

EQUIVENTUS

Review of the Control of Horses (Wales) Act 2014

FINAL PUBLIC REPORT

Submitted: 21 July 2017

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1.

EXECUTIVE SUMMARY & LIST OF RECOMMENDATIONS

1.1 EXECUTIVE SUMMARY

In the three years since the introduction of the Control of Horses (Wales) Act 2014 (“the Act”), there is clear evidence to show a reduction in the number of horses reported and ultimately removed, due to fly grazing, straying or abandonment within Wales.

The evidence available demonstrates the reduction in this behaviour is attributed to a number of key factors: these include the swift introduction of the Act, an increase in education programmes for horse owners, the rise in public awareness of the potential problem and improved collaborative working across all stakeholders to address concerns.

The three issues of fly grazing, straying and abandonment, while collectively dealt with using the same mechanisms available through the Act, are often the result of three separate types of behaviour. The action taken in 2013/14 saw many local authorities adopt a zero-tolerance approach in order to address a situation deemed an ‘equine crisis’ by the charitable sector. It was during this time that cases were highlighted in the media where horses were being actively grazed on public property such as schools and community spaces. It is a finding of this report that, in the three years following the introduction of the Act, there has been a significant reduction in the number of horses being actively fly grazed. This is represented in the reduction seen in average seizure figures from 30 per month in 2014 to 18 per month in 2016. This is further evidenced by South Wales Police who have seen an 83% reduction in the number of incidents reported between 2012 and 2016.

Lessons learnt from the successful implementation of the Act in addressing fly grazing should now be applied to ensure further success is seen in addressing the issues of abandonment within Wales. Since the introduction of the Act, it is evident that collaborative working across all stakeholders has been key to the successful reduction in incidents. This collaborative approach has led to the development of successful educational and partnerships schemes, which has seen an improvement in compliance across horse owners.

Due to the nature of the operations undertaken within Wales, establishing the exact costs attributed is unrealistic. Documented cases have seen a variable involvement from the public and charitable sectors in addressing each incident, whilst time spent by voluntary and paid staff, along with resources utilised, is difficult to quantify and value.

While the introduction of the Act across Wales has ensured consistency with regard available legislation, there is still scope for improvement. This review makes recommendations to address the key concerns identified, which include improved identification of horses seized under the Act, improvements to accountability and reporting of incidents, and updated mechanisms to allow more efficient and effective utilisation of the Act.

1.2 LIST OF RECOMMENDATIONS

The following recommendations are made based upon the conclusions drawn from this review:

- A unified reporting mechanism should be established, and made publicly available, in an effort to improve the accuracy and clarity of incident reporting. [6.2]
- Local authorities should seek to ensure all animals seized under the Act are permanently identified. [6.4]
- While land owners should be able to benefit from the provisions within the Act, specifically designed to tackle the issues of fly grazing, straying and abandonment, this engagement should be managed through a local authority. [6.5]
- Where the issue of abandoned horses upon a common has been identified, measures should be taken to identify a sustainable solution through collaborative working. [7.4]
- Guidance should be issued recommending horses are only rehomed through members of the National Equine Welfare Council (NEWC). [8.1]
- Local authorities should be encouraged to rehome seized horses through the charitable sector and not directly to members of the public. [8.4]
- With regards time frames detailed within the Act, the following recommendations are made:
 - The time frame in which seizure notices must be erected should be removed and replaced with a requirement to erect seizure notices at the time of seizure. [10.1]
 - The time constraint of informing a police officer within 24 hours of the seizure should be preserved. [10.2]
 - The requirement to provide written notification within 24 hours should be increased, to allow for standard clerical considerations. [10.3]
 - The minimum seizure period under the Act, prior to the disposal of any horse, should be maintained at 7 days. [10.4]
- Section 7 (7) of the Act should be updated to allow for the return of a horse to an owner in the event of a dispute having been raised with the Welsh Ministers, on condition that the outstanding fee be settled prior to the release of the horse. [10.5]

- A maximum time frame of 90 days should be established within which any claims for rightful ownership can be made and considered. [10.6]
- An effective incident management system should be established, to ensure consistency and compliance across all users of the Act. [11]
- The Action Plan should be revisited, and where objectives were previously identified these should be appraised to consider relevance in the current environment. Where action is still deemed to be viable, updated time frames for completion should be established. [12]

2. THE REVIEW

2.1 SCOPE OF THE REVIEW

The Control of Horses (Wales) Act 2014 (“the Act”) came into force on 27 January 2014, with a commitment to review the Act within 3 years of its adoption.

The scope of this review is to evaluate the effectiveness and efficiency of the Act, and consider any updates and stakeholder recommendations.

While the issues of fly grazing, straying and abandonment are often closely associated with welfare concerns, it should be noted that welfare concerns fall outside of the scope of this review, as provision exists within the Animal Welfare Act 2006.

The purpose of the review is to evaluate the scale of the problem prior to the introduction of the Act and, subsequently, how the situation has been influenced by the introduction of the Act. Further evaluation of how the Act has been implemented, and the costs associated with the implementation will also be conducted.

The review is tasked with identifying where the mechanics of the Act are utilised efficiently, and if there are areas within the Act which could be adjusted to improve the uptake and effectiveness of the mechanism.

This document has been structured to give full public access to the review. It therefore sets out to provide a background to the problems experienced prior to the introduction of the Act, and how these issues have been resolved through a variety of approaches and utilisation of the Act itself.

2.2 METHODOLOGY

This review was conducted between 1 February 2017 and 30 April 2017.

An initial period of background research was carried out in order to collate and review all relevant legislation and consultation documentation, compile contact information for relevant stakeholders, and review information on relevant cases and issues already raised with regards the Act.

A structured communications programme was established in order to conduct the review within the available time frame. This programme involved a number of individual, grouped and telephone meetings, and interviews with stakeholders.

Stakeholders:

Stakeholders were grouped into sectors in order to evaluate their responses, both individually and to gauge a general consensus of opinion within these groups, where appropriate.

The groupings for stakeholders was as follows:

- The 22 Welsh local authorities
- The police and fire and rescue service
- Charitable and voluntary organisations
- Farming unions, commoners associations and land owners
- Veterinary organisations
- Defra and the Welsh Government
- Community groups

Local authorities were asked by the Welsh Government to put forward a representative to communicate with Equiventus with regards the review. These nominated individuals were from the relevant Trading Standards or Animal Health departments.

Other stakeholders were selected on the basis of the following factors:

- a) The relevance of the Act to their work and operations.
- b) Involvement in the original consultation prior to the introduction of the Act.
- c) Relationships with other major stakeholders, e.g. charities who rehome horses seized by local authorities.
- d) Organisations and groups for whom the Act may be having a significant impact on their activities.
- e) Individuals or groups thought to have a particular interest in the impact of the Act, either by recommendation from other stakeholders, or as a result of background research.

Organisations within the charitable and voluntary sector were selected to ensure a good cross-section and representation from the smaller sanctuaries through to the more established national organisations.

Requests for data:

Local authorities who have used the Act were asked to provide a copy of the register used to record incidences dealt with under this legislation. A series of questions was submitted to all local authorities to establish protocols used and activities carried out with regards fly grazing, straying and abandonment of horses, both prior to the Act, and following its introduction. Data with regards to costs was also gathered where relevant and available.

Data from other stakeholders was gathered to support the information collected from local authorities and to inform any conclusions made within the review. In some circumstances, due to internal policies and procedures, it was required that Freedom of Information (FOI) requests were submitted in order to gain access to statistics regarding incoming calls and actions taken in response to fly grazed, stray and abandoned horses.

Where information and data received was of a sensitive nature, consideration of this sensitivity was afforded and the information used appropriately within this review; taking into account the restrictions on any such information. Selected sections of this review were passed back to the relevant stakeholder to sign off the use of any sensitive data/information prior to publication.

Data analysis and reporting:

Following the data collection and interview stage of the review, all data and evidence was compiled, evaluated and the final conclusions and recommendations made.

Period under review:

For the purposes of this review, where analysis has been carried out to establish year by year figures, the time periods used run from 27 January through 26 January in line with the anniversary of the introduction of the Act.

2.3 CONSIDERATIONS

Consideration of welfare when reviewing this Act:

While welfare is closely associated with those horses found abandoned or fly grazing, mechanisms exist within other legislation, namely the Animal Welfare Act 2006, to assist with these situations. This review is concerned with the Control of Horses (Wales) Act 2014 and its implementation and, while welfare may be interlinked with some of the incidences which are discussed, it is not the primary focus of this review.

Consideration of statistical analysis:

During the course of this review, requests have been put to all stakeholders for the disclosure of key statistics and financial details relating to both the general position and specific cases. There are a number of key considerations with regards the data which was successfully collected.

- Due to the informal nature by which the various organisations record information, in many cases the statistics gathered are not easily comparable. This issue is highlighted within the records held by the police forces within Wales. In this example, there is no specific methodology employed in recording fly grazing, straying or abandonment, or actual numbers of horses involved across all forces. The figures which are available were gained by searching the forces' data systems for all entries containing keywords such as 'horse', 'equine' or 'pony'. It is also noted that where a single record was returned, this record may refer to more than one equine, and similarly there may be more than one record pertaining to each incident if the issue was reported by more than one individual.
- With regards financial records pertaining to specific cases, the charitable and voluntary sectors are unable to give specific costs attributed to each incident, as this may be detrimental to the support and donations they receive from members of the public.

Assumptions made during data analysis:

Efforts were made to collect equivalent and complete datasets where possible but, due to variation in the format and extent of records maintained by stakeholders, certain assumptions have been made when categorising data. Where relevant, these are detailed in footnotes.

3. SUMMARY OF THE ACT

The introduction of the Control of Horses (Wales) Act 2014 (“the Act”) saw additional powers granted to local authorities, which were designed to further assist in tackling the issue of fly grazed, straying and abandoned horses.

While similar powers are available to local authorities through the Animals Act 1971, this Act restricted the channels for disposal to public markets or auctions. The seizure period within the Animals Act 1971 is set to a minimum of 14 days.

The Act sets a statutory minimum seizure period of 7 days, while removing the restriction of disposal through public auctions and markets. The local authority is able to utilise any method available to dispose of a horse under the Act, which includes euthanasia.

One of the key objectives of the Act was to reduce the financial burden placed on local authorities in dealing with the issues associated with fly grazed, straying and abandoned horses.

The Act contains prescriptive measures which detail statutory time frames within which key actions must be completed. The actions include such measures as the erection of notices at the site of the seizure, and providing written notice to those presenting themselves as potential owners.

One purpose of the Act was to offer the same powers to all local authorities in Wales and, in doing so, replace the existing powers available to a select number of local authorities through their own localised legislation. One such localised legislation was the Cardiff City Council Act 1984, which included provision for the removal of horses from land where no consent had been granted.

The Act was intended as a further tool for local authorities, to reinforce and complement powers granted under existing equine and animal legislations. These legislations include the Equine Identification (Wales) Regulations 2009, the Animals Act 1971 and the Animal Welfare Act 2006.

4. BACKGROUND TO THE INTRODUCTION OF THE ACT

The existence of fly grazing, straying and abandonment of horses in the years prior to the introduction of the Act has been well documented by Welfare organisations, alongside extensive press coverage of a number of incidents.

An article ^[1] written in 2013 highlights the concerns raised by the RSPCA with regards the estimated 7,000 horses fly grazing or deemed to be at risk across England and Wales.

Redwings Horse Sanctuary stated that in 2009 they received 161 reports of abandoned horses, with this figure increasing to 806 in 2013.

In May 2013, BBC Wales filed a Freedom of Information (FOI) request with the 22 local authorities regarding the number of incidents regarding fly grazed, straying or abandoned horses. This FOI request and subsequent article ^[2] produced the following statistics, as shown in Figure I below:

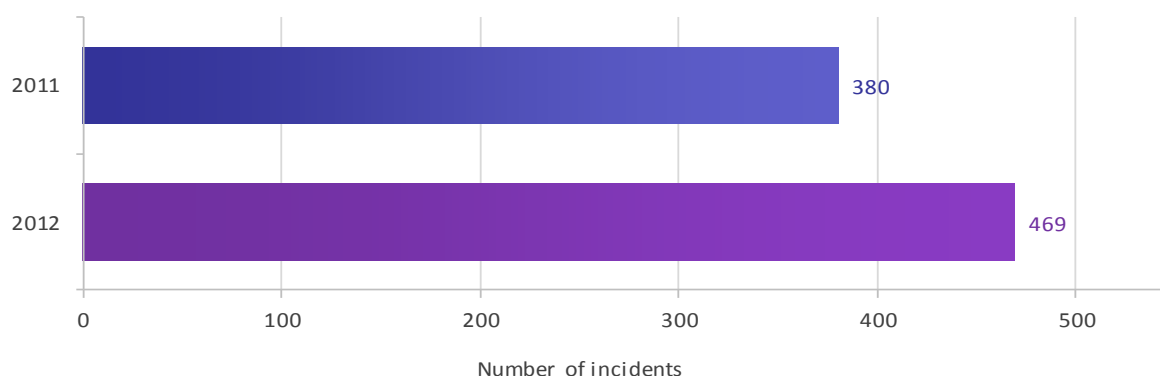


Figure I. Number of incidents of fly grazing, straying and abandonment ^[3] dealt with by local authorities in Wales in 2011 and 2012

The Act repealed section 29 of the Cardiff City Council Act 1984, and references to the seizure of horses within both Section 15(8) of the Mid Glamorgan County Council Act 1987 and Section 35(7) of the West Glamorgan Act 1987.

The West Glamorgan Act 1987 was available to the following local authorities:

- The City and County of Swansea
- Neath Port Talbot County Borough Council

¹ RSPCA calls for tougher animal owning laws after 7000 horses abandoned

<http://www.dailystar.co.uk/news/latest-news/329290/RSPCA-calls-for-tougher-animal-owning-laws-after-7000-horses-abandoned>

² Abandoned horse complaints quadruple in parts of Wales

<http://www.bbc.co.uk/news/uk-wales-south-east-wales-22604298>

³ Consideration should be given to the accuracy of these figures. They are included here as an indicator of the national trend only. There is no indication in the article as to how many horses each incident relates to, or indeed if there are multiple incidents relating to the same concern.

The Mid Glamorgan Act 1987 was available to specific areas within the following local authorities:

- Bridgend County Borough Council
- Caerphilly County Borough Council
- Merthyr Tydfil County Borough Council
- Rhondda Cynon Taf County Borough Council
- Vale of Glamorgan Council

Following the re-organisation of the administrative districts, some local authorities were only able to utilise these local acts within specific areas of their county.

