

A white swan is the central focus, swimming in a canal. The water is dark blue with some ripples. In the background, there are historic buildings with red brick walls and dark roofs, some with spires. The scene is captured in a soft, golden light, suggesting late afternoon or early morning. The text is overlaid on the image in a clean, white, sans-serif font.

COUNCIL ON ANIMAL AFFAIRS

THE ROLE OF LOCAL AND
REGIONAL AUTHORITIES IN
RELATION TO ANIMAL WELFARE

SUMMARY

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Disclaimer: This translated report is provided for informational purposes only. We cannot guarantee that the terminology and wording fully capture the original intent or context. For official interpretations, please refer to the original language version.

Purpose and activities of the Council

The Council on Animal Affairs (RDA) is an independent council of experts that provides solicited and unsolicited advice on multidisciplinary issues in the field of animal welfare, including animal health and ethical issues, to the Minister of Agriculture, Nature and Food Quality. The Council comprises around 40 members with a wide range of backgrounds and expertise, who serve in a personal capacity, independently and without outside influence.

The Council on Animal Affairs considers issues across the entire spectrum of animal-related public policy, including on captive animals and non-captive (i.e. wild) animals, hobby animals, companion animals, production animals and laboratory animals.

The Council documents the results of its deliberations in advisory reports. These provide details of the scientific and social background of an issue as well as advice on policy directions and possible approaches to resolving dilemmas. Consensus is not necessary; a Council advisory report can contain minority opinions.

Foreword

The administrative structure and division of duties in the Netherlands were designed by Johan Rudolph Thorbecke and enshrined in the Constitution of 1848. When this 'House of Thorbecke' was being designed, politicians did not specifically consider animals or their welfare. This was not yet an issue in the 19th century. However, the place occupied by animals in our society has changed significantly. Dutch people want animals to live good lives, and breaches of animal welfare are seen as less acceptable. When they occur, citizens take their concerns to their local council. Many elected officials and council officers want to improve animal welfare, but when they attempt to implement policy, they feel like their hands are tied. An earlier study (The State of the Animal in the Netherlands, 2019) identified this as a thorny issue. Where are the opportunities in the House of Thorbecke, and what are the obstacles facing local and regional authorities in relation to animal welfare? The Council examined this topic at the request of the Minister of Agriculture, Nature and Food Quality, who in turn was responding to a request from the House of Representatives. For this advisory report, the Council carried out a literature review and interviewed many stakeholders from various levels of government. This resulted in many interesting and inspiring conversations. Based on these

conversations, we do not currently see any need for new, decentralised powers to be created for animal welfare policy.

The RDA believes that the framework conditions for animal welfare should be determined at the national level. When it comes to welfare, it should not matter where an animal lives.

We believe the problems at the local and regional levels can mostly be attributed to insufficient enforcement capacity, ambiguities in national legislation and a lack of coordination. The government could play more of a facilitative role here. Local and regional authorities could be key to strengthening the welfare of animals in the Netherlands, but they need stronger guidance from the central government.

This publication provides a brief overview of the advisory report. The full version is available on the RDA's website.

The Hague, March 2022



Jan Staman, Chair



Marc Schakenraad, Secretary

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RAAD VOOR DIERENAANGELEGENHEDEN

Interview with working group chair Jeroen Candel

“The central government needs to do more to facilitate the animal welfare ambitions of local and regional authorities”

Many local and regional authorities are motivated to take up the cause of animal welfare, but they often feel constrained in their attempts to implement policy. The RDA does not believe that a transfer of tasks would be useful, but the central government could invest more in its coordinating role in this area. These were the recommendations of the RDA to the Minister of Agriculture, Nature and Food Quality in its advisory report ‘The role of local and regional authorities in relation to animal welfare’.

The advisory report was prepared by an RDA working group chaired by Jeroen Candel, associate professor in Public Administration at Wageningen University & Research. “In its 2019 advisory report ‘The State of the Animal’, the RDA established that animal welfare often falls between the cracks. Attempts have been made through both national and international legislation to comprehensively regulate animal welfare, but many aspects remain unclear. For example, how is animal welfare currently regulated within public administration? What powers do municipal authorities have, and what is the role of BOAs and enforcement? This relates to the welfare both of pets and farm animals and of wild animals.” This is Jeroen Candel’s explanation for why the RDA decided to write the advisory report.

