



RAAD VOOR DIERENAANGELEGHEDE

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

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.

Inhoudsopgave

Procedure	4
Structure of the report	4
Summary	5
1. Introduction	9
1.1 Initial questions	9
1.2 Background and reason for the report	10
1.2.1 <i>The State of the Animal in the Netherlands</i>	10
1.2.2 <i>Developments in local and regional government</i>	11
1.3 Starting point, scope and method	12
2. Scope of animal welfare powers	13
2.1 Animal welfare in laws and regulations	13
2.2 Government powers with respect to animal welfare	14
2.3 Going beyond the statutory powers	17
2.4 Coordination and collaboration	19
2.5 Mapping animal welfare	21
2.5.1 <i>Municipal authorities</i>	21
2.5.2 <i>Provincial authorities and water authorities</i>	23
2.5.3 <i>Security regions</i>	24
2.5.4 <i>Totaaloverzicht portefeuillehouders en nota's dierenwelzijn</i>	25
2.6 Explaining the differences	25
2.6.1 <i>Personal affinity and commitment</i>	25
2.6.2 <i>Cities and rural areas</i>	26
2.6.3 <i>Size of the municipality</i>	27
2.6.4 <i>Political leanings</i>	27
2.6.5 <i>Other drivers</i>	28
3. Desires and possibilities	29
3.1 Desires for the future	29
3.1.1 <i>Clarity</i>	29
3.1.2 <i>More powers</i>	30
3.1.3 <i>Assistance and information from the Ministry</i>	32
3.1.4 <i>Sharing of knowledge and experiences</i>	32
3.1.5 <i>Other desires</i>	33
3.2 Possibilities – specific examples	33
3.2.1 <i>Events involving animals</i>	34
3.2.2 <i>Enforcement and responding to reports of animal suffering</i>	35
4. Fundamental questions about the embedding of animal welfare in law	39
4.1 Is animal welfare fundamentally well regulated?	39
4.2 Do local innovations have a positive effect on animal welfare?	40
4.3 What is in the best interests of animals?	41
5. Conclusions and recommendations	42
5.1 Conclusions	42
5.1.1 <i>General conclusions</i>	42
5.1.2 <i>Answers to the initial questions</i>	43
5.2 Recommendations	44
References	46
Various news reports from websites	48
Annex 1 Request from the Minister to the RDA	49
Annex 2 Letters from municipal authorities and the VNG	52
Annex 3 Additional information from the quick scan	57
Composition of the Council	59

Procedure

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

The group held eight meetings for the purpose of preparing the report. 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.

Structure of the report

Chapter 1 consists of an introduction, which sets out the central question, reason, background information and guiding principles for this advisory report. Chapter 2 provides a brief overview of animal welfare in laws and regulations and associated powers. It also looks at the extra things that local and regional authorities are already doing in the area of animal welfare and suggests a number of explanations for the differences observed between various public authorities. In Chapter 3, the desires of municipal authorities in particular are described, as revealed in various letters and the interviews conducted by the RDA for this advisory report. The RDA reflects on these desires and discusses the possibilities for two examples: events and enforcement. Chapter 4 discusses what the RDA believes are fundamental questions that must be asked in relation to the embedding of animal welfare in policy and the law. Chapter 5 ends with the conclusions arising from this advisory report; the RDA also has a number of recommendations for the Minister of Agriculture, Nature and Food Quality for the improvement of animal welfare within current policies.

Summary

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. 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.

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.

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; assistance and information from the central government/Ministry; and the sharing of knowledge and information with other public authorities.

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. 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.

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.

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.

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 has the following recommendations for the Minister of Agriculture, Nature and Food Quality:

1) For issues at a national level that have an impact at the local 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 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, opportunities for exchanging information between enforcement agencies should be investigated. 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 by national guidelines (published by the central government or the Association of Netherlands Municipalities (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. Based on the RDA’s exploration, 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 (which is still relatively new and unknown). 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.

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

- 2) For issues at the local level, to be able to do more for animal welfare:
- 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.

1. Introduction

1.1 Initial questions

The Council on Animal Affairs (RDA) is interested in the position of animals at different levels of government and has several times been confronted with questions about the powers and responsibilities of the various public authorities in the Netherlands in relation to animal welfare, from the central government to municipal authorities. The Council decided to take a closer look at the subject, posing the following initial questions:

- 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?

These questions were familiar to the Minister, from sources such as letters² with questions from municipal authorities and the Association of Netherlands Municipalities (VNG). Accordingly, on 25 February 2021, the Minister asked³ the RDA to produce an advisory report on what local and regional authorities can and cannot do in terms of developing animal welfare policies and, taking into account certain promises and motions,⁴ added the following questions to the Council's own initial questions:

- 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?

² See Annex 2 for the letters from municipal authorities and the VNG.

³ See Annex 1 for the request from the Minister.

⁴ In the run-up to the general debate on animal welfare on 29 September 2020, the Minister promised the D66 party that she would ask the RDA to produce an advisory report on what local and regional authorities can and cannot do in terms of developing animal welfare policies. It was therefore decided, in consultation with the RDA, to link up with the RDA's ongoing, unsolicited advisory report and turn it into a solicited advisory report. During the general debate on animal welfare, the Minister also promised that the RDA would be asked to accelerate the process as much as possible and agreed to request the RDA (in response to a question by Member Bromet from the GroenLinks party) to include in the advisory report the consequences of creating new animal welfare powers for municipalities (see also the budget debate letter dated 20 November 2020 (28 286, No. 1137)). The motion tabled on 8 December 2020 by Member Futselaar of the Socialist Party, in which the government was asked to 'develop an action plan describing whether and, if so, how municipal BOAs could be involved in strengthening enforcement in the area of animal welfare', was passed (28 286, No. 1155). The issue of enforcement was therefore included in the initial questions.

This advisory report provides an initial, exploratory impression of animal welfare as an administrative theme at various levels of government. It is not intended in any way to provide an exhaustive, descriptive overview of existing rules, issues and powers. The advisory report also provides an initial overview of the central themes, developments in these themes at a quantitative and qualitative level and the effect of these developments for animals in general. Finally, the advisory report sets out the RDA's reflections on the themes, what the next steps might be and how these next steps can be clearly defined. To that end, the RDA makes a number of recommendations to the Minister.

1.2 Background and reason for the report

1.2.1 *The State of the Animal in the Netherlands*

The State of the Animal in the Netherlands was a composite report (which included the results of a public survey) written to mark the RDA's 25th birthday in 2019. Its central question was: what has the position of animals been over the past 25 years?

One of the chapters was about 'animals and regulations' – the position of animals and animal welfare at different levels of government. The subject matter of that chapter was identified as a thorny issue.

“There are different sets of rules for different groups of animals. In addition, the three layers of government in the Netherlands – national, provincial and municipal – do not have the same leeway in drafting, implementing and enforcing rules on animal affairs.” “For example, animals do not enjoy the same level of protection in some provinces and municipalities as in others.”

From: The State of the Animal in the Netherlands, 2019

At the RDA conference on 14 February 2019, the topic was discussed in a workshop, in the form of a brainstorm in which all attendees participated. The brainstorm was about the wide variety of ways in which municipal authorities formulate animal welfare policies. There was confusion about the legal framework for setting additional animal welfare requirements. The question was asked whether the central government should more clearly facilitate local and regional authorities in solving this issue. Attendees identified problems with enforcement, both in terms of capacity and in terms of the standards being enforced.

The State of the Animal in the Netherlands report pointed out that attention is increasingly being given to animal welfare at the local, provincial and regional level. Citizens are frequently confronted with animals in their local neighbourhoods, whether through events involving animals, animals in need, livestock farmers' expansion plans or plans to build houses in areas where protected wild animals live. In these situations, citizens turn to their municipal authority, because of a strong commitment to animals and their welfare. It is usually the municipal or provincial authority that decides whether to grant permission for such activities. In addition, municipal and provincial authorities have more duties than the central government, which means they can or must take more measures that affect animals and their welfare. For example, responsibility for nature conservation, including animals that live in the wild, has largely been devolved to the provinces. Municipal authorities receive questions about assistance animals more frequently, due to the decentralisation of youth care and care for the elderly and those suffering from long-term illnesses. The principle of 'open management'⁵ means that, in theory, municipal authorities can engage with any subject, as long as they do not conflict with the rules or policies of a higher government authority or with fundamental rights.

⁵ “The power of provincial and municipal authorities to regulate and manage their own internal affairs resides in their elected officials.” Article 124(1) of the Constitution; see also Section 108 of the Municipalities Act; Domestic Governance, 2014.

1.2.2 Developments in local and regional government

Urged by their active citizens and motivated by their own commitment, municipal authorities are keen to contribute more to improving animal welfare (RDA, *The State of the Animal in the Netherlands*, 2019). Due to political changes and pressure from society, many municipal authorities have desires and ambitions for powers that could be used to improve animal welfare at the local level.

In 2017, 36 municipal animal welfare portfolio holders wrote to the Parliamentary Standing Committee on Economic Affairs to draw attention to animal welfare (see Annex 2). In their letter, they stated that there are now more than 70 mayors and aldermen holding an animal welfare portfolio. They called attention to the discrepancy between the powers and the needs that they have as municipal portfolio holders in the area of animal welfare. The letter also mentioned the restrictions they experience due to national animal welfare legislation.

Municipal authorities want clarity about the scope and opportunities within national policy and existing legal frameworks for them to draw up their own policies and rules for animals and animal welfare. A large number of municipalities and two provinces have appointed animal welfare portfolio holders in recent years (RDA quick scan, see also Annex 3). Municipal policy memoranda on animal welfare have also been drawn up. The plans and desires relating to animal welfare in these memoranda cover topics such as:

- companion animals (stray cats, biting incidents involving dogs, preventing impulse purchases, restrictions on the keeping of animals);
- events involving animals (horse markets, falconry demonstrations, reptile shows, small pet shows, local cultural traditions involving animals such as ‘the rooster of Kallemooi’ and nativity scenes with live animals);
- animal shelters.

In a letter dated 8 September 2020, the Association of Netherlands Municipalities (VNG) responded to the findings in *The State of the Animal in the Netherlands*. The VNG asked the Minister of Agriculture, Nature and Food Quality to “give municipal authorities more legal capacity to pursue their own animal welfare policies” (see Annex 2). The examples given in this letter included events involving animals, the ability to act in response to reports of animal suffering and the power to ban the sale of live animals.

Provincial authorities deal with the welfare of animals in the wild and in the livestock farming sector. Examples include large grazers in the Oostvaardersplassen nature reserve in Flevoland and the animal welfare requirements in the Brabant Livestock Farming Care Score, which is linked to the Spatial Planning Regulation. Municipal authorities, provincial authorities and water authorities all have to deal with animal welfare when controlling nuisance animals and managing waterworks, waterways, roads and other structures. They struggle to find animal-friendly strategies to deal with nuisance and damage caused by animals such as muskrats, mice, seagulls, geese, crows, rooks, pigeons and stone martens. The question that must be asked is: what exactly can local and regional authorities (including their animal welfare portfolio holder, if they have one) do at the present time (RDA initiating document, 2020)?

The findings of *The State of the Animal in the Netherlands* and the letters from municipal authorities and the VNG motivated the RDA, in September 2020, to draw up an initiating document on its own initiative to investigate, from the perspective of animals, the discrepancies between the powers and the needs of local and regional authorities in the area of animal welfare, and to identify what, if anything, can be done to address the issue.

1.3 Starting point, scope and method

The RDA's own initial questions and the questions subsequently added by the Minister collectively form the starting point for this advisory report.

The desires of municipal authorities in the area of animal welfare mainly relate to companion animals (see Chapter 3 and Annex 2). Consequently, in this advisory report, the RDA will stick to the subjects that were raised by municipal authorities in their letters and were also mentioned in the Minister's request. Few of the desires related to farm animals or livestock farming. The RDA will therefore not discuss these topics in depth; we will address them only where they have proven to be relevant, based on the interviews.

At the start of the process, the RDA conducted a quick scan to investigate how many municipal authorities, provincial authorities, water authorities and, to a lesser extent, security regions are actively pursuing animal welfare policies through an animal welfare policy memorandum and/or portfolio holder. Based on this investigation, the RDA selected certain municipal authorities to participate in interviews. In doing so, we attempted to ensure variety in terms of:

- whether they had an animal welfare policy memorandum and/or animal welfare portfolio holder;
- the size of the municipalities in terms of population;
- the ratio of urban to rural areas.

For other levels of government and partnerships such as provincial authorities, security regions and water authorities, we also looked to see which ones were actively pursuing an animal welfare policy. We decided to interview the 'pioneers' first: local and regional authorities that are specifically and actively pursuing animal welfare policies. Next, less-active authorities were selected.

A total of 13 interviews were conducted: 9 with aldermen, 1 with an animal welfare portfolio holder from a provincial authority, 1 with an animal welfare portfolio holder from a water board, 1 with a security region and 1 with the NVWA. The aim of these interviews was to obtain an initial impression of the nature and scope of the questions and any problems relating to animal welfare that arise at lower levels of government. Only a small number of people were selected to be interviewed, and they were not necessarily a representative sample of all of the municipal authorities, provincial authorities, water authorities and security regions in the Netherlands. The RDA took account of this fact in its analysis by not generalising its findings to the total population and, where relevant, discussing other possible perspectives or results that might have been expected but that did not emerge. The RDA also took account of the fact that the opinions given were only those of local and regional authorities; no other interested parties or citizens were interviewed for this advisory report. In addition, no special municipalities from the Caribbean part of the kingdom were involved in the investigation. Animal welfare at an international and EU level as well as European guidance on animal welfare requirements were also not included in this advisory report.

2. Scope of animal welfare powers

Regardless of the calls from municipal authorities for more powers, local and regional authorities already deal with a significant number of matters relating to animal welfare. This chapter provides an overview of the current laws, regulations and powers in the area of animal welfare and lists the 'extra' things that local and regional authorities are already doing.

2.1 Animal welfare in laws and regulations

Rules concerning animals, animal welfare and animal health are embedded in a variety of ways in international, European,⁶ national, regional and local laws and/or regulations. These laws and regulations relate to animals, the keeping of animals, natural spaces or veterinary practice, for example.

The basic principle of the Animals Act is the recognition of the intrinsic value of animals, whether captive or wild, and the need to fully take this into account in rules and decisions. Violations of the integrity or welfare of animals must be avoided as much as possible, and animals must be assured of appropriate care (Animals Act, section 1.3). The Animals Act and the regulations based on it contain many specific provisions, about performing physical procedures on animals, for example, or about their housing, which are aimed at the owners of animals. Of direct relevance to local and regional authorities is the fact that the Animals Act contains a general duty-of-care provision that applies to all animals, although it is yet to come into force (Animals Act, Section 1.4),⁷ as well as a prohibition on cruelty to all animals (including wild animals) and a duty to provide care to all animals that need it (Animals Act, Section 2.1).

The Nature Conservation Act also contains a duty-of-care provision for all plants and animals living in the wild and their habitats (Nature Conservation Act, Section 1.11). All people must refrain from actions that could have harmful consequences for such plants, animals or habitats. The explanatory memorandum to the Nature Conservation Act discusses the obligation to provide care to wild animals in need of assistance. The welfare of laboratory animals is extensively regulated in the Experiments on Animals Act. There is no scope for local and regional authorities to be involved in the implementation of the Experiments on Animals Act, and this subject will therefore not be discussed further.

The system comprising the Animals Act and its associated implementing regulations is intended to comprehensively regulate the welfare of captive animals (as was also the case with its predecessor, the Animal Health and Welfare Act (GWWD)). The next section describes the consequences of this system for powers relating to the welfare of captive animals.

⁶ European directives on animal welfare must be translated into national legislation by national governments.

⁷ The Nature Conservation Act contains a similar section, but one that is designed to be preventative, as explained below.

2.2 Government powers with respect to animal welfare

General

The Netherlands is a decentralised unitary state. Together with the central government, provincial and municipal authorities, as the decentralised layers of general administration, form the main administrative structure of our country. Provincial and municipal authorities are not hierarchically subordinate to the central government; they carry out their duties independently within the framework of the law and the Constitution. They have autonomous powers (of regulation and governance) and open management, but by law can also be required to perform certain duties (co-governance). Water authorities are also part of the decentralised structure; they, too, have both autonomous and co-governance duties. Water authorities operate under a 'closed management' system; their duties are limited to overseeing the water supply in a specified area. The autonomy of local and regional authorities is limited: bylaws established by these bodies cannot conflict with regulations passed by a higher government authority or with fundamental rights (Article 121 of the Constitution).

