The Scottish SPCA can only apologise for the late submission to the call for written evidence.

The Scottish SPCA was formed in 1839 and today is the largest animal welfare organisation in Scotland.

Qualified Scottish SPCA Inspectors are authorised by the Scottish Ministers to enforce the welfare provisions of the Animal Health and Welfare (Scotland) Act 2006.

This in essence allows Scottish SPCA Inspectors to enforce the welfare provisions of the Act contained in part 2.

Prior to this legislation, animal welfare in Scotland was covered by the Protection of Animals (Scotland) Act 1912. Scottish SPCA were not authorised under this Act, but could report alleged offences to the Crown Office Procurator Fiscal Service under the banner of “Specialist Reporting Agency”.

Scottish SPCA still come under the banner of Specialist Reporting Agency to the Crown Office for animal welfare related cases that are not covered by the Animal Health and Welfare (Scotland) Act 2006, such as the Wildlife and Countryside Act 1981.

The Scottish SPCA has signed memorandums of understanding with Police Scotland and other Government bodies.

Under the Animal Health and Welfare (Scotland) Act 2006 all alleged offences are fully investigated by authorised Scottish SPCA Inspectors with the necessary corroboration required by Scottish Law.

Where there is sufficient evidence that an offence may have been committed by a person a full report is submitted to the Crown Office Procurator Fiscal Service for consideration. It is the Procurator Fiscal Service alone who decide whether legal proceedings will commence against a person or not, the Scottish SPCA has no influence in this decision.

Several years ago, the Crown Office Procurator Fiscal service established the Wildlife and Environmental Crime Unit (WECU) as a way of providing specialist knowledge in this area. The remit of this unit was expanded to provide the initial decision on all reports of animal welfare cases, relating to all animal welfare matters not just wildlife, submitted by the Scottish SPCA.
At this “marking stage” a qualified Procurator Fiscal will review the sufficiency of all evidence submitted, if the matter is in the public interest and decide whether or not the case should proceed to the next stage of court proceedings.

If the decision is made to proceed, the case is marked and then passed to a Procurator Fiscal depute in the appropriate court area to proceed with.

Some animal welfare cases are quite complex and at the marking stage the Procurator Fiscals in WECU have provided invaluable advice to Scottish SPCA Inspectors.

While some Inspectors do not always agree with the decision of a Procurator Fiscal, it is for the Procurator Fiscal alone to decide on whether to proceed or not, however, in most cases the Procurator Fiscal marking the case will explain the reason not to proceed to the reporting Inspector.

This is a valuable part of the process, as it allows our Inspectors a better understanding of what the Procurator Fiscal requires in the future.

In recent years, the dialogue between WECU, the Procurator Fiscal service in general and Scottish SPCA Inspectors have greatly improved.

All Scottish SPCA reports are submitted electronically through a Crown Office portal; this electronic system has been in place for several years now and still has problems.

The Scottish SPCA has had a problem with caring for seized animals that are not relinquished by the owner prior to Court proceedings. The WECU have undertaken to try and prioritise such cases to try and reduce the amount of time these animals have to be kept in care.

This leads to another problem in that when the case is marked for proceedings the scheduling for court falls to the Scottish Court Service, which can lead to even further delays.

It is obvious that the Procurator Fiscal and Court services are under great strain due to financial cuts in real terms. The burden on individual Procurator Fiscals and Court officials is enormous, it is not unusual for Court cases to be postponed on the day of trial for lack of court time, and this is not the fault of the Procurator Fiscal service.

The Scottish SPCA is aware of the Procurator Fiscal service being criticised by third parties, sometimes by people that have had no involvement in the investigation. We accept that domestic animal welfare and wildlife crimes are emotive subjects, however, that does not lessen the burden of proof required.

Wildlife crime in particular is notoriously hard to prove, there are many examples where an offence has certainly been committed, but there has been insufficient corroborated evidence to proceed further against an alleged accused.
The Scottish SPCA was invited in the summer of this year to give written and oral evidence to the Westminster Environment, Food and Rural Affairs Committee on the difference in the prosecution model in Scotland compared to England and Wales, link to written report for information.


Please let me know if the Committee require any further input from the Scottish SPCA.

Michael Flynn
Chief Superintendent
Scottish SPCA
28 November 2016