Question

At the outset, the RDA took the initiative and asked itself whether animal welfare in the Netherlands is well regulated in terms of powers and responsibilities at the various levels of government – from the central government to municipal

authorities. The Minister then formally asked whether the RDA could see any reason to amend the existing powers and responsibilities of the various government authorities and requested that it produce an advisory report on what local and regional authorities can and cannot do in terms of developing animal welfare policies.

Obstacles are experienced at all levels of government

“Authorities at all levels of government experience obstacles and struggle with their roles when it comes to animal welfare,” says Candel. “This was explained in a letter from the Association of Netherlands Municipalities (VNG) and another letter from several large municipalities in which they expressed their concerns. The issue has also led to Parliamentary questions and motions in the House of Representatives. The RDA was curious to find out what ideas various local mayors and councillors had. We also did a stocktake of how animal welfare is currently regulated in the law and the kinds of hurdles faced at the various levels of government. We then asked mayors and councillors about changes they would like to see.”

The RDA’s investigation did not reveal any acute problems that would require the distribution of powers to be reviewed; no systemic wrongdoing was uncovered. According to the working group chair, that does not mean no action needs to be taken, but rather that it is not obvious that decentralisation is in the best interests of animals. “The basic principle has



Working group chair Jeroen Candel

always been that, when it comes to animal welfare, it should not matter where in the Netherlands the animal is. Animal welfare must therefore be safeguarded through regulations at the highest level, i.e. by the central government. The issues involved are overarching issues that should be addressed at the national level.”

Enforcement

“The problem is often not about a lack of regulations, it’s about enforcement. That’s a job for the central government, although BOAs can play a role in identifying problems and greater collaboration can be sought with professional bodies with regard to animal welfare and the reporting of wrongdoing.”

The advisory report reveals that more and more animal welfare policies are being developed at the municipal level.

As Candel explains, “There is a clear ambition to strengthen animal welfare, not least because municipal authorities are the first to hear about wrongdoing. It’s important to acknowledge these ambitions, but the nature of the problem does not create grounds to bestow powers at lower levels.”

Possible exception for events policies

The RDA believes that events policies, which typically include provisions on animals and animal welfare, may be an exception. “Events policies are location and context-specific, and it would

thus be appropriate for the issues to be considered at the municipal level. It might be worth considering the possibility of allowing municipal councils to assess animal welfare in relation to issuing permits for events.”

Candel believes that clarifying who has what powers is more important than making adjustments to powers. “Confusion frequently arises about which level of government is responsible for organising or funding specific tasks, such as the rehabilitation of wild animals.”

Recommendations

Although the RDA sees no reason to make adjustments to powers in relation to animal welfare, it is important to facilitate the ambitions of local and regional authorities to make animal

welfare more of a priority and to find ways to better safeguard animal welfare at all levels of government. Candel points out that these issues need to be addressed at the national level. “Animal welfare is enshrined in the Animals Act, but the details are not fleshed out. This has resulted in too much uncertainty – we believe animal welfare needs to be defined in much greater detail in policy documents. For municipal authorities, the main added value will lie in the opportunity to exchange knowledge and experiences and in the creation of clear points of contact at each level of government. We also recommend addressing the lack of enforcement capacity and doing further investigation into events policies. In our view, there is no immediate need to expand powers in the area of animal welfare, if we create clarity, focus on enforcement and investigate the possibilities relating to the issuing and assessment of permits.”



Photo: Valerie Kuypers/ANP Photo

Municipal authorities are responsible for issuing permits for events such as animal shows but have no power over the animal welfare aspects of those events.

Brief summary of the advisory report

Background

On 25 February 2021, the Council on Animal Affairs (RDA) received a request from the Minister to produce an advisory report on what local and regional authorities can and cannot do in terms of developing animal welfare policies. This request tied in with an investigation into animal welfare at different levels of government that the Council had already begun on its own initiative.