Duties and powers relating to animal welfare

Under laws and regulations, the various powers relating to animals are divided between municipal authorities, water authorities, provincial authorities, the central government and the EU. The Minister of Agriculture, Nature and Food Quality wields nationwide power over animal welfare and in that sense bears systemic responsibility. That includes responsibilities that result, at the national Member State level, from international treaties and EU legislation (such as the Habitats and Birds Directives). In addition, in the Animals Act (for pets and farm animals), the Experiments on Animals Act (for laboratory animals) and the Nature Conservation Act (for animals that live in the wild), the Minister of Agriculture, Nature and Food Quality is explicitly designated as the competent authority and given regulatory powers. In the Nature Conservation Act, provincial authorities are assigned statutory duties, which means that, in practice, they are largely the ones that 'deal with' these animals.

It is not entirely clear whether (or how) that includes either full or partial responsibility for animal welfare.⁸ It is primarily the central government that, by means of implementing regulations, defines the frameworks for matters such as the use of products for catching and killing animals and the designation of species that may be hunted. It should also be borne in mind that the duty to provide care to animals in need of assistance (Section 2.1(6) of the Animals Act) is a responsibility for everyone, including public authorities. The Animals Act primarily focuses on captive animals, but some parts are less restrictive and apply to animals in the wild too.⁹

Municipal authorities have other statutory powers with regard to animals, as well as standards that they must enforce. However, apart from the abovementioned duty to provide care, these powers are derived not from animal welfare legislation, but from rules relating to other relationships and interests, including human relationships and interests. For example, under the rules concerning found objects in the Civil Code, municipal authorities have a 14-day retention obligation for stray animals that are found.

⁸ With one explicit exception: responsibility for the welfare of animals in the Oostvaardersplassen nature reserve has been transferred to the Provincial Executive of the Province of Flevoland (Ministry of Economic Affairs and the Province of Flevoland, 2017).

⁹ Explanatory memorandum to the Animals Act, page 82. "All of the rules laid down in or pursuant to this proposal can therefore be traced back to the full control and associated responsibility of humans. Nevertheless, the legislative proposal contains provisions to protect animals that are not captive. One example is the prohibition of cruelty to animals. Humans must not mistreat animals, regardless of whether they are captive or wild. Section 2.1, subsection 6, of the legislative proposal therefore stipulates that the prohibition of cruelty to animals also applies to animals living in the wild. The same applies to the proposed ban on physical procedures on animals in Section 2.8. Likewise, the obligation to provide the necessary care to animals in need also applies to wild animals (Section 2.1(5))."

In a more general sense, not restricted to the specific subject of ‘animal welfare’, and in the context of their autonomous regulatory powers as conferred by Article 124 of the Constitution, in relation to their own management, municipal authorities can regulate a range of matters through general municipal bylaws (APVs). The VNG’s model APV has provisions concerning animals, often with regard to controlling nuisance caused by animals or monitoring public order and safety, as in the case of biting incidents (Article 2.59 of the VNG’s model APV, on ‘dangerous dogs’). More specifically, the Municipalities Act (Gemeentewet) (Section 174) provides a basis for regulating matters relating to, in essence, local events; this basis is in turn often implemented in local APVs.

As noted above in the section on legislation concerning animals (particularly the Animals Act), the topic of animal welfare is supposed to have been ‘comprehensively’ regulated. This means 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. In the context of their autonomous regulatory powers, municipal authorities can, particularly via their APVs and for the purposes of their own management, set rules on the grounds of ‘public order’ and ‘safety’. However, the compromising or protection of animal welfare cannot be an independent goal of an autonomous municipal bylaw, nor can it, by itself, constitute independent grounds or a condition for the refusal or granting of a permit, for example for a local event¹⁰ that involves animals or that could jeopardise animal welfare. In the opinion of the Council of State, in relation to the case of the ‘rooster of Kallemooi’,¹¹ preventing animal welfare from being compromised does not have a sufficiently strong link to public order, for example.¹²

The fact that a municipal authority does not have the power to establish frameworks in relation to animal welfare merely because the national legislature itself has not provided specific frameworks also plays a role, although this does not detract from the comprehensive statutory powers of municipal authorities in relation to animal welfare. This was made clear by the decision regarding a local ban proposed by the Municipality of Winschoten – in the context of assessing an event permit – on the use of animals in the circus, for which there was not yet a national ban in place.¹³ It follows that, at the local level, it is only possible – at the most – to carry out administrative supervision in respect of nationally defined frameworks. At present, this is only possible under APVs, and even that can be difficult if national laws and regulations already contain rules on the subject in question.

Accordingly, although on paper it seems clear who has what powers, in practice it is often confusing. Based on interviews with aldermen from various municipalities, it seems that there are changing opinions about where responsibilities should lie and that municipal and provincial authorities regularly refer specific cases to each other.¹⁴

¹⁰ See also Council of State, 2009. ECLI:NL:RVS:2009:BJ6075

¹¹ On Pentecost Saturday, on the island of Schiermonnikoog, a rooster is ‘stolen’ from one of the island residents. The rooster is placed in a basket on a pole, with food and water. A special flag is hoisted on the pole: the Kallemooi. The name is probably a bastardisation of kale (meaning ‘bald’) and may (an abbreviation of ‘maypole’). The pole is erected on Pentecost night at around 11.30 pm by the festival committee, who can be identified by their low-rise top hats with green-and-white ribbons and the rosettes in their lapels. After the pole is erected, ‘Kallemooi bitter’ is drunk in the nearby hotel. On the third day of Pentecost, the pole is taken down again (Meertens Institute, 2021).

¹² Decision 201903390/1/A3 of the Council of State of 24 December 2019. ECLI:NL:RVS:2019:4391

¹³ Decision 200808846/1/H3 of the Council of State, dated 26 August 2009. ECLI:NL:RVS:2009:BJ6075

¹⁴ Such as in the long-running debate in which some municipalities think that responsibility for wildlife rescue should lie with the provinces. The provinces disagree, since animal welfare is not one of their duties under the Nature Conservation Act and is in fact primarily part of the duties of the central government. At the request of the Minister, the RDA is preparing a separate advisory report on this topic.

This is a consequence of the ‘House of Thorbecke’ referred to earlier in this advisory report, which is a name often given to the administrative structure and division of duties in the Netherlands, as designed by Johan Rudolph Thorbecke and enshrined in the Constitution of 1848. He and his contemporaries did not specifically think about animals at the time; in that sense, we cannot really talk about ‘animals in the House of Thorbecke’. However, we have considered the subject of this advisory report based on the system devised in 1848. This vertical separation of powers between the various levels of government leaves a lot of room for change and development. Decentralisation is increasing, due to political commitment or a general movement towards a more hands-off central government.

Decentralisation

Many duties have been devolved to local and regional authorities in recent years, such as elements of care for youth and the elderly being given to municipal authorities. The main motives for decentralisation include moving political and administrative decisions closer to residents to enable ‘customisation’ in decision-making. At the same time, in the online advisory report ‘Peace, Cleanliness and Regularity: Balance in administrative and financial relations’ (ROB, 2021), the Council for Public Administration (ROB) observed that there is an imbalance between duties, responsibilities and powers. It went on to note that municipal authorities, as the political arm of local government, come under pressure due to the dominance of national politics and sector interests. As a result, municipal authorities become implementation offices rather than political bodies. The ROB believes it is necessary to counteract this movement: “...in every allocation of tasks or other intervention in local government, an explicit decision must be made about why a task is being allocated to a particular level of government, with how much latitude in policy, with what role and with what financial resources. It is also important to think about the consequences resulting from the level of discretion that local and regional authorities will have in performing the task and how the task will be funded. These fundamental questions require legal guarantees, as well as an elaboration of what characterises ‘the municipal authority’, ‘the provincial authority’ or the ‘regional authority’ in terms of tasks, role and democratic legitimacy.”

According to the ROB, discretion refers to “the ability of local and regional authorities to decide for themselves how to spend their funds. Local and regional authorities often feel that their hands are tied. There is ongoing debate about the level of discretion granted to local and regional authorities. This is inevitable; it creates dynamism. It also means that public authorities carefully consider what is the most democratic and effective way for tasks to be performed, including to which bodies they should be assigned.”

Translated to the subject of animal welfare, in relation to the foregoing, the first example that comes to mind is the decentralisation of large parts of the central government’s nature conservation policy in favour of provincial authorities via the Nature Conservation Act (2017). It is also worth mentioning that, with the passing of the Environmental Permitting (General Provisions) Act (Wabo, 2010), municipal executives are designated as the primary competent authority (with a service desk function) for permits relating to the physical living environment – in which wild animal species may be present.

With regard to captive pets and farm animals, the central government has no plans to devolve the subject of animal welfare. However, in the Animals Act (2013), the government chose to use ‘open standards’¹⁵ (a code of conduct), which meant leaving more decisions in the hands of animal owners and encouraging the development of self-regulation.

¹⁵ Source. The Minister promised the House of Representatives that seven open standards, submitted by supervisory authorities, would be fleshed out in greater detail (Parliamentary Papers, 2021).

To date, there has not been any kind of ongoing debate about the level of discretion held by municipal authorities (or any other public authorities) on this subject. However, the letter from a number of mayors and aldermen, referred to several times in this advisory report, seems to advocate for such a debate, or at least a renewed focus on the subject. Some of the other matters raised by the ROB and mentioned above also came up in the interviews conducted for this advisory report.

With regard to another subject raised in the letter, namely the microchipping and registration of cats, the Ministry of Agriculture, Nature and Food Quality has launched a pilot on the possible introduction of a local microchipping obligation for cats (see, inter alia, Letter to Parliament from the Minister of Agriculture, Nature and Food Quality dated 2 February 2021).

Bearing that in mind, the ROB notes that the argument of 'local customisation' plays a role. At the same time, however, it should be noted that the identification and registration of dogs was deliberately implemented in a uniform way and is regulated by the Ministry itself. To round off this subject, which we raised for the purpose of illustration: if, at some point, it is indeed decided that a microchipping obligation for cats should be overseen at the local level, a specific legal basis/power will have to be created in the Animals Act. If a microchipping obligation is implemented on the grounds of 'nuisance', then the power to set rules in the context of APVs may already provide a sufficient basis, and no legislative amendment would be necessary.

Other issues that could be mentioned in this context include:

- 1) multiple municipal authorities having tried to independently prohibit the use of animals in a local circus display. As this proved legally impossible, the national legislature inserted uniform, restrictive rules on the subject into the Animals Act;
- 2) ongoing discussions about firework and firework bans, with it still not being entirely clear how and by whom they will be regulated in the future. This subject is related to firework nuisance for both wild and captive animals.

2.3 Going beyond the statutory powers

All of the mayors and aldermen interviewed for this advisory report perform their statutory duties,¹⁶ such as providing shelters for stray animals. In addition, some municipal authorities go the extra mile and can be regarded as pioneers in the area of animal welfare. They achieve this by embedding animal welfare in their administrative structures and policies and through innovations in the area of animal welfare (examples are given later in this section). This does not mean, however, that municipal authorities that do not take such action are indifferent to animal welfare: it has more to do with capacity, money and other resources (particularly for smaller municipalities). For example, one interviewee indicated that their municipal authority was already struggling to meet the legal requirements around the issuing of permits, monitoring and enforcement. On the other hand, the interviews revealed that, even in small municipalities, it is possible to look beyond the statutory obligations. For example, a body of public servants or highly committed civil servant who has shown passionate commitment to animal welfare for many years could team up with a municipal council/board and/or a committed elected official with personal and political ambitions to do more than what is required by law. Sometimes, there are even one or more FTEs of administrative support available. This is more common in larger municipalities than smaller ones, due to differences in capacity and abilities. There is often a policy officer with part-time responsibility for animal welfare. If so, they have to divide their attention between a range of topics.

¹⁶ Incidentally, there are many statutory duties that touch on animals and animal welfare, such as evictions, pet cadavers, wildlife-vehicle collisions on municipal and provincial roads, verge and water management, municipal codes of conduct for fauna, municipal fire and policing service duties, spatial planning/Wabo assessments, etc.

What happens when municipalities go beyond their statutory duties? Nearly all of the municipal authorities we spoke to have a pool of money set aside for animal welfare, but some also draw from other budgets where there is scope for animal welfare. From the interviews conducted by the RDA, it emerged that a number of municipal authorities provide additional support to wildlife sanctuaries and animal ambulances (both financial and other support, outside of their statutory obligations). They also contribute to targeted activities by organisations (such as activities to raise new funds needed by sanctuaries) or specific purposes (such as contributing to help for animals in cases of botulism). Some provincial authorities have similar capacities. These types of actions ensure that animal welfare is better embedded in municipal and provincial policy. We discovered from interviews with aldermen from large, medium-sized and small municipalities that there are a number of starting points for supporting animal welfare through policy. These will be discussed further in Section 2.6.

Other ways of providing extra support for animal welfare that were mentioned in the interviews include:

- being alert to the situation on the ground (keeping eyes and ears open, having municipal BOAs provide support/enforcement);
- having elected officials and council officers put issues on the agenda;
- forging connections with other portfolios (social affairs, minimum income policies for pets and veterinarians, safety, sustainability, biodiversity, construction and housing);
- encouraging and connecting parties in the network and focusing on collaboration, working groups, committees and roundtable discussions.

In addition to their enforcement role (see also Chapter 3), public authorities also have a facilitating role. For example, they can act as a mediator in challenging situations and conflicts to get the parties talking and help them reach agreement. This can happen in an ad hoc way or through working groups and partnerships. For example, Rotterdam has a working group in which animal welfare in petting zoos and deer parks is discussed. The city council also has an Animal Welfare and Urban Wildlife Advisory Committee, comprising five public figures who give advice on specific questions. Delft has Regional Platforms, while in Leeuwarden, following a council initiative, the subject of animal welfare is explored in 'Open Podiums', regular public forums involving experts and initiating parties.

Assistance for animals in need (transport and shelter) and prevention (such as animal food banks) are usually driven by private initiatives; they are often warmly encouraged by municipal authorities, whether or not that is reflected in practical support. Like many municipalities, Zwolle has an animal food bank (not run by the council), while some municipal authorities contribute to extensive animal shelters that go beyond their statutory duties, so that animals do not become the victims of the lack of a guiding policy. Maastricht has a comprehensive emergency animal assistance chain for animal control and, from a moral standpoint, has created an emergency fund for wild animals that are hit by cars. On top of its fixed contribution, Diemen contributes to the rescue of special (rare) animals that need particular care.

In addition to such efforts, more symbolic actions are occasionally taken,¹⁷ from the awarding of a Mayor's Medal to a primary school student for raising money for a hedgehog sanctuary to a financial contribution towards activities to combat botulism (to support the welfare of waterfowl, for example).

¹⁷ Even NGOs take note of local animal welfare initiatives. For example, since 2018, the Dierenlot Foundation has awarded a prize to the most animal-friendly municipality of the year.

For these additional ways of promoting or safeguarding animal welfare – going beyond statutory duties – there is not yet any statutory basis. It is also debatable whether the state of affairs in relation to animal welfare is by definition better when there is an animal welfare policy memorandum or portfolio holder in place, or when matters relating to animals are given a stronger statutory basis. This is open to discussion, and we will come back to it later in this report.

A word from the aldermen: examples from pioneer municipalities

Alderman Krabbendam (Maastricht): “If there’s some matter involving animals in the municipality, the city council is approached about it, even if it doesn’t have any powers in that situation. Our powers and responsibilities are fairly limited. Strictly speaking, we’re only responsible for animals wandering the streets that don’t belong to anyone and animals that are causing a nuisance. For applications that involve animals, we start a conversation and help parties find a solution and common agreement. That’s not based on our powers, just goodwill and a personal approach.”

Former Alderman Wijbenga-van Nieuwenhuizen (Rotterdam): “We’ve had an Animal Welfare and Urban Wildlife Advisory Committee since 2009.” The committee is based on Section 84 of the Municipalities Act, which sets out the powers of the advisory committee and the independence and status of the advice it gives. More details about the committee’s duties and powers can be found in the Animal Welfare and Urban Wildlife Advisory Committee Regulations, which have been adopted by the Municipal Executive (Rotterdam City Council, 2021). “That’s how we give animal welfare a place in our municipality, in addition to our policy memorandum.”

Alderman Dogger (Zwolle): “We have had an animal welfare committee since 2000; once a year, we hold roundtable discussions at which the city council, all of the animal welfare organisations and engaged residents exchange ideas and enter into dialogue. We also have the Zwolle Animals Team, a partnership of 15 animal welfare organisations. We’ve had an animal welfare policy memorandum since 2020, and animal welfare is embedded in the coalition agreement.”

Alderman Wassink (Leeuwarden): “We don’t have a formal animal welfare policy, but we’re currently looking at whether we should change this situation. This is related to the initiative by the GroenLinks party and the Party for the Animals to organise an ‘open podium’ with the city council on this topic. This provided an opportunity to have discussions with experts to see what such a policy should look like. Ultimately, we agreed to start by identifying what we were already doing in the area of animal welfare and presenting the results of that investigation to the council.”