The consistency and methodology of recording horse seizures prior to the introduction of the Act does not allow accurate reporting on the number of horses seized across Wales as a whole.

Within the City of Cardiff, the local authority was able to utilise the Cardiff City Council Act 1984 as the primary legislation under which seizures of fly grazed, stray or abandoned horses took place. The number of horses seized under this Act between March 2012 and January 2014 can be found in Figure II.

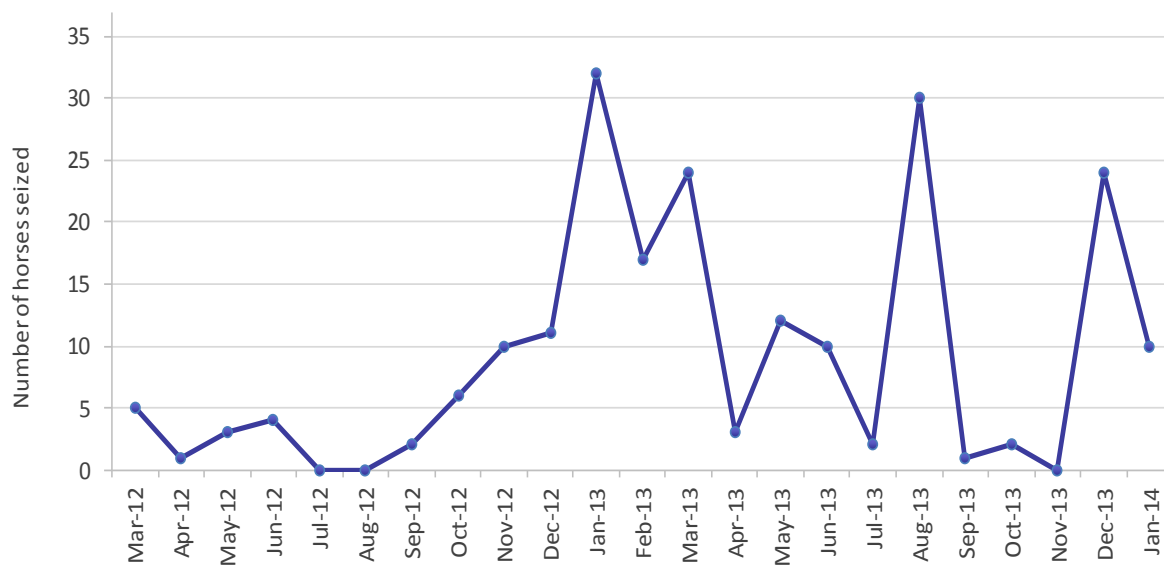


Figure II. Monthly seizure rate under the Cardiff City Council Act 1984 by The City of Cardiff Council

The surge in abandonment was partly attributed by the charitable sector to the economic downturn in 2012, where figures for horses being abandoned were believed to peak.

The timing of the economic downturn corresponded with the horse meat incidents in 2013. As a result, updated EC Regulations were introduced in 2015 which saw an increase in the checks made on horses entering the food chain.

In a well-documented effort to mitigate the risk to the food chain, the European legislation imposed strict deadlines for the registration of equines, with any equine registered outside of the year of birth or more than 6 months after their birth, being permanently excluded from entering the human food chain.

This requirement to permanently exclude an equine with a late application from the food chain therefore automatically applies to the majority of horses subject to fly grazing and abandonment. Where foals are rescued, additional guidance jointly issued by the UK Governments states these horses should also be permanently excluded from entering the human food chain.

These increased security measures have effectively closed a channel of routine disposal which had previously been open to horse owners. With owners unable to recover costs through the disposal of a horse using an abattoir, owners were faced with the situation of having to pay for the destruction and removal of their horse.

During the period November 2011 through March 2013, the cost in dealing with horse-related incidents incurred by South Wales Police, Fire Service and the local authorities of Bridgend and the Vale of Glamorgan was estimated at £1.2 million. This figure was stated by the Welsh Government as part of the original consultation^[4] concerning the introduction of the Act, and has been utilised by a number of stakeholders since it was declared.

Across the same reporting period, it was stated by South Wales Police that more than 1,500 incidents relating to fly grazed, stray or abandoned horses were reported.

The situation in Wales was branded as a “potential equine crisis” by the charitable sector^[5], and the media moved to raise awareness of the situation through continued coverage of the issues in 2013.

⁴ Page 9 of Consultation Document: Fly Grazing and Abandonment of horses and ponies. 4 March 2013
<http://gov.wales/docs/drah/consultation/130308fly-grazing-consultation-en.pdf>

⁵ Left on the verge: in the grip of an equine crisis in England and Wales (2013)
<http://www.worldhorsewelfare.org/Files/ff78299f-0018-4db6-8abd-a36a00f9212d/The-horse-crisis-report.pdf>

5. POSITION OF THE ACT ALONGSIDE EXISTING LEGISLATION

The National Equine Welfare Council (NEWC) supports the view that successful enforcement of equine regulations in the UK requires a combination of three primary domestic legislative documents. These regulations sit alongside each other to address the seizure of fly grazing, straying and abandoned horses, as well as the wider concerns of welfare and equine identification within the territories of the UK. This belief is shared across the majority of stakeholders, that the Control of Horses (Wales) Act 2014 is an additional mechanism, by which the issues of fly grazing, straying and abandonment may be addressed.

Within the UK there are a number of domestic regulations which local authorities have at their disposal to address concerns with horses, supported by the current EU regulations. Within Wales, the specific regulations are:

- Control of Horses (Wales) Act 2014
- Animals Act 1971
- Animal Welfare Act 2006
- Equine Identification (Wales) Regulations 2009
- EU Regulation No. 2015/262

In addition to these specific policies, alternative legislation is available, such as the Highways Act 1980, which may be called upon dependant on the specifics of each case.

Animals Act 1971:

While the Animals Act 1971 does allow for the seizure of straying animals, the Control of Horses (Wales) Act 2014 affords a reduced timetable within which to deal with the issue and offers alternative channels of disposal.

The provisions within the Animals Act 1971 are available to a wider user base and not therefore restricted solely to the local authority, as is the case with the Act under review.

The disposal channels allowed under the Animals Act 1971 are restricted to a public auction or market only.

Animal Welfare Act 2006:

This Act empowers everyone with the right to bring a private prosecution against an individual or group of individuals who they believe has committed an offence under the Act. This Act is commonly utilised by the charitable sector in pursuing cases relating to welfare and neglect.

Equine Identification (Wales) Regulations 2009:

The Equine Identification (Wales) Regulations 2009 (“the EIWR (2009)”) came into force on 1 October 2009. As stated within Section (2), the EIWR (2009) enforces Commission Regulation (EC) No 504/2008.

1 January 2016 saw (EC) No 504/2008 repealed by Regulation (EC) No 2015/262, within Article 42 on the latter regulation, which states:

Regulation (EC) No 504/2008 is repealed with effect from 1 January 2016.

References to the repealed Regulation shall be construed as references to this Regulation.

It is the position of the Welsh Government, that due to the EIWR (2009) specifically referencing the Regulation (EC) No 504/2008, when this document was repealed, this therefore removed the enforceability of the EIWR (2009) and this situation will remain until such time as the EIWR (2009) can be replaced with an updated statutory instrument. The responsibility of any enforcement of these regulations would normally be handled by local authorities and Trading Standards.

6. REVIEW OF THE ACT

6.1 ADOPTION OF THE ACT

Since the Act was introduced on 27 January 2014, 11 of the 22 local authorities within Wales have seized at least one horse using the legislation. These are:

- Blaenau Gwent County Borough Council
- Bridgend County Borough Council
- Caerphilly County Borough Council
- The City of Cardiff Council
- Carmarthenshire County Council
- Merthyr Tydfil County Borough Council
- Powys County Council
- Rhondda Cynon Taf County Borough Council
- City and County of Swansea
- Vale of Glamorgan Council
- Wrexham County Borough Council

Of these 11 local authorities, 6 have recorded a minimum of 1 seizure in each of the three years, since the introduction of the Act. Figure III shows total seizures by year for each of the 22 local authorities in Wales.

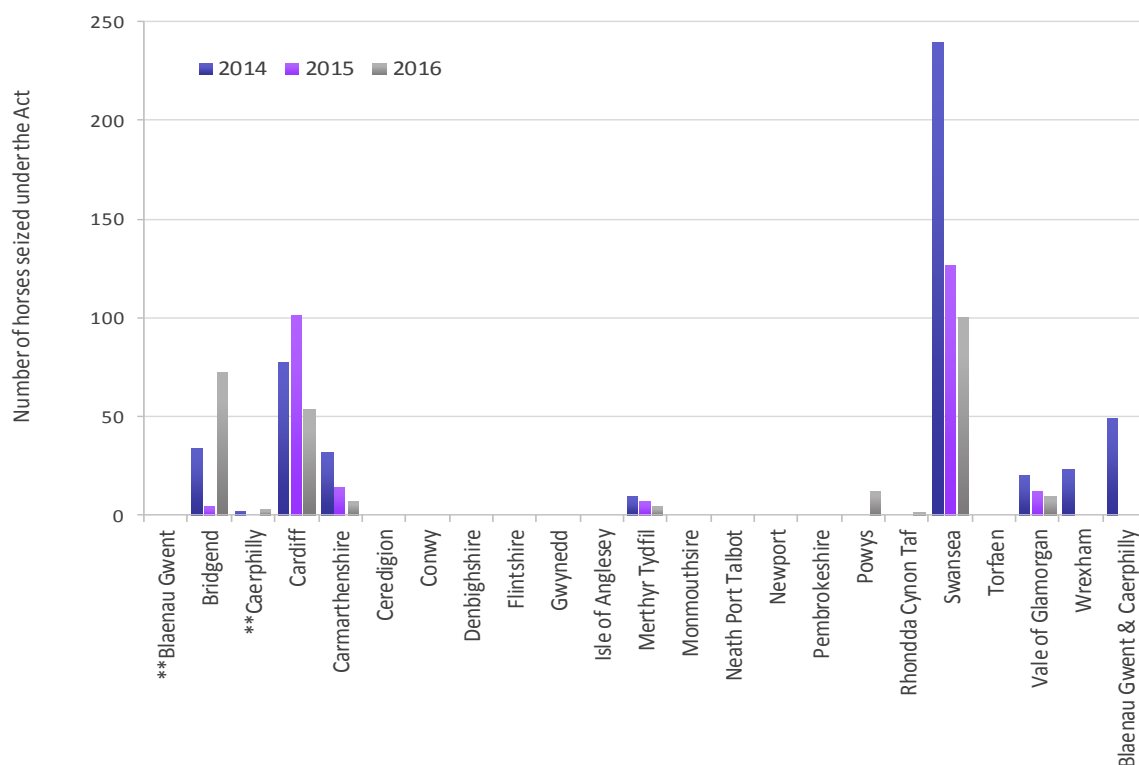


Figure III. Total horses seized per year by each local authority under the Act

****Figures for Blaenau Gwent and Caerphilly County Borough Councils do not include the 49 horses seized in July 2014 on Manmoel Common as this was a joint operation between the two local authorities. This seizure is represented as a separate item under Blaenau Gwent & Caerphilly within Figure III.**

From the figures obtained as part of this review, it is clear the number of horses seized under the Act within Swansea outweighs the total number of seizures within the rest of Wales. This situation can be attributed to both the local authority's historical position with regards actively seizing horses, as well as the scale of the problem being addressed by the local authority. It should be noted that prior to the introduction of the Act, the local authority managed an active seizure policy, utilising the West Glamorgan Act 1987. Following the introduction of the Act, the local authority updated their policies to utilise the new Act, giving access to a reduction in minimum seizure period and improved channels for disposal.

It has been stated by representatives of the City and County of Swansea the majority of horses seized under the Act are deemed as urban horses. These horses are routinely kept by members of the public, living within the boundaries of the city, who choose to graze the horses on parcels of land in the vicinity of their own dwelling. Land on which the local authority regularly seize animals includes parks, playing fields, open public space and commercial premises.

The local authority believes a reduction in the number of horses seized in the three years since the introduction of the Act can be attributed to more than one influencing factor. There is clear evidence that collaborative working through the Swansea Equine Group, involving the local authority, the RSPCA, local sanctuaries, community groups and other charitable organisations, has led to a significant increase in owner compliance, and a reduction in the seizure rate. It is believed a combination of the removal of a number of horses from the area, along with an education programme concerned with responsible breeding, has seen a reduction in the number of horses residing within the city boundary.

Three years after the Act was introduced, there are 11 local authorities which have not yet used the powers it provides. These are:

- Ceredigion County Council
- Conwy County Borough Council
- Denbighshire County Council
- Flintshire County Council
- Gwynedd Council
- Isle of Anglesey County Council
- Monmouthshire County Council
- Neath Port Talbot County Borough Council
- Newport City Council
- Pembrokeshire County Council

- Torfaen County Borough Council

In response to this review, feedback received from a selection of these local authorities states the issue of fly grazing, straying and abandonment is not prevalent within their jurisdiction, such as within the boundaries of Ceredigion County Council and Conwy County Borough Council.

In Newport, while there is evidence of fly grazing and tethering on private land, the land owner tolerates the situation as the land is currently reserved for future development. The local authority is aware of the situation, but no further intervention has been required by the land owner to date.

Newport City Council has stated that where fly grazed and straying horses are an issue, they move to utilise provisions available through the Highways Act 1980, the Animals Act 1971 and Torts (Interference with Goods) Act 1977, as these acts require less resources to implement than the Act.

Within areas such as Neath and Port Talbot, where problems have arisen, the land owner or occupier, assisted by the local authority have been able to resolve the situation without the enforcement of the Act.

While no instances have been recorded within these 11 local authorities, it is apparent this may not be a true reflection of the situation within the territory. For example, evidence provided by Monmouthshire County Council shows the threat of enforcing the Act and the potential seizure of horses is usually sufficient to resolve the situation, without the requirement to identify and record an instance within the register.

It is also stated by a select group of these local authorities, due to budgetary constraints and reductions in resources, there are currently no provisions in place for the seizure and holding of horses within their area. Should the requirement arise to conduct a seizure, it is understood the majority of these local authorities would seek the assistance of neighbouring local authorities or an external contractor.

With a decrease in the number of occurrences, and the continued reduction in resources and funding, this position is also now being adopted by a number of local authorities which have been active in seizing horses since 2014.

Evidence provided to this review has also shown where problems are known to have occurred within specific local authorities, and a request for assistance has been made, the position adopted by the local authorities has been to resolve issues through alternative methodologies, rather than utilise the provisions within the Act. The reason given for not using the Act was a lack of resources, funding and knowledge with regards correctly conducting seizures.

