1. Introduction

1.1 The Ministry of Agriculture and Forestry (MAF) administers the Animal Welfare Act 1999 and its Regulations. Section 124(2) of the Act provides for the Minister to appoint any person to be an inspector on the recommendation of an approved organisation. Section 125 of the Act provides for the Director-General to appoint any person to be an auxiliary officer on the recommendation of an approved organisation. The Minister and the Director-General of MAF, as the persons accountable for the administration of the Act, have delegated their powers of appointment of inspectors and auxiliary officers to the Group Director, MAF Biosecurity Authority and the Director Animal Welfare, MAF Biosecurity Authority.

1.2 The Minister declared the Animal Welfare Institute of New Zealand an “approved organisation” by notice in the Gazette on 18 January 2001.

1.3 This standard sets out the requirements of the Director-General for inspectors and auxiliary officers appointed under the Act on the recommendation of the Animal Welfare Institute of New Zealand. The Act requires that inspectors and auxiliary officers must act under the direction of the Director-General in the exercise and performance of their powers, duties and functions conferred on them by the Act. The Act also requires that inspectors use their best endeavours to comply with and give effect to this standard. The Director-General will undertake periodic audits of the work of inspectors and auxiliary officers to ensure that they adhere to this standard.

1.4 The provisions of the Act that impact on these standards are:

Section 124. Appointment of inspectors —

(2) The Minister may from time to time, on the recommendation of an approved organisation, appoint any person to be an inspector for the purposes of this Act.

(3) Every inspector appointed under subsection (2)—

AWINZ Technical & Performance Standards
(a) Must be appointed either—
   (i) For particular purposes of this Act (which particular purposes must be specified in the inspector's instrument of appointment); or
   (ii) For the general purposes of this Act; and

(b) Must be appointed either—
   (i) For a particular district or part or parts of New Zealand; or
   (ii) To act generally throughout New Zealand.

(4) The Minister may appoint a person to be an inspector under subsection (2) only where the Minister is satisfied that the person has the experience, technical competence, and other qualifications to undertake the functions of an inspector.

(6) Every inspector appointed under subsection (2)—

(a) Is appointed for such term, not exceeding 3 years, as the Minister thinks fit, and is eligible for reappointment from time to time:

(b) May at any time be removed from office by the Minister for incapacity affecting performance of duty, neglect of duty, or misconduct proved to the satisfaction of the Minister:

(c) May resign his or her office by giving written notice to that effect to the Minister:

(d) Must on the expiration of the term of his or her appointment, or on the sooner expiry of his or her appointment by removal from office or resignation, surrender to the Minister his or her instrument of appointment.

(7) Without limiting subsection (6) (b), it is declared that where an approved organisation informs the Minister in writing that an inspector who was appointed on the recommendation of that approved organisation is no longer acting for that approved organisation or for an incorporated society affiliated to that approved organisation in that capacity or in the particular district or part or parts of New Zealand for which the inspector was appointed, the Minister may, by written notice to that inspector, invite that inspector to both resign his or her office in accordance with subsection (6) (c) and surrender his or her instrument of appointment in accordance with subsection (6) (d) by a date specified in the notice, and, if that inspector fails to do so by that date, the Minister may revoke that inspector's appointment.

(8) No person appointed by the Minister under subsection (2) to be an inspector is by virtue of that appointment employed in the public service for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956.

(9) The Director-General may from time to time establish performance standards and technical standards for inspectors appointed under subsection (1).

(10) Every inspector appointed under subsection (1) or subsection (2) must, when performing his or her functions or duties under this Act or exercising his or her powers under this Act, use his or her best endeavours to comply with, and give effect to, the relevant performance standards or technical standards.

125. Appointment of auxiliary officers—(1) The Director-General may from time to time, on the recommendation of an approved organisation, appoint any person to be an auxiliary officer for the purposes of this Act.

(2) No person appointed by the Director-General under this section to be an auxiliary officer is by virtue of that appointment employed in the public service for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956.

(3) The Director-General may at any time revoke any appointment made under subsection (1).