2.4 Coordination and collaboration

Within each level of government (horizontal coordination), the degree of coordination seems to depend on the availability of knowledge and the presence of experts. The number of FTEs has an impact on the extent of collaboration, while integration with other policy areas also plays a role. Sometimes, animal welfare is a separate policy area, and sometimes it is intertwined with other areas, such as sustainability, biodiversity, the permits policy, food, climate, energy transition, circular agriculture and/or the dogs policy. Some interviewees noted that, although this saves on costs, animal welfare becomes secondary to other ambitions.

There are many differences between municipalities in terms of their methods of collaboration and support in the area of animal welfare. Some municipalities (such as Rotterdam, Amsterdam and Leeuwarden) have set aside a small staffing allowance for animal welfare; others focus on special partnerships with neighbouring municipalities or local organisations such as the police, forest rangers, wildlife management units, animal organisations, the Institute for Nature Education and Sustainability (IVN), etc. Rotterdam, for example, collaborates with 20 to 30 parties in the area of animal welfare. The four largest municipalities (the G4) also keep in touch with each other on animal welfare issues. By their own account, other municipalities have much less or only indirect contact in relation to animal welfare, and this contact is often primarily about specific, topical issues involving animals, such as events, permits, nuisance, etc.

In the area of animal welfare, there is virtually no coordination between provinces, water authorities and security regions. Water authorities coordinate on a project basis, such as in relation to fish migration. Consultation with the IPO relating to nature (wolf/wildlife management) does touch on animals, such as with the Overleg Vitaal Platteland (consultation on vibrant rural areas). Animal welfare is discussed in passing in such consultation, rather than being addressed comprehensively. The discussions are more about managing wild animals, farm animals or companion animals, but not in relation to their welfare.

The people we interviewed from municipalities had had different experiences with contact between municipal and provincial authorities (vertical coordination). For some, the contact was good, with short lines of communication. Others found the provincial authorities obstructive (in relation to the issuing of permits), coercive, controlling and frustrating, with significant uncertainty around who had what role. An example is the approach to animal species causing nuisance, where municipal authorities are often approached by their citizens, but the provincial authority is responsible for issuing permits. According to several interviewees, there is also confusion around whether primary responsibility for wildlife rescue now lies with the provincial or municipal authority. In addition, several of the people interviewed reported that there are different expectations about the involvement of municipal authorities in wildlife management. Expectations concerning responsibility and coordination between the central government (Agriculture, Nature and Food Quality), provincial authorities/water authorities and municipal authorities differed from one interviewee to the next.

Different municipal authorities have looked at ways of embedding animal welfare in policies and partnerships. For example, various knowledge days, conferences and meetings have been organised over the years, and some municipalities have information platforms for citizens on topics such as keeping and looking after animals. There are also initiatives for a knowledge platform and active network for municipal authorities. The name 'DierVizier' is becoming more well known. It originally began as a project group commissioned by the municipality of Zaanstad to set up an active knowledge-sharing network for municipalities and other public authorities (DisGover, 2021), but it is now a working group preparing to launch a knowledge database/platform on animal welfare for municipalities and roll it out across the country.

Most of the municipal authorities interviewed said they make a strong effort to collaborate with all relevant parties: professionals, volunteers and experts within the municipality, as well as relevant contacts at the provincial authorities and water authorities.

Provincial authorities are also experimenting with new forms of collaboration and frameworks for animal welfare. The Province of North Holland, for example, is trying to indirectly address animal welfare via other subjects, such as circular agriculture, as an integral aspect of regenerative agriculture systems.

Innovation is also occurring at water authorities. With regard to fish migration, for example, water authorities are working on a new policy memorandum from the perspective of fish, which means a debate about animal welfare is unavoidable.

There is a need to learn from each other – coming together to learn about opportunities and obstacles, for example. All of the people interviewed saw added value in knowledge sharing, dialogue and joining forces on animal welfare issues. This need is both horizontal (within the same level of government) and vertical. Where vertical coordination is already taking place, it is on an informal basis and through personal contacts, rather than being structural. There is little policy coordination between the different levels of government in relation to animal welfare; it sometimes occurs between municipal and provincial authorities (at an administrative level), but always with regard to specific subjects (such as nuisance geese).

2.5 Mapping animal welfare

In 2021, the RDA conducted a quick scan on its own initiative to identify how many Dutch municipalities had an animal welfare portfolio holder or an animal welfare policy memorandum. This involved looking at the websites of municipal authorities to see whether they mentioned animal welfare portfolio holders or policy memoranda. Since it seems that not all municipal websites are up to date, a search engine was used to perform an additional check. We searched for the name of each municipality in turn, in combination with search terms such as ‘animals’, ‘animal welfare’ and ‘animal welfare policy memorandum’. Similar searches were carried out on the websites of provincial and water authorities. For each province, we looked at whether a member of the provincial executive had animal welfare in their portfolio, and who that was. For water authorities, the same investigation was carried out for members of their executive committees. For the 25 security regions, we did not compile a comprehensive overview for each region, but we decided to conduct one interview with the only security region (Twente) where animal welfare was specifically mentioned in documents/on the website for the region. This section looks at the key results of this investigation. A more comprehensive overview of the results can be found in Annex 3.

2.5.1 Municipal authorities

In 2017, 36 municipalities with animal welfare portfolio holders, led by then-Alderman Ivens of Amsterdam, signed a letter to the Parliamentary Standing Committee on Economic Affairs asking for more powers in relation to animal welfare. In 2020, this was followed by a letter from the VNG with the same request, giving examples of the types of powers municipal authorities needed in the area of animal welfare.

In addition to the 36 signatories of the 2017 letter, other municipal authorities have placed animal welfare on the agenda by assigning an animal welfare portfolio to an alderman/mayor, adopting an animal welfare policy memorandum or sometimes doing both. Research by students from HAS Green Academy (Bullens, Lieshout and Vedder, 2012) showed that, in 2012, 72 municipalities had an alderman responsible for animal welfare (at the time, that was 17% of all municipalities). The 2017 letter to the House of Representatives mentioned above stated that there were more than 70 mayors and aldermen holding an animal welfare portfolio. In the spring and summer of 2021, the RDA investigated how many of the 352 Dutch municipalities had an animal welfare portfolio holder and how many had an animal welfare policy memorandum. The results are set out in the following table.

Source	Year	Animal welfare portfolio	Animal welfare policy memorandum
Bullens, Lieshout and Vedder	2012	72 municipalities have an alderman responsible for animal welfare (17% of the 415 municipalities at the time, according to the source)	7.5% of municipalities have an animal welfare policy memorandum (31 memoranda)
Letter to the House of Representatives on animal welfare	2017	More than 70 municipalities (according to Statistics Netherlands, the number of municipalities was reduced from 388 to 380 in 2017, so over 18%)	Unknown
RDA research	2021	114 municipalities have an animal welfare portfolio holder (approx. 32% of all 352 municipalities)	Approx. 19% of municipalities have an animal welfare policy memorandum (65 memoranda)

Municipal authorities with an animal welfare portfolio and/or policy memorandum in 2021

More information can be found in Annex 3, including tables with specific information about the 36 signatories to the 2017 letter. There is also a breakdown of municipalities by province.

Out of a total of 352 municipalities:

- 114 (32%) have an animal welfare portfolio holder;
- 105 of the portfolio holders are aldermen;
- 11 of the portfolio holders are mayors;
- a total of 65 have an animal welfare policy memorandum (19%); at least 34 other municipalities have placed animal welfare on the agenda through other memoranda/regulations. there are more municipalities with no animal welfare regulations than there are municipalities with such regulations;
- more municipalities have a portfolio holder than a policy memorandum (62 municipalities only have a portfolio holder, 52 have both a portfolio holder and a policy memorandum, 13 have a policy memorandum but no portfolio holder and 225 municipalities have neither).

When we look at the municipalities by province (Annex 3), we can see that, compared with 2012:

- two provinces saw a decrease in the number of portfolio holders (Limburg and Friesland);
- one province had the same number of portfolio holders (Drenthe);
- nine provinces saw an increase in the number of portfolio holders (other provinces).

In terms of the number of animal welfare policy memoranda:

- three provinces saw no change (Limburg, Drenthe and Friesland);
- one province saw a decrease (Groningen);
- eight saw an increase (the other provinces).

The conclusion is that there was an overall increase for both indicators (from 2012 to 2021) and that portfolio holders and policy memoranda are on the rise. However, this growth mainly occurred in and around the Randstad region. The north and south of the country saw little or no growth.

Animal welfare policy memoranda vary greatly in length and substance. At first glance, they generally seem to be reasonably comprehensive and to be born out of a strong political and administrative desire to include animal welfare policy in an integrated municipal discourse. Some municipalities, in their own words, saw it as a little extra sign of a civilised society. It is notable that urban areas have the most memoranda. This is not limited to the Randstad; animals in the Kop van Overijssel region can also expect to receive warm attention from the urban municipalities there. In addition to the obligations imposed by the central government, the regional role claimed by municipal authorities with an animal welfare policy memorandum involves focusing on matters such as events involving animals, traffic control measures to protect animals, animal ambulances, botulism, urban wildlife, safeguarding animal welfare in local emergency response plans, registration of pets and provision of information (for the elderly and people on a tight budget who want a pet). The memoranda are not restricted to companion animals: the welfare of farm animals and animals in the wild is also covered.

The memoranda of the municipal authorities that were interviewed by the RDA have roughly the following structure. They begin by outlining the background of animals in the municipality, which is sometimes broken down by categories of animals. These may be determined according to the relationship with the animals, such as animals in the wild and companion animals, but the categorisation may also be linked to issues such as animals in need or animal-friendly methods of controlling nuisance. Next, the memoranda often contain a section on legislation and/or a theoretical framework. They then outline the municipal authority's plans for animal welfare, in the form of ambitions, actions, priorities, measures or similar. A financial overview is always included.

A number of municipal authorities have included animal welfare in other political decision-making processes, such as discussions on the Spring Memorandum, the environmental vision, policy regarding the external appearance of buildings, minimum income and elderly policies or an 'umbrella zoning plan'. In some cases, animal welfare policies only focus on specific local situations, such as the creation of shelters for animals in fields or the organisation of horse markets.

2.5.2 Provincial authorities and water authorities

- The Province of North Holland was the only one to have a member of the provincial executive with animal welfare explicitly mentioned in their portfolio.
- The Province of Utrecht has an animal welfare policy stimulus,¹⁸ which is led by a member of the provincial executive.
- The Province of Flevoland has explicitly included animal welfare in the Oostvaardersplassen nature reserve in its coalition agreement, and Oostvaardersplassen is explicitly mentioned in the portfolio of a member of the provincial executive.

Many of the other provinces have portfolios on nature, species policy and wildlife management, which means animal welfare issues would naturally be discussed on a daily basis. Whether there are also council staff/policy officers with animal welfare in their remit was not investigated.

¹⁸ "With this animal welfare policy stimulus, the provincial authority is aiming to bring about a material improvement in the welfare of animals in the Province of Utrecht." Within the three themes of wild animals, captive animals and provision of information/education, the policy stimulus articulates six actions (concerning animal shelters; poaching; preventing damage from geese; connecting animal welfare to funding; cat predation in nature reserves and encouraging animal-friendly agricultural methods) and provides details of how these actions will be funded (Province of Utrecht Animal Welfare Policy Stimulus, 2009).

Out of the 21 water authorities, 2 have an animal welfare portfolio holder on their executive committee: the Regional Public Water Authority for Amstel, Gooi and Vecht, and the Brabantse Delta Water Authority. Other findings include:

- The Hunze and Aa's Water Authority is the only one to have an animal welfare policy vision.¹⁹ A senior policy officer is the point of contact for the vision.
- Most of the other water authorities have portfolio holders for muskrat and coypu control, biodiversity or ecological management. Whether there are also council staff or policy officers with animal welfare in their remit was not investigated.
- The Dutch Association of Regional Water Authorities has a separate muskrat and coypu committee. This in turn has an official gateway: a working group comprising sector leaders and directors undertaking muskrat management. It focuses on reducing animal suffering during animal control activities and on more animal-friendly methods of capture.

2.5.3 Security regions

Security regions do not have specific portfolios dedicated to animal welfare, nor do they have animal welfare policy memoranda. However, they do provide care for the people and animals in their area of responsibility during large-scale disasters and crises. This involves animal welfare, for example in relation to getting animals to safety. During disasters, the Security Region ensures that people and animals in danger are taken to safety. They play a coordinating role, arranging care for animals on the ground, sometimes with the help of veterinarians or the fire service.

Regional risk profiles drawn up by the Twente Security Region (VRT) identify a number of situations that explicitly involve animals, such as floods and animal disease outbreaks. According to the interviewee from the VRT, their documents state that their goal is: *“to ensure that people with reduced self-reliance can be temporarily looked after through emergency assistance for affected people and animals that are temporarily unable to look after themselves, and to get people and animals to safety by moving them from an affected or threatened place to a safe place.”* If an incident is small scale, private individuals are often able to take the necessary measures on their own. The VRT only takes action when a large-scale incident occurs, in which case it coordinates everything, including the rescue of animals. Of course, the fire service also provides assistance when animals are trapped. This is not always specified by the VRT in their contingency plans; they find pragmatic solutions to situations on the ground.

The topic of animals also comes up in relation to events (see Section 3.2.1).

According to the interview with the VRT, in terms of animal matters, there is little sharing of information or experiences with other security regions. The VRT says that security regions are all dealing with more or less the same structure, which makes very little mention of animals. It could be a useful complement to the structure for security regions to come together for a meeting to discuss and exchange experiences on this subject, including the aspect of ‘animal welfare’.

¹⁹ It contains the following objectives: “1. We will aim to showcase and promote the things we are doing in the broad field of animal-friendliness/animal welfare (‘be good and let people know’); 2. We will show that ‘having respect for nature and knowledge of nature’ is a core value of our organisation and an ongoing focus for us; 3. We will show that we want to remain in dialogue with our partners on this issue; 4. We will show that we want and are able to act decisively to improve the conditions for our policies.” Animal welfare ambitions and actions have been developed in respect of a number of topics: water quality; development projects; fish migration and fish policy; management and maintenance; damage caused by diggers; hazardous situations for animals and wildlife management (Animal Welfare Policy Vision 2017).

2.5.4 Overview of portfolio holders and animal welfare policy memoranda

As at October 2021	Animal welfare portfolio holder	No. of animal welfare policy memoranda
352 municipalities	<ul style="list-style-type: none"> • 114 animal welfare portfolio holders (32%) 	<ul style="list-style-type: none"> • 65 animal welfare policy memoranda (19%)
12 provinces	<ul style="list-style-type: none"> • 1 or 2 general animal welfare • 1 Oostvaardersplassen animal welfare (17–25%) 	<ul style="list-style-type: none"> • 1 animal welfare policy stimulus • 1 animal welfare perspective memorandum on Oostvaardersplassen (17%)
21 water authorities	<ul style="list-style-type: none"> • 2 animal welfare portfolio holders (10%) 	<ul style="list-style-type: none"> • 1 animal welfare policy vision (5%)

2.6 Explaining the differences

This section explores possible explanations for the differences identified between public authorities with and without portfolio holders and animal welfare policy memoranda.

2.6.1 Personal affinity and commitment

Extra commitment to animal welfare within a municipal authority – by appointing a portfolio holder, adopting an animal welfare policy memorandum or otherwise – may arise from the personal or political motives of mayors and aldermen, from policy positions or from the will and desire of the municipal council.

Most of the elected officials the RDA spoke to have a personal affinity for animals and are committed to their welfare. A handful did not mention that specifically. Nearly all of the mayors and aldermen interviewed mentioned that, as children, they had grown up with pets or other animals around the house. Some had previously sat on the boards of animal welfare organisations or political youth organisations in which animal welfare played a role. Some officials mentioned during the interview that they use the topic of animal welfare to raise their political profile. It is a sensitive issue for residents, it has a high ‘goodwill factor’ and it makes an official seem ‘cuddly’. Commitment to animals can come from a variety of quarters. For example, one alderman might be a big animal lover, with the will and desire to safeguard animal welfare throughout the municipal organisation, while another may primarily be interested in restoring biodiversity, with animals being cherished alongside other aspects of the natural world.

Residents can contact portfolio holders on matters related to animal welfare. Concerned citizens and animal welfare organisations also talk to the municipal council, local elected officials and council members about incidents and events involving animals. In doing so, they may be motivated by love for animals or anxiety about animals causing a nuisance. The question is, when is the municipal authority responsible, and when is something a matter for the provincial authority? This can lead to tension, because concerned citizens find it easier to contact the municipal council than the provincial authority.