There are clear geographical considerations with regard the issue of fly grazing within Wales. Consideration should be given to both the population spread across Wales, the location of

conurbations within the country, as well as the terrain and type of grazing available. The majority of cases of fly grazing - both prior to and since the introduction of the Act - have been witnessed in South Wales, as supported by the data shown in Figure III.

Consideration should also be given to the existence of localised powers prior to the introduction of the Act. Cardiff, Mid and West Glamorgan benefited from provisions within the localised Acts, with these areas historically seeing larger numbers of fly grazed, stray and abandoned horses.

6.2 NUMBER OF REPORTED CASES OF FLY GRAZED, STRAY & ABANDONED HORSES

While the Act makes provision for the recording of all seizures under the Act within a register, there is no requirement within the Act to record the number of cases where a seizure did not occur.

With local authorities reporting that a significant proportion of their cases during the period under review have been resolved through mediation, education and collaborative working, there is no mechanism in place to report on the total number of horses this action may have involved.

A further consideration with regards the reporting of instances involving horses is the public's perception and understanding of which organisation is believed to be responsible for resolving an issue.

In a survey conducted in July 2013^[6], it was apparent that 71% of respondents would contact the RSPCA to report an equine problem, indicating the respondents were 3 times more likely to contact this charitable organisation over a local authority.

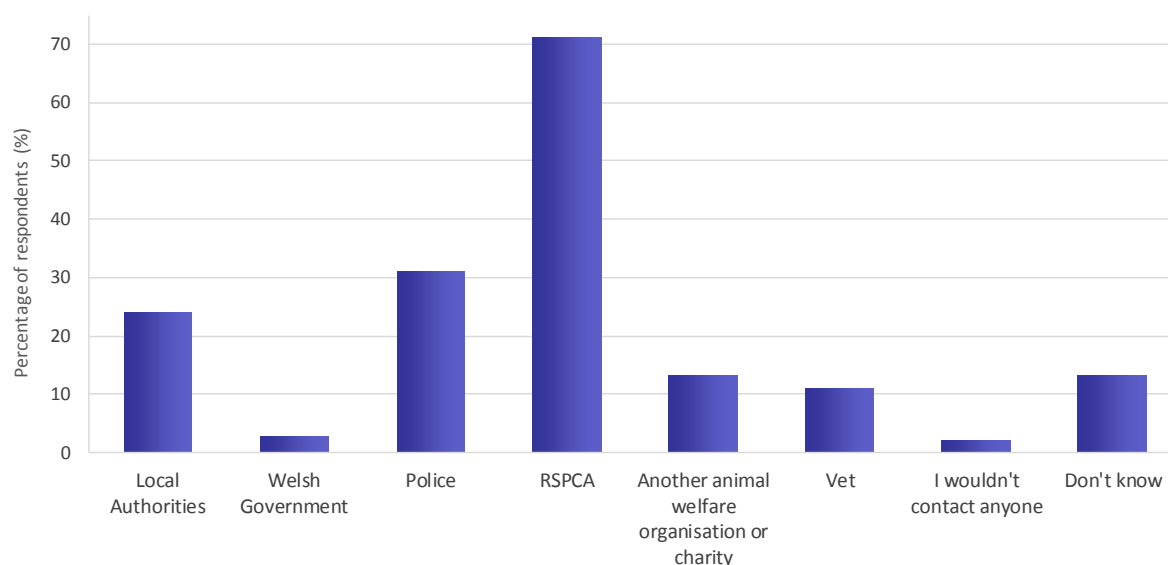


Figure IV. Responses to an online survey conducted by YouGov Plc. on behalf of the RSPCA, asking 1,012 Welsh adults who they would contact to report a horse problem^[6].

In a response^[7] to a letter^[8] from the Chair of the Environment and Sustainability Committee by the Deputy Minister for Farming and Food, Rebecca Evans AM stated that following the

⁶ YouGov Plc poll on behalf of RSPCA

https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/men736edvp/YG-Archive-RSCPA-Welsh-results-220713-horse-welfare.pdf

⁷ Response letter from Rebecca Evans AM to Alun Ffred Jones AM, dated 15 September 2015

<http://www.senedd.assembly.wales/documents/s44711/Paper%2012.pdf>

⁸ Letter from Alun Ffred Jones AM to Carl Sergeant AM, dated 8 July 2015

<http://www.senedd.assembly.wales/documents/s42579/Letter%20from%20the%20Chair%20to%20the%20Minister%20for%20Natural%20Resources.html?CT=2>

introduction of the Act, a dedicated helpline had been set up to assist members of the public with concerns regarding horses that were potentially fly grazing.

Following the introduction of the Act, the Welsh Government set up an email contact point for those wishing to report incidents. This was widely publicised in the Welsh Government Rural Affairs publication Gwlad and through the media.

It is apparent that while some police and fire services record the number of incidents they attend, these incident logs may not accurately reflect the total number of horses affected, due to multiple reports concerning the same horse or indeed a single incident may concern a large number of horses.

The method of data recording and data extraction varies between police force area, and so a direct comparison between force areas may not give a true and accurate representation of the issues faced.

The South Wales Police Force is split into 4 Basic Command Units (BCUs), which all report to a centralised resource. The Force has provided figures relating to all incidents occurring between 1 January 2010 through 1 January 2017, involving the terms 'horse', 'pony' or 'ponies'. The resulting data was reviewed by the Force, and where the context was not relevant to this review, these cases have been manually removed.

The Force provided the data with the caveat that while it may not be a completely accurate count of all cases, the data provided should be seen as a close to accurate estimate, given the resources allocated to its collection and compilation.

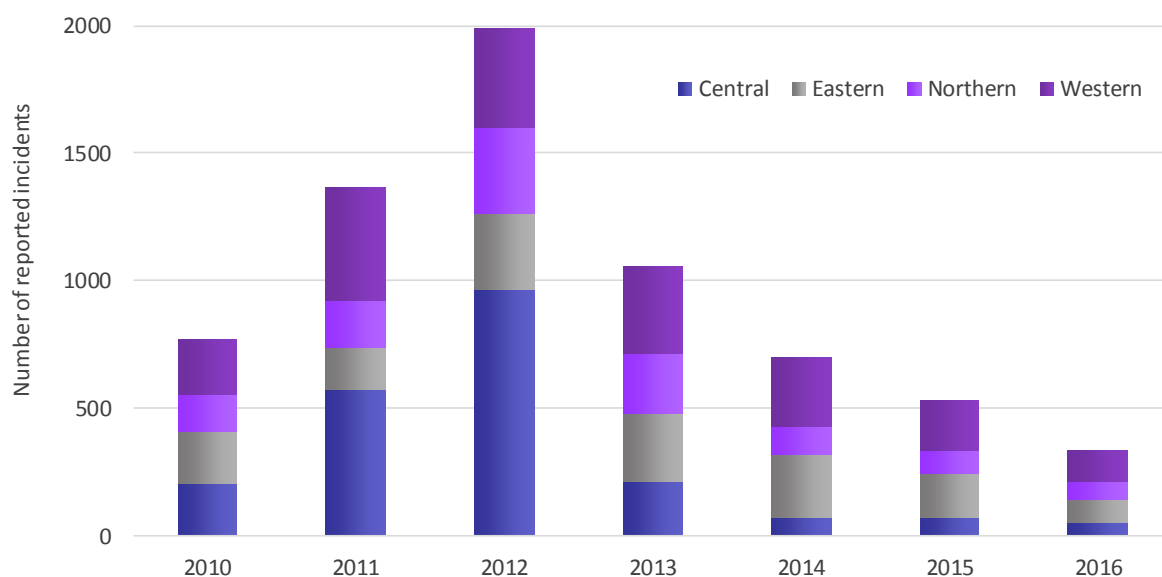


Figure V. Number of reports referring to fly grazed, stray or abandoned horses made to South Wales Police, broken down by Basic Command Unit.

The reporting BCUs are separated into Central BCU covering the Vale of Glamorgan and Bridgend local authority areas, while Eastern BCU covers Cardiff local authority. Northern BCU covers Rhondda Cynon Taf and Merthyr Tydfil local authorities, with the Western BCU covering both Swansea and Neath Port Talbot local authorities.

As shown in Figure V, the levels of occurrences peaked in 2012 with 1,986 incidents in the South Wales Police jurisdiction. This figure has been seen to decrease across all BCUs year on year, to bring the total reported occurrences to 334 across the Force in 2016, a reduction of 83% over four years.

RECOMMENDATION

A unified reporting mechanism should be established, and made publicly available, in an effort to improve the accuracy and clarity of incident reporting.

With multiple agencies and sectors operating independent reporting systems, there is ambiguity surrounding the exact number of fly grazing incidents witnessed within Wales since the introduction of the Act. Should a unified reporting mechanism be introduced, this should be utilised by all stakeholders to ensure an accurate picture of the current position could be established.

Use of a simple online reporting system would also allow for those reporting incidents to pinpoint to the best of their ability the position of those horses about whom they have concerns, utilising standard mapping technologies. This ability would also allow those investigating concerns to combine multiple reports covering the same equines, and so offer a more cohesive and efficient method of both reporting and investigation.

6.3 NUMBER OF SEIZURES UNDER THE ACT

A total of 1,047 horses were seized under the Act during the period 27 January 2014 through to 26 January 2017. Monthly totals for horses seized by the 11 local authorities in Wales who have used the Act can be found in Figure VI.

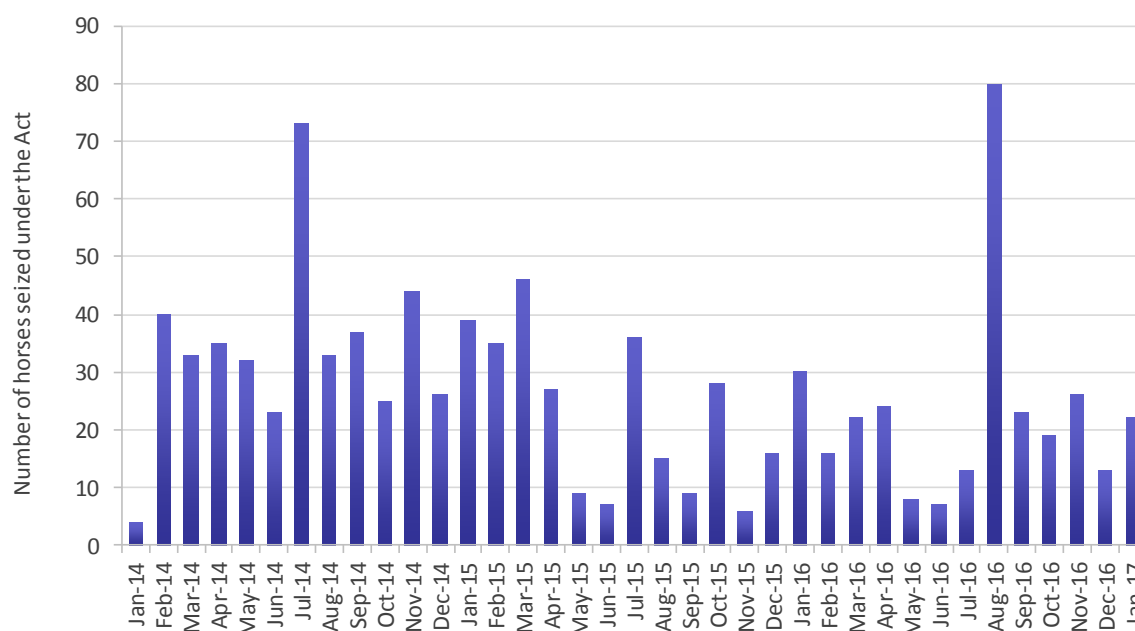


Figure VI. Total horses seized per month under the Act ^[9]

The peak seen in July 2014 is a result of the 49 horses seized as part of the operation on Manmoel Common, with the second clear peak in August 2016 a result of Operation Violet Vulcan at Llangewydd Court Farm where 70 horses were seized. Both incidents are detailed later in this review.

The graph shows numbers of horses seized were generally higher in the first year following the introduction of the Act, with an average of 30 seizures per month (excluding the 49 horses from Manmoel). Numbers of horses seized then dropped in the Spring of 2015, fluctuating between approximately 5 and 35 seizures per month thereafter, with an average of 23 seizures per month for 2015 and 18 for 2016 (excluding the 70 horses from Llangewydd Court Farm).

Operations carried out by local authorities vary from small-scale seizures of one horse, to large-scale pre-planned seizures such as the two referred to above. Table I below shows the numbers of separate incidents against the horses seized for each local authority since the Act.

⁹ Due to the limited data provided by the Shared Regulatory Service regarding seizures within the boundary of the City of Cardiff, where incidents dates were not provided, an estimate has been used based on the outcome date which was provided for each incident.

Local Authority	Total Horses Seized	Total Incidents	Number of incidents involving:			
			1 horse	2-5 horses	6-20 horses	21+ horses
Blaenau Gwent County Borough Council	49	1	0	0	0	1
Bridgend County Borough Council	110	10	3	4	2	1
Caerphilly County Borough Council	54	3	0	2	0	1
Carmarthenshire County Council	53	30	20	10	0	0
The City of Cardiff Council	231	Information not available				
Merthyr Tydfil County Borough Council	20	13	8	5	0	0
Powys County Council	12	1	0	0	1	0
Rhondda Cynon Taf County Borough Council	1	1	1	0	0	0
City and County of Swansea	466	Information not available				
Vale of Glamorgan Council	41	14	5	7	2	0
Wrexham County Borough Council	23	3	1	1	1	0

Table I: Breakdown of the numbers and scale of seizures carried out by local authorities under the Act

While the Act places a requirement on the local authority to maintain a register of all those horses seized under the Act, consideration should be given to the scope of these records, and the number of horses which have been affected by the introduction of the Act.

Many local authorities have stated that, due to a close working relationship with horse owners within their principal area, the threat of utilisation of the Act has often been enough to encourage owners to remove horses before any further action is required by the local authority. In these situations, as the horses were not formally identified and no notice was formally served, the register was not updated to reflect these cases.

In the case of The City of Cardiff Council, the Horse Warden has mobile contact details for members of the community with whom they regularly work. Merthyr Tydfil County Borough Council has established a method of communicating with their community through social media, and direct messaging. As detailed in Case Study C, until recently, Wrexham County Borough Council was able to communicate with a single member of the community who would ensure potential cases were resolved before enforcement was necessary. This was a large factor in the pattern of seizures carried out by Wrexham County Borough Council whereby, after the seizure of 1 horse in April 2014 and 2 in May 2014, there were then no more recorded incidences until a large seizure in January 2017, and another 9 horses seized the following month. The two most recent seizures, occurring after a gap of approximately 2 years and 8 months, took place after the passing away of the individual mentioned above.

