



Section 138 destruction

Wayne Ricketts, of VCNZ, outlines how to proceed reasonably when you receive a severely unwell animal.

THIS IS MY last *VetScript* article in my role as VCNZ Professional Advisor. My resignation took effect from 1 February. I appreciate that the following is easy for me to say from my ivory tower in Wellington, and that I don't face the myriad of realities that you encounter at the coalface, but it's important.

I am returning to an article that Stuart Gordon and I wrote in *VetScript* nearly 12 months ago, about the treatment of severely sick or injured animals where there is no identifiable owner, or when the owner is unwilling or unable to pay. The main point of this column, however, is a veterinarian's obligations under section 138 of the Animal Welfare Act 1999 (the Act). SPCA inspectors and veterinarians advise us that they continue to receive severely sick and injured animals from private clinics that should have been euthanased by those clinics' veterinarians (under section 138 of the Act), or, in the case of animals being taken into possession by an SPCA inspector, should have received basic first aid or pain relief. Keeping an animal who is in pain overnight without any pain relief is indefensible, and could amount to professional misconduct if VCNZ received a complaint. In my view, this would also not pass the 'how would this look on the front page of your local newspaper?' test. While the animal is in your clinic, you are deemed to be the person in charge under the Act.

I think a lot of veterinarians struggle with section 138 of the Act. That may be because we don't deal with these situations very often and forget the correct approach, or someone has told us to refer these situations to an inspector, or we're worried we'll make the 'wrong decision'. Section 138

KEEPING AN ANIMAL WHO IS IN PAIN OVERNIGHT WITHOUT ANY PAIN RELIEF IS INDEFENSIBLE, AND COULD AMOUNT TO PROFESSIONAL MISCONDUCT IF VCNZ RECEIVED A COMPLAINT.

obligates veterinarians (and inspectors) to destroy an animal if it is so seriously sick or injured that, in their opinion, it won't respond to reasonable treatment.

Before you destroy the animal, however, there are some legal obligations you must consider. You must try to find the owner within a reasonable time (if the animal is presented without an owner), and you must allow for a second opinion if the owner asks for one. This is a balancing act, weighing the needs of the animal who should be euthanased against the legal requirements to try to locate the owner, and to allow for a second opinion if requested.

Let's consider what 'reasonable' can mean (it's not defined in the Act). In regard to taking a reasonable time to locate an owner, you should ask the person who presents the animal if they know who owns it, check for a microchip and, if one is present, check the New Zealand Companion Animal Register or the National Dog Database (via an Animal Control Officer). Also, check the 24/7

0800 LOST PET service and any notices of lost pets that your clinic has received. It is expected that you don't have to carry out exhaustive checks, but you do have to give it your 'reasonably best shot'.

What is reasonable treatment? Considerations should include the ability to pay, whether the treatment is to cure/resolve or just mitigate, the capacity and capability of the veterinarian, post-operative care, the best interests of the animal and the long-term outcomes.

If a second opinion is requested, consider the following: you can't expect that the owner will actually seek another opinion. You could offer to make the appointment for the second opinion on behalf of the client, but, then what happens if the client doesn't turn up? These situations can be difficult for the SPCA to follow up (eg, if you subsequently refer the case to them and the client has given false contact information). You could offer to get a second opinion by discussing the case with another veterinarian by phone. Of course, these options can be difficult if it's after-hours, there are no other veterinarians close by or there are personal safety issues. We recommend that you should try to confirm that a second opinion has occurred and advise the owner that you will refer to the SPCA if not.

Thanks to Chief Inspector Greg Reid for his input to this article. Greg really encourages veterinarians to contact inspectors to assist in these situations – if available, they are happy to help.

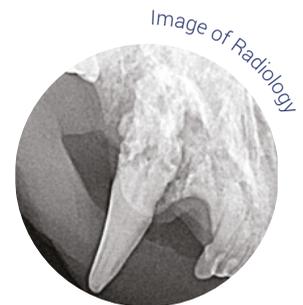
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