126. Inspectors and auxiliary officers to act under direction of Director-General—(1) All inspectors and auxiliary officers must act under the direction of the Director-General in the exercise and performance of the powers, duties, and functions conferred or imposed on them under this Act.

(2) In the event of any conflict arising between the powers, duties, and functions conferred or imposed on an inspector or auxiliary officer, as the case may be, as an employee or member of an approved organisation and the powers, duties, and functions conferred or imposed on that inspector or auxiliary officer under this Act, the powers, duties, and functions conferred or imposed on that inspector or auxiliary officer under this Act prevail.
Before a person may be recommended for appointment by AWNZ to be an inspector the person must have:

- met the criteria for suitability for appointment,
- been assessed “competent” in NZQA unit standard 14234 of the National Certificate in Compliance and Regulatory Control (Animal Welfare) and,
- completed the Certificate within 18 months of commencing training (unless otherwise agreed with the Director-General of MAF).

Before a person may be recommended for appointment by AWNZ to be an auxiliary officer the person must have been assessed “competent” in NZQA unit standards:

- 14377 (recognise normal and abnormal behaviour in animals),
- 5181 (provide emergency first aid care to companion animals),
- 5182 (provide emergency first aid care to large animals),
- 5183 (handle and transport injured companion animals),
- 5184 (handle and transport injured companion animals),
- 11681 (carry out emergency euthanasia of small animals),
- 11682 (carry out emergency euthanasia of large animals).

2. References

The following Acts and Regulations are directly relevant for the implementation of the Director-General’s requirements:

- Animal Welfare Act 1999
- Arms Act 1983
- Agricultural Compounds and Veterinary Medicines Act 1997
- Biosecurity Act 1993
- Children, Young Persons, and their Families Act 1989 – re interviewing children
- Crimes Act 1961
- Dog Control Act 1996
- Impounding Act 1955
- Marine Mammals Protection Act 1978
- New Zealand Bill of Rights Act 1990
- Official Information Act 1982
- Privacy Act 1993
- Summary Proceedings Act 1957
- State Sector Act 1988
- Trade in Endangered Species Act 1989
3. **Receipt of Complaint**

3.1 Where a complaint regarding the welfare of an animal is received by an inspector, whether received directly from a member of the public or via a linked organisation of AWINZ or another approved organisation, the inspector must document all relevant information pertaining to the complaint, including sufficient details to enable a traceback of the complaint should further information or clarification be required.

3.2 An inspector must allocate the subject matter a file number within 3 working days of receipt of a complaint.

3.3 An inspector must forward to the complainant, linked organisation, or approved organisation passing on the information, a complaint acknowledgement form confirming receipt of the complaint and the file number within 10 working days of receipt of the complaint, unless otherwise directed by the complainant or where the information source is unidentified or is anonymous.

3.4 An inspector must grade all animal welfare complaints received by that inspector into a response category reflecting the urgency or lack of urgency for any response required.

3.5 The inspector should take into account when categorising a response the urgency required to mitigate the animal’s pain or distress, based on the information on hand at the time.

3.6 An inspector must use the following grading as a minimum guide when assessing the appropriate response for an animal welfare complaint:

- **Grade 1: Urgent field response required.** An inspector or veterinarian is required to respond within 1 hour of receipt of complaint to alleviate pain or distress to the animal.

- **Grade 2: Matter requiring response by an inspector or veterinarian but not deemed to be as urgent as requiring a Grade 1 response.** Grade 2 complaints should be responded to within 7 days of receipt of complaint.

- **Grade 3: A non-urgent response required.** Inspector may address the situation via telephone, letter or deal with the matter as an educational visit when next passing through the area.

3.7 Where the complaint concerns an animal being exported from New Zealand, an animal being held in premises licensed by MAF, or the use of animals in research, testing or teaching, the inspector must confer with MAF-EU for discussion with the Director Animal Welfare before proceeding with any investigation or inspection.
4. Complaint Response

4.1 An inspector must at all times act in accordance with inspectors’ powers under the Animal Welfare Act 1999 when responding to a complaint.