6.4 IDENTIFICATION OF HORSES SEIZED UNDER THE ACT

The EU regulation states all equines which are newly identified under the regulation should be permanently marked with a microchip. There is no statutory requirement either within the UK or the wider EU for equines identified prior to the adoption of the 2008 EU Regulations (1 July 2009) to be microchipped.

Evidence gathered during the course of this review has shown where horses are identified as fly grazing, straying or abandoned, in 65% of cases^[10] these animals have not been microchipped.

Where horses are being abandoned, it is recognised it is often in the owner's interest that these horses are not necessarily traceable, as the owner may have abandoned the animal to avoid the costs routinely associated with disposal. It may alternatively be the owner wishes to distance themselves from any possible future welfare concerns.

Similarly, where an owner is illegally fly grazing an animal, and the animal is of little worth, it may not be in the interest of the owner to identify the animal. If the animal is seized under the Act, and the local authority seeks to recover costs from the owner, these may well outweigh the financial value of the animal, and so it may be advantageous for the owner to remain untraceable.

RECOMMENDATION

Local authorities should seek to ensure all animals seized under the Act are permanently identified.

Where horses are seized, it is a recommendation of this review that the local authority adopts a policy to ensure the routine implantation of a microchip where one does not already exist.

In the case of a small number of horses being seized, it is common practice for the local authorities to remove the horses to a safe location, where their welfare can be monitored during the period of seizure. These horses are routinely scanned for the existence of a microchip, in order to identify ownership records. While the horses are under the care of the local authority, and being handled at a holding facility, the opportunity should be taken to ensure these horses are microchipped before being released by the local authority.

Where a local authority takes the decision to seize horses, but for these horses to remain in-situ, the opportunity to microchip these horses should be taken at the point of seizure. It has been evident that owners frequently move an animal once a notice has been served, and this routine identification would therefore allow these horses to be traced in the future. While it is understood an in-situ seizure is easier to facilitate, as it does not necessarily require interaction

¹⁰ Only 8 of the 11 active local authorities holding a register were able to provide evidence in a format which allowed the partial or full reporting on the number of implanted microchips detected.

with the horses, or availability of dedicated facilities, routine identification at this point is essential to allow for any owners to be traced, both at the point of seizure and in the future.

It should be noted that under the EIWR (2009), it is a statutory requirement that all equines should be identified and travel with identification documents. While the seizure of horses may be deemed to be extenuating circumstances, once seized, any further movement should comply with the EIWR (2009) where possible.

While it is understood applying for a passport requires resources, and there are often other complications which need to be considered - such as the existence of a current document, or establishing ownership - this should not affect the case for implanting a microchip.

While the EU and domestic regulations state that any horse identified must have a microchip implanted in order to obtain a passport, there is no statement within the regulations which excludes a previously identified equine from having a microchip implanted, where one cannot be located.

Should an owner come forward to make a claim for a seized horse, if a passport exists, this could readily be updated with the new microchip number. If no passport can be presented, the process of applying for a passport could be commenced, as part of an educational programme, to ensure the owner complies with the relevant domestic regulation moving forwards. In either case, the owner would be liable for the cost of the microchipping, as it was carried out as part of the seizure.

6.5 COMPARISON BETWEEN THE ACTS WITHIN WALES AND ENGLAND

Following the introduction of the Control of Horses (Wales) Act 2014, the UK Government introduced equivalent legislation in England, namely the Control of Horses Act 2015 ^[11].

While the English Act amends the Animals Act 1971, the Welsh Act is a stand-alone Act, which sits alongside the Animals Act 1971. The two approaches clearly have the same objective, to outlaw fly grazing, and allow the seizure and disposal of the horses involved.

One of the contrasts between the Acts is the minimum seizure period, which is stated as 96 hours (4 days) in England, compared to the 7 days in Wales.

The English Act also affords the powers of enforcement available to the local authorities to freeholders and land occupiers, as opposed to the situation in Wales, where only the local authorities are empowered under the Act.

During the review process, the disparities between the Acts available within England and Wales were a key concern of all stakeholders involved.

With stakeholders having observed the utilisation of the Act from a number of different perspectives, the wide range in insights has been a key consideration of this review.

While farming unions, land owners and select charitable organisations are calling for the same powers offered to English land owners to be afforded to those in Wales, concerns regarding this amendment have been identified.

These views were openly discussed during the course of this review at grouped Stakeholder engagements. Through these open discussions, valid arguments supporting and opposing the changes were put forward, with the stakeholders drawing their own conclusions as a result.

While the appeal of a shortened time frame within which to act, and indeed the ability of any individual to utilise the Act at first consideration was of benefit to land owners, when the situation within England was further explored, a number of stakeholders reconsidered their position. The key points raised were the introduction of horse bailiffs within England, and the fees charged by these organisations. Consideration was also given to the fact that should a private land owner be granted access to the Act, this would remove any involvement of the local authority. This method of operating would leave land owners to work independently, without the guidance of the local authority.

Where the use of resources is restricted and the issues concern privately owned or occupied land, local authorities look to empower the land owner using alternative legislation, such as the Animals

¹¹ Control of Horses Act 2015

http://www.legislation.gov.uk/ukpga/2015/23/pdfs/ukpga_20150023_en.pdf

Act 1971. The utilisation of these alternative legislations removes the requirement for local authority involvement, and in so doing releases the resources of the local authority.

Evidence available from the employment of the comparable Act in England shows land owners are keen to address the problem of fly grazing, to the extent of employing Horse Bailiffs at a cost to the land owner in order to resolve the issue.

One of the primary concerns which has been raised by stakeholders is the disposal method employed by land owners. While the attraction of only 7 days from the identification through to the final resolution of the issue is appealing, as detailed in this review, where a home is sought for a horse through a charity, this has taken an average of 18 days to complete. It should be noted that the time period detailed here for rehoming is one which has been achieved by local authorities with established working relationships with equine charities. Table II shows the minimum, average and maximum times taken to dispose of horses seized by Welsh local authorities under the Act, where data is available within their registers.

Disposal route	Number of horses for which date of action is known	Days from seizure to action		
		Minimum	Average	Maximum
Claimed by owner	67	0	9	29
Rehomed to a charity	65	7	18	51
Euthanised	33	7	12	28

Table II: Days taken by Welsh local authorities to dispose of seized horses, broken down by disposal route.

Further concern identified by this review is the lack of a centralised reporting strategy and therefore traceability of incidents within England. With all land owners empowered by the English Act to seize horses independently, and the only requirement for reporting being through a national police database, drawing on statistics from across England in order to learn from experience and move forwards to solve the issue may prove ineffective.

RECOMMENDATION

While land owners should be able to benefit from the provisions within the Act, specifically designed to tackle the issues of fly grazing, straying and abandonment, this engagement should be managed through a local authority.

The Act in Wales contains a number of statutory requirements placed on those who choose to utilise the legislation. These requirements include time frames under which reporting and the erection of notices must be completed, and supporting evidence be available, should proof of compliance be required. Those empowered by the Act are also responsible for recording the

exact cost of seizure and of maintaining the welfare of the animal while seized. Any additional monies obtained through the sale of the horse must be returned to a rightful owner, if identified.

A unified, incident management system, for land owners, occupiers, Commoners and local authorities alike, would introduce safeguards to ensure each incident concerned a legitimate case, due process was followed on each occasion and the same standards were employed across all territories. This local authority led approach would also mitigate against abdication of stakeholder responsibility and ensure that information was more openly reported and auditable.

An all Wales approach would also allow for the tracking of groups of horses identified under this Act, and similarly identify geographic trends.

Maintaining an incident management system would allow for improved dissemination of information between those charged with reducing the issue of fly grazing within Wales and those working towards the rehoming of abandoned horses.

6.6 ENFORCEMENT OF THE ACT

The Act provides all local authorities in Wales with the same legal powers in order to ensure a consistent approach to those local authorities who seek to utilise the powers in order to protect the public and environment from the nuisance caused by the practice of abandonment and fly grazing. Local authorities are under no obligation to utilise the Act if they determine it is not appropriate.

During the course of this review, stakeholders were asked to comment on the fact that the use of the Act by local authorities was not a mandatory requirement, local authorities could use the powers at their discretion as and when it was considered appropriate to do so. The common concern amongst local authorities is should it become mandatory to use the provisions within the Act, the current level of resources available to the local authorities would be insufficient to address all of the potential cases, and further resources would need to be made available across Wales.

Similarly, if it became mandatory to use the provisions within the Act, consideration should be given to the undue pressure it would place on local authorities to remove horses from situations where the horses are currently not under any imminent threat. For example, making the use of the Act mandatory would see a requirement put on the local authorities to address the abandonment issues which have been seen on the commons within Wales for over 20 years. It is estimated to resolve this issue on one common alone would require the removal of between 250^[12] and 450^[13] horses, depending on the source of the estimate. Figures released by World Horse Welfare show they estimated there to be a collective total of 400 horses abandoned across all commons in Mid and South Wales in January 2017. The disparity in the figures released by these organisations can be attributed, in part, to the methods of data collection, analysis, and reporting employed.

At a time when the charitable sector is already overburdened with abandonment cases, and running at capacity, finding suitable spaces for these horses may be unachievable, leaving euthanasia as the only option.

Case Study D details the issues faced by one land owner, where assistance from the local authority was sought in January 2016. The advice the local authority offered was while the Act was at the disposal of the local authority, as there was no statutory obligation placed on the local authority to act, and due to a lack of funding and resources, the local authority was unable to take on cases on private land. The land owner was duly informed of the Animals Act 1971, and advised of its usage accordingly.

¹² Figure obtained from Caerphilly County Borough Council

¹³ Figure obtained from Gelligaer & Merthyr Commoners Association

7. THE IMPACT OF THE ACT

Fly grazing, straying and abandonment can be split into a number of different categories, with each one having been affected differently by the introduction of the Act.

7.1 ON TETHERING OF HORSES

Where the issue of fly grazing is raised, there is a public perception that this is synonymous with the tethering of horses on land adjacent to the public highway. The act of tethering often falls under the definition of fly grazing, due to the very nature of the land being used. It is a finding of this review that this type of grazing often involves small numbers of horses compared to other methods of fly grazing, which have seen some cases involving more than 200 horses in a single instance.

While the subject of tethering is very emotive, and has prompted a number of social media campaigns, the purpose and scope of this review is to evaluate the effectiveness of the Act in reducing fly grazing, and does not consider the welfare concerns associated with this subject.

Tethering, by its very nature, is a traditional method employed by those who wish to keep an animal within the confines of a specific area, without the need to erect stock proof fencing. This method of controlling a horse's movement is therefore employed on grass verges abutting the public highway, where grassland is not bound by any physical boundaries.

Evidence gathered as part of this review shows where tethering is occurring within specific local authorities, these local authorities are working with members of the community to ensure the needs and welfare of the horses are being met, and while not condoned, the local authorities have tolerance of the issue.

In a number of circumstances, the practice of tethering has failed, which has led to horses straying onto the public highway. In these circumstances, the police and the local authority often know where these horses originate and are aware of those individuals who are responsible for their care, and so are able to arrange the collection or return of these horses.

It should be noted evidence was provided by some local authorities to show that where tethered horses have strayed onto a public highway, on occasion this has been due to vandalism of the tether, and not through the neglect of those caring for the horses.

Due to the tolerance afforded to the practice of tethered horses within urban communities, tethered horses are only seized under the Act where welfare of the horse or public safety become a concern. Local authorities have stated that a programme of education is more effective in dealing with these issues in the long term, rather than enforcing the Act.

7.2 ON STRAYING HORSES IN THE PUBLIC HIGHWAY

In the first instance, it is clear that all police forces have the same core objective, which is to maintain public safety. Where horses stray onto the public highway, it is therefore as part of this core objective that the primary concern is the removal of horses from the highway, and to move them to a place of safety.

In the first instance, where police officers are able to move the horses to a nearby field, this removes the horses from potential harm on the highway, reduces the public safety concern, and provides the horses with a safe environment for the immediate future.

It is noted by this review specific training is not given to all police officers, with regards the handling of horses, and where horses are loose on a public highway, they may not have headcollars or any means of suitably controlling the horse, to move them to a place of safety.

With officers responding to these incidents at any time of day or night, and with varying levels of expertise and knowledge of horses, the officers should be commended for their work in ensuring public safety.

Where a horse is removed from the public highway onto private land, there is no requirement for the local authority to necessarily enforce the Act. If the land is ultimately privately owned, it would fall to the land owner to request assistance from the local authority in order to access the provisions within the Act.

Where a collaborative approach is taken, and the local authority is involved in removing the horse from the highway, the Act has offered additional disposal routes as well as reducing the seizure period. While exact figures are not available due to the nature of the reporting of these incidents, the limited evidence available would suggest less than 10% of horses seized under the Act are removed directly from the public highway.

Evidence provided by Newport City Council shows that where horses stray onto the public highway, an external contractor is employed, and these horses are seized under the Highways Act 1980.

7.3 ON PRIVATE LAND OWNERS, OCCUPIERS AND INDIVIDUALS

Under Section 7 of the Animals Act 1971, a land owner or occupier may detain any animal which strays or trespasses onto land under their control. If the occupier detains the animal under the Animals Act 1971, section 6 states that the occupier becomes responsible for maintaining the welfare standards of the animal, during the period of detention.

In order to have established a period of detention, an occupier must comply with Section 3(a) of the Animals Act 1971, by informing an officer in charge of a police station, within 48 hours of the commencement of the detention period.

During the course of this review, local land owners stated that if no detention period was established under the Animals Act 1971, the rightful occupier of the land could not be deemed responsible for the welfare of the animals, and they therefore would not set about detaining the animals under this Act. It was also stated simply moving the animals from their land was the easiest solution, as this would negate their responsibility at minimal cost.

The powers within the Act are only enforceable by the local authority, with no direct powers granted to the land owner or occupier.

Evidence gathered through the collection of local authority registers shows, where public safety is of concern, the local authority is quick to respond. Evidence is also available to show where horses have strayed onto property which is privately owned, but accessible by members of the public, such as grassland surrounding business units, retail outlets and schools, these horses have been seized under the Act.

Due to the nature of the recording of data within the local authority registers, it is not possible to accurately report on the exact number of seizures which have taken place on private land across Wales. Consideration should also be given to the accuracy of the records held, where a horse may start straying on public land, and easily move to privately owned property and vice versa.

It was stated by local authorities their priority is to ensure public safety is preserved and this would be the primary focus for deployment of resources. Issues which arise on private land are commonly deemed to be a civil dispute, and as such can be dealt with through the Animals Act 1971. Case Study D, as seen in West Wales highlights this issue.