Questions

The initial questions formulated by the RDA (the first four questions) and the Minister (the remaining questions) were:

- How is animal welfare policy regulated in the Netherlands, and how is that working?
- What opportunities and obstacles do municipal, provincial, functional administrative (such as water authorities) and national portfolio holders for animal welfare experience in formulating and implementing animal welfare policies?
- What are the reflections of the RDA on the current distribution of powers between different levels of government in the area of animal welfare (and the relationship to central government policy)?
- What recommendations does the RDA have with regard to the distribution of duties, powers and responsibilities in animal welfare policy?
- What would be the consequences of creating new municipal powers in relation to animal welfare, for example for the safeguarding of animal welfare?
- Are there any animal welfare powers that the RDA recommends be assigned to municipal authorities? If so, which, and to what extent would this promote or impair the safeguarding of animal welfare in general?
- To what extent do municipal special investigating officers

(BOAs) consider animal welfare aspects when carrying out their duties?

- To what extent does the RDA have recommendations concerning the strengthening of animal welfare enforcement by municipal BOAs?

For this advisory report, the RDA carried out desk research and interviewed stakeholders at various levels of government. The RDA stuck to the subjects identified by the municipal authorities that were also mentioned in the Minister's request. As it turns out, few of these subjects concerned farm animals or livestock farming.



Local traditions involving animals, such as Kalle mooi on the island of Schiermonnikoog, have provoked discussion.

Photo: Reyer Boxem/ANIP Photo



Municipal authorities support animal-related activities, such as the rescue and shelter of stray animals.

Powers in the area of animal welfare

Rules concerning animals and animal welfare are embedded in a variety of ways in international treaties and in European, national, regional and local laws and/or regulations. For captive animals, the key piece of Dutch legislation is the Animals Act; (Wet dieren); for wild animals, it is the Nature Conservation Act (Wet natuurbescherming); and for laboratory animals, it is the Experiments on Animals Act (Wet op de dierproeven).

The system comprising the Animals Act and its associated implementing regulations is intended to comprehensively regulate animal welfare. As a result, there is no scope for decentralised government bodies, such as provincial and municipal authorities, to make their own rules for the protection of animal welfare; the Animals Act does not currently grant them any power to do so (legal basis). The compromising or protection of animal welfare cannot be specified as an independent interest, to be defended as such, in an autonomous municipal bylaw. Nor

can the importance of animal welfare constitute independent grounds or a condition for the refusal or granting of a permit, for example for a local event. Nevertheless, in 2021, around a third (32%) of the 352 municipal authorities in the Netherlands had an animal welfare portfolio holder, and around a fifth (19%) had an animal welfare policy memorandum. Possible explanations for the differences between municipal authorities include political leanings, the size of the municipality, the degree of urbanisation and the level of commitment of elected officials and council officers.

Desires and possibilities

Although a duty of care for animals is laid down in the statutes named above, in practice, according to several of the people interviewed, it often falls between the cracks. The legislation says that 'everyone' is responsible – for animals in need of help, for example – but the organisational and financial consequences of that responsibility are difficult to determine.

Local and regional authorities feel like their hands are tied in relation to formulating and implementing animal welfare policies. They find innovative ways of dealing with animal welfare. As well as having portfolio holders and policy memoranda, they take action in other ways, such as by giving additional support to wildlife sanctuaries, animal ambulances and targeted activities by animal welfare organisations; having municipal BOAs provide additional support; and putting issues on the agenda, forging connections with other portfolios and taking a facilitating role by bringing parties together and helping them find connections.

The main solutions they identified for the future were: clarity around responsibilities and funding; more powers for lower levels of government in specific areas such as companion animals, events involving animals and animal shelters;

and assistance and information from the central government/ Ministry and sharing of knowledge and information.

Embedding animal welfare in law

The RDA observes that elected officials and council officers are strongly committed to the subject of animal welfare. The RDA also notes the diverse nature of the initiatives launched by local and regional authorities in the area of animal welfare. It is clear that the subject of animal welfare is prominent at each of the various levels of government. There are no explicit, urgent issues, such as ongoing and distressing situations in the area of animal welfare, resulting from the way animal welfare is currently regulated at a system level. The RDA concludes that, in most cases, the desires expressed by municipal authorities arise from an intrinsic motivation to improve animal welfare.



Photo Lex van Lieshout/ANP Photo

A fair for reptiles and insects is a regional event, but animal welfare rules are a national responsibility.