4.2 Prior to commencing any response or initiating any enforcement activity, an inspector must check any AWINZ database in operation to ascertain whether any previous history relating to a complaint exists, in order to determine the most appropriate response or activity, and where appropriate, should confer with MAF-EU and/or the local SPCA.

4.3 Where an inspector believes that an inspector from another approved organisation or MAF may be working on the same complaint, contact with that person must be made to avoid duplication or interference. Should this belief be confirmed, the inspector must follow any procedures set out within an agreed Memorandum of Understanding.

4.4 An inspector must ensure when responding to an animal welfare complaint that, where practicable, the inspector is in possession of equipment that is appropriate to resolve the complaint. Minimum equipment requirements are:
- Proof of authority as inspector and identity
- Copy of the Animal Welfare Act 1999
- Notebook suitable for recording action taken
- AWS129/130 forms
- Appropriate clothing to deal with the complaint
- Animal care equipment with ability to euthanase an animal if necessary or quick access to such equipment
- Camera and mobile phone.

4.5 An inspector must have as a priority at all times the alleviation of any unreasonable or unnecessary pain or distress suffered by the animal.

4.6 An inspector may take action to both prevent and/or mitigate the suffering of the animal and to assemble evidence in accordance with the Act, where in the opinion of the inspector, based on the facts as presented, any breaches of the Act have occurred.

4.7 In any case where the requirements of the Animal Welfare Act 1999 are not being met, an inspector must ensure the owner or person in charge of the animal/s is made aware of their obligations of care for the animal/s and, where necessary, identify where and to what extent they have failed to meet the legal requirements.

4.8 Any instructions given by an inspector to an owner or person in charge of an animal to prevent or mitigate the suffering of that animal must be by notice in writing and signed as an inspector under the Animal Welfare Act 1999. The notice must set out clearly what is required and within what timeframe those requirements must be undertaken.

4.9 An inspector must act reasonably when issuing any written instructions. The inspector must be satisfied at the time of issuing any instruction to the owner or person in charge of the need for such instruction.
4.10 Inspectors must make themselves aware of other potential or related animal welfare incidents that might be present in connection with other animals or properties under the control of the owner, or person in charge, they are currently dealing with.

4.11 Where an inspector has issued a written instruction for remedial activity to be undertaken, it is the responsibility of that inspector to ensure, within a reasonable timeframe, that the remedial activity has been undertaken in compliance with the written notice.

4.12 Where an animal, or animals, are seized by an inspector pursuant to the Animal Welfare Act 1999 the inspector must ensure that the animal/s seized are kept at a place chosen by the inspector, but subject to any general guidelines issued by AWINZ, and cared for in accordance with relevant minimum standards in a code of welfare, or where there is no code of welfare, in accordance with the relevant code of recommendations and minimum standards.

4.13 Inspectors must keep themselves informed of industry resources available to them where the seizure or transfer of an animal is necessary in order to prevent or mitigate pain or distress suffered by the animal, and where appropriate seek guidance from a supervisor and/or AWINZ.

4.14 Should seizure be required in order to prevent or mitigate pain or distress suffered by the animal, the inspector retains responsibility for care of the seized animal.

4.15 An inspector is no longer responsible for the care of an animal where, with the written consent of the owner, the animal has been transferred to an industry group or representative in order to prevent or mitigate pain or distress suffered by the animal.

4.16 An inspector must be satisfied that any such action taken in clauses 4.14 or 4.15 will assist in preventing or mitigating the pain or distress suffered by the animal.

4.17 Where an inspector or auxiliary officer believes that he/she is operating in an area of animal husbandry that is outside his/her training or experience to make an objective assessment of the animal and its condition, the inspector or auxiliary officer must obtain the opinion of a person with recognised expertise in the area. This may include another inspector or auxiliary officer, veterinarian or a person with appropriate experience in the particular area of animal husbandry.

4.18 Where there is a disagreement between the inspector leading the response or investigation and the owner or person in charge of the animal as to the remedial requirements necessary and there is an opportunity to seek advice from or the opinion of an experienced third party, the inspector may consider seeking such advice or opinion.