If welfare of these animals becomes a concern, it is likely the charitable sector would become involved, and seek to resolve the situation, with the assistance of the land owner where possible.

During the course of review, stakeholders such as the farming unions and land owners were asked for their feedback with regards the effectiveness of the Act. It was stated by NFU Cymru and the FUW that in certain circumstances, where their members had contacted local authorities

regarding fly grazing animals on their land, information regarding the Animals Act 1971 was provided to them.

Stakeholders have given a number of examples of how a horse comes to being placed on privately owned land. These have ranged from being placed there by a police officer in the interest of public protection, through to abandonment by the current owner.

Consideration should also be given to Case Study B where the owner of multiple horses was using land without consent, safe in the knowledge that where the Animals Act 1971 was invoked, the owner had 13 days of free grazing rights, where the land owner was duly under statutory obligation to tend to the welfare needs of the fly grazed horses. These statutory obligations are stated within Article 7 (6) of the Animals Act 1971. After the period of 13 days the horses would be removed by the original owner and moved on to another location for the process to repeat.

The evidence provided by the stakeholders to this review clearly demonstrates local authorities are keen to resolve matters on privately owned land in such a way as to minimise costs to the local authority. In the majority of cases, the local authorities issue guidance regarding the Animals Act 1971.

7.4 ON THE COMMONERS ASSOCIATIONS

Where the Act was used by the local authority on Manmoel Common (Case Study A), it is generally accepted by all stakeholders the result has been a success.

The case study for this operation details how this process was initially met with public disapproval. The local authority stated that, due to the public outcry with regards the removal of horses from Manmoel, and the potential destruction of those horses removed, they would not consider similar action on other commons, unless a schedule of rehoming could be employed.

With the charitable and voluntary sectors running at near capacity, and in excess of 250 abandoned horses currently taking up residence on Gelligaer Common, there appears to be no immediate resolution to the removal of these horses from the common.

During the course of this review, it was stated by members of the charitable sector that, should there be the appetite for a clearing of the abandoned horses on the commons, there may be the availability within the rehoming organisations for a phased clearance. With regards the issues currently facing the Commoners on Gelligaer, the charitable sector recommendation would be the removal of around 50 horses per seizure, with the process staged over a 5-year period.

A consideration with regards the incremental clearing of the commons would be that of the creation of a perpetual cycle. A routine clearance of 50 or so horses every 6 months, and their subsequent delivery to a rehoming centre would essentially create a free disposal method for any horse owner wishing to relinquish responsibility for horses under their ownership. While each horse abandoned may be traced back to an owner, proving current ownership would be futile, as the owner could claim the horse was the subject of a recent, unregistered sale or transfer. This absence of responsibility on the seller of the horse has been identified as one of the criticisms of the existing EIWR (2009) by the equine community.

While a staged seizure of the abandoned horses under the Act would allow for rehoming charities to spread the intake, should a welfare concern be raised during the period of clearance, such as heavy snowfall, the situation could become a more desperate concern. With the ownership of these horses in dispute, and no individual tasked with caring for the welfare needs of these animals, any welfare concerns would likely escalate as a case through the charitable sector.

Further concerns have also been raised regarding the indiscriminate breeding which is apparent on the commons. With stallions and colts running unmanaged on some of the common land within Wales, it was stated that land occupiers are routinely removing their own native stocks from the commons, in an attempt to stop pure bred stocks from being diluted by non-native stallions. With abandoned horses being free to breed, it has also been noted that foals are being born out of season, with detrimental consequences for both mare and foal in some instances.

Provisions within the Commons Act 1908 currently allow for a Commoners Association to nominate an enforcing officer responsible for the immediate removal and disposal of entire animals, including stallions and colts, where they contravene the Association's own grazing regulations.

With the release of abandoned horses, a concern has also been raised regarding the biosecurity of any stock running on the commons. It has been highlighted that in the case an infectious disease outbreak was identified in the vicinity of any common land within Wales, the scale of the outbreak would be unknown and containment may be hampered by this unknown element.

During this review, concerns were raised by members of the farming unions with regards the feeding of animals on the common by members of the public. Members of the public are delivering varying food stuffs onto the commons, and dispersing these for the animals. While the public may be driven by compassion for the animals, the farmers on the commons have raised concerns regarding these actions.

Evidence is available to show that the programme of feeding animals near the roadside is bringing groups of animals to regular feeding locations, rather than leaving the animals to traverse the whole common, in search of suitable sustenance. One of the concerns raised by those charged with maintaining the commons is that this will change the protected landscape of the commons, as feeding patterns change.

A further concern is the interaction between animals and the public. This issue was identified in an article ^[14] published in March 2014. The Chairman of Gelligaer and Merthyr Commoners Association stated that 7 horses died as a result of collisions with vehicles in the 12 months from April 2016. This continues the historic trend which has seen an average of 5 horses per year killed in similar circumstances.

The Commoners have also raised concerns regarding the introduction of non-native species into the environment where hay is left as a foodstuff. There is the potential for hay to contain seeds from non-native plant types, and for these to establish within the commons. Similar concerns have also been raised regarding the types of feedstuffs being introduced to the common, and how these affect the dietary requirements of all animals living on the commons, not simply the horses. Consideration must also be given to the provenance of any foodstuff introduced onto the commons, with regards farming methods and the introduction of chemicals into a fragile eco-system.

¹⁴ WalesOnline Article: Charity warning after pony death on common
<http://www.walesonline.co.uk/news/local-news/charity-warning-after-pony-death-6881413>

RECOMMENDATION

Where the issue of abandoned horses upon a common has been identified, measures are taken to identify a sustainable solution through collaborative working.

From the limited evidence available to this review, it is apparent there is a requirement to establish the true and full extent of this issue, before any long-term solution can be put forward or implemented.

Steps should be taken to identify the horses which are currently known to be abandoned on common land within Wales, and ownership of these horses should be established. It is understood that where an abandoned horse on the commons requires attention, in the majority of cases, the Commoners, assisted in part by the local authority, take responsibility for the welfare of these animals. Consideration should be given to a programme of collaborative working in order to identify these abandoned horses, and their ownership be assigned to the relevant Commoners Associations.

Once the horses are identified, and the true scale of the issue is known, further consideration will need to be given to each circumstance to establish a sustainable solution. This can only be achieved through a collaborative approach, supported by all stakeholders, including the land occupiers, land owner, local authorities, Welsh Government and the charitable sector.

It is imperative that any solution addresses the indiscriminate breeding, and reduces the excessive overstocking currently seen on some commons. Addressing these two concerns will ultimately allow the return of managed native breeds to these regions.

7.5 ON THE VOLUNTARY AND CHARITABLE SECTORS

With 62% of seized horses within Wales having been rehomed to an organisation within the 3-year period under review, it is clear the charitable and voluntary sector is under increasing pressure.

The position across both England and Wales is similar, in that there is no public appetite for the destruction of horses seized under the Control of Horses Acts. In cases where welfare is not necessarily of a concern, the horses may otherwise be fit and healthy. With England having empowered land owners to utilise the English Act, this has seen a rise in Horse Bailiffs who are looking to place the animals seized with a charity, rather than employing routine destruction, in order to protect their own reputation.

With spaces within the registered charities being very limited, the voluntary sector is accepting larger numbers of horses. One local authority placed 309 horses with a single voluntary organisation during the 3-year period under review.

World Horse Welfare estimates the cost of care for the average horse passing through their rehoming programme to be £1,200.

Similarly, the Lluest Horse & Pony Trust stated that the basic care received by all horses within the first eight weeks of their rehoming programme totals between £628 and £828.

In both of these cases, the costs stated are for a typical horse, without any further costs considered for any potential health concerns with which the animal is presented. These figures are also exclusive of any costs associated with the staffing of the organisation.

8. DISPOSAL ROUTES FOR SEIZED HORSES

Section 5 of the Act makes provision for a local authority to dispose of a horse through any available channel including euthanasia of the animal. While the Animals Act 1971 allows the sale of a horse through a market or public auction after 14 days, the Control of Horses (Wales) Act 2014 makes all channels of disposal available to the local authority only 7 days after seizure.

Figure VII shows the breakdown of disposal channels utilised for all horses seized under the Act. Where a statistic is included for “removed by owner”, these records refer to incidents where in-situ seizures were actioned, notices erected, and within the minimum notice period, the horses were removed from the land.

The 7 horses detailed as having been stolen were illegally and forcibly removed from the impounding facility during the period of seizure.

Where incomplete records are held for a total of 10 horses, the route of disposal has been represented as “unrecorded”.

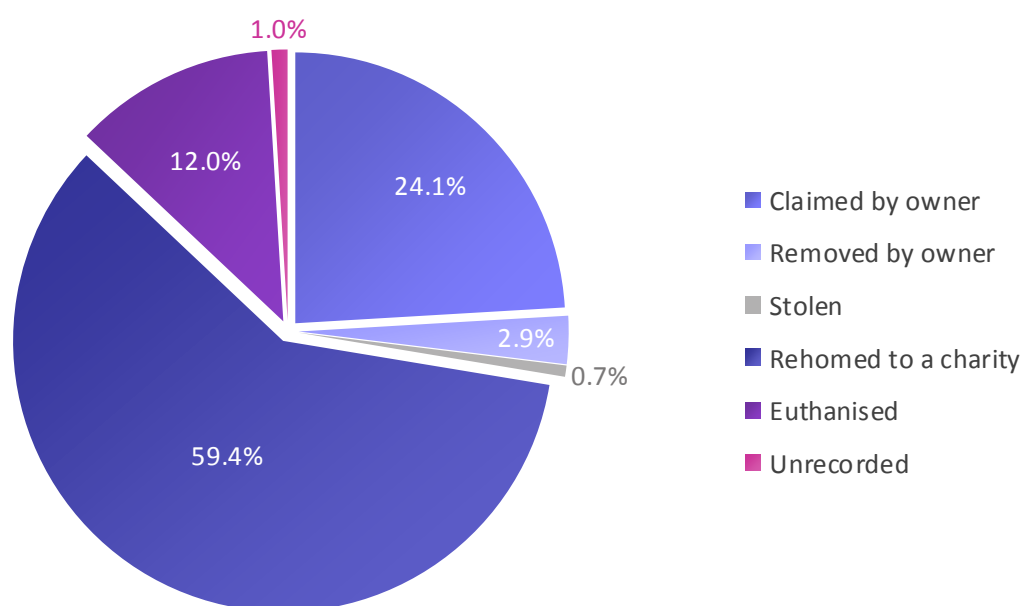


Figure VII. Disposal routes for horses seized under the Act in the three years since its introduction

The data within Figure VII demonstrates, of the horses seized by local authorities, 71% of these were not claimed by their owner and could therefore be regarded as abandoned.

8.1 REHOMING THROUGH A CHARITY

Local authorities have established a number of working relationships with organisations across England and Wales. Due to the nature of some cases, the local authorities have taken measures to rehome horses to charities outside of their own jurisdiction, in order to mitigate any risk of the previous owner locating the rehomed horse.

The list of the most popular organisations with whom the local authorities have established relationships with includes, but is not limited to:

- Blue Cross, Oxfordshire
- Bransby Horses, Lincolnshire
- Hillside Animal Sanctuary, Norfolk
- The Horses Trust, Buckinghamshire
- Horse World, Somerset
- Lliest Horse and Pony Trust, Carmarthenshire
- The Mare & Foal Sanctuary, Devon
- Only Foals & Horses, Lancashire
- Redwings, Norfolk
- Remus Memorial Horse Sanctuary, Essex
- The RSCPA, nationwide
- Tettenhall Horse Sanctuary, Staffordshire
- World Horse Welfare, Norfolk

Evidence gathered as part of this review has highlighted the scarcity of places available within the sanctuaries. A statistic released by the RSPCA shows that while their own yards can house circa 100 equines, the charity is currently housing around 700 equines, with approximately 600 of these being cared for at private facilities.

With some of the sanctuaries exclusively taking on welfare cases, this further reduces the number of available spaces which might be open to horses seized under the Act.

While it is understood that local authorities carry out due diligence checks on sanctuaries to ensure the future welfare of rehomed horses will be met, due to the location of the organisations involved, this often falls outside of the local authority's own jurisdiction, and so is passed to supporting officers within another local authority.

Figures collected from World Horse Welfare (WHW) state the Equine Crisis Group ^[15] has a combined capacity of circa 2,500, with only a handful of spaces currently available. As detailed in the footnote, this group consists of 5 of the largest equine charities in the UK. While this group

¹⁵ The Equine Crisis Group comprises of the RSPCA, Horse World, Blue Cross, World Horse Welfare and Redwings

of organisations looks to rehome all horses taken in, there are a number of sanctuaries dedicated to providing a lifetime home within their own sanctuary for all horses they receive.

Statistics obtained during the course of this review show Hillside Animal Sanctuary has circa 1,850 equines under their care^[16]. With a consistent supply of equines arriving at this sanctuary, this figure has increased from circa 1,000 in February 2015.

It is apparent that with most sanctuaries unable to offer spaces to multiple horses at short notice, the subject of euthanasia may need to be addressed.

During the course of this review, the topic of licencing of sanctuaries was raised by stakeholders. This was openly discussed at the group Stakeholder meetings, and opinions were gathered. Conclusions drawn from these discussions demonstrate there is a clear appetite for licencing of this type of organisation, and this was reflected by both the sanctuaries themselves and those stakeholders with whom the sanctuaries interact.

A report prepared by Animal Welfare Network Wales in October 2012 puts forward the case for the licencing of such sanctuaries and is entitled “The case for the regulation of Animal Welfare Establishments in Wales”.

In regard to the rehoming of horses through an approved sanctuary, concerns were raised with regards the source of funding for such a licencing scheme, as well as the cross-border continuity of such an initiative. Where many of the local authorities within Wales are currently working with sanctuaries within England there was a concern that, should a national licencing scheme be introduced, it may not be adopted within England. Furthermore, should it be a requirement placed on the local authorities to rehome through such a scheme, this may restrict the channels available for rehoming to within the Welsh borders and therefore potentially eliminate the largest organisations within the charitable sector. Concerns were also highlighted with regard the time frame within which a licencing system could be approved and introduced at a national level.

RECOMMENDATION

Guidance should be issued recommending horses are only rehomed through members of the National Equine Welfare Council (NEWC).

NEWC has a total of 31 full equine welfare members, all of whom provide sanctuary, respite care or rehabilitation to vulnerable or rescued horses. As part of the approval process, all members are inspected by NEWC to ensure welfare standards are being met, as well as compliance with all codes of practice and relevant legislations. Organisations which are approved by NEWC must also have gained registered charity status.