Usually, it is not only elected officials who feel a sense of commitment. There is often cross-fertilisation between elected officials and policy advisers, as well as other council staff. The latter often work for the local or provincial authority for a long period of time, during which they build up a large and relevant network. Enthusiastic policy officers and advisers who have managed animal welfare during multiple council terms contribute to committed animal welfare policy. These personally motivated policy officers can be the linchpin of a local animal welfare network, connecting all local and regional bodies.

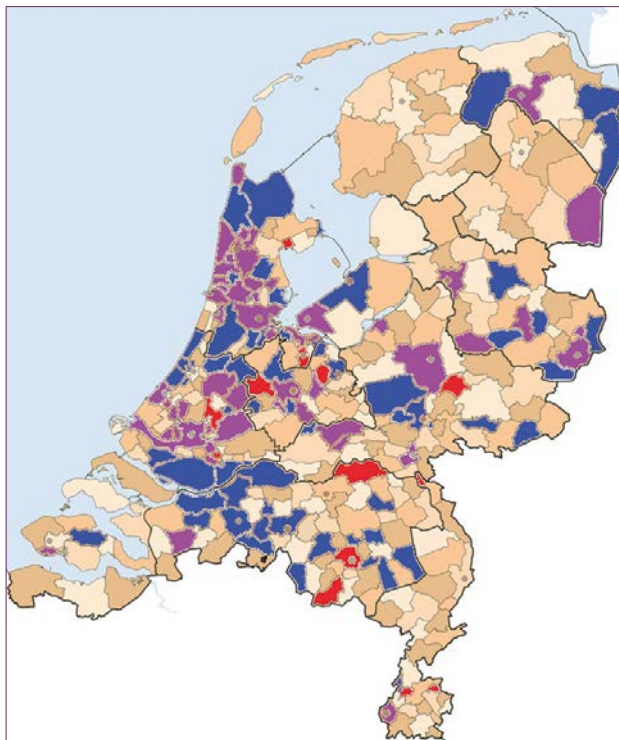
However, that is also a weakness: what happens when these committed initiators leave the organisation? How can animal welfare be safeguarded over the long term? In some municipalities, elected officials and policy officers work to safeguard animal welfare through policy, fearing that the focus on the subject will wane once a new council term begins.

If a mayor or alderman is enthusiastic about animal welfare, the subject may be incorporated into multiple portfolios and receive more attention. Sometimes, one official might be enthusiastic, but the rest of the council may be less so. That official will not be able to get as much done as they would like. In addition, a political party that is committed to animal welfare and active at the local level can help draw greater attention to the topic.

2.6.2 Cities and rural areas

Because of the regional spread of animal welfare policy memoranda and officials holding animal welfare portfolios, it would be useful to look at whether there are any similarities or differences between urban municipalities and those in rural areas. When we look at the 36 signatories to the letter from municipal authorities to the Minister,²⁰ we can see that most were from urban areas – in fact, most were from the Randstad region (see Annex).

Nearly all of the large urban municipalities have comprehensive animal welfare policy memoranda. In the Randstad region (North and South Holland), there are significantly more municipalities with animal welfare portfolio holders and/or policy memoranda than in Limburg, Friesland or Drenthe, for example. In addition, in Randstad municipalities, animal welfare topics are more likely to be incorporated into other portfolios, such as housing and social affairs/minimum income policies.



The Province of Friesland has no portfolio holders and no policy memoranda; nor do the Wadden Islands. The provinces of Zeeland,²¹ Drenthe and Limburg have very few policy memoranda and/or portfolio holders. Based on these data, there seems to be a relationship between urbanisation and the presence of portfolio holders and/or policy memoranda.

Figure 1 Map of portfolio holders and policy memoranda

Red = policy memorandum only

Blue = portfolio holder only

Purple = both a policy memorandum and a portfolio holder

²⁰ However, the specific commitment and backgrounds of those involved in this initiative are unknown.

²¹ The fact that the Province of Zeeland was doing little to protect animal welfare was picked up on by the regional broadcaster Omroep Zeeland. In 2021, it investigated the Zeeland municipalities and concluded that 12 of the 13 municipalities had no animal welfare policy and no immediate plans to change that state of affairs (Omroep Zeeland, 2021).

2.6.3 Size of the municipality

Out of the 5 largest municipalities (more than 100,000 inhabitants) – Amsterdam, Rotterdam, The Hague, Utrecht and Eindhoven – only Eindhoven has neither a policy memorandum nor a portfolio holder. The other four (the G4) have both.

The five smallest municipalities (with fewer than 5,000 residents each) – Schiermonnikoog, Vlieland, Rozendaal, Ameland and Terschelling – do not have either portfolio holders or policy memoranda. It appears, although this has not been investigated, that the size of a municipality (in terms of population) matters. This probably has something to do with the capacity of larger municipalities, or the fact that more residents means more questions about animal welfare; the degree of urbanisation of the five largest municipalities may also be a factor (because it affects the types of interactions people have with animals). On the other hand, four of the Wadden Islands are among the five smallest municipalities, so the geographic location/status of those islands (which are in the same province) or other municipal factors could have an impact.²²

Geographic size may also be a relevant factor. A larger area could mean more animals, both captive and wild, and more interactions with animals. The five largest municipalities by area are Súdwest-Fryslân, Het Hogeland, Noordoostpolder, Hollands Kroon and De Friese Meren. Out of these municipalities, only Hollands Kroon (North Holland) has a portfolio holder. None of these municipalities has a policy memorandum. The five smallest municipalities by area are Westervoort, Oegstgeest, Krimpen aan den IJssel, Maassluis and Alblasterdam. Out of these, Westervoort and Oegstgeest (the two smallest) have a portfolio holder. None of these small municipalities has an animal welfare policy memorandum. It therefore seems that size, in terms of area, does not necessarily make a difference. This has not been statistically investigated. The presence of nature reserves and intensity of agriculture probably play a role. On the other hand, since the largest municipalities are all in the north of the country, geographic location may also be a factor.

2.6.4 Political leanings

Finally, it would be useful to look at whether there is anything noteworthy about the relationship between the political leanings of a municipality and the presence of portfolio holders and/or policy memoranda. This produces a mixed picture. All parties are represented among the portfolio holders (see the list below), but it seems that it is often the Party for the Animals that champions policy memoranda (although no quantitative data are available).

Out of all portfolio holders:

- 36 are from local parties;
- 26 are from GroenLinks;
- 19 are from the Christian Democratic Appeal party;
- 11 are from D66;
- 12 are from the People's Party for Freedom and Democracy;
- 4 are from the Labour Party;
- 3 are from the Christian Union;
- 1 is from the Socialist Party; and
- 2 are not affiliated with any party.

It appears from this list that local parties and GroenLinks have the most portfolio holders (together, they account for more than half of the total). It was mentioned several times in the interviews that the Party for the Animals plays a role in increasing the visibility of animal welfare topics.

²² The next five smallest municipalities – Renswoude, Baarle-Nassau, Noord-Beveland, Mook en Middelaar and Zoeterwoude – also do not have either animal welfare portfolio holders or policy memoranda.

2.6.5 Other drivers

In addition to the above factors, such as urbanisation, political leanings and personal drivers, there are other possible reasons why a municipality might or might not put animal welfare on the political agenda.

These include cultural and historical reasons and traditions that may have led to animals or events involving animals becoming a focus in the municipality, such as circuses in municipalities in the Province of North Holland,²³ or the unusual story of Jo the bear, who lived in a bear pit in Maastricht City Park.²⁴ The city had an actual bear pit containing multiple bears from 1920 until 1993; it is now commemorated by a statue and monument at the site.

When animal welfare is linked or integrated with other portfolios or policy areas such as sustainability or biodiversity, it becomes more embedded in the administrative organisation. According to some of the people we interviewed, this can save costs. Whether this is actually the case, or whether it just results in the costs being labelled differently, has not been determined. During one interview, the interviewee suggested that it is 'smart' to record animal welfare matters under other cost items, to ensure the policy is implemented without needing to be a separate cost item.

Finally, several substantive reasons were raised in the interviews for why an animal welfare policy memorandum had or had not been adopted:

- The safeguarding of animal welfare should not depend solely on committed people (without being enshrined in documents). The memorandum was referred to as having a symbolic function, because the executive and the council could no longer ignore it.
- A policy memorandum helps authorities take concrete steps in the area of animal welfare (a memorandum is supposed to lead to the drafting of a step-by-step plan for the next x years, after which new priorities are set).
- A policy memorandum is not in itself required for an active animal welfare policy. Leeuwarden, for example, pursues an active animal welfare policy but does not have a policy memorandum.

²³ Following the 2015 ban on wild mammals in circuses, there was a lengthy debate about Buba, a female elephant who had travelled around for many years with a circus family, who had obtained an exemption for her. In the end, the House of Representatives agreed that Buba could stay with the family. In North Holland and elsewhere, the question of where Buba should live attracted a lot of attention (see, for example, <https://www.rtvzastreek.nl/verbijstering-over-olifant-buba/nieuws/item?832002>).

²⁴ For a long time, Maastricht had a bear pit with actual bears. When the last bear, Jo, was transferred to Ouwehands Zoo in Rhenen, a monument was erected at the site of the old bear pit in memory of the bears. A bronze statue of Jo the Bear was created (see <https://maastricht.mustsee.today/nr-6-berenkuil/>)

3. Desires and possibilities

3.1 Desires for the future²⁵

3.1.1 Clarity

Clarity around responsibilities in the area of animal welfare, and thus around responsibility for funding, is an important priority that was raised by the central government, provincial authorities and municipal authorities. It is a major challenge for all levels of government. Under the current laws and regulations, municipal and provincial authorities have obligations and powers in the area of animal welfare.²⁶ These are described in the general articles in the Animals Act, the Nature Conservation Act and the Civil Code (duty to provide shelter). However, reading between the lines, there are different views on these obligations and powers. According to the interviewees from local and regional authorities, the Ministry has provided little clarity on this matter. For example, one member of a provincial executive saw himself as a defender of the interests of animals, in relation to both agricultural policy and nature policy and the impact those policies have on animals. Anything that is achieved in terms of animal welfare happens because the province thinks it is important and relevant, in situations where the central government plays no role but where support is nevertheless necessary (as with wildlife rescue, for example).

With regard to policies in the area of animal welfare, several interviewees said that “nobody is or feels responsible”. Even when the law says that ‘everyone’²⁷ is responsible – for animals in need of help, for example – the organisational and financial consequences of that responsibility are difficult to determine. The interviewed municipal authorities consider that the central government has the primary role in animal welfare. Most of the interviewed parties consider it important for one single level of government to be given complete and clear responsibility. At the moment, according to them, municipal councils and provincial executives pass motions that cannot be implemented, no matter how much aldermen or executive members might want them to be.

It would help enormously if it were clear who can do what when it comes to animal welfare. All of the interviewees from municipal authorities agreed that there needs to be more clarity around responsibilities and powers. Some interviewees had a clear preference for a certain level of government, while others simply said: “I don’t care who takes care of it, them or us, as long as someone does” or “as long as it happens”. On the question of who should do what, opinions differ. Some were clear about who should do what, while others prefer to leave the question open. Most of the municipal authorities we interviewed saw at least a partial role for themselves in relation to animal welfare, but they would prefer to see this role enshrined in laws or regulations. They want to help by engaging in dialogue and linking portfolios, for example to look at how landscapes could be designed differently to allow more room for certain animal species, to prevent collisions and nuisance. How this relates to the desire for one level of government to have ‘complete and clear’ responsibility was not clear from the interviews.

Based on the interviews, it seems that municipal authorities mainly deal with pets and wild

²⁵ This section is based on interviews conducted by the RDA and the earlier letters written by municipal authorities and the VNG.

²⁶ They also have relevant obligations in the context of cadaver regulations, tenant evictions, fire and police services and emergency/disaster response.

²⁷ Explanatory memorandum to the Animals Act, page 22: “The intention of this proposed provision is to ensure that everyone, whether they are an owner, trader, manufacturer of feed or medicinal products, or veterinarian, is aware, in their actions and omissions, of their own responsibility for animals and of the intrinsic, independent value of animals and that they always act based on that awareness. This might result in a decision not to carry out a certain action or activity, even though the action or activity in question is permitted. Not everything that can be done, should be done.”

animals (often, but not always, in relation to nuisance), while provincial authorities mainly deal with wild animals in relation to nature. According to one interviewee, there could be more of a focus on animal welfare in wildlife management. For instance, the wildlife management unit in North Holland does not currently have an animal welfare representative. Another contribution from provincial authorities could be providing more customisation, potentially at a regional level. At the moment, according to one person we interviewed, in relation to biodiversity and species management, for example, it often comes down to the ambitions of private individuals (landowners or other organisers), and there is no insight into the overall quality of the actions taken.

3.1.2 More powers

Clarity around powers is the top priority, but opinions are divided on what and how extensive these powers should be. Some municipal authorities want more powers so they can ban events²⁸ involving animals, for example; this was mentioned in letters from municipalities and the VNG. Others do not want those powers, because they regard the task as primarily belonging to the central government; this was stated during the interviews.

Some municipal authorities think that the VNG and the Association of Provinces of the Netherlands (IPO) could 'tackle the task'; this would be a new role for these organisations. They could act as connective parties, informing municipal authorities of what they can do if they want to implement an active animal welfare policy. They could do this by setting up a committee that would make the topic more clear-cut or by creating a database. In addition, a template for an animal welfare policy memorandum would be valued by the municipal authorities that do not yet have one. Municipal authorities often look to neighbouring authorities that already have such a policy memorandum; they, in turn, followed the example of other municipal authorities or used sample memoranda such as that produced by the Dutch Society for the Protection of Animals.²⁹ There could be greater regional collaboration, with municipal authorities helping each other.

For small to medium-sized municipalities, it is often difficult to give animal welfare any place – let alone a prominent place – in policy, because they lack the necessary knowledge and capacity. This lack, however, does not release a municipal authority from its legal obligations in the area of animal welfare. According to one interviewee, some things could also be done more cheaply and efficiently.

But what do municipal authorities need, in order to put animal welfare in its proper place? Many of the municipal authorities we interviewed would love to have the power to ban a particular event or initiative on animal welfare grounds ("If the Minister says Buba can stay, I can't send her away."). Municipal authorities would therefore like to have more powers. ("It's better to provide more clarity up front (during the permit application process).") One municipal authority said its organisation was already having problems complying with existing legal obligations, let alone any extra requirements that might be added in the area of animal welfare. More funding to increase capacity for monitoring and enforcement was also mentioned as a precondition for giving animal welfare powers to municipal authorities. However, according to an interviewee from the Netherlands Food and Consumer Product Safety Authority (NVWA), expanding the municipal enforcement remit by adding animal welfare would require specialist knowledge to detect infringements, partly because of the open standards. ("It's hard enough even for the NVWA.") However, municipal authorities did give examples of where they thought the central government

²⁸ Recent examples of events where animal suffering did not constitute grounds for the municipal authority to refuse to issue a permit: <https://www.duic.nl/algemeen/gemeente-utrecht-over-wk-streetfishing-dierenleed-geen-reden-om-vergunning-te-weigeren/> and <https://www.ad.nl/utrecht/voor-een-keer-is-een-wereldkampioenschap-niet-welkom-in-utrecht-maar-het-gaat-toch-door-a819989f/>

²⁹ See, for example: <https://www.dierenbescherming.nl/userfiles/pdf/GemeentelijkDierenwelzijnsbeleid/NotaAanbevelingenGemeentelijkDierenwelzijnsbeleid2018.pdf?r=7597751> and <https://www.dierenbescherming.nl/wat-kan-jij-doen/als-gemeente/de-gemeente-maakt-het-verschil/praktijkvoorbeelden?r=2026996>

should have a role, such as the online sale of animals or the breeding of high-risk dogs³⁰. People buy these animals online, then take them to a shelter if they turn out to be unmanageable. At that point, as the municipal authorities told us, it becomes ‘their problem’, even though it is a problem for the shelter and not the municipal authority per se. They believe the central government could play a role through animal welfare policy, by running nationwide campaigns to raise awareness of the issue. Municipal authorities could also do more to draw attention to the subject. Some municipal authorities think there should be a broader public debate on the issue, not only from an animal welfare perspective, but also from an environmental and climate perspective.

