

# **Developing an outcome-based regulatory approach to animal welfare in New Zealand**

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Codes of welfare are primarily an expression of how we as New Zealanders expect animals to be cared for in New Zealand, and they send a clear message to market partners that NZ is serious about animal welfare. This helps us maintain our market position (especially in high value markets) and develop opportunities within new markets. Codes also place NZ agriculture as a whole in a strong position, given the increasing awareness of animal welfare as a global issue. Codes also have a significant role in the administration of the Animal Welfare Act 1999.

## **The Animal Welfare Act (1999)**

The New Zealand Animal Welfare Act is based on a duty of care philosophy, which obliges the owners and persons in charge of an animal to meet the physical, health and behavioural needs of the animal in a manner that is in accordance with good practice and scientific knowledge. The definitions of the physical, health and behavioural needs in the Act paraphrase the Five Freedoms promulgated by the UK Farm Animal Welfare Council. The definitions include

- adequate shelter
- proper and sufficient food and water
- the opportunity to display normal behaviour
- appropriate physical handling which minimises the risk of unreasonable or unnecessary pain or distress
- protection from, rapid diagnosis of and treatment of injuries and disease.

The Act does not expand on these obligations: for example, it does not detail what constitutes an appropriate amount of food or water for a particular species. To do so would result in lengthy and unwieldy legislation. It would also reduce the flexibility to make amendments as knowledge improves or society's expectations change. The detailed minimum standards of care are therefore given in the codes of welfare.

## **Codes of welfare**

Codes of welfare are an integral part of the framework and philosophy of the Animal Welfare Act. They may be quite detailed as they are used to establish minimum standards, promote best practice in relation to animals owned or in a person's charge, and inform and identify future directions through research and development. These codes cover a variety of practices and procedures both within and outside farming. Because codes serve a number of purposes (legal, advisory and educational) it is important to understand how to read them. For each topic in a code, there are usually four sections:

1. An introduction - this gives background to the topic and may explain some of the reasoning behind the minimum standards.
2. Minimum standards - these are the part of the code that have legal effect.
3. Recommended best practice - practices that we hope all farmers and animal owners will aspire to, and which if followed will lead to better welfare (and often economic) outcomes.
4. General information – general advisory information on the topic.

The Act provides for the development of codes of animal welfare and gives legal force to the minimum standards that they contain. Codes flesh out the provisions of the Act by setting minimum standards which persons in charge of animals must meet in order to meet their obligations under the Act and by providing recommendations on best practice. The codes and the minimum standards are not enforceable regulations in their own right but have a force in law, to the extent that failure to meet the minimum standards of a code may be used as evidence that an offence under the Act (e.g. failing to meet an animal's physical, health or behavioural needs) has occurred. Conversely, meeting a minimum standard can be used in defence against a prosecution for an offence under the Act.

Because New Zealand codes of welfare are not full regulations, as is proposed in Australia, a prosecution must establish that an offence under the Act is responsible for the welfare status of the animal(s) in question. Demonstration of failure to observe a particular minimum standard is rebuttable evidence that an offence has been committed. See website: [www.biosecurity.govt.nz/animal-welfare](http://www.biosecurity.govt.nz/animal-welfare) for further information on codes of welfare in New Zealand.

## **Challenges**

Codes of welfare provide policy details that are not in the Act and are designed to reflect the views of NZ society at large. They do not simply codify current thinking and

practice within the industry sector. The Act requires the National Animal Welfare Advisory Committee (NAWAC) to have regard to scientific knowledge, good practice (not current practice), available technology and submissions received and consultations undertaken. To ensure the range of views held within the community is taken into account, a public consultation process (undertaken by NAWAC), including public notification, is required when codes are being developed. It is usual for aspects of the draft code to be challenged during this process by individuals, the industry and animal welfare and animal rights organisations.

Science plays a major part in defining animal welfare standards. Animal welfare science has emerged during the past 10 to 15 years as a recognised discipline and covers nutritional, environmental, health, physiological, behavioural and cognitive sciences. While there have been major advances in this area, conflicting interpretations of scientific research can occur, as specific areas are explored in greater depth or in different ways. Codes of welfare aim to be science-based, however, scientific knowledge is just one input and NAWAC's recommendations on minimum standards are broadly-based judgements of a range of inputs.

Our experience with systems-based or facilities-based standards (often referred to as input-based standards) is that they are often predicated on an implied rather than a stated welfare outcome leaving room for debate as to the intended welfare outcome for the animal(s) concerned and whether it can be assessed or measured. Furthermore, they are often based on current practice and therefore lose relevance as knowledge and technology advance or societal expectations change. An advantage of outcome-based welfare standards is the freedom they afford owners to develop operational responses to meet the standard, rather than having an operational standard imposed.

The challenge is to write codes of welfare and in particular minimum standards which find a balance among the often conflicting social, ethical, economic and practical management considerations. They need to be formulated in a way that does not stifle innovation and they must remain relevant in an environment of constant change. There are several challenges to developing codes that achieve welfare outcomes consistent with current scientific thinking, meet societal expectations for the welfare of animals, are readily understood and accepted by those who must abide by them while ensuring that welfare is assured, and are effective tools for those who have to enforce and ensure compliance with them.

## **A way forward**

In the future we believe that these objectives are most easily achieved by writing codes that focus on defining welfare outcomes for animals based on known needs in a manner that requires those outcomes to be delivered, rather than prescribing the facilities and management systems that should be provided.

Codes would not only look different, employing outcome-based statements of expected animal welfare with each outcome accompanied by one or more indicators by which achievement of the outcome can be measured or objectively assessed (O'Hara and O'Connor 2007). A more logical relationship of the code and its minimum standards to the requirements of the Act and its offence provisions can be achieved. For example, those in charge of animals are required to provide for the physical, health and behavioural needs of animals in their care. One such need is proper and sufficient food and water. It is an offence to fail to satisfy this need. The outcome sought by a minimum standard could be

“animals must receive adequate quantities of food and nutrients each day to:

- (i) enable each animal to maintain good health;
- (ii) enable each animal to meet its physiological demands; and
- (iii) enable each animal to avoid metabolic and nutritional disorders”.

There is a range of measures of the biological functions (e.g. production parameters, body weight, body condition, incidence of disease) of the animals which may be used to assess whether this outcome has been achieved.

Such codes are likely to be more readily understood by the public as they relate more directly to the public's expectations than facilities-based regulations. They can be applied to animals raised in a range of production systems without the need to specify necessary inputs. They afford owners/ farmers the opportunity to use their own expertise, experience, available technology, and judgement to meet the standard, rather than having an operational standard imposed.

We recognise that some input based standards are needed where it is not easy to define the intended outcome succinctly (e.g. the maximum stocking density for broiler chickens). However, the introduction to the relevant section of the code can indicate the purpose of the minimum standard.

## **Reference**

O'Hara P.J. and O'Connor, C.E. 2007. Challenge of developing regulations for production animals that produce the welfare outcomes we want. *Journal of Veterinary Behavior* 2: 205–212.