

Committee: **Community Services Scrutiny**
Date of meeting: **15th November 2021**
Report Subject: **Update Report Fly Grazing Horses**
Portfolio Holder: **Cllr Joanna Wilkins / Executive Member Environment**
Report Submitted by: **Matthew Stent – Service Manager [Neighbourhood Services]**

Reporting Pathway								
Directorate Management Team	Corporate Leadership Team	Portfolio Holder / Chair	Audit Committee	Democratic Services Committee	Scrutiny Committee	Executive Committee	Council	Other (please state)
19/10/21	27/10/21	04.11.21			15/11/21	15.12.21		

1. **Purpose of the Report**

1.1 To provide Members with an update on the issue of fly grazing horses within the County Borough. This report will outline changes to the current Policy and set out the legislative and policy framework from which officers operate to resolve incidents.

2. **Scope and Background**

2.1 The illegal fly grazing of horses has been a recurring issue within the County Borough for many years. It appears that some horse owners lack short or long term grazing land for their animals and therefore often utilise primarily Local Authority land on which to keep them or allow them to stray freely throughout the Borough.

2.2 Historically, the Local Authority could utilise its animal impounding team to remove horses, which were often the source of complaints either because of their persistent or recurring nature or because of the welfare concerns around the animals themselves. However, since the termination of this service, Officers have had to rely on informal action and legislative powers to ensure horses are removed.

2.3 There are a number of legal avenues available to the Authority to deal with the issue of fly grazing by horses which will be covered in the body of the report, however in 2014 Welsh Government introduced the Control of Horses (Wales) Act 2014 (the 2014 Act), which was specifically created to deal with fly grazing horses in what was seen as a National problem. Following the introduction of the 2014 Act, the Authority adopted a common policy in 2014, which is appended to this report, with Powys County Council, on how it implements and enforces the powers within the 2014 Act.

2.4 Exercising the powers contained in the 2014 Act is discretionary and while the powers can be used to remove horses from both public and private land, the Authority is not under a duty to discharge these powers if a request from a private land owner is made. When Local Authorities exercise these powers,

costs incurred by land owners in the removal and storage of seized horses must be paid by the horse's legal owners before any retained horses are released.

- 2.5 The responsibility for the removal of horses from Local Authority land rests with the relevant portfolio land holder [not Community Services], with The New Enforcement Service providing support where it is needed to ensure the legal provisions of the Act are discharged appropriately where that is necessary. In many instances of fly grazing in the County Borough, it is the Estates Section supporting the portfolio holder that leads in securing the removal of fly grazing horses. This is often achieved through informal means such as speaking directly to horse owners if known or by placing notices on the land stipulating that removal of the horses by the Authority will take place within a specified timescale if they remain.
- 2.6 The Policy, however, did not encompass horses straying on the Highway and / or public spaces. Recent events and an increase in reports of this nature has seen the Department look to be more proactive and it recommends an amendment to the current Policy. [Policy attached as appendix 1 – amendment highlighted in red].
- 2.7 Community Services do not have a specific budget for action taken under the 2014 Act. The Policy adopted by the Authority places the financial cost of any removal, storage and disposal of horses on the relevant land owner while The Enforcement Service ensure the legal process is followed correctly and all relevant documentation completed, served and saved appropriately. This is also the case should the Authority seek to utilise these powers to remove horses from its own land, with the relevant land portfolio holder within the Authority bearing the costs of removal, storage and disposal of any horses seized. However, recent cases of straying horse on the Highway and public spaces means this cost is likely to be borne by Community Services, for which there is no identifiable budget [providing the animals are not reclaimed].
- 2.8 As the Authority does not retain the man power, plant and storage facilities to remove horses it would have to use a private contractor to conduct this work. A quotation has been received (appended to this report – Appendix 2) which sets out the costs involved with this work.

3. **Options for Recommendation**

- 3.1 Option 1 [**preferred option**] - That Members support the Policy amendment and the existing process for the removal of horses set out in the report with the associated use of contractors and the costs associated with this.
- 3.2 Option 2 - That Members make recommendations for changes to the current process.

