

Committee: **Executive Committee**
Date of meeting: **14th April 2021**
Report Subject: **Position Report Fly Grazing Horses**
Portfolio Holder: **Cllr Joanna Wilkins / Executive Member Environment**
Report Submitted by: **Corporate Director – Regeneration & Community 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)
2/2/21	4/2/21	23.03.21			1/3/21	14/4/21		

1. Purpose of the Report

1.1 To provide Executive Committee with an overview on the issue of fly grazing horses within the County Borough. The report will outline the scale of the issue, including identifying geographical locations where the problem is often reported 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.

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 ultimately have 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. The Authority has adopted a common policy, 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, with Environmental Health 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. To date, the Authority has not had to utilise the provisions of the 2014 Act to remove horses from its own land.

2.6 Historically Environmental Health have carried out 2 major operations to remove fly grazing horses in the County Borough, both of these occurred on common land at Manmoel and Cefn Golau. These areas of land have for many years supported feral herds of horses and in the Winter of 2012/13, which was particularly harsh, the Authority received numerous complaints about dead and dying horses on the Commons. As a result, in its first operation the Authority, along with colleagues in Powys C.C., Caerphilly C.B.C and various horse welfare charities, implemented its powers under the Animal Welfare Act 2006 to remove 37 horses from both Commons throughout the spring and summer of 2013. The vast majority of these animals were successfully rehomed with only a small number needing euthanasia on welfare grounds. This culminated in a second operation in the Summer of 2014 to remove 30 horses from the larger herd at Manmoel common under the then new powers contained the Control of Horses (Wales) Act 2014. Again the vast majority of the horses removed were rehomed by horse charities, with a small number needing to be euthanized on welfare grounds. Specific funding was secured from Welsh Government for this operation to cover Local Authority costs. Since these operations very few complaints about the condition of horses on either common have been received.

2.7 Environmental Health 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 Environmental Health 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 the 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.

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 from a bailiff company for the type of costs involved with this work and while it is difficult to put a specific cost on an operation because of the number of variables involved, it is estimated that the removal of 2-3 horses could potentially cost £3-4000.

3. **Options for Recommendation**

3.1 Option 1- That Executive Committee supports the existing process for the removal of horses set out in the report with the use of contractors and the costs associated with this.

3.2 Option 2 (Scrutiny Preferred Option) - That Executive Committee supports the existing process for the removal of horses set out in the report with the use of contractors and the costs associated with this and that the Council look to work with partners, and be granted permission to pursue enforcement with regard to the Control of Horses Act in prolific areas in line with the Wellbeing Plan Objective 2.

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

4.1 Corporate Leadership Team and Regeneration & Community Services Leadership Team have considered this report. Community Services Scrutiny Committee also considered this report on 1st March 2021 and supported the existing process for the removal of horses set out in the report with the use of contractors and the costs associated with this (Option 1); and the Committee also recommended that the Council look to work with partners, and be granted permission to pursue enforcement with regard to the Control of Horses Act in prolific areas in line with the Wellbeing Plan Objective 2.

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 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 Environmental Health 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, a request would be made for the work to 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 the 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 (figures are set out in Section 10). 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 There are a number of legal provisions available to deal with the issue of fly grazing horses or straying livestock which are outlined below. Discussion with the Legal Section has identified the 2014 Act to be the most appropriate legal sanction to deal with fly grazing horses, including the use of civil trespass action, 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.

8.2 Other legal provisions include:

- Animals Act 1971- Under the Animal Act 1971, where livestock strays onto land in the ownership of another person (including the Local Authority), the landowner can detain the livestock whilst ownership of the straying animals is being established and reclaim any reasonable costs in doing so. The land owner can claim the costs of any damage, and sell the animal at a market or public auction after 14 days, unless steps are being taken by the owner of the livestock to pay any money owed.
- Town Police Clauses Act 1847- If any cattle (including horses, asses, mules, sheep, goats, and swine) are straying in any street within the limits of the Act then a constable or officer of police, or any person residing within the limits of the Act, may seize and impound the cattle until the reasonable expenses incurred in impounding the cattle are paid.
- Highways Act 1980- Section 155 of the Highways Act 1980 states if any horses, cattle, sheep, goats or swine are at any time found straying or lying on or at the side of a highway their keeper is guilty of an

offence; but this subsection does not apply in relation to a part of a highway passing over any common, waste or unenclosed ground.

9. **Human Resources**

9.1 While there are no implications in relation to the need for additional resources for Blaenau Gwent staff associated with this report, dealing with fly grazing horses takes up a significant amount of Officer time. Each complaint requires numerous site visits to try to identify ownership of animals, attempt to contact owners, erect signage and monitor the progress of removal.