4.19 Where it is necessary for an inspector or auxiliary officer to euthanase an animal, the inspector or auxiliary officer must be competent in the manner of euthanasia and appropriate equipment used so as to be able to euthanase the animal without inflicting unreasonable or unnecessary pain or distress.

4.20 An inspector or auxiliary officer must comply with all relevant sections of the Arms Act 1983 where a firearm or other device that is subject to the Arms Act 1983 is used.
5. **The Investigation Process**

5.1 An inspector must document at the time of the response, or as soon as practicable after the event, all instructions, actions, observations and interviews carried out by the inspector as part of any response to a complaint.

5.2 An inspector must consider and adhere at all times to the requirements of the New Zealand Bill of Rights Act 1990 when progressing any response to a complaint.

5.3 An inspector must adhere to any statutory or common-law requirements when undertaking any search and seizure actions under the Act.

5.4 An inspector must follow the relevant requirements of the Children, Young Persons, and their Families Act 1989 where it is necessary to interview a young person who is suspected of breaching the Animal Welfare Act 1999 or who is intended to be a witness.

6. **Search Warrants**

6.1 An inspector must comply with the relevant processes and rules, as detailed in sections 131 to 135 of the Animal Welfare Act 1999, when applying for and executing a search warrant.

6.2 An inspector must forward to the inspector's supervisor copies of all applications for search warrants and the result of each application (this may be the actual search warrant itself) within 2 working days from the time of execution of the search warrant, in order that they be entered into the AWINZ database for search warrants.

6.3 An inspector must query the AWINZ "search warrant" database and seek relevant information from MAF-EU and other relevant approved organisations before an application for a search warrant is sworn, in order to demonstrate that "reasonable inquiries" have been made in accordance with section 131(3).

7. **Prosecution Procedure**

7.1 AWINZ has adopted the Solicitor-General's Prosecution Guidelines 1992. Those guidelines apply, with the necessary modifications, to inspectors appointed on the nomination of AWINZ.

7.2 An inspector must adhere to the Solicitor-General's Prosecution Guidelines 1992 as the minimum standard to be used when considering whether criminal liability has been established.

7.3 Where an inspector believes that criminal liability has been established, the inspector must seek a further assessment from a suitably qualified person in the linked organisation or in AWINZ as to whether the case meets the standards set out in the Solicitor-General's Prosecution Guidelines 1992.

7.4 Where an inspector believes that criminal liability has been established, and after completion of the further assessment in 7.3, the inspector may recommend to AWINZ that an information be laid.
7.5 Where an inspector believes that criminal liability has been established but believes that a formal warning, rather than prosecution, is appropriate, the inspector must forward the matter to his/her supervisor for endorsement prior to recommending to AWINZ that a formal warning be issued.

8. Records

8.1 An inspector must ensure that all records pertaining to a complaint and/or an investigation are legible and contain a date reference and file number.

8.2 An inspector must ensure that records of complaints contain but are not limited to:
- the name, address and the phone number of the complainant
- sufficient details to identify and locate the alleged offender
- date complaint received
- the location of the problem
- the nature of the complaint, including species, number and age of animals
- the name of the inspector(s) handling the complaint

8.3 An inspector must ensure that records of the investigations contain, as applicable, but are not limited to:
- relevant details relating to the initial response, including animal identification and examination record
- interview notes
- copies of any directions given
- details of any organisation involved, for example, other approved organisations, MAF, Police, Territorial Authority
- details of whether the complaint was received or transferred from/to another state agency or approved organisation
- copies of any education or warning letters.

8.4 An inspector must ensure that prosecution records contain, but are not limited to:
- information/s laid
- Prosecution file
- Court dates
- Decisions
- Sentencing data
- Infringement notice copies.

8.5 An inspector must store all records and evidence held in a manner that respects the confidentiality of the information and the privacy of individuals involved.
8.6 An inspector must retain all records in accordance with AWINZ policy and the Memorandum of Understanding between AWINZ and MAF.