¹⁶ Hillside Animal Sanctuary website: Who lives at Hillside in 2017...
<http://www.hillside.org.uk/livingathillside.htm>

With regards the topic of licencing, the restriction to only rehome through a NEWC registered charity would remove the immediate requirement to introduce a new licencing scheme for these organisations, and so reduce the impact on both the local authorities and sanctuaries alike. The conditions of approval as a NEWC member have been drawn up by the leading sector advisors, and it is expected that the guidance of these advisors would be sought when drawing up any licencing system. It is therefore reasonable to conclude that any national licencing system would share characteristics seen within the NEWC conditions of approval.

NEWC was established in 1977, with the welfare membership programme being a nationally recognised scheme. The programme is both funded and regulated by the larger NEWC membership. While the exact number of organisations offering sanctuary to abandoned horses far exceeds the NEWC welfare membership of 31 organisations, consideration should be given to the benefits of these organisations, which may range from rehoming a handful of horses per year through to many hundreds, joining a nationally recognised programme such as NEWC.

Rehoming seized horses through a recognised NEWC member will guarantee the correct entry and exit strategies are in place, to ensure the required welfare standards are achieved and can be maintained over the longer term.

While it is a recommendation of this review that the established NEWC membership programme be considered to address this specific issue, it is noted that a wider concern has been previously raised by the charitable sector, regarding the case for licencing of all animal sanctuaries, as put forward by Animal Welfare Network Wales in their report ^[17], dated October 2012.

The recommendation within this review is made to address the situation with regard local authorities ensuring adequate and robust processes are in place when rehoming horses, and not to address any wider issues which fall outside of the scope of this review.

¹⁷ "The case for the regulation of Animal Welfare Establishments in Wales" by Animal Welfare Network Wales, October 2012: <http://www.awnwales.org/wp-content/uploads/2013/03/AWE-report-final.pdf>

8.2 SALE OF HORSES THROUGH PUBLIC MARKET OR AUCTION

Prior to the introduction of the Act, the only method of disposal of horses seized under the Animals Act 1971 was through a public market or auction. This method of disposal is maintained through the Act.

With the average market value of a horse of the type most commonly seen abandoned being less than the cost associated with the seizure, local authorities stated that the requirement to sell the animals through a public auction was an exercise which incurred additional costs. Where the timing of a seizure and the seizure period do not coincide with the date of a public auction, additional livery costs would be incurred by the local authority, until such time as a suitable auction or market could be attended. Similarly, where a horse failed to sell at market, the local authority was unable to dispose of the horse, and so additional transport and livery costs would be borne until such time as a market could be found.

As detailed in Case Study H, a further issue was evident where an individual understood to be a previous owner would purchase animals from the markets and take them back to Wales, in what was believed to be in a perpetual cycle.

Evidence provided by the local authorities clearly shows that no horse seized under the Act has been disposed of through a public marketplace.

8.3 EUTHANASIA OF HORSES

With destruction of a horse coming at a cost, both financially and with regards to public opinion, it is clear that rehoming would always be the preferred method of disposal. It was evident during the course of this review that where information regarding the seizure of horses on Manmoel Common was made public, a social media campaign was started due to a concern regarding the possible euthanasia of the horses. It was stated by one of the local authorities involved with this seizure that the officer time required to deal with the effects of the social media campaign outweighed the officer time involved in conducting the seizure and removal of the horses.

While it is clearly a very emotive subject, and one which all sectors are keen to avoid, consideration should be given to the alternatives and their viability. With a large, unsubstantiated number of abandoned horses present on the commons with no known keeper or owner, their ultimate destination must be considered.

With the charitable sector operating at capacity previous to the introduction of the Act, as stated in the original consultation document ^[18], while rehoming through charities has been made available to the local authorities through the introduction of the Act, it is evident that the size of the demand outweighs the availability of the spaces within the sector.

Having discussed the option of euthanasia with representatives from local authorities, it is also clearly evident that the individuals charged with the final decision making process are loathed to dispose of a horse through euthanasia, unless on the grounds of welfare or every other possible option has been thoroughly exhausted.

With the cost of euthanasia equivalent to approximately 2 weeks of livery fees, where a waitlist exists, due to a lack of spaces within accessible charities, financial restrictions may increase the acceptability of this channel of disposal.

¹⁸ The Act Consultation Document:

<http://gov.wales/docs/drah/consultation/130308fly-grazing-consultation-en.pdf>

8.4 REHOMING DIRECTLY TO MEMBERS OF THE PUBLIC

A key consideration of this review is the rehoming of horses directly to members of the public. Issues with this disposal channel have been highlighted by local authorities, due to the resources required in ensuring the wellbeing of the horses over the longer term.

For this reason, while local authorities understand members of the public are often driven by compassion and a desire to help those horses who find themselves seized by the local authority, the unanimous opinion is that members of the public should approach a recognised rehoming charity, if they wish to take on a horse looking for a home.

In a number of high profile cases during the period under review, members of the public have vocalised their concerns, creating petitions and letters of intent stating they wish to rehome abandoned horses, rather than see the horses ultimately destroyed. It is the finding of this review that while it is clear members of the public may have the very best intentions, in the interests of welfare, efficiency and accountability, all local authorities stated they would only rehome to dedicated charities and sanctuaries, despite the Act making provision for the sale or transfer of horses directly into private ownership.

A number of reasons were stated for choosing to take this course of action. Consideration is afforded to the welfare of the animals involved, and the fact that any horse can be moved to a dedicated sanctuary in the knowledge it will receive the appropriate veterinary treatment on arrival. Where some seized horses may at first present with no clinical conditions, it is recognised by the welfare charities that the first few weeks of any rehabilitation are often when the effects of their previous lifestyle start to become apparent. Where the horse has been subjected to a poor diet, or a parasite infestation, these problems will start to manifest themselves, and it is vital the correct veterinary treatment is sought. This can often be a costly process.

With some horses being the subject of ongoing prosecutions, rehoming through a remote charitable organisation also provides a degree of anonymity, which may not be afforded should the horse be rehomed to a private individual residing within the same area as the previous owner.

The consensus of opinions gathered from the charitable organisations is that where a horse is rehomed through an organisation, it will have undergone the appropriate veterinary and behavioural checks at a cost to the charity. It was also stated by the charities that appropriate checks are routinely carried out on those wishing to adopt or rehome a horse, with support available following the adoption.

Local authorities have stated that the resources to carry out due diligence checks on potential homes for seized horses would not be available within the current funding environment.

RECOMMENDATION

Local authorities should be encouraged to rehome seized horses through the charitable sector and not directly to members of the public.

In the interests of maintaining anonymity, specific charitable organisations may not wish to be named within this guidance, with consideration being given to promoting the work carried out under the collective group established by NEWC.

9.

COSTS INCURRED

The responsibilities of the local authorities to deal with fly grazed, stray and abandoned horses within their principal area, particularly those local authorities with significant and reoccurring problems, can inevitably lead to large outgoing costs as individual incidences are dealt with and followed up appropriately. Even those local authorities with only rare occasion to use the Act must have in place protocols to deal with incidents as they occur.

9.1 DIVISION AND ALLOCATION OF RESOURCES

As a result of the economic downturn and continued austerity measures employed, all sectors have experienced a reduction in available resources and funding, and therefore the allocation of these valuable resources is key.

During the course of this review, responding local authorities stated that due to financial constraints, action is normally only taken where there is a risk to public safety. Where welfare is the primary concern, these cases are normally taken up by organisations within the charitable sector, such as Redwings, the RSCPA and World Horse Welfare. There is evidence of collaborative working, where a cross over exists, or where the scale of the issue is such that local authority involvement is essential. Case Studies A and B highlight such cases, where multi-agency collaborative working was the key to a successful outcome.

9.2 SEIZING OF HORSES

It is evident that across the local authorities in Wales, only the City and County of Swansea has the resources to routinely seize and impound horses, with all other local authorities reporting they either outsource this task to an external contractor or work with a charitable organisation to carry out the seizure. Where an external contractor is used, the cost of these seizures is dependent on the environment and circumstances from which the horses are being seized.

Powys County Council stated that where their sole seizure under the Act of 12 horses was undertaken in a joint venture by the RSPCA and Redwings, all costs were directly borne by the charitable organisations involved. The local authority covered their own internal staffing costs, which extended to 14 hours of officer involvement, circa £340.

The contractor costs vary across local authorities, with an average fee for the collection and impounding of a horse being between £150 and £200. Where there is concern regarding the safety of those carrying out the seizure, additional staffing may be required, which in turn increases the overall cost.

Where an external contractor handles the seizure and impounding of the horse, the specific costs are easily attributed to each case, with the fees being passed on to the owner, where identified. Internal costs associated with the seizure, such as officer time, are not routinely calculated and passed to the owners. In the case of City and County of Swansea, all owners are charged a fixed fee of £168 plus an additional fee of £53 to cover each day the horse remains at the holding facility.

Caerphilly County Borough Council estimates the total cost of two seizures under the Act, which saw 5 horses seized, extends to approximately £1,300. The only other case seen by this local authority was the joint venture with Blaenau Gwent County Borough Council concerning Manmoel Common, where the costs approximated to £6,000. The Welsh Government offered financial support with this endeavour, and contributed £3,500 towards the total cost of the seizure as part of a match funding scheme.

9.3 HUSBANDRY

While some local authorities do maintain an animal pound, there are a number of considerations associated with these facilities. Due to the nature of the animals which have been seized historically, some of the pounds were designed to accommodate other straying animals, such as sheep, and are therefore not suited to housing horses for any long periods. With resources depleted, some local authorities are unable to react to the pound's staffing requirement due to the ad-hoc nature of the seizures.

Should there be the requirement to stage a large-scale seizure, there is no permanent facility available within any local authority to hold large numbers of horses. In this situation, the temporary holding of these horses would need to be facilitated by an external contractor.

Evidence is also available to demonstrate that where an owner may be reluctant to relinquish ownership of their horses, or indeed to pay for their recovery, there is the possibility they may take steps to release the horses from the secure pound, causing criminal damage in the process.

January 2017 saw one local authority seize 6 horses, which were recovered to the local authority's pound. It was stated by the local authority that during the course of the following evening, an attempt was made by individuals to release the horses from the pound. When entry could not be gained, the individuals turned to vandalising a vehicle belonging to the local authority.

Due to the considerations detailed above, local authorities are utilising the services of external contractors, where the locations of the facilities used can be varied in order to maintain the security of both the horses and the staff involved.

Typical livery costs for those horses are between £10 and £15 per night. Consideration should also be given to the potential for increased transport costs, as the chosen facility may be outside of the local authority's area due to availability or security.

9.4 REHOMING

It was stated by Caerphilly County Borough Council that a seizure which was undertaken in December 2016 and saw 3 horses rehomed, would have an associated cost of circa £260 payable to charity. This sum was to cover external costs directly incurred by the charity, and included the cost of passporting, microchipping and identifying the horses seized.

This specific seizure also attracted costs circa £960 to cover the contractor's involvement and a further £500 allocated to cover the internal cost to the local authority.

Where a horse is rehomed, there is no evidence to demonstrate any local authority has protocols in place to offer routine funding to the sanctuary for the onwards care of a horse.

Article 4 of the EIWR (2009) states that a passport must be given to the new owner at the time of any transfer of ownership. Where there is no evidence of a microchip, or a valid passport cannot be located, there is evidence within the local authority registers to support the fact that, on occasion, some local authorities microchip and passport the horses at their own cost, prior to the transfer.

The cost of microchipping is circa £10, not including the cost of any veterinary visit. The cost of passporting a horse is circa £25 for a basic identity passport.

9.5 NUMBER OF ENFORCEMENTS RESULTING IN COSTS BEING PASSED TO OWNERS

Merthyr Tydfil County Borough Council only had a single occasion under the Act where an owner came forward to reclaim a seized horse. In this instance, the local authority calculated the fine to cover the external contractor's costs. These costs include the cost of the seizure, livery fees and the cost of a passport application and microchipping where it is apparent the horse has not been previously identified.

This policy of calculating costings is common across the majority of local authorities, with owners only being charged for the external costs incurred as a result of the seizure.

The City of Cardiff Council was able to offer limited statistics relating to the period April 2014 through March 2016. During this period, it is apparent that of the 49 horses returned to an owner (30% of total seized), 100% of these were charged a fee prior to release. Further evidence available for The City of Cardiff Council details a case in Autumn 2016 where an owner was identified, but they were unable to pay the fee for the release and return of the horses. In this case, due to non-payment of the fine, the horses were disposed of through a charitable organisation.

City and County of Swansea is the only local authority to charge owners a fixed fee in order to reclaim a horse. In this area, the fee is set at £168 plus £53 per day thereafter.

Caerphilly County Borough Council has provided evidence to show that only 1 incident recorded under the Act resulted in the return of a horse to the owner. In this case, a fee of £180 was collected from the owner.

Due to the nature of the systems used to record the costs passed to owners, along with the sensitive nature of this information, and the limited information available within the local authorities' registers, the majority of the local authorities were unable to provide accurate reporting of these figures.

9.6 NUMBER OF COSTS DISPUTED BY OWNERS

There is no statutory measure included within the Act regarding the method by which a dispute with the local authority should be raised. There is also no requirement within the Act to record the number of instances where an owner has disputed the fine which was deemed payable in order to release the seized horses.

The local authorities have stated that where a fee is collected, the majority of owners are reluctant to settle the invoice, with most owners disputing the costs passed on.

Where the owner believes the costs to have been unfairly calculated, the local authorities are all aware of the mechanism within the Act which allows the owner to raise the dispute with the Welsh Ministers.

One case has been escalated for the consideration of the Welsh Ministers since the introduction of the Act. Details of this instance can be found in Case Study G.

On this occasion, the case was dismissed by the Welsh Ministers as the appeal for considering associated fees was submitted by the owner outside of the statutory 7-day appeal period.

10.

REVIEW OF SPECIFIC TIMINGS WITHIN THE ACT

The Act states a number of time periods which must be adhered to when carrying out specific tasks as part of the Act. During the review, these time periods have been assessed for suitability.

10.1 ERECTION OF SEIZURE NOTICES WITHIN 24 HOURS OF SEIZURE

Where a horse is seized there are two possible scenarios, with the horse either being removed or indeed left in its present location. In either of these cases, if an owner or their representative is not present at the time of the seizure, there is no evidence available to the owner confirming the seizure is in place, until the erection of these notices.

In the case where horses are removed from a seizure location, a local authority currently has 24 hours within which to take steps to erect a notice, and inform an owner of the steps required in order to make a claim for the return of their horses. The Act states that the owner must make any claim for the horse within the minimum seizure notice period of 7 days, and with a potential 24-hour delay on these notices being displayed, this would in effect reduce the notice period to 6 days.

