in the question, the DoJ considered that there was insufficient evidence to support a reasonable prospect of conviction, and thus decided not to commence a prosecution.

(4) and (5) The Government proposes to amend the Prevention of Cruelty to Animals Ordinance (Cap. 169) to further safeguard animal welfare. Proposed amendments include introducing a positive "duty of care" on persons responsible for animals to provide for their welfare needs, as well as to enhance the provisions for prevention of animal cruelty and enforcement powers to prevent and protect animals from suffering, including the introduction of an indictable offence for severe cases of cruelty. For an indictable offence, there is no time limit for the commencement of a prosecution. The Government conducted a public consultation on the above proposals last year and reported the results of the consultation to the Food Safety and Environmental Hygiene Panel of the Legislative Council in April this year. We understand the public's concerns and expectations towards the legislative amendment. We will draft the legislation expeditiously and introduce the bill to the Legislative Council as soon as possible.

The Rabies Regulation (Cap. 421A) provides that any dog over the age of five months is required to be vaccinated, implanted with a microchip and licensed. The primary purpose of the provisions is to prevent and control the spread of rabies more effectively. The risk of infected cats spreading rabies is relatively lower than that of infected dogs, and the Government currently has no plans to extend the requirement to cats and other commonly kept animals. We understand that for a number of overseas places that have imposed a "duty of care" onto persons responsible for animals under their legislation, they also do not impose a microchipping requirement for cats or other animals. These places generally do not confine the persons with positive "duty of care" for an animal to the owner, but also include the

persons in charge of, or having custody of the animal, whether permanently or temporarily.