9. **Hand-over Policy**

9.1 Where an inspector finds that an inspector of an approved organisation or a state agency has been advised separately of the same animal welfare complaint, the inspector who should undertake the investigation is that person who first visited the alleged offender, unless that inspector officially transfers the case to a subsequent inspector.

9.2 An inspector who proposes to transfer a complaint to a state agency or approved organisation for investigation must ensure that the transfer is recorded and signed by both the transferring and receiving organisation.

10. **Assistance Policy**

10.1 Where an inspector requests assistance in an investigation from an inspector of MAF-EU or another approved organisation, the inspector initiating the request must advise the inspector’s counterpart of the exact nature of the assistance required at the time of that request.

10.2 The inspector initiating the request for assistance retains full responsibility for any investigation in which assistance has been requested.

10.3 If the request for assistance is declined, the inspector must advise AWINZ as soon as practicable of the circumstances.

11. **Enforcement Orders**

11.1 An inspector may apply for an enforcement order under section 143 of the Animal Welfare Act 1999 only after approval of AWINZ who will first discuss the case with the Senior Investigating Solicitor, MAF Enforcement Unit.

11.2 An inspector must provide to AWINZ and MAF-EU details of any enforcement order made by a District Court within 2 working days of the order being made. This information must include:

- The name and address of the person/persons/company who must comply with the order.
- That part of the Act or Regulation with which the person must comply
- The duration of the order.
- Any variation, discharge or appeal with respect to the enforcement order.

11.3 Subject to the Memorandum of Understanding between AWINZ and MAF, when an inspector is considering applying for an enforcement order, the inspector must seek any information held by AWINZ, MAF-EU or other relevant organisation relating to enforcement orders that is relevant to the issue being investigated, in order to determine the most appropriate action.
12. Infringement Notices

12.1 An inspector may issue an infringement notice only after discussion with a supervisor or AWINZ.

12.2 An inspector must provide to AWINZ details of any infringement notice within 2 working days of its date of issue. This information must include:
- The name and address of the person/persons/company issued the infringement notice.
- Details of the alleged infringement offence as are sufficient to inform AWINZ of the time, place and nature of the alleged offence.
- The amount of the infringement fee and the time within which the fee may be paid.

13. Definitions

"Approved organisation" means an organisation declared, under section 121 (1), to be an approved organisation for the purposes of the Animal Welfare Act 1999.

"AWINZ" means the Animal Welfare Institute of New Zealand


"Director-General" means the Director-General of the Ministry of Agriculture and Forestry.

"Inspector" means a person recommended by AWINZ and appointed as an inspector under section 124 (2) of the Animal Welfare Act 1999.

"Linked organisation" means an organisation that is linked to AWINZ pursuant to a memorandum of understanding.

"MAF" means Ministry of Agriculture and Forestry and includes both the MAF Biosecurity Authority and the MAF Enforcement Unit.

"MAF Biosecurity Authority" means the division of MAF responsible for setting standards for animal welfare enforcement and monitoring compliance with these standards.

"MAF Enforcement Unit" means the management unit within the MAF Biosecurity Authority responsible for inter alia responding to, and investigating, complaints under the Animal Welfare Act 1999.
“Memorandum of Understanding” means a document recording the relationship, including expectations and obligations, between AWINZ and MAF, another approved organisation or linked organisation in relation to animal welfare issues.

“Minister” means the Minister responsible for the Animal Welfare Act 1999. (As at 1 January 2001, this was the Minister of Agriculture).

“Response” means action taken by an inspector in response to a complaint regarding the welfare of an animal/s.

“Veterinarian” means a person for the time being registered as a veterinarian under the Veterinarians Act 1994; and includes a holder of a provisional certificate of registration, and a holder of a certificate of temporary registration, under that Act.

“Young person” means a boy or girl of or over the age of 14 years but under 17 years; but does not include any person who is or has been married, or such other meaning as may be given to the term by any subsequent amendments to the Children, Young Persons, and their Families Act 1989.