RECOMMENDATION

The time frame in which seizure notices must be erected should be removed and replaced with a requirement to erect seizure notices at the time of seizure.

With a local authority representative attending the location in order to enforce the seizure, it would be reasonable to require the notices be displayed at this time, and so reduce this 24-hour period to an immediate requirement.

10.2 THE WRITTEN NOTIFICATION OF A POLICE CONSTABLE WITHIN 24 HOURS OF SEIZURE

Due to the nature of this notification, while the police may attend some seizures, it has been evident across the course of this review that this situation is in the minority.

Due to the practicalities involved with informing a police constable in writing, it would be unrealistic to reduce the time period within which this notification would need to be carried out. With some seizures taking place outside of normal business hours, it may be the case that those involved would need to wait for 12 hours in order for a local officer to become available.

It has been suggested during the course of this review that this requirement to inform a police officer be removed as a statutory requirement, as it is seen as an unnecessary, bureaucratic step.

The requirement placed upon local authorities to inform a police officer ensures accountability for actions taken under the Act, and ensures an independent record exists relating to the seizure of any horse. This measure protects those enforcing the Act, as well as the horse owners and their horses.

RECOMMENDATION

The time constraint of informing a police officer within 24 hours of the seizure should be preserved.

10.3 WRITTEN NOTICE TO BE GIVEN TO THOSE CLAIMING TO BE AN OWNER OR REPRESENTATIVE WITHIN 24 HOURS OF CLAIM

The practicalities of this requirement should be considered, where a written document needs to be delivered within 24 hours.

Evidence gathered during this review has shown that where a horse is seized, notices are displayed in accordance with the Act. These notices contain contact information, which includes a telephone number. Where those claiming to be the owner or their representative establish contact with the local authority over the telephone, it may not be possible to provide a written document to this individual within the required 24-hour period.

During the course of this review, it has been evident that communication by telephone, social media and other more informal channels has proved invaluable when establishing the ownership of seized horses. Under these circumstances, it appears that to send written notification may not always have been possible.

RECOMMENDATION

The requirement to provide written notification within 24 hours should be increased, to allow for standard clerical considerations.

Should an owner be established and the owner not have access to email, it should be considered that written communication would need to be through a posted letter or through personal contact with the owner. Where this letter was despatched at the end of the working week, it would be right to assume delivery could not be guaranteed until the start of the following week. For this reason, it is the recommendation of this review that the requirement to inform the owner be increased from 24 hours to a more achievable period, such as 3 working days.

Section 5 (2) states that the “relevant day” is the day on which the notice is given. By extending this deadline from 24 hours to 3 working days, in the majority of cases, where an owner is present or in the local vicinity, this would give rise to no further considerations. For those where a formal letter must be sent, it would ensure the local authority was able to fully comply with the terms of the Act, and provide evidence to support this.

With email commonly utilised to communicate with owners, all local authorities should continue to strive to issue written notification within the currently prescribed 24-hour period. The extension to 3 working days should only be employed under extenuating circumstances and this recommendation to extend is simply to facilitate compliance in these circumstances.

10.4 HORSES MUST BE HELD FOR A MINIMUM SEIZURE PERIOD OF 7 DAYS

Section 5 (1) of the Act states that the minimum period of seizure is 7 days, after which the horse may be disposed of.

Feedback received from stakeholders can be split into two distinct groups. Where local authorities are acting to seize and lift horses from their current location, usually with the assistance of an external contractor, these local authorities are satisfied that the 7-day notice period is adequate.

The existing time frame for seizure has led to a total of 28% of all seized horses being re-united with their owners. This figure can be further broken down to show only 3% of horses were removed from the original location by the owner, following the erection of the seizure notice.

Where the stakeholder is more likely to seize horses in-situ, this group are looking to reduce the notice period, and bring it in-line with that employed in the English Act, which states a notice period of 96 hours, equating to 4 days. The concern raised by stakeholders here is that 7 days allows an owner 6 days of free grazing from the date of the notice being issued. The owner in Case Study B was believed to be exploiting notice periods to his advantage to this effect.

Feedback received from Caerphilly County Borough Council, following an in-situ seizure carried out as part of the operation on Manmoel Common, stated this methodology would not be employed again, due to public pressure and the resulting impact on resources. It is believed by the local authority the decision to leave the horses in place over the 7 days gave members of the public the opportunity to disrupt the final herding and impounding at the end of the seizure period. It was stated by the local authority any future action would only be undertaken on condition that all horses were removed from the location and held at a secure location for the required period, in order to mitigate the risk of public protest at the time of seizure.

RECOMMENDATION

The minimum seizure period under the Act, prior to the disposal of any horse, should be maintained at 7 days.

With local authorities experiencing an average of 18 days to rehome a horse, as detailed in Table II, to reduce the minimum seizure period further would potentially have a negative impact on the ability of the local authority to act. Should the seizure period be reduced to 4 days for example, due to the time required to arrange the rehoming of the animal, this may become a less attractive option, where the option to euthanise is available.

10.5 DISPUTES REGARDING FEES CHARGED MUST BE RAISED WITH THE WELSH MINISTERS WITHIN 7 DAYS

Evidence provided during the course of this review has shown that during the 3-year period since the Act was introduced, only one instance has been recorded where an owner raised a dispute with the Welsh Ministers. This is despite reports that the majority of owners initially dispute the costs associated with the seizure with the local authority.

Consideration should be given as to the factors influencing the owners' decisions not to pursue a dispute with the Welsh Ministers. These factors may include the requirement to initiate any complaint in writing, or a concern that the cost of any ongoing seizure will increase over the time period during which the dispute is being considered.

Section 7 (7) of the Act states that where an owner disputes the costs imposed, the local authority is unable to dispose of the horse until such time as the dispute is concluded.

RECOMMENDATION

Section 7 (7) of the Act should be updated to allow for the return of a horse to an owner in the event of a dispute having been raised with the Welsh Ministers, on condition that the outstanding fee be settled prior to the release of the horse.

It is stated within Section 4 (2) that a horse will only be returned to an owner on condition that any fees incurred are paid. Section 7 (7) should therefore allow for the return of a horse on condition that the costs are settled, regardless of any dispute which has been raised with the Welsh Ministers. The return of the horse to the owner would also ensure any costs associated with the impounding do not continue to escalate whilst a final decision is being sought.

It is a consideration of this review that should land owners engage with the provisions of the Act through a unified incident management system, a mechanism by which a horse owner may dispute the costs charged for the seizure should be included. These disputes should be raised with the local authority in the first instance, as direct escalation to the Welsh Ministers for an essentially civil dispute would not be an efficient utilisation of resources.

10.6 OTHER TIMEFRAMES REGARDING THE ACT

Under the terms of the Act, it is stated that where a seized horse is sold, the proceeds of the sale, less any expenses associated with the seizure, shall be payable to the original owner, where they can be identified. Consideration should be given to the maximum time frame within which a claim of ownership can be made and proceeds from any sale returned.

The current market value of a fly grazed, stray or abandoned horse is considered to be negligible, which effectively removes the viability of disposal through public sale.

Should private land owners engage with the provisions of the Act via a unified incident management system, and look to recover costs through the now available channel of private sales rather than public auction, a horse which may have ultimately been destined for the abattoir may now be sold as a riding horse, and may therefore command a higher value.

In the circumstance where a private land owner therefore sells the abandoned horse for a profit, there is currently no time limit set within which the previously registered owner could make a claim to recover any monies received as part of the sale.

RECOMMENDATION

A maximum time frame of 90 days should be established within which any claims for rightful ownership can be made and considered.

Consideration should be given to a final day on which any rightful claim of ownership can be made, and the proceeds from any sale be returned to the original owner.

In an effort to safeguard those empowered to utilise the Act to dispose of horses through the correct channels, a final deadline of 90 days following the relevant day should be imposed, after which no further claims of ownership would be considered.

While it is understood the horse would not need to be held for the full period of 90 days, any monies derived from the sale of the horse within this time period could be rightfully claimed by an owner, should ownership be proven.

The circumstance this recommendation moves to mitigate against does not currently present itself, due to those empowered by the Act utilising disposal routes which in themselves incur additional costs, such as euthanasia or donation to a charity. Should the Act be opened up to a wider user base, some of whom may look to use alternative disposal routes, there may be greater potential for an increase in claims of this nature.

11. OTHER CONSIDERATIONS REGARDING THE IMPLEMENTATION OF THE ACT

Departmental allocation of resources:

Across all local authorities, the department responsible for dealing with the issues of fly grazing, straying and abandonment varies. It is a view stated by the RSPCA that this non-standardised approach may be a contributing factor as to number of calls received by the RSPCA regarding the matter. While the RSPCA will consider and investigate incidents of abandonment where welfare is concern, if this is not a consideration, the responsibility lies with the land owner or local authority.

Failure to meet the statutory requirements of the Act:

The Act contains a number of statutory prescriptive measures which must be followed or implemented in order to ensure any seizure of horses is legal, and in line with the terms of the Act. These requirements include the erection of notices at the site of seizure within 24 hours, notifying a police officer of the seizure within 24 hours and providing written notice to those identifying themselves as the potential owner of the horse at the time of seizure or within the 7 days following the seizure.

Evidence is available to this review to show that on occasion, the requirements of the Act have not been met, with written correspondence not being issued within the prescribed time frame. Where an owner makes themselves known to a local authority by telephone, evidence is available to show that on at least one occasion a local authority failed in their duty to provide a written notice to this owner, detailing the terms of the seizure and any costs incurred.

RECOMMENDATION

An effective incident management system should be established, to ensure consistency and compliance across all users of the Act.

While it is understood every precaution is taken by the local authorities to ensure they are acting to comply with the statutory requirements of the Act, an effective incident management system would assist in ensuring consistency and compliance in enforcing the Act.

The recommendation should be introduced to address such situations as seen in Case Study G, where a local authority failed in its duty to erect a seizure notice within 24 hours of the seizure taking place.

Furthermore, where a body has failed in its duty to enforce the Act correctly, consideration should be given to the legality of the seizure and ultimately the available disposal mechanisms which are employed along with all associated costs.

It is understood that an incident management system alone would not mitigate the risk of an empowered body failing to meet with the requirements of the Act, however the proposed system would provide an educational tool which offered the next step to those employing the Act.

12. REVIEW OF THE ACTION PLAN

March 2013 saw the Welsh Government publish a public consultation on the issues surrounding fly grazing, straying and abandonment of horses. Following this consultation, an Action Plan was drawn up and made publicly available through the Welsh Government's website^[19]. The Action Plan was developed to capture the ideas of the respondents to the consultation, in order to take many of these ideas forward alongside the Act.

The Action Plan accepted 21 suggestions, and partially accepted a further 25 suggestions, as set out by the respondents of the consultation.

It is stated within the Action Plan that these 46 suggestions would be classified under 3 categories:

- Short term objective: to be completed by March 2014
- Medium term objective: to be completed by December 2014
- Long term objective: to be completed by December 2015

The statistics for measuring success can be found in table III below:

	Objectives identified	No action required	Met within time frame	Met outside of time frame	Ongoing	Failed to meet
Short Term	13	0	8	0	5	0
Medium Term	25	5	0	1	4	15
Long Term	8	2	0	0	2	4
Totals	46	7	8	1	11	19

Table III: Overview of outcomes relating to the objectives established within the Action Plan^[19].

Of the medium term objectives, 7 were categorised as being identification related issues. These 7 objectives, along with a further 4 within the Action Plan have a Government response stating these will be considered as part of any consultation process with regards equine identification regulation moving forwards. The Welsh Government has stated that the EIWR (2009) is to be updated in 2017, and a public consultation will begin in 2017.

At the time of releasing the Action Plan, the proposed date for release of the updated EC Regulation was during 2014, as documented in the Action Plan. The regulation to which the Action Plan refers was released in 2015, in the form of EC Regulation 2015/262.

¹⁹ Fly Grazing and Abandonment of Horses and Ponies: Action Plan
<http://gov.wales/docs/drah/publications/131014-control-horses-bill-action-plan-en.pdf>

A total of 10 objectives refer to the Communication Plan, which was proposed for release alongside the legislation. These objectives are broken down into 4 short term, 6 medium and 3 long term objectives.

In a letter, dated 15 September 2015 from Rebecca Evans AM, Deputy Minister for Farming and Food, to Alun Ffred Jones AM, Chair of the Environment and Sustainability Committee, Ms Evans states the proposed Communication Plan had not been released to the public. It is stated that the Communication Plan relates to identification, education and improving compliance with the forthcoming regulations, and it would be the best use of resources to release the Communication Plan in tandem with the new equine identification regulations in 2016.

The proposed release of the regulations in 2016 has been delayed, with the Welsh Government stating the consultation process will begin in 2017.

A total of 6 action points were categorised as concerning breeding and ownership, with 5 of these being medium objectives, and 1 short term.

Of those identified as medium objectives, one was incorrectly identified, as there was no action required by the Welsh Government. The remaining 4 medium objectives relate to two specific sets of guidance notes which the Welsh Government was to release. These guidance notes do not appear to have been released into the public domain.

The short term objective with regards breeding and ownership is successfully addressed through the release of the guidance notes which accompanied the Act.

RECOMMENDATION

The Action Plan should be revisited, and where objectives were previously identified these should be appraised to consider relevance in the current environment. Where action is still deemed to be viable, updated time frames for completion should be established.

It is understood that due to delays in the introduction and adoption of updated equine identification regulations within Wales, a number of the previously established objectives have not been met to date. With the new regulations due for introduction across Wales before the end of 2017, the previously identified objectives should become achievable.

13.

CASE STUDIES

13.1 SUCCESSFUL ENFORCEMENTS USING THE ACT***Case Study A: Blaenau Gwent & Caerphilly County Borough Councils: Manmoel Common***

A joint operation between Blaenau Gwent and Caerphilly County Borough Councils to remove abandoned horses from Manmoel Common was undertaken during the summer of 2014.

The operation saw the removal of 49 horses from the common, with all of these horses being successfully rehomed through animal sanctuaries.

The issue of abandoned horses on common land is a long-standing concern in South Wales, as highlighted in an article ^[20] in the South Wales Argus, dated 9 April 2013.

Similarly, an article in July 2014 ^[21] references the issue seen in 2013 where it is stated around 40 horses were found dead on Manmoel Common.

The joint operation on Manmoel Common was undertaken by the two councils, with the additional support and resources of both the Commoners, and the charitable sector. The Council placed seizure notices on the common in-line with requirements of the Act, requesting any owners to come forward to claim their horses. A statutory deadline of 7 days was given, with a standard text which stated the horses would be disposed of and destruction was an option available to the Council, should re-homing not be successful.