According to municipal authorities, provincial authorities have a larger role to play in the rescue and protection of wild animals than is currently acknowledged by the provincial authorities themselves. In the interviews, wildlife rescue was mentioned as an example; at the moment, several municipal authorities provide financial and other assistance to animal ambulances, shelters and sanctuaries. However, there are significant differences between municipalities in terms of their contributions to such services. In addition, only two provincial authorities are involved in wildlife rescue. The division of roles is unclear, particularly in terms of funding. Municipal authorities often pay for animal rescue but do not carry it out, or vice versa. Most of the interviewees from municipal authorities believe provincial authorities are shirking their roles and responsibilities with regard to animals in the wild and wildlife rescue, in terms of funding, collaboration and coordination. However, other interviewees said that they did not necessarily consider this to be among the duties of provincial authorities. They do not believe provincial authorities have any obligations in the area of animal welfare. However, provincial authorities do acknowledge the challenges that municipal authorities are facing. In the example of wildlife rescue, where sanctuaries are bursting at the seams, municipal authorities provide additional financial support. This does not go unnoticed by provincial authorities, but there is no structural solution to the issue.³¹ 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.

According to interviewees from several municipal authorities, most of the friction arises in relation to nuisance caused by animals, such as seagulls and geese, which is often experienced over a long period of time. Uncontrolled population growth can have serious adverse consequences on other flora and fauna. At the same time, the nuisance must be addressed in an animal-friendly manner. This can be difficult. With regard to nuisance, several interviewees said that it takes a long time to obtain permission to take action – in their own words, municipal authorities have too little power to take care of the problem by themselves, and they therefore become frustrated. They cannot take unilateral action; the issue is governed by provincial regulations, so they have to seek an exemption from the provincial authority. Some interviewees believe the central government should also take a more active role at a national level in issues like the seagull and goose nuisance, modelling an animal-friendly approach. In the past, responsibility for such issues has been transferred to the provinces. But as some municipal authorities have found, not all provincial authorities are equally motivated to do something about the problem. One municipal authority considers regional collaboration to still be in its infancy. There is a clear need on the part of municipal authorities for greater coordination, collaboration and support in this area.

Some municipal authorities are also struggling with their enforcement role. This will be discussed in more detail in Section 2.4.

³⁰ See RDA advisory report, 2017

³¹ The RDA is preparing a separate, solicited advisory report on wildlife rescue and rehabilitation.

3.1.3 Assistance and information from the Ministry

The people we interviewed from municipal authorities observed that, because attention on animal welfare is currently increasing, now is the time to take action, with assistance from the central government and possibly the VNG. The government and the VNG could support this movement, so that more municipalities and elected officials feel inspired or challenged to get started or take further action. According to some interviewees, animal welfare is more of a municipal/decentralised task; if the Ministry took sole responsibility for it, local officials would sit back and do nothing. The people we interviewed thought it was important that they be encouraged to tackle this subject. They believe the financial aspect is a key element of this issue. There is a difference of opinion among the interviewees about who should possess what skills and who should bear financial responsibility for the associated training: the central government, provincial authorities or municipal authorities.

However, several municipal authorities said that animal welfare should first be made a primary task, instead of a secondary task, in the political and administrative agenda. They would like to see the Minister create a framework, setting out the minimum that municipal authorities can do in animal welfare cases. One of the people we interviewed said that what municipal authorities can do for animals is very limited, compared to what they can do for people. Another interviewee pointed out that the options available to municipal authorities are mainly repressive: there are rules for what cannot be done with animals, but there are few preventative policies, such as in the case of nuisance caused by geese. Accordingly, this interviewee thinks the Ministry could set ground rules, allowing provincial and municipal authorities to better manage such areas.

An interviewee from a water authority believes that water authorities should, in the first instance, ensure that animal welfare is an integral part of their policies. The central government could force them to review their duties, as it does in other areas (according to the interviewee). The Ministry of Infrastructure and Water Management is responsible for the technical side of things, such as dykes, but it could also include more social issues in water authorities' duties. This has been noted by Parliament. At the moment, these duties are often related to spatial planning, but the interviewee believes that animal welfare could be added.

3.1.4 Sharing of knowledge and experiences

Most of the municipal representatives we interviewed said that it would be very desirable for different levels of government to share more knowledge and expertise, both horizontally and vertically. This includes learning from each other by sharing knowledge and experience, but also starting a dialogue about animal welfare, to make policies less fragmented and one-sided. Some of the elected officials we interviewed said that there was a lack of knowledge about animal welfare within their council organisations and that council officers had to really be challenged to look beyond the usual way of doing things. It is also true that what is positive for animals is not necessarily positive for the environment or for other areas of society. This is a difficult dilemma for many municipalities, and according to one interviewee, conversations on this topic are generally avoided, both within the municipal authority and between the municipal authority and the provincial authority. This applies to the area of livestock farming, for example.

As well as sharing knowledge, municipal authorities see the benefits of greater collaboration; not only with each other, but with a wide range of partners. Some partners are well organised, such as the police, while others are vulnerable, such as petting zoos and bird sanctuaries. Collaboration, including with the Dutch Society for the Protection of Animals, will bring greater balance to the issue of animal welfare. Some interviewees wonder: what do small initiatives need? But also: what initiatives do not benefit animal welfare and should be stopped?

Finally, several interviewees could see the added value in a platform (whether digital or otherwise) specifically for sharing knowledge and experiences (whether good or bad), such as a database or network of officials. In this regard, some of the people we interviewed mentioned their involvement in the DierVizier initiative.

3.1.5 Other desires

Finally, several municipal authorities expressed desires in the interviews that were particularly relevant to their local area but that might also have wider importance, such as a list of high-risk dog breeds (“At the moment, it takes a lot of energy to persuade dog owners to give up their dangerous dogs”); a nationwide publicity campaign organised by the central government on feeding wild animals in cities (“Many animals suffer from eating the wrong food; this leads to disease and unhealthy populations”) and a general ‘positive list’ of pets.

In terms of the division of roles and tasks, the main desire is for clarity, support from the central government including increased capacity for police animal welfare task coordinators and a greater role for provincial authorities in rescuing and caring for wild animals. It would also be desirable to create nationwide uniformity on cross-municipality issues, which could lead to people being inspired at the local level.

The next section looks at what is possible in terms of fulfilling the above desires.

3.2 Possibilities – specific examples

Most of the desires described above, which were mainly raised by municipal authorities, are ones the RDA has heard before. Many of them were raised in previous advisory reports, such as the advisory report on stray cats (RDA, 2016), which fall between the cracks because they are neither captive nor wild animals. Discussions about ownership and responsibility for cats, and the welfare of cats and other animals in the wild, often overlap. Private law rules concern the responsibility of the citizen/owner. Which public authority should be involved is sometimes a complicated administrative issue. The desires described above may also be related to local events. Specifically in relation to horse markets, the RDA has noticed confusion around the interpretation and implementation of several elements of the laws and regulations.³² From the perspective of animals, for uniform animal welfare compliance and enforcement and thus a better-guaranteed base level of protection, this is undesirable.³³ In its advisory report ‘Weighing Wildlife Welfare’ (RDA, 2017), in addition to things like policy differences between provinces, the Council specifically wondered how the welfare of animals in the wild was being safeguarded and when the central government and provincial authorities would be satisfied. Lastly, in recent discussions about rescuing and caring for wild animals, we encountered a range of views among municipal and provincial authorities about each other’s responsibilities (see also footnote 14).

The letters referred to above from municipal authorities and the VNG contain examples of subjects that municipal authorities think could be entrusted to them. Two of these are discussed below as examples: powers relating to events involving animals and the use of municipal BOAs in the animal welfare enforcement chain.

³² RDA, 2017 and RDA, 2018.

³³ If every local government body could decide for itself what additional animal welfare requirements could be imposed on horse markets, in theory, differences could arise between municipalities. That could have both advantages and disadvantages.

3.2.1 Events involving animals

Municipal authorities would like to acquire the power to decide, via a municipal bylaw, whether or not to permit various events involving animals in their own municipality. This would include the power to ban, on animal welfare grounds, events such as circuses involving live animals (certain wild mammal species have already been banned), nativity scenes with live animals, falconry shows, pop-up petting zoos at fairs, advertising involving animals and traditions involving live animals, such as the rooster of Kallemooi (as indicated in the 2020 letter from the VNG). Another proposal from municipal authorities is that the central government could commission a study into whether it is appropriate to use other animals in events, particularly raptors, reptiles and CITES-listed animals (letter from municipal authorities, 2017).

There are various solutions worth thinking about that could answer these desires from municipal authorities,³⁴ such as:

- options to assess animal welfare laid down in a municipal bylaw (in advance);
- establishing animal welfare requirements for events involving animals (in advance);
- an assessment framework for events, with an animal welfare assessment required before a permit can be issued for an event (in advance);
- potential for animal welfare enforcement during events (afterwards).

Municipal authorities are clearly concerned about the welfare of animals involved in events and want to be able to do something to improve the situation, for example through an expansion of their powers. All of the people we interviewed were committed to this subject. From previous advisory reports and the interviews conducted, the RDA only has a general idea of the reasons why municipal authorities want expanded powers. The case studies presented were diverse, and the specific concerns about animals' welfare being compromised were not always made clear. However, what most of these cases had in common was that municipal authorities are being approached by citizens and animal welfare organisations, and questions are being raised in local politics and at municipal council meetings about events involving animals within the municipality. For example, in a municipality where a dog show was to take place, the council was sent photos of short-nosed dogs by an animal welfare organisation, with the message that these animals were banned and that the municipal authority should not allow the dog show to go ahead. In another example, a firework show with a provincial permit was held in a park during bird breeding season. The municipal authority was approached with concerns, but by their own account, there was nothing they could do. Sometimes, provincial authorities even subsidise events involving animals, such as agricultural shows or events like Jumping Amsterdam. This gives rise to debate. And even though the Minister has granted a nationwide exemption for a retired elephant (which is no longer performing) to travel with a circus, local officials in municipalities visited by the circus are still approached with concerns. Carrying out an assessment is not an easy matter for every municipal authority. Is a living nativity scene a good idea from an animal welfare perspective, and if so, under what conditions? What about harness racing? According to one of the people we interviewed, being clear right at the start, during the permit application process, is the best way to make sure animal welfare 'hits home' with organisers and prevent problems later. Even just asking the question: 'what is actually not allowed in terms of events?' helps to get people thinking.

³⁴ In the context of horse markets, the RDA has previously observed: "Municipalities have the power to set additional requirements applicable to horse markets. In order to maintain the social support base and the added value for municipalities, they should decide on the conditions under which permits will be issued and how they are monitored. The Council deems the inclusion of the Horse Market Welfare Protocol in the general municipal bylaws and any ensuing permits to be an explicit requirement." (RDA, 2017)

Security regions advise mayors on major events (categories B and C) involving animals, such as farmers' markets, carnivals and horse races, but they are less concerned with the welfare of the animals than they are with the risk the animals pose to people (through accidents). With regard to disasters, security regions only take action when large-scale incidents occur (interview with the Twente Security Region; see also Section 2.5.3).

At present, municipal authorities have no specific powers to regulate based on animal welfare in relation to events. Nevertheless, a number of municipal authorities see a role for themselves and are already implementing a strategy to fulfil that role:

- Municipal authorities can act as an intermediary or dialogue partner between an event organiser and animal welfare organisations, encouraging the parties to work together to find a solution.
- Municipal authorities can promote and pursue a policy of encouraging events without animals (or of discouraging events involving animals, as the Amsterdam and The Hague city councils have pledged to do).

Below, the RDA lists the advantages and disadvantages of local powers for events relating to animal welfare (enforcement will also be discussed in the next section).

Advantages:

- allows for customisation (on top of the national baseline), with more local involvement and responsibility;
- municipalities that want to do more in terms of animal welfare no longer dependent on the low national standard;
- giving clarity in respect of specific local events in terms of what can and cannot be done in an animal welfare context;
- improvements to animal welfare in the context of events, through local coordination and agreements between municipal authorities and organisers;
- control over whether events involving animals can pass through a municipality and the ability to set conditions in this regard.

Disadvantages:

- differences between municipalities in terms of agreements and regulations where animals are involved; the situation may not always be clear for users or organisers of initiatives that will take place across multiple municipalities (such as raptor shows);
- debates about desirability should take place at a national level or higher (as was the case with the ban on wild mammal species in circuses). The welfare of animals should not depend on the municipality they are in;
- insufficient specific knowledge and skills at municipal authorities in relation to animal welfare.

3.2.2 Enforcement and responding to reports of animal suffering

In the letter from the VNG, municipal authorities requested powers to be able to act more quickly and effectively when they receive reports of animal suffering. *“On the one hand, we note that enforcement bodies such as the Inspectorate of the Dutch Society for the Protection of Animals (LID) and the NVWA currently have too little capacity/time to follow up on reports of animal suffering in municipalities; on the other hand, municipal authorities, through their BOAs, have ‘eyes and ears on the street on a daily basis’. Giving BOAs a role in the animal welfare enforcement chain would strengthen that chain.”*

In a general sense, municipal authorities are not a supervisory authority under the Animals Act; one exception is municipal BOAs in Domain II with regard to criminal law (see also footnote 35).

The people interviewed from municipal authorities were specifically asked about this subject. On the question of whether municipal BOAs consider animal welfare when carrying out their duties, the response from most interviewees was that they only did so incidentally. However, some municipal authorities have investigated what role BOAs could play in relation to animal welfare. According to most of the municipal officials interviewed, municipalities lack the powers and finances to deploy BOAs to investigate animal welfare issues. BOAs in Domains I (Public spaces) and II (Environment) have no administrative powers in the area of animal welfare (specifically in relation to the Animals Act),³⁵ but municipalities are experimenting with other methods. In the area of high-risk dogs, for example, they have set up municipal hotlines and given specific training to enforcement officers. For example, Rotterdam has task coordinators for 'aggressive' dogs but no general animal BOAs. According to municipalities, that power must be granted by the central government – at the moment, this cannot legally be done at the municipal level. Most of the municipal authorities we spoke to had given their enforcement officers and social affairs staff training on animal abuse and neglect so that they can recognise the signs.

The people we interviewed had differing views on the possibility of using municipal BOAs for animal welfare and had found different ways of dealing with the issue in practice. In one municipality, BOAs might have duties relating to animal welfare (an 'eyes and ears' function when they encounter neglected animals; taking action to prevent the feeding of animals/pollution), or the municipal authority itself might have drafted guidelines on animal abuse and neglect³⁶ (Rotterdam City Council, 2020). In other municipalities, elected officials and council staff might think it is a bad idea for BOAs to be involved in animal welfare matters. They often believe that BOAs are already overloaded with duties and that animal welfare is not something to do on the side, but a completely separate subject, requiring knowledge and expertise (RDA interviews).

The capacity problem mentioned in the VNG letter is something the NVWA is also familiar with. There are often calls for the NVWA to do more, but it is not always possible to recruit the necessary people. In the past, the NVWA has only hired inspectors who have completed higher professional education. According to the person we interviewed from the NVWA, this policy overlooks the talents of those who only hold senior secondary vocational qualifications: in senior secondary vocational education (Domain II), attention is given to animals and legislation in general terms (though not animal welfare specifically), and students receive basic training in administrative and criminal law. One interviewee suggested that such people could well play a role alongside an inspector. The NVWA has already started working on the concept of recruiting senior secondary vocational graduates. However, if the remit of BOAs is expanded by adding full and specific responsibility for animal welfare, specialist knowledge will often be required to detect infringements, partly because of the open standards. That is often hard enough even for the NVWA³⁷ and may require veterinary expertise. However, municipal BOAs could

³⁵ BOA breakdown (Ministry of Justice and Security, 2018): "The criminal offences that a BOA may investigate are set out in the List of Domains and in their list of duties. There are six domains in which a BOA may operate: 1) public spaces: dealing with nuisance and minor annoyances that affect the liveability of public spaces; 2) environment, well-being and infrastructure: natural spaces and the environment, labour inspection, food & consumer product checks, animal welfare, public health, the physical living environment (including buildings, parks, clean air, rivers and forests) and infrastructure; 3) education: enforcement of the Compulsory Education Act (Leerplichtwet) and other laws and regulations relating to education; 4) public transport: investigation of criminal offences relating to public transport; 5) work, income and health care: criminal law enforcement in the areas of work, income, taxes and social affairs; 6) general investigation: residual category of BOAs who usually have general powers of investigation. Each domain has its own specific educational requirements and powers. Officially, BOAs have all the powers for that domain, but the employer determines which ones a BOA can actually use. These are related to the duties the BOA will be performing."

³⁶ When enforcement officers or neighbourhood teams are confronted with animal abuse or neglect in the course of their duties, these guidelines can help them work out where to report their concerns.

³⁷ Almost all NVWA inspectors are also BOAs.

complement NVWA officers in their reporting and informing function; for example, they could be given guidance on how to keep their eyes and ears open for animal welfare breaches while they are busy with other matters. There are some matters for which specific expertise is not required, such as identifying a complete absence of drinking water or a breach of the ban on housing animals in pet shop windows.