Photo: Ron Krotwaar / Nationale Beeldbank

Additional powers relating to the issuing of permits for events could enable local and regional authorities to focus on animal welfare.

Two categories

In terms of the animal welfare-related desires and needs expressed by municipal authorities in letters and interviews, the RDA observes that they fall into two categories:

- 1) Municipal authorities deal with animal welfare matters because the central government or other bodies do not. These are issues at a national or provincial level that have an impact at the local level. Problems arise due to insufficient enforcement capacity, the lack of a code of conduct (open standards) and the absence of opportunities to exchange and share information.
- 2) Municipal authorities want more powers themselves to be able to make assessments in the area of animal welfare. This relates to issues that exist at a local level, such as events. There is an express desire for local authorities to be able to do more than they can at present, so that animal welfare can be improved in specific situations.

Conclusions

No expansion of powers

It is not obvious to the RDA that assigning more powers to local and regional authorities is the most appropriate way to safeguard animal welfare. This relates to category 1 issues. Decentralisation does not automatically benefit animals: to safeguard animal welfare, additional steps are required in many areas, which can best be achieved at the national level. This was also the conclusion of the review of the Animals Act. Although the municipal and provincial arenas sometimes seem to be the battleground for animal welfare issues, some animal welfare discussions should really be conducted at a national level or higher.

Exception for events

From the perspective of animals, the RDA currently sees no compelling reason to organise the administrative basis (or systemic responsibility) of animal welfare in a different way to what is currently the case. Events appear to be an arguable exception worthy of further consideration. In concrete, context-specific situations, there could be good opportunities for local and regional authorities to focus on animal welfare if their powers of assessment, evaluation and enforcement when issuing permits were more explicit.

Recommendations

Because the welfare of animals is not served by the decentralisation¹ of powers and executive tasks, the RDA calls on the government to invest in its regional role. The RDA believes that clarifying existing powers is more important than creating new ones. However, there are other ways that animal welfare could be strengthened at the local and regional level. The central government could clarify or tighten up legislation and could also play a facilitating role in reaching out to local and regional authorities and getting them involved.

To this end, the RDA is making recommendations to the Minister of Agriculture, Nature and Food Quality on two levels: for issues at a national level that have an impact at the local level and for issues at the local level to enable more to be done for animal welfare.

Recommendations for issues at the national level

- Make sure animal welfare is better protected at all levels of government. This is primarily a national responsibility. In line with the review of the Animals Act, the RDA sees the further elaboration and fleshing out of ‘open standards’ in a more general sense as an important first step to advance the cause of animal

¹ On the other hand, decentralisation can promote policy innovation through experimenting with new measures on a small scale.

welfare. This would remove many of the ambiguities and questions that crop up at other levels of government. The Ministry is currently carrying out such elaboration on a number of topics.

- The RDA has identified a shortage of enforcement capacity. This should be addressed at the national level by expanding the capacity of the agencies concerned. In addition, the RDA recommends investigating opportunities for enforcement agencies to exchange information. The RDA sees municipal BOAs as having a role to play in identifying problems, as a council’s eyes and ears on the street. They could be facilitated in this task



Photo: eiconimages / Adobe Stock

Circuses are an example of an issue on which local officials are approached, but which should be addressed at the national level.

by national guidelines (published by the central government or VNG) on animal abuse/animal welfare. It would also be good to investigate the possibility of support for existing inspectors/BOAs (the Netherlands Food and Consumer Product Safety Authority (NVWA), the National Animal Protection Inspectorate (LID) and the police) through the training of BOAs at the level of senior secondary vocational education (to perform a problem-identification role). The NVWA has already started working on an initiative in this area. It emerged from the RDA's exploration that the distinction between criminal and administrative enforcement and powers and the differences between various BOAs (including in different domains) in relation to animal welfare duties requires further reflection.