As detailed in a report featured in the Gazette ^[22], a public demonstration against the seizure of the horses was staged on the common. It was reported that Welsh Ponies Rescue and Rehoming Project collected more than 350 signatures from individuals willing to rehome the abandoned horses.

The Trading Standards team protocol is to only rehome horses through organisations, and not to rehome to individuals directly, for fear of perpetuating the original problem. They stated that rehoming through an experienced organisation ensures the horses receive the care and respite appropriate to their condition.

²⁰ Behind The Headlines: Charities step in to aid South Wales' wild horses

http://www.southwalesargus.co.uk/news/10342620.BEHIND_THE_HEADLINES__Charities_step_in_to_aid_South_Wales__wild_horses/

²¹ Starving, freezing, and dying - but now the fate of horses on Manmoel Common takes a turn for the better

<http://www.walesonline.co.uk/news/local-news/starving-freezing-dying---now-7355161>

²² Protest staged on Manmoel Common against seizure of around 50 horses

<http://www.walesonline.co.uk/news/local-news/protest-staged-manmoel-common-against-7396283>

Due to the increased awareness of the situation on Manmoel Common, a number of organisations were drafted to assist with rehoming, with one organisation taking a total of 39 horses.

Trading Standards stated the following lessons have been learnt from the process carried out on Manmoel Common:

- **In-situ seizures**

The Act requires the specific horses be detailed as part of the seizure notice. On the day of issue, 49 horses were identified, described and left in-situ. After the statutory 7-day period, at the time of removal, it was discovered one mare had produced a foal, and other horses had been gathered from the common. As the number of horses may fluctuate in an area, once the seizure notice has been served, Trading Standards stated they would look to seize and remove horses in a combined operation, should a new situation arise, rather than leave horses in-situ during the notice period as seen here.

- **Established disposal route**

Before any future action is taken, Trading Standards has stated a clear disposal route would need to be established. The possible destruction of abandoned horses is a very emotive subject, and due to the public reaction to the perceived threat to the horses on the common, any future operation would look to secure rehoming places, prior to any seizure.

- **Collaborative working is the key**

While the seizure operation was jointly funded by Caerphilly County Borough Council, Blaenau Gwent County Borough Council and the Welsh Government, it is clear the successful completion of this operation was due to the collaboration between the stakeholders, including the Commoners and the charitable sector.

Following the removal of the abandoned horses on the common in 2014, it is the understanding of Caerphilly Trading Standards this issue is now under control in this area.

Having removed the unwanted horses, the Commoners are now able to easily identify any newly abandoned horses. Where ownership can be established and owners identified, these horses are now quickly reunited. Where no owner comes forwards, these horses are removed in accordance with the Commoners' policy.

Case Study B: Vale of Glamorgan

Prior to the introduction of the Act, a number of high profile cases were detailed in the media, regarding the issues of fly grazing within South Wales. Information regarding these incidents was circulated through a number of channels, and the public reaction to these cases was one of the key factors leading to the introduction of the Act.

The Vale of Glamorgan saw several cases of fly grazing involving large numbers of horses left by their owner on public and private land. One such case in January 2012 involved over 60 horses which were abandoned on land forming part of Cardiff Airport ^[23]. This case followed a similar incident reported in Wick in December 2011 involved a further 40 horses, which were seized by the local authority under the Animals Act 1971.

In January 2012, an article ^[24] highlighted the size of the issue being faced by local authorities in South Wales. This article references the figures released by Redwings Horse Sanctuary, detailing the number of horses thought to be owned by one individual, which was stated as approximately 2,700. The RSPCA offered an estimation relating to the number of horses owned by this individual and stated this to be approximated at 2,500 in 2013 ^[25].

A number of actions were undertaken by joint task forces to tackle the wider problem which was experienced across the local authorities of South Wales. Additional funding was made available by the Welsh Government to assist in tackling the ongoing situation.

In 2013, a multi-agency operation was carried out to address concerns regarding one owner with an estimate of more than 2,500 horses under his control. This operation resulted in the owner being handed an 8 month prison sentence for breach of an Anti-Social Behaviour Order (ASBO), as well as a 5 year Animal Disqualification Order (ADO) ^[25].

Following reports of breaches of the individual's ADO, a further multi-agency investigation was commenced in late 2015. The concerns regarding the breaches of the banning order are detailed in an article ^[26] which appeared in the Horse & Hound, written in December 2016.

Evidence gathered by the task force resulted in a seizure operation being conducted in August 2016. This action resulted in 70 horses being seized under the Act, due to their being grazed on private land for which there was no permission granted by the owner. This seizure was conducted by Shared Regulatory Services (SRS), which is a joint partnership between the local authorities servicing Cardiff, Bridgend and the Vale of Glamorgan.

Following the seizure by SRS, 3 individuals registered claims of ownership with the local authority for a total of 32 out of the 70 horses. Proof of ownership was provided by these owners for a total of 19 horses. Following the applications by the owners, SRS provided details of the

²³ BBC News: 60 'fly grazing' horses seized near Cardiff Airport

<http://www.bbc.co.uk/news/uk-wales-south-east-wales-16633207>

²⁴ Horse & Hound Magazine: Fly-grazing epidemic hits South Wales

<http://www.horseandhound.co.uk/news/fly-grazing-epidemic-hits-south-wales-311954>

²⁵ BBC News: A horse trader has been jailed for eight months and banned from keeping horses for five years after being found guilty of 57 animal welfare and cruelty charges.

<http://www.bbc.co.uk/news/uk-wales-23201997>

²⁶ Dealer Tom Price given suspended prison sentence for breaching horse-keeping ban

<http://www.horseandhound.co.uk/news/dealer-tom-price-given-suspended-prison-sentence-breaching-horse-keeping-ban-607330>

reasonable costs payable prior to the return of the horses, as required under the terms of the Act. It is apparent one owner pursued his application for the return of 2 out of 14 horses for which he had filed a claim, and paid the costs associated with the seizure of these 2 horses. No other monies were recovered from any individual with regards this seizure.

The SRS report that the remaining 68 horses were disposed of through charitable organisations.

Case Study C: Wrexham County Borough Council

Wrexham County Borough Council stated the issues they commonly face are those of straying horses. However, due to the relationships the Trading Standards officers and Police Rural Crime Team maintain with the local communities, they are normally able to contact the owners to remove the horses, without need for official intervention.

The Council maintains a register of all horses seized under the Act. This register shows that 3 horses were seized on 7 May 2014. It was stated by both the Council and the Rural Crime Team this action was seen by the local communities as setting a precedent, and a clear sign of intention to act on those found to be fly grazing.

Following the seizure of these horses, Trading Standards officers for the Council stated that a working relationship was set up with a member of the local community, and that he became the key to having an owner or keeper remove any horses which posed as a risk. Where these owners removed their own horses, these incidents are not recorded to the register, as no further official involvement was required.

The Trading Standards officers stated that in late 2016, their contact within the community passed away. With no similar relationships established within the community at this time, the Council has been unable to trace potential owners or keepers of the straying horses relating to incidents in 2017. This has led to the seizure of 2 horses so far this year, with both of these horses have since been claimed by the owner.

It is clear the implementation of the Act in 2014, bringing with it the threat of further action, along with the close working relationships between stakeholders, has seen a reduction in the number of cases of fly grazing recorded within this local authority.

13.2 CASES WHERE THE ACT COULD HAVE BEEN USED

Case Study D: Pembrokeshire County Council - January 2016

A Pembrokeshire land owner maintains a property which borders a farm on two sides. The farm has been leased to a long-term tenant, who is believed to be a breeder of horses. It is estimated that this tenant keeps between 70 and 80 horses on the farm at any one time.

The land owner has stated that during January and February each year, as grass stocks deplete, the horses seek alternative grazing, and make their way through the hedge and fence lines onto their own property. When this occurs, the land owner has requested the prompt collection of the horses by the tenant farmer, and this has been duly carried out.

To date, the land owner has never sought to obtain costs relating to damages incurred either to the fencing, or to the crop on which the horses graze, and which is subsequently driven over in an effort to reclaim the horses.

In recent years, the land owner has improved the level of fencing along the boundary to discourage the annual movement of horses from the farm onto his property. The land owner has also taken the decision to secure each field with gates, and where appropriate padlocks.

In January 2016, horses from the farm strayed onto the public highway, an incident to which the police attended.

The land owner states that due to the fields having been secured, and the police looking to preserve public safety, the police had no option but to place the horses in the first available field. This field also belonged to the land owner.

The land owner contacted the local Council in order to ask that the horses be seized and removed from their land, however were informed Pembrokeshire County Council is under no obligation to act and due to a lack of resourcing and funding, does not enforce the Act on private land. Alternative mechanisms were suggested by the Council, which included the seizure of stray animals, as detailed in the Animals Act 1971.

The land owner's solicitor contacted the police to inform them they would be pursuing a claim against the police for damages incurred and a breach of biosecurity measures.

Following this action, the police contacted the owner of the horses, which were duly recovered by the owner a short time later.

Case Study E: The City of Cardiff Council - Rover Way & Shirenewton, Cardiff

As of March 2017, it was stated by the Horse Warden within this local authority that an estimated 33 horses are currently fly grazing within the afore mentioned locations.

While the figures here fluctuate on a daily basis, the estimates provided by the Horse Warden are as follows:

- Rover Way: 15 horses are fly grazed on open land through tethering.
- Shirenewton: 8 horses are fly grazed on open land through tethering.
- Welsh Government Land adjacent to Rover Way: it believed a further 10 horses are fly grazing on this land.

To date, the Act has only been utilised in these locations where the horses pose a threat to public safety, for example where a horse has become loose, and has strayed onto the public highway.

The incumbent Horse Warden has held the position since June 2015, and stated that no tethered horse has been seized from these locations during their time in the role.

The Horse Warden has established a good working relationship with those responsible for the welfare of the horses in these locations, and the keepers of these horses are aware that should welfare become a concern, or the horses stray, the Council will seize their horse.

It should be noted the Horse Warden maintains a close observation of the horses tethered in these locations, and is satisfied the requirements placed on a keeper under the Animal Welfare Act 2006 are being met.

13.3 CASE WHERE THE ACT WAS USED, BUT WAS UNSUCCESSFUL DUE TO IMPLEMENTATION

Case Study F: Carmarthenshire County Council: Furnace Primary School, Llanelli, May 2014

On 7 May 2014, five horses were seized and recovered to a secure yard, due to posing a risk to public safety. These horses were deemed to be fly grazing on an area within the primary school.

It is recorded within the register of the local authority that notices were placed at the seizure location on the day of seizure. It is also recorded that a copy of the seizure notice was also taken to the police station at Llanelli.

The records reflect these five horses were recovered from the school by an externally appointed contractor, and the horses were held at the contractor's yard.

The entries for these five horses continue to state that on this occasion, the five horses were stolen directly from the contractor's yard, and the police were informed. The police responded to this incident, however as the contractor was unable to identify those involved in the theft of the horses, no further action was taken.

There is no further evidence available within the register as to tracing these horses or the owner following this event.

13.4 SUPPLEMENTARY CASE STUDIES

Case Study G: Methyr Tydfil County Borough Council - Playground Field, Pontsticill, 6th March 2015

On 6 March 2015, one spotted Shetland pony was recovered from the location in Pontsticill.

The notice served clearly states the date of placing the notice at the location of the seizure as 9 March 2015. The entry within the local authority's register states the notice was erected on the Sunday, with this being 8 March.

Following the seizure of this horse, an individual reporting to be the owner made themselves known to the local authority. The owner was issued with a bill for the charges incurred during the seizure. These charges are detailed as follows:

- Seizure of horse on 6 March: £180
- 5 days stabling costs @ £12 per day: £60
- Return of horse: £100

The total costs recoverable from the owner were therefore calculated at £340. The owner paid this fee, on 12 March 2015, and the horse was returned.

Following the return of the horse, the owner disputed the costs attributed to the seizure, and escalated this dispute to the Welsh Ministers for consideration.

It was the opinion of the Welsh Ministers that the appeal, as lodged by the owner, was not in accordance with the requirements as set out in the Act, and fell outside of the statutory 7-day period within which disputes may be raised.

Article 3 (1) of the Control of Horses (Wales) Act 2014 states:

A local authority must, within 24 hours of seizing a horse under section 2, place in a conspicuous position at or near the place where it was seized, a written notice –

- (a) stating that the horse has been seized and the date and time at which it was seized, and*
- (b) giving details of how contact can be made with the local authority.*

The evidence collected during the course of this review demonstrates that the local authority has failed to comply completely with Article 3 (1) of the Act.

The notice placed at the location of the seizure was issued on 9 March 2015, outside of the 24 hours required by the Act.

Case Study H: Disposal through Bridgwater Market

Prior to the introduction of the Act, Carmarthenshire County Council implemented a policy of seizing horses found to be straying on the public highway.

The local authority believes that during the period January 2011 through April 2012, there were 4 incidents involving a total of 30 horses where the buyer at auction was believed to be the original owner prior to the seizure, or indeed one of their associates. These horses were all microchipped and passported by the local authority, with the records updated with the local authority listed as the current owner.

During a wider operation conducted in November 2013 involving approximately 200 horses, 17 were identified as being microchipped and having passports in the name of Carmarthenshire County Council ^[27]. It was evident from the local authority's records these 17 horses had been disposed of through a public market, held in Bridgwater.

It was evident in November 2013 the individual purchasing the horses at the auction had failed to update the ownership records with the Passport Issuing Office within the allowed 30-day period, a statutory requirement under the EIWR (2009).

This breach of the EIWR (2009) was referred to Vale of Glamorgan Trading Standards for further investigation. The case was heard in Cardiff Crown Court on the 9 December 2013, and the owner found to be guilty of all 17 charges brought against them with regards breaches of the EIWR (2009).

A total fine of £6,375 was ordered, along with a contribution of £8,000 towards the Vale of Glamorgan Trading Standards' costs.

Following the discovery that suspected owners were travelling to Bridgwater to buy back their horses for as little as £5 per horse, the local authority updated their internal policies to ensure no horse seized moving forwards would be disposed of through a public marketplace.

It has been remarked by a number of stakeholders that where individuals were able to buy horses from a market, and the horse had been previously seized by a local authority, the new owner would know these horses had been tended to by a veterinary surgeon, and any conditions addressed. This process was termed a "free health check and livery for fly grazed horses", due to the negligible sums paid for the horse at public auction.

²⁷ Horse Trader Ordered to pay £14000 after failing to update horse passports
<http://www.tradingstandardswales.org.uk/news/news-item.cfm/newsid/126>