Some municipal authorities indicated that they receive few reports concerning animal welfare, because such reports are usually sent to the Inspectorate of the Dutch Society for the Protection of Animals (LID). This raises the question of whether animal welfare is really a municipal role or whether it would be better to leave it to the LID or the other two national specialist supervisory authorities (via the 144 hotline): the animal police and the NVWA (Netherlands Food and Consumer Product Safety Authority). In practice, they cooperate on the basis of a covenant from 2011 and a draft covenant from 2019. The supervisory authorities and the Ministries of Agriculture, Nature and Food Quality and Justice and Security recently held discussions on strengthening this cooperation. Some believe that investing in more staff for these specialist national supervisory/enforcement authorities would be more effective than expanding the list of duties of municipal BOAs.³⁸ The current complexity of the cooperation arrangements between the LID, police, animal police and the NVWA is one of the reasons why expanding municipal duties may be undesirable. BOAs have a narrow remit, and according to a Coordinating Specialist Inspector from the NVWA,³⁹ “animal welfare is never simple, it is always complex”. The inspector believes that visiting an enforcement location with different enforcement parties who all look at the situation from their own point of view and can learn from each other while retaining their own role and function would be a good idea.

According to the inspector, one thing that is especially difficult in terms of cooperation between supervisory authorities (NVWA, LID, Netherlands Enterprise Agency, police, etc.) is that information that the parties have gathered separately cannot simply be shared or exchanged with each other (mentioned in the NVWA interview). This creates an information gap, including for municipal authorities and staff in the political and administrative system. The Coordinating Specialist Inspector wondered whether solutions to this issue could possibly be found. In general, a lot of time is spent on education and providing information. Who else could do that work? In the interviews, it was suggested that an information desk run by the Ministry of Agriculture, Nature and Food Quality could take over this task, or the VNG website could take on a more central role as an information platform, with broader responsibility for animal welfare than is currently the case. In addition, the open standards in the Animals Act create uncertainty: what is the minimum that must be done for animals? How can a municipal authority communicate specific requirements for stables and field shelters and what can and cannot be built? Conversely, what can a municipal authority do if puppies are being sold without a permit? The law leaves little room for manoeuvre.

Below, the RDA lists the advantages and disadvantages of expanding local powers for municipal BOAs in the area of animal welfare.

³⁸ For incidents involving neglect, municipal authorities consider that collaboration would be desirable, due to the underlying social issues often experienced by the owners. The only water authority we interviewed would like the idea of more control to at least be open to discussion. For example, the Dutch Association of Regional Water Authorities could set up an animal welfare committee.

³⁹ Specifically, from the cluster responsible for the development of supervision of the welfare of farm animals in primary establishments and companion animals (dogs and cats).

Advantages:

- Local enforcement priorities can be set in response to specific local issues and debates;
- Local enforcement officers often know the local situation and local population better than national enforcement authorities working across larger geographic areas and can therefore provide a better response (including local embedding of consultation and work instructions, etc.).
- More eyes and ears on the ground can enable situations to be monitored (early warning function).
- There are more parties to collaborate and exchange information with (strengthening capacity and information).
- The additional link would strengthen the existing enforcement chain for animal welfare.

Disadvantages:

- Without good coordination, the use of local enforcement risks weakening the position of national enforcement and the nationwide uniformity of animal welfare enforcement.
- Animal welfare is complex and requires specific knowledge and expertise (it is not 'something to do on the side').
- There is a fear that local residents may retaliate (in officers' private lives).
- There are more parties to collaborate and exchange information with (risk of bureaucracy, reduced ability to respond quickly).
- Ambiguity around roles and tasks (national or local?) would weaken the enforcement chain.

Based on the RDA's exploration, 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.

4. Fundamental questions about the embedding of animal welfare in law

4.1 Is animal welfare fundamentally well regulated?

In the eyes of the RDA, it is crucial that animal welfare be properly embedded in laws and regulations. Animal welfare must be properly safeguarded; clear regulations should prevent things from going wrong, and proper enforcement is needed if they do. At a fundamental level, it should not matter where an animal lives; in terms of welfare, significant differences between animals are undesirable.

The confusion that exists around the animal welfare powers of local and regional authorities means that animal welfare is not necessarily well regulated at a fundamental level.⁴⁰ It is clear that there is a desire for more independent powers. Concerns about the welfare of animals within the boundaries of a municipality or other level of government are also evident. Citizens, elected officials and council officers are increasingly turning their attention to animal welfare. However, the precise reasons why more powers are desirable at this time were somewhat unclear in the interviews conducted (even when considered from the perspective of animal welfare). Have issues been reported in relation to animal welfare that have resulted from unclear or poorly regulated powers? Or has something gone wrong in another area, perhaps on the enforcement side of things? What mistakes or systemic errors have caused the issues that have been observed? On this point, the responses from the people we interviewed were not necessarily in line with the contents of the letters from the municipal authorities and the VNG.

Based on the interviews the RDA conducted, 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. Based on the desires and needs expressed in the letters and interviews, two things stand out to the RDA:

- 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. The types of problems the RDA has encountered arise due to enforcement capacity, the lack of a code of conduct (open standards) and the absence of opportunities to exchange and share information. For now, these issues appear to result mainly from gaps in national policy. This means that more action from the central government is required to bring order to the situation.

⁴⁰ As mentioned in Chapter 2, the intention was for animal welfare to be comprehensively regulated in the Animals Act. This does not allow any scope for local or regional authorities to set their own rules. However, the duty of care applies everywhere. In the Nature Conservation Act, animal welfare is not specifically addressed. It is indirectly covered by a number of sections, including welfare in relation to means of killing, the use of guns, food scarcity, exemptions and CITES regulations.

- 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,⁴¹ so that animal welfare can be improved in specific situations. This desire appears to be concentrated in urban areas, particularly in the Randstad region. It should be noted that the RDA has not checked with or surveyed all municipal authorities in relation to this desire, which does mainly come from municipal authorities.

It is not obvious to the RDA that assigning more powers to local and regional authorities is the most appropriate way to address the concerns raised in the letters from municipalities. Such powers would not automatically benefit animals. To safeguard animal welfare, major additional steps are required in many areas, which can best be achieved at the national level. Similar issues emerged during the review of the Animals Act, such as problems with the ‘open standards’ in the area of animal welfare (Berenschot, 2021).

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. The same applies to the example mentioned earlier of the ban on certain wild animals in circuses. Consider, for example, the sale of animals in pet shops and other sales outlets. It seems illogical to regulate this at the local level. On the other hand, some events involving animals have local roots and are linked to local permit policies and issuing practices. In those cases, a national debate would be unnecessary. Being able to more explicitly assess, evaluate and enforce animal welfare when issuing a permit could be a good option.⁴² That would require a new, explicit legal basis in the Animals Act, and it would first have to be implemented nationwide. In all situations, it will continue to be the case that local decisions must not conflict with higher laws.

The RDA currently sees no compelling reasons to organise the administrative basis of animal welfare in a different way to what is currently the case. Events appear to be an arguable exception worthy of further consideration. The RDA considers that having clarity around powers is more important than the powers themselves. However, there are other ways that animal welfare could be strengthened, which involve the central government playing a facilitating role in reaching out to local and regional authorities and getting them involved. These will be discussed in the final chapter (Chapter 5).

4.2 Do local innovations have a positive effect on animal welfare?

Although the RDA sees no compelling reason to organise animal welfare differently at an administrative level, improvements and innovations implemented by local and regional authorities can have a positive effect on animal welfare.

Animal welfare policy memoranda and portfolio holders appear to ensure that municipal authorities are rethinking how animal welfare is embedded in the policies and operations of their municipality. Municipal authorities are even thinking about what contributions they can make to strengthen and improve animal welfare. By specifically including these contributions in policy memoranda and other documents, they are trying to move away from the ‘issues of the day’ and to establish and evaluate visions, goals and other actions.

⁴¹ Several advantages and disadvantages were listed in Chapter 2.

⁴² This is in line with earlier findings of the RDA in the context of horse markets; see footnote 30.

These innovations appear to ensure that animal welfare is placed more firmly on the agenda. The animal welfare portfolio holder is typically committed to the issue and wants to make a difference for animals. They work with committed council staff to try to raise awareness of the topic. Once a municipality has a policy memorandum or portfolio holder, it seems unlikely they will simply disappear, even if there is sometimes a delay in updating expired memoranda. A policy memorandum sets out long-term goals. That ensures continuity, even following personnel changes. It is difficult for the RDA to assess how municipal authorities that do not have a policy memorandum or portfolio holder deal with animal welfare within their municipalities. Given the example of Leeuwarden, the absence of a memorandum or portfolio does not necessarily mean that ‘nothing’ is being done in the area of animal welfare. Issues relating to animals and their welfare can arise anywhere.

On the other hand, having a focus on animal welfare via a policy memorandum or portfolio holder is no guarantee that things are done ‘well’ or ‘better’ in that area, just as it is no guarantee in other portfolio areas (such as social affairs). Some elected officials also consider animal welfare from the perspective of political and profile-raising opportunities (interviews). Good intentions and focus alone do not ensure improvement in animal welfare (and, in theory, could make things worse). To improve animal welfare, more is needed, such as the right knowledge and expertise in the area of animal welfare and a driving force in the form of capable and committed people and organisations. At the moment, the presence of these factors varies greatly across the various public authorities (municipal authorities, provincial authorities and so on). For that reason, the RDA believes that opportunities to improve animal welfare at local and regional levels primarily exist within the current frameworks. These will be covered in the final chapter (Chapter 5).

4.3 What is in the best interests of animals?

Although the RDA does not currently see a reason, in principle, to re-evaluate the distribution of administrative powers, we have noticed clear developments in thinking about animals. These developments were previously mentioned in *The State of the Animal in the Netherlands* (2019) and were also noted in the review of the Animals Act. This review, carried out by the consultancy firm Berenschot (2021), found that, in the past year, when competing interests were weighed up in relation to captive animals, the intrinsic value of the animals played only a limited role. In addition, it is not clear how much weight was given to this intrinsic value in such considerations. To ensure that the intrinsic value of animals is properly considered, steps must be taken. In this regard, there are also emerging debates about the legal position of animals and new institutions that might do a better job of safeguarding animals’ interests.

It comes down to the question: what is in the best interests of animals? From that point of view, there are obviously many opportunities to strengthen and improve animal welfare within the current frameworks. From the perspective of animals, it can be reasoned: how should things be regulated for animals? From that perspective, we can think about what administrative structure is the most suitable to safeguard the welfare of animals and how more space can be made for animals within the ‘House of Thorbecke’. How far down this road we can or want to go is open to debate.

It is clear to the RDA that the place occupied by animals in our society is changing. It is important for the government to take account of ways in which this debate is changing direction. Where possible, these developments should be explored and anticipated. That is beyond the scope of this advisory report. The Council is happy to lend its assistance to work out what would be good for animals in practice. For example, the Council is currently exploring the possibility of a follow-up report on the changes, if any, in the embedding of animals in our laws and institutions.

5. Conclusions and recommendations

5.1 Conclusions

5.1.1 *General conclusions*

The RDA observes that elected officials and council officers are committed to the subject of animal welfare. The RDA also notes the diverse nature of the initiatives launched by local and regional authorities on their own initiative 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.

In terms of the specific 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. These problems mainly 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.

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, particularly with regard to issues under category 1. Decentralisation does not automatically benefit animals:⁴³ to safeguard animal welfare, additional steps are required in many areas, which can best be achieved at the national level. This also emerged from 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.

Based on its exploration of the issues and the interviews and desk research carried out in that regard, the RDA 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. Furthermore, the RDA believes that opportunities to improve animal welfare at local and regional levels primarily exist within the current frameworks (see 5.2 Recommendations).

5.1.2 Answers to the initial questions

How is animal welfare policy regulated in the Netherlands, and how is that working?

Rules concerning animals and animal welfare are embedded in a variety of ways in international, national, regional and local laws and regulations. For captive animals, the key piece of legislation is the Animals Act, while for wild animals, it is the Nature Conservation Act. 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 355 municipal authorities in the Netherlands had an animal welfare portfolio holder, and around a fifth (19%) had an animal welfare policy memorandum.

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?

Concerned citizens and animal welfare organisations talk to the municipal authority, local elected officials and council members about animal welfare issues. Local and regional authorities feel like their hands are tied when it comes to animal welfare policy (RDA interviews; ROB, 2021), for example in relation to local and regional events. The main solutions they identified for the future were: clarity around responsibilities and funding; more powers for lower levels of government in specific areas; assistance and information from the central government/Ministry and sharing of knowledge and information.

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)?

From the perspective of animals, the RDA sees no compelling reason to organise the administrative basis of animal welfare in a different way to what is currently the case, other than in relation to events. The RDA believes that having clarity around existing powers is more important than creating new ones. However, there are other possibilities for strengthening animal welfare. 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 (see Recommendations).

What would be the consequences of creating new municipal powers in relation to animal welfare, for example for the safeguarding of animal welfare?

The RDA does not consider it desirable to give additional duties to municipal and other public authorities in respect of animal welfare. However, the RDA believes that opportunities to improve animal welfare at local and regional levels primarily exist within the current frameworks (see Recommendations).

To what extent do municipal special investigating officers (BOAs) consider animal welfare aspects when carrying out their duties?

At the moment, 'animal welfare' in a general sense falls outside the remit of municipal BOAs. Some municipal authorities have appointed special task coordinators (in connection with aggressive dogs, for example) to promote animal welfare or to provide animal welfare guidelines to their enforcement officers and neighbourhood teams.

5.2 Recommendations

The Council can see specific opportunities to strengthen the welfare of animals within the current frameworks and to this end has a number of recommendations for the Minister of Agriculture, Nature and Food Quality with regard to duties, powers and responsibilities in animal welfare policy. These are divided into the same two categories as the conclusions. The RDA can see an opportunity for the central government to play a facilitating role, involving reaching out to local and regional authorities and getting them involved.

- 1) For issues at a national level that have an impact at the local 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 the ‘open standards’ (in a more general sense) as an important first step to advance the cause of animal welfare. This would remove many of the ambiguities 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, opportunities for exchanging information between enforcement agencies should be investigated. 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 can then report any problems in the area of animal welfare to the NVWA or the LID. They could be facilitated in this task 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 NVWA, the 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 (which is still relatively new and unknown). 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.

- 2) For issues at the local level, to be able to do more for animal welfare:
- Ensure that animal welfare can be included more explicitly in 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 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.

References

- Berenschot, 2021.** *Evaluatie van de Wet Dieren. Eindrapport* [Review of the Animals Act: Final report]. Bram Berkhout, Il Shik Sloover, Wubbo Wierenga, Eva Starmans, Suzanna van Baardewijk, Floris van Dam, 2020
- Bullens, Lieshout and Vedder, 2012.** *‘Zorg voor dierenwelzijn komt ten goede aan de burger’. Inventarisatie van de dierenwelzijnsactiviteiten van Nederlandse gemeenten en onderzoek naar burgers onder de armoedegrens in bezit van huisdieren* [Taking care of animal welfare benefits citizens: An inventory of the animal welfare activities of Dutch municipalities and a study on citizens below the poverty line with pets]. E.A.C. Bullens, A.D. van Lieshout and L. Vedder; Has Kennistransfer onderzoek advies en opleiding [HAS Knowledge Transfer research advice and training], 's-Hertogenbosch, 2012
- Beleidsimpuls Dierenwelzijn, **2009.** *Beleidsimpuls Dierenwelzijn* [Animal Welfare Policy Stimulus]. Province of Utrecht. Retrieved from: <https://www.stateninformatie.provincie-utrecht.nl/Vergaderingen/Provinciale-Statenvoorstellen/2009/6-juli/09:30/Statenvoorstel-actieprogramma-Dierenwelzijn-PS2009RGW14/PS2009RGW14-Bijlage-Beleidsimpuls-dierenwelzijn.pdf>
- Beleidsvisie dierenwelzijn, **2017.** *Beleidsvisie dierenwelzijn* [Animal Welfare Policy Vision]. January 2017. Hunze and Aa's Water Authority. Retrieved from: <https://www.hunzeenaas.nl/app/uploads/2020/01/Beleidsvisie-Dierenwelzijn-Hunze-en-Aas.pdf>
- Binnenlands Bestuur, **2014.** *Toezichtswet holt lokale democratie uit* [Supervision legislation is eroding local democracy]. Article by Margot Limburg
- Dutch Civil Code.** Book 5. Retrieved from: <https://wetten.overheid.nl/BWBR0005288/2018-09-19>
- DisGover, 2021.** *Information about the action learning project DierVizier*. DisGover website, visited autumn 2021, <https://disgover.nl/action-learning-project-dierenwelzijn/?fbclid=IwAR2CjCvqiTHVJfv59aU6gDWifSd55xxoEvVuimziRCuukyjjousfYlvkUpM>
- Elzinga, 2014.** *Omgevingsdiensten onder de bestuurlijk-juridische loep. Het wetsvoorstel ‘verbetering vergunningverlening, toezicht en handhaving’ in het licht van de Wet gemeenschappelijke regelingen en de Wet revitalisering generiek toezicht* [Examining environmental agencies through a legal and administrative lens: The legislative proposal to improve permit issuing, supervision and enforcement in light of the Joint Regulations Act and the Revitalisation of General Supervision Act]. Prof. D.J. Elzinga, LLM, R.J.M.H. de Greef, LLM, and Dr S.A.J. Munneke, LLM, University of Groningen and Vrije Universiteit Amsterdam, 2014
- City of Rotterdam, 2021.** Website of the City of Rotterdam with information about the Animal Welfare and Urban Wildlife Advisory Committee. Retrieved autumn 2021, <https://www.rotterdam.nl/wonen-leven/adviescommissie-dierenwelzijn-stadsnatuur/>
- City of Rotterdam, 2020.** *Handreiking signalering dierenmishandeling en -verwaarlozing. Voor gemeentelijke handhavers en wijkteams* [Guidelines for reporting animal abuse and neglect: For municipal enforcement officers and neighbourhood teams]. By Grietje Maters, Anneli Huber et al., City Management, Clean City Project Office. In collaboration with: The Dutch Society for the Protection of Animals, the Rijnmond Regional Police Force. City of Rotterdam, 2020

Municipalities Act (Gemeentewet), 1992. Retrieved from: <https://wetten.overheid.nl/BWBR0005416/2021-07-10>

Constitution, 1815. *Constitution of the Kingdom of the Netherlands, 24 August 1815.* Retrieved from: <https://wetten.overheid.nl/BWBR0001840/2018-12-21>

Letter to the House of Representatives, 2021. Letter from the Minister of Agriculture, Nature and Food Quality, Carola Schouten, concerning a pilot project on the microchipping of cats. Reference DGA-DAD/21030629

Letter to the House of Representatives, 2020. Letter from the Minister of Agriculture, Nature and Food Quality, Carola Schouten. Animal welfare, No. 113728 286 No. 1137

Parliamentary Paper, 2021. 9 *Evaluatie Wet Dieren* [9. Review of the Animals Act.] Among the matters discussed is a two-minute debate on the Review of the Animals Act (28286, No. 1183), 10 June 2021.