- The government, in conjunction with the VNG and the Association of Provinces of the Netherlands (IPO) (and possibly water authorities), should set up a national information/knowledge platform, where municipalities and other public authorities can find answers to questions related to animal welfare. This could be achieved by teaming up with existing working groups, such as DierVizier. Consider giving responsibility for this matter to a representative from the VNG, and make sure the platform contains practical information, such as a template for animal welfare policy memoranda.
- Make sure there is a clear point of contact for animal welfare at every layer of government, both for citizens and civil society organisations and for internal coordination within the central government. This will ensure that reports about abuse received by local and regional officials find their way to the competent authorities more quickly. Stimulate and facilitate the exchange of experiences, knowledge and expertise in the area of animal welfare within the different levels of government, both vertically and horizontally, between municipal authorities, provincial authorities, other public authorities and parties in civil society, for example through networks, knowledge days, digital forums, etc. Facilitate security regions to come together to discuss the theme of animal welfare and exchange experiences.

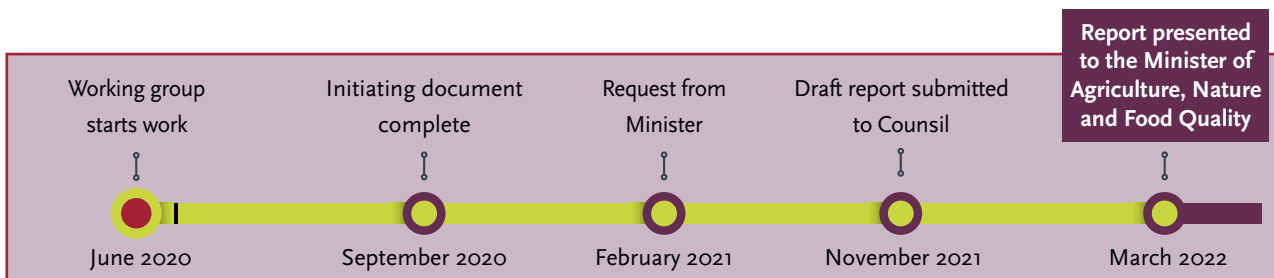
Recommendations for issues at the local level

- Ensure that animal welfare can be included more explicitly in various phases of decision-making processes at one or more levels of government. This can be achieved by, for example, carrying out an animal welfare assessment as an integral part of every policy or by following an animal welfare assessment framework and/or drawing up an animal impact assessment report in advance. For events involving animals in particular, this would seem to be a good way to improve the permit issuing process at the municipal level. This would require a new, explicit legal basis in the Animals Act, and it would have to be implemented nationwide.
- Make provincial authorities and their role in the area of animal welfare more visible for municipal authorities and citizens. For example, members of provincial executives could invite elected municipal officials to share their thoughts on animal welfare. A network of council officers could also help, as could the inclusion of animal welfare in provincial portfolios.
- In 2017, the RDA observed in its advisory report 'Weighing Wildlife Welfare' that there was confusion around the difference between animal welfare policies for captive animals (for which the central government is responsible) and the corresponding policies for non-captive animals (which are largely the responsibility of provincial authorities). The Council wondered how the welfare of wild animals was being safeguarded. This confusion has not yet been resolved. Answering this question could resolve some of the confusion and clarify responsibilities for the welfare of wild animals. In 2022, the RDA will publish an advisory report on providing emergency assistance and care for animals that live in the wild.



Photo: Olga/Adobe Stock

A number of municipal animal welfare policy memoranda mention impulse purchases.



Annex

Composition of the working group and Council

Working group

This advisory report from the Council on Animal Affairs was prepared by a working group of Council members comprising Dr J.L.L. Candel (chair), A.G. Dijkhuis, LLM, M.A.A.M. van Gerwen, MSc (Young RDA network), C.W. Ripmeester, LLM, and Dr J.W.G.M. Swinkels.

The working group received assistance in its work from Secretary M.H.W. Schakenraad and deputy secretaries D. de Neef (until 1 March 2021) and R.L. van Oudheusden from the RDA team. This advisory report was prepared by the Council at the request of the Minister of Agriculture, Nature and Food Quality and was merged with an investigation that the Council had already started on its own initiative.

The draft advisory report was submitted to the entire Council and to the Young RDA network for assessment. As such, this advisory report is a product of the Council as a whole



Photo: Robin van Lonkhuijsen/ANPPhoto

Animal welfare does not constitute independent grounds to refuse a permit for an event.

As at 1 October 2021, the RDA had the following members

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Dr.ir. G.B.C. Backus
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The Secretary of the Council is M.H.W. Schakenraad.



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