4 **Recommendation(s)/Endorsements by other Groups**

- 4.1 Corporate Leadership Team and Regeneration & Community Services Leadership Team have considered this report.

5 **Evidence of how does this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan**

5.1 Well-being Plan, Objective 2 – Blaenau Gwent wants safe and friendly communities. The removal of illegal fly grazing horses from Local Authority and private land and straying animals from the highway / public spaces prevents damage being caused by this act of trespass and ensures members of the public feel safe by the removal of large, often untethered animals from land which can be open to public access.

5.2 Corporate Plan – Strong and Environmentally Smart Communities Priority objective – While there is significant cost associated with individual operations in the removal of horses, it is felt that by dealing proactively with problematic locations where recurrent offending behaviour often occurs that the message will be sent out to irresponsible horse owners that the Authority will not tolerate the act of fly grazing with the result that fewer incidents will occur.

6. **Implications Against Each Option**

6.1 **Impact on Budget (short and long term impact)**

6.2 Community Services do not hold a specific budget for implementing its powers under the 2014 Act. Requests to utilise these powers formally are rare, but if it was necessary then, as previously, the work would be undertaken by colleagues from Powys C.C (who deal with other Animal Health, Welfare & Licensing issues for the Authority) at extra cost to the current Service Level Agreement. If the extra costs could not be managed within existing budgets, then this would be reported to CLT accordingly.

6.3 Where the removal of horses is carried out on Local Authority land then the relevant land portfolio holder would have to fund the contractor costs associated with the removal, storage and disposal of any seized animals. Obviously regular use of the seizure powers could put considerable strain on existing budgets, but discussion with relevant portfolio holders has shown that limited use of these powers would need to be managed within existing budgets. It is anticipated that once the Authority starts exercising the powers contained in the 2014 Act to remove horses from its own land that along with relevant media releases, the number of incidents will start to decline and the use of these powers will become less necessary.

7. **Risk including Mitigating Actions**

7.1 Reputational risk- Illegal fly grazing does generate a number of complaints from Members and the public. Fly grazing itself often results in damage to Local Authority land, concerns about the welfare of the animals themselves and public safety concerns about large untethered animals roaming freely. Failing to tackle the problem proactively could lead to significant reputational damage to the Authority.

8. **Legal**

8.1 Discussion with the Legal Section has identified the 2014 Act to be the most appropriate legal sanction to deal with fly grazing horses as it provides a reasonably quick and defined process by which to remove the animals. The

policy appended to this report sets out how this is done. The Authority's Constitution determines that policy on this matter is set by the Executive, while operational matters are delegated to the Corporate Director of Regeneration and Community Services.

9. Human Resources

9.1 There is significant staffing resource required across Service areas in dealing with complaints, visiting sites, identifying owners, posting notices and arranging seizure operations.

10. Supporting Evidence

10.1 Performance Information and Data

11 Expected outcome for the public

11.1 Improved proactive response to service requests in relation to fly grazing incidents.

12 Involvement (consultation, engagement, participation)

12.1 Relevant internal colleagues in Cleansing, Legal and Estates have been consulted on the content of this report.

13 Thinking for the Long term (forward planning)

13.1 The process outlined in this report is necessary to ensure long-term improvements in response to misuse of the Authority's land for fly grazing and to create safer public open spaces.

14 Preventative focus

14.1 The process will help to change cultural attitudes to fly grazing by ensuring offending behaviour is actioned by the removal of horses with horses retained and disposed of unless costs are paid.

15 Collaboration / partnership working

15.1 The process will utilise private contractors to provide removal, storage and disposal of relevant animals.

16 Integration (across service areas)

16.1 The scheme contributes to relevant well-being and environment Agendas.

17 EqIA (screening and identifying if full impact assessment is needed)

17.1 The proposals will no adverse effects against the protected characteristics.

18 Monitoring Arrangements

18.1 The scheme will be monitored by Community Services Managers and by way of relevant reports to the Corporate Director Regeneration & Community Services, CLT and Scrutiny Committee, as necessary.

Background Documents /Electronic Links

Appendix 1 – Policy Control of Horses (Wales) Act 2014

Appendix 2 – Contractor Schedule of Costs (Exempt Item)