Parliamentary Paper, 2020. Futselaar motion on the role of BOAs in improving enforcement in the area of animal welfare – Animal welfare. KST282861155

Reference 28286, No. 1155

Parliamentary Papers, House of Representatives, 2008. *An integrated framework of rules on captive animals and related subjects (Animals Act). Explanatory memorandum.* House of Representatives, 2007–2008 session, 31 389, No. 3.

Meertens Institute, 2021. Online articles about Pentecost celebrations. Website of the Meertens Institute, Research and documentation of Dutch language and culture. Visited autumn 2021, <https://www.meertens.knaw.nl/cms/nl/component/content/article/42-feesten/141189-pinksteren>

Ministry of Economic Affairs and Province of Flevoland, 2017. *Agreement between the State Secretary for Economic Affairs and the Provincial Executive of Flevoland: Dierenwelzijn in de Oostvaardersplassen* [Animal welfare in the Oostvaardersplassen nature reserve]. Ministry of Economic Affairs and Province of Flevoland, 2017

Ministry of Justice and Security, 2021. *Wat is een boa?* [What is a BOA?] Website of the Ministry of Justice and Security: <https://www.justis.nl/producten/boa/index.aspx>. The background can be found in the *Regulation*

listing the domains of special investigating officers (2018). Retrieved from: <https://wetten.overheid.nl/BWBR0041447/2021-07-01>

Council of State, 2009. Decision of the Council of State ECLI:NL:RVS:2009:BJ6075. Council of State 2009.

Council on Animal Affairs, 2020. *Startdocument dierenwelzijn in de bestuurslagen* [Initiating document on animal welfare at the different levels of government]. Council on Animal Affairs, The Hague

Council on Animal Affairs, 2019. *The State of the Animal in the Netherlands: Reflections and opinions on the shifting relationship between people and animals in the Netherlands.* Council on Animal Affairs, The Hague

Council on Animal Affairs, 2018. Letter to the Minister of Agriculture, Nature and Food Quality on Part 2: Horse Markets (RDA.2018.094). Council on Animal Affairs, The Hague

Council on Animal Affairs, 2017. *Getting our Teeth into Dog Bites: Prevention of serious dog bites in humans and animals.* Council on Animal Affairs, The Hague

Council on Animal Affairs, 2017. *Horse Markets in the Netherlands: From the Horse's Mouth.*

Council on Animal Affairs, The Hague

Council on Animal Affairs, 2017. *Weighing Wildlife Welfare: Application of the wildlife assessment framework.* Council on Animal Affairs, The Hague

Council on Animal Affairs, 2016. *Managing the stray cat population: Reducing health risks for humans and animals.* Council on Animal Affairs, The Hague

Council for Public Administration, 2021. *Rust-Reinheid-Regelmaat. Evenwicht in de bestuurlijk-financiële verhoudingen* [Peace, Cleanliness and Regularity: Balance in administrative and financial relations]. Council for Public Administration, 2021

Animals Act (Wet dieren), 2011. Retrieved from: <https://wetten.overheid.nl/BWBR0030250/2021-07-01>

Nature Conservation Act (Wet natuurbescherming), 2015. Retrieved from: <https://wetten.overheid.nl/BWBR0037552/2021-07-01>

Various news reports from websites


Omroep Zeeland 2021, about animal welfare in Zeeland: <https://www.omroepzeeland.nl/nieuws/13567949/dierenwelzijn-heeft-voor-de-meeste-zeeuwse-gemeenten-geen-prioriteit>

Buba the elephant: <https://www.rtvzanstreek.nl/verbijstering-over-olifant-buba/nieuws/item?832002>

Jo the bear in Maastricht: <https://maastricht.mustsee.today/nr-6-berenkuil/>

Street fishing world championship in Utrecht: <https://www.duic.nl/algemeen/gemeente-utrecht-over-wk-streetfishing-dierenleed-geen-reden-om-vergunning-te-weigeren/> and <https://www.ad.nl/utrecht/voor-een-keer-is-een-wereldkampioenschap-niet-welkom-in-utrecht-maar-het-gaat-toch-door-a819989f/>

Annex 1 Request from the Minister to the RDA


Ministerie van Landbouw,
Natuur en Voedselkwaliteit

> Retouradres Postbus 20401 2500 EK Den Haag

De Voorzitter van de Raad van Dieraangelegenheden
Postbus 20401
2500 EK DEN HAAG

Directoraat-generaal Agro
Directie Dierlijke Agroketens en
Dierenwelzijn

Bezoekadres
Bezuidenhoutseweg 73
2594 AC Den Haag

Postadres
Postbus 20401
2500 EK Den Haag

Overheidsidentificatienr
00000001858272854000

T 070 379 8911 (algemeen)
F 070 378 6100 (algemeen)
www.rijksoverheid.nl/inv

Behandeld door
V.M.H. Platvoet

T 070 378 4278
v.m.h.platvoet@mininv.nl

Ons kenmerk
DGA-DAD / 21031057

Uw kenmerk
DGA-DAD / 21012605

Bijlage(n)
1

Datum **- 25 FEBRUARI 2021 -**

Betreft gevraagde zienswijze aan het RDA over het dier in verschillende overheidslagen

Geachte voorzitter,

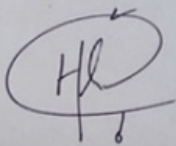
In het kader van het algemeen overleg Dierenwelzijn van 29 september jl. is door de minister toegezegd de RDA te vragen een zienswijze te maken over de (on)mogelijkheden voor lagere overheden om beleid te ontwikkelen op dierenwelzijn.

Hierop is in overleg met u besloten om aan te haken bij de lopende – ongevraagde – zienswijze van de RDA "Het Dier in verschillende Overheidslagen" en daar een gevraagde zienswijze van te maken. Met deze brief leg ik u het verzoek voor een zienswijze op te stellen die ingaat op de (on)mogelijkheden voor lagere overheden om beleid te ontwikkelen op dierenwelzijn. Het onderwerp en de startvragen uit het startdocument van uw lopende zienswijze sluiten aan bij de wensen van het ministerie. Naar aanleiding van een aantal moties en toezeggingen is in overleg met u een viertal startvragen toegevoegd aan de vraagstelling.

In de bijlage vindt u de volledig uitgewerkte vraagstelling.

Bij voorbaat mijn dank voor uw zienswijze. Indien mogelijk zou ik die graag in maart 2021 van u ontvangen.

De Minister van Landbouw Natuur en Voedselkwaliteit,
namens deze:



Hugo van Kasteel
Wvd. Directeur Dierlijke Agroketens en Dierenwelzijn

Pagina 1 van 1

Vraagstelling

Aanleiding (uit het startdocument 'het dier in verschillende overheidslagen')

Op het terrein van dierenwelzijn lijkt er een toenemende aandacht te zijn op lokaal, provinciaal en regionaal niveau. Steeds meer mensen lijken een beroep te doen op gemeenten, vanwege een sterke betrokkenheid bij dieren en hun welzijn. Burgers worden in hun woonomgeving dikwijls geconfronteerd met dieren, zoals bij evenementen met dieren, dieren in nood, uitbreidingsplannen van veehouders voor hun stallen en woningbouwplannen op plekken waar wilde dieren leven. Het zijn de gemeentelijke en provinciale overheid die toestemming kunnen geven voor dergelijke zaken. Daarnaast hebben gemeenten en provincies meer taken gekregen van het Rijk, waardoor ze meer maatregelen kunnen of moeten treffen die dieren raken. Zo is de verantwoordelijkheid voor dieren in de natuur gedecentraliseerd naar de provincies en komen door de decentralisatie van jeugdzorg en zorg aan langdurige zieke en ouderen, in gemeenten vragen over hulpverlenende dieren aan de orde.

[...]

Er leven op lokale, provinciale en regionale niveaus vragen over welke ruimte en mogelijkheden er zijn binnen het landelijke beleid en bestaande juridische kaders en wat de beste aanpak zou kunnen zijn voor bepaalde problemen (welke methode moet op welk bestuursniveau worden aangepakt). In 2017 schreven 36 portefeuillehouders dierenwelzijn een brief aan de Vaste Kamercommissie Economische Zaken om het welzijn van dieren onder aandacht te brengen. In de brief geven zij aan dat er inmiddels meer dan 70 burgemeesters en wethouders zijn met een portefeuille dierenwelzijn. Ze vragen aandacht voor de discrepantie tussen de bevoegdheden die zij als gemeenten hebben op het gebied van dierenwelzijn en de beperkingen door wetgeving in gedelegeerde bevoegdheden van gemeenten. Enkele specifieke onderwerpen worden verder toegelicht: chipregistratie van katten, evenementen met dieren, verkoop van dieren, houden van dieren.

Mede aangespoord door actieve burgers willen de gemeenten, provincies en waterschappen een bijdrage leveren aan het verbeteren van dierenwelzijn. Vanuit veranderingen in politiek en druk vanuit de maatschappij leven er bij gemeenten verschillende wensen en ambities rondom bevoegdheden waarmee dierenwelzijn verbeterd zou kunnen worden op lokaal niveau. In een brief van 8 september 2020 vraagt de Vereniging van Nederlandse Gemeenten (VNG) aan de minister hiervoor meer wettelijke bevoegdheden om een eigen dierenwelzijnsbeleid te voeren, zoals op het gebied van evenementen met dieren, het optreden bij signalen van dierenleed en bevoegdheden voor het verbieden van verkoop van levende dieren.

In het AO van 29 september 2020, is door het lid Bromet (Groenlinks) verzocht om de consequenties van het creëren van gemeentelijke bevoegdheden op dierenwelzijn bij de zienswijze te betrekken (zie ook brief begrotingsbehandeling van 20 november 2020 (Kamerstuk 28 286 nr. 1137).

Bij het VAO van 8 december 2020 is de motie Futselaar overgenomen, waarin de regering wordt verzocht om 'met een plan van aanpak te komen waarin staat omschreven of en hoe gemeentelijke boa's kunnen worden betrokken bij versterking van de handhaving op het domein dierenwelzijn' (Kamerstuk 28 286, nr. 1155).

Voorts is er in de brief over de begrotingsbehandeling van 20 november 2020 toegezegd dat de RDA zal worden verzocht het traject zoveel als mogelijk te versnellen (Kamerstuk 28 286 nr. 1137). Om deze reden wordt de RDA verzocht om de zienswijze uiterlijk in maart 2021 op te leveren.

Onderwerp en startvragen

Het onderwerp en de startvragen in het startdocument van de RDA sluiten aan bij de wensen van het ministerie en worden in deze vraagstelling overgenomen. In het onderwerp en de startvragen

in het startdocument van de RDA wordt het dierenwelzijnsbeleid inclusief diergezondheid benoemd. Diergezondheid heeft binnen het beleidsterrein een andere betekenis dan dierenwelzijn en wordt voornamelijk geassocieerd met de gezondheid van het dier binnen de veehouderij, in haar rol als productiedier. Voorbeelden zijn antibioticagebruik of zoönosen. Omdat de gevraagde zienswijze een focus op dierenwelzijn moet houden, is diergezondheid weggehaald uit het onderwerp en de startvragen. Voorts worden er, gezien de toezeggingen en moties, nog een aantal startvragen toegevoegd aan de bestaande startvragen van de RDA.

Het onderwerp en de huidige startvragen van de RDA zijn als volgt:

Onderwerp

De verhoudingen tussen het gemeentelijke, provinciale, functioneel bestuurlijke en landelijke dierenwelzijnsbeleid.

Startvragen

- Hoe is het dierenwelzijnsbeleid in Nederland geregeld en hoe verloopt dat?
- Welke mogelijkheden en belemmeringen ervaren gemeentelijke, provinciale, functioneel bestuurlijke (zoals waterschappen) en landelijke portefeuillehouders dierenwelzijn bij het formuleren en uitvoeren van dierenwelzijnsbeleid?
- Hoe reflecteert de RDA op de huidige verdeling van bevoegdheden op het gebied van dierenwelzijn bij bestuurslagen (en de relatie tot het Rijksbeleid)?
- Welke aanbevelingen heeft de RDA ten aanzien van de verdeling van de taken, bevoegdheden en verantwoordelijkheden in het dierenwelzijnsbeleid?

Wij verzoeken de RDA om hier, mede gelet op de toezeggingen en moties, de volgende vragen aan toe te voegen:

- Wat zijn de consequenties, bijvoorbeeld voor de borging van het dierenwelzijn, van het creëren van gemeentelijke bevoegdheden op dierenwelzijnsterrein?
- Zijn er dierenwelzijnsbevoegdheden ten aanzien waarvan de RDA aanbeveelt om deze bij de gemeenten neer te leggen? Zo ja, welke en waarom?
- In welke mate besteden de gemeentelijke boa's in hun taakoefening ook aandacht aan aspecten van dierenwelzijn?
- In hoeverre heeft de RDA aanbevelingen omtrent de versterking van handhaving van dierenwelzijn door gemeentelijke boa's?

Annex 2 Letters from municipal authorities and the VNG



**Gemeente
Amsterdam**

Bezoekadres
Amstel 1
1011 PN Amsterdam

Postbus 202
1000 AE Amsterdam
Telefoon 14 020
amsterdam.nl

Retouradres: Postbus 202, 1000 AE Amsterdam

Tweede Kamer der Staten-Generaal
Vaste Kamercommissie Economische Zaken
Postbus 20018
2500 EA Den Haag

Datum 19 juni 2017

Onderwerp Dierenwelzijn

Geachte leden van de Vaste Kamercommissie Economische Zaken,

Als portefeuillehouders dierenwelzijn van onze gemeenten willen wij u feliciteren met uw (her)benoeming als Kamerlid en lid van de Vaste Kamercommissie Economische Zaken. Omdat het welzijn van dieren ons na aan het hart ligt willen wij hierover graag enkele onderwerpen onder de aandacht brengen. Zowel maatschappelijk als in de politiek is er steeds meer aandacht voor het welzijn van dieren. Inmiddels zijn er meer dan 70 burgemeesters en wethouders met een portefeuille dierenwelzijn. De bevoegdheden die wij als gemeenten hebben op het gebied van dierenwelzijn worden helaas beperkt door wetgeving die als uitputtend bedoeld is, maar waarbij geen bevoegdheden zijn gedelegeerd aan gemeenten. Als ondertekenaars van deze brief hopen wij dan ook dat u bij de minister en staatssecretaris aandacht wilt vragen voor de volgende onderwerpen:

1) Chipregistratie van katten

Alle gemeenten worden geconfronteerd met van huis weggeraakte dieren, die in veel gevallen helaas niet met de eigenaar kunnen worden herenigd omdat ze niet kunnen worden geïdentificeerd. Het verplicht chippen van honden geboren of ingevoerd na 1 april 2013 was een goede eerste stap om dit probleem aan te pakken. Om het aantal zwervdieren te beperken en dierenleed te voorkomen is het gewenst om ook chipregistratie voor katten verplicht te gaan stellen. Het overgrote deel van de zwervende huisdieren betreft immers katten. Waar honden aangeliend worden uitgelaten en op plekken waar ze los mogen uitrennen onder toezicht van hun baas staan, komen katten juist niet aangeliend en zonder toezicht op straat.

2) Evenementen met dieren

Sinds 15 september 2015 is het verboden om met wilde zoogdieren op te treden, waaronder in circussen. Het verbod spreekt zich alleen uit over evenementen met zoogdieren, maar niet over evenementen met andere dieren. Wij zouden de bevoegdheid willen krijgen om in een gemeentelijke verordening diverse vormen van evenementen met dieren te kunnen verbieden, waaronder circussen met dieren, roofvogelshows, reptielenshows, kerststallen met dieren en

Een routebeschrijving vindt u op www.amsterdam.nl.

reclame-uitingen met dieren. Wij hopen daarom dat de Rijksoverheid een onderzoek laat houden naar de (on)geschiktheid van het gebruik van andere dieren bij evenementen. Het gaat ons in het bijzonder om evenementen waar roofvogels en reptielen bij zijn betrokken en om dieren die op de CITES-lijst staan.

3) Verkoop van dieren

Goede voorlichting van de verkoper van een dier aan de klant is van belang om een bewuste keuze te kunnen maken voor de aanschaf. Die bewuste keuze begint bij goede voorlichting, onder andere over de herkomst van een dier de kosten van (medische) verzorging en de manier waarop een dier gehouden moet worden. Het is gewenst dat er voldoende bedenktijd wordt aangehouden voordat een dier wordt aangeschaft. Op die manier worden impulsaankopen voorkomen. Wij vragen om een verdere aanscherping van de wettelijke eisen aan verkoop van dieren in bouwmarkten, tuincentra en dierenwinkels. Dat geldt in het bijzonder voor de verkoop van puppy's en kittens in dierenwinkels, waar de wettelijk verplichte socialisatie onvoldoende van de grond komt.

4) Houden van dieren

In de wet Dieren is vastgelegd dat er lijsten komen waarop diersoorten staan die als huisdier mogen worden gehouden. In 2015 is de positieflijst zoogdieren van kracht geworden. Wij zien die lijst graag op korte termijn uitgebreid. Hiermee willen we bereiken dat reptielen, vogels en amfibieën niet meer (of niet meer ondeskundig) mogen worden gehouden en dierenleed wordt voorkomen. Wij pleiten met name voor beperkingen aan het houden van (gevaarlijke) diersoorten die op de CITES-lijst staan. Daarnaast is het gewenst om een verplichte adresregistratie van CITES-dieren bij te gaan houden, en dat gemeenten op basis hiervan inzicht kunnen krijgen op welke plekken binnen de gemeente deze dieren worden gehouden. Met een positieflijst voor (gevaarlijke) CITES-dieren kan worden voorkomen dat mensen gevaarlijke dieren kunnen gaan houden zoals krokodillen en gifslangen, en met de verplichte registratie kunnen overheidsinstanties controle uitoefenen.

Wij menen het welzijn van dieren met deze maatregelen te kunnen vergroten en hopen dat u uw tijd in de Kamer wilt gebruiken om dit belangrijke onderwerp te adresseren.

Met vriendelijke groet,
Namens 36 portefeuillehouders dierenwelzijn,



Laurens Ivens
Wethouder Dierenwelzijn gemeente Amsterdam

Burgemeesters

Amersfoort,	Lucas Bolsius
Uden,	Henk Hellegers
Vlissingen,	Bas van den Tillaar
Waalwijk,	Nol Kleijngeld
Werkendam,	Yves de Boer

Wethouders

Apeldoorn,	Mark Sandmann
Bergen,	Peter van Huissteden
Beverwijk,	Haydar Erol
Bodegraven-Reeuwijk,	Laura Leijendekkers
Breda,	Paul de Beer
Castricum,	Marcel Steeman
Drimmelen,	Harry Bakker
Ede,	Willemien Vreugenhil
Eemnes,	Jan den Dunnen
Eindhoven,	Renate Richters
Emmen,	Jisse Otter
Groningen,	Mattias Gijsbertsen
Haaksbergen,	Annete Nijhuis
Heemskerk,	Aad Schoorl
Heiloo,	Elly Beens
Hilversum,	Nicolien van Vroonhoven
Huizen,	Janny Bakker
Lansingerland,	Simon Fortuyn
Noordwijk,	Dennis Salman
Rotterdam,	Joost Eerdmans
Son en Breugel,	Tom van den Nieuwenhuijzen
Stichtse Vecht,	Linda van Dort
Tiel,	Henk Driessen
Tilburg,	Mario Jacobs
Utrecht,	Paulus Jansen
Velsen,	Robert te Beest
Wageningen,	Dennis Gudden
Waterland,	Laura Bromet
Woerden,	Margot Stolk
Zuidhorn,	Henk Bakker



Ministerie van Landbouw, Natuur en Voedselkwaliteit
(LNV)
T.a.v. mw. C. Schouten
Postbus 20401
2500 EK 'S-GRAVENHAGE

Datum
8 september 2020
Kenmerk
TLE/U202000615
Bijlage(n)

Onderwerp
Dierenwelzijn

Geachte mevrouw Schouten,

Dieren hebben een bijzondere plek in de samenleving. Het welzijn van dieren gaat mensen aan het hart. Burgers doen dan ook steeds meer een beroep op gemeenten vanwege dierenwelzijn. Aangespoord door actieve burgers willen gemeenten een bijdrage leveren aan het vergroten van het dierenwelzijn, maar hun bestuurlijke mogelijkheden hiertoe zijn heel beperkt.

Bovenstaande zinnen, rechtsreeks overgenomen uit het in 2019 door de Raad voor Dierenaangelegenheden gepubliceerde rapport 'Staat van het dier', vatten kort maar krachtig samen wat gemeenten via deze brief aan u willen vragen: geef de gemeenten meer wettelijke mogelijkheden om een eigen dierenwelzijnsbeleid te voeren.

Naar onze mening is de tijd er rijp voor om gemeenten bevoegdheden op dit beleidsterrein te geven. Als democratisch gekozen overheidsorgaan weet een gemeenteraad het beste wat er speelt onder de eigen inwoners. En kan hier ook goed en snel op inspelen. Binnen kaders zoals aangegeven in de Wet Dieren zouden gemeenten op onderdelen van het dierenwelzijnsbeleid moeten kunnen kiezen voor een meer op een door de gemeente zelf afgestemde invulling van dat beleid.

Voorbeelden van onderwerpen die aan gemeenten overgelaten kunnen worden zijn:

- Bevoegdheden met betrekking tot het al dan niet toestaan van evenementen met dieren in de gemeente. Denk hierbij aan het al dan niet mogen verbieden van bijvoorbeeld circussen met levende dieren (wilde dieren zijn al verboden), kerststallen met levende dieren,

Vereniging van Nederlandse
Gemeenten

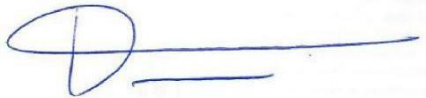
vng.nl

roofvogelshows, pop-up kinderboerderijen bij braderieën en de inzet van een haan bij een traditie als Kallemooi.

- Bevoegdheden om sneller en effectiever te kunnen optreden bij signalen van dierenleed. Enerzijds constateren wij dat handhavende instanties als LID en NVWA op dit moment te weinig capaciteit/tijd hebben om signalen van dierenleed in gemeenten op te volgen, anderzijds beschikken gemeenten met de BOA's over de 'dagelijkse oren en ogen op straat'. Door BOA's een rol te geven in de handavingsketen dierenwelzijn kan de handavingsketen worden versterkt.
- Bevoegdheden om, als de gemeente dit wil, de verkoop van levende dieren in tuincentra, bouwmarkten en dierenwinkels te verbieden.

Recent is uw ministerie gestart met de evaluatie van de Wet Dieren. Op basis van de uitkomsten van deze evaluatie wordt de Wet Dieren aangepast. Wij vragen u om ons bovenstaande verzoek te betrekken bij deze evaluatie. Gemeenten zijn natuurlijk bereid om hierin met u mee te denken.

Met vriendelijke groet,
Vereniging van Nederlandse Gemeenten



Mr L.K. (Leonard) Geluk
Algemeen directeur

Annex 3 Additional information from the quick scan

Municipal authorities with an animal welfare portfolio and/or policy memorandum in 2021

In the spring and summer of 2021, the RDA investigated how many Dutch municipalities had an animal welfare portfolio holder and how many had an animal welfare policy memorandum. This annex also contains a table with specific information about the 36 signatories to the 2017 letter and a breakdown of municipalities by province.

Indicator	Number of municipalities (percentages have been rounded)
Total	<ul style="list-style-type: none">• 352
Animal welfare portfolio	<ul style="list-style-type: none">• 114 (32%): 11 mayors, 103 aldermen
Animal welfare policy memorandum	<ul style="list-style-type: none">• 63 (14%)• At least 34 other municipalities have placed animal welfare on the agenda through other memoranda/regulations (10%). There are more municipalities with no animal welfare regulations than there are municipalities with such regulations.
Combination of portfolio holder and memorandum	<ul style="list-style-type: none">• 52 portfolio and memorandum (18%)• 62 portfolio, no memorandum (18%)• 13 memorandum, no portfolio (4%)• 225 no portfolio or memorandum (64%)

Municipalities that signed the 2017 letter – state of affairs in 2021

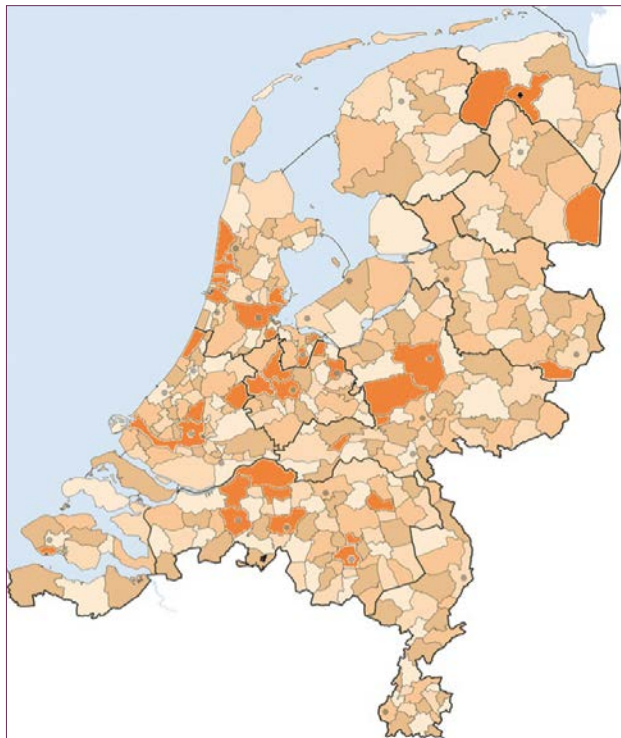


Figure 2 Map of 36 signatories
Dark orange = Municipality that signed the 2017 letter

Of the 36 municipalities that signed the 2017 letter to the House of Representatives, some still have a portfolio holder. What is the state of affairs in these municipalities in 2021?

Category	2017	2021 (percentages have been rounded)
Signatories of the animal welfare letter	36	<ul style="list-style-type: none"> • 7 of them still work for the same municipal authority (19%) • 7 of them still hold the animal welfare portfolio (19%) • 23 signatories have passed on the animal welfare portfolio to someone else (64%) • In total, 27 of the 36 municipalities still have an animal welfare portfolio holder (75%) • 5–7 municipalities unknown/not entirely clear (14–19%)
Mayor	5 (14%)	<ul style="list-style-type: none"> • 3 of them are still the animal welfare portfolio holder (60% of mayors at the time)
Alderman	31 (86%)	<ul style="list-style-type: none"> • 4 of the signatories still hold the same animal welfare portfolio (13% of aldermen at the time)
Animal welfare policy memorandum	Unknown	<ul style="list-style-type: none"> • Of the 36 signatory municipalities, 21 have an animal welfare policy memorandum
Combination of portfolio holder and animal welfare policy memorandum	Unknown	<ul style="list-style-type: none"> • 15 municipalities have both a memorandum and a portfolio holder on animal welfare (42%) • The municipality of Hilversum has an animal welfare policy memorandum, but whether it has a portfolio holder is unknown (3%)

Municipalities by province, 2012–2021

The table below compares the results of the 2012 research by HAS Green Academy with the RDA's research from 2021. The red numbers show a decrease in the figures, the blue numbers show that the figures have stayed the same and the green numbers show that the figures have increased.

Province	Number of municipalities	Number of portfolio holders (only aldermen in 2012)	Number of policy memoranda
Groningen	2012: 23 2021: 10	2012: 1 (4%) 2021: 4 (40%)	2012: 1 (4%) 2021: 0 (0%)
Friesland	2012: 27 2021: 18	2012: 1 (4%) 2021: 0 (0%)	2012: 0 (0%) 2021: 0 (0%)
Drenthe	2012: 12 2021: 12	2012: 1 (8%) 2021: 1 (8%)	2012: 1 (8%) 2021: 1 (8%)
Overijssel	2012: 25 2021: 25	2012: 3 (12%) 2021: 10 (40%)	2012: 2 (8%) 2021: 4 (16%)
Gelderland	2012: 56 2021: 51	2012: 5 (9%) 2021: 13 (26%)	2012: 2 (4%) 2021: 6 (12%)
Flevoland	2012: 6 2021: 6	2012: 0 (0%) 2021: 2 (33%)	2012: 0 (0%) 2021: 2 (33%)
Utrecht	2012: 26 2021: 26	2012: 5 (19%) 2021: 9 (35%)	2012: 3 (11,5%) 2021: 6 (23%)
North Holland	2012: 55 2021: 47	2012: 23 (42%) 2021: 29 (62%)	2012: 8 (14,5%) 2021: 21 (45%)
South Holland	2012: 72 2021: 52	2012: 17 (24%) 2021: 24 (46%)	2012: 10 (14%) 2021: 15 (29%)
Zeeland	2012: 13 2021: 13	2012: 0 (0%) 2021: 2 (15%)	2012: 0 (0%) 2021: 1 (8%)
North Brabant	2012: 67 2021: 61	2012: 12 (18%) 2021: 18 (29%)	2012: 3 (4,5%) 2021: 4 (7%)
Limburg	2012: 33 2021: 31	2012: 4 (12%) 2021: 2 (7%)	2012: 1 (3%) 2021: 4 (12%)

Composition of the Council

The Council on Animal Affairs (RDA) is an independent council of experts that gives the Minister of Agriculture, Nature and Food Quality solicited and unsolicited advice on multidisciplinary issues in the field of animal welfare and health. The Council on Animal Affairs comprises scientific experts and professional practitioners, who serve in a personal capacity, independently and without outside influence.

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

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

Prof. J.J.M. van Alphen	Prof. B. Kemp
Dr G.B.C. Backus	A. Kemps
J.P. van den Berg	Dr L.J.A. Lipman
W.T.A.A.G.M. van den Bergh	Dr F.L.B. Meijboom
Prof. I.J.M. de Boer	F.E. Rietkerk
Dr J.J.L. Candel MA	C.W. Ripmeester, LLM
H.R. Chalmers Hoyneck van Papendrecht	Prof. T.B. Rodenburg
Prof. G.M. van Dijk	Dr M.C.Th. Scholten
Dr N. Endenburg, PhD	Prof. Y.H. Schukken
Prof. J.W. Erisman	G.C. Six
Prof. R. Gehring	M. Slob
D. van Gennep	Prof. G.R. de Snoo
Prof. M.A.M. Groenen	J. Staman, LLM, chair
Prof. S. Haring	Dr J.W.G.M. Swinkels
Prof. L.A. den Hartog	R.A. Tombrock
A.L. ten Have-Mellema	Prof. J.C.M. van Trijp
Prof. J.A.P. Heesterbeek	Dr H.A.P. Urlings
G. Hofstra	Dr J.B.F. van der Valk
J.A.M. Huijbers	J. van de Ven
Prof. A. van Huis	F.A.L.M. Verstappen

The Secretary of the Council is M.H.W. Schakenraad.

For more information about the Council on Animal Affairs, visit our website: www.RDA.nl, where you can also download all previous advisory reports.