10. **Supporting Evidence**

10.1 **Performance Information and Data**

10.2 **Complaints History.** The Estates Section have been consulted during the drafting of this report and they have provided data on the locations, dates (where recorded) and frequency of incidents of fly grazing on Local Authority land over the last 7 years within the County Borough. Table 1, below, sets this data out.

Table 1.

Area / Location	Dates (not all recorded)	Number of Occurrences / Complaints
Former Nantyglo Comprehensive Site	24th March , 12 th September and 8 th November 2017	6 or more per year
Pantyyfforest		recurring - 4/5 times per year
Station Road, Tredegar	Regular throughout 2020, 16th November 2018- gate has subsequently been locked December 2020	recurring 4/5 times per year
Crown Cottages, Tredegar		once and no return
Nantyglo OAP Hall	10th November 2020	min 4/5 - from Cwmcraehen per year
Land at Coalbrookevale, Nantyglo	13th April 2015	3/4 times per year, last one Jan 2021
Farm Road, Nantyglo	21st August 2014	2/3 times per year
Former Garn fach School Site	3rd November 2016	recurring
Stones Houses Blaina		recurring - 4/5 times per year
Fan Tips Blaina		recurring 4/5 times per year
Crown Avenue, Tredegar		2/3 times over a adhoc period
Sirhowy Estate - coming off Chartist Way Plots		5/6 times minimum per year
Above Tredegar Rec		once

Pennant Street, Ebbw Vale	December 2020	approx 7-8 horses report
Darrenfelin Road, Brynmaur		twice

10.3 All of these incidents have been dealt with by informal means with no matters dealt with by the use of the powers contained in the 2014 Act. The horses are usually removed by their owners and as a result they can often end up returning to a location. In addition, it is felt by Officers that by dealing with this matter informally, irresponsible horse owners in our community feel that they can utilise Authority land without the risk of losing their animals by seizure with the financial cost that comes with this should they wish to recover the animals.

10.3.1 **Environmental Health Actions.** Other than the operations outlined in Section 2.5 above, Environmental Health have not utilised their powers in the 2014 Act for other incidents of fly grazing in the County Borough. Enquiries are sometimes received from private land owners about alleged incidents of fly grazing on private land, but other than requests received from the commoners of Cefn Golau and Manmoel Common's, no formal requests have been to Environmental Health to instigate its powers under the 2014 Act have been received since its introduction.

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)**

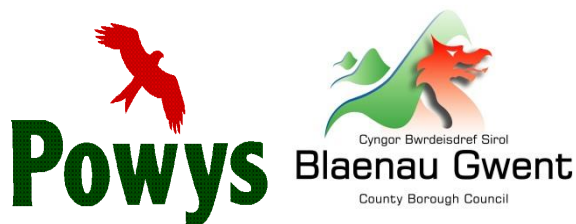
17.1 The proposals will no adverse effects against the protected characteristics.

18 **Monitoring Arrangements**

18.1 The scheme will be monitored by Public Protection 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



ENFORCEMENT POLICY – CONTROL OF HORSES (WALES) Act 2014

Introduction

On 27th January 2014 the National Assembly for Wales introduced the Control of Horses (Wales) Act 2014.

The aim of the Act was to provide a further tool for Local Authorities to use to combat fly grazing, straying and abandonment of horses and ponies. The Act provides Local Authorities in Wales with consistent legal powers to seize, impound, sell, re-home, return, dispose of and destroy horses by humane means after certain notifications and time limits, when the horses are found causing nuisance by fly grazing, straying or have been abandoned in a local authority area.

The powers within the Act will enable the Local Authority to act when notified of horses on land in its area without lawful authority. The Authority will be able to dispose of the horses, if after 7 days, beginning on the relevant day, the owner of the horse(s) or a person acting on behalf of the owner has not contacted the local authority. The Authority may also dispose of those horses where the owner has contacted the Authority but has not paid or disputed the reasonable costs incurred in connection with seizure and impounding.

The relevant day will either be when the Notice was given to the owner or when the notice was displayed (whichever is applicable).

Requests for LA to use Powers under the Act

This Policy has been agreed by Powys County Council and Blaenau Gwent County Borough Council.

Where an individual or organisation requests that the Authority use its powers under the Act: we will consider using our powers under the Control of Horses (Wales) Act 2014 if a formal written request is received from the Land owner/occupier or commoners associated and on the basis that it would be cost neutral to the Local Authorities other than officer time and travel. The applicant will need to supply the Local Authority with an Operational Plan detailing how s/he will address each of the following points along with the costs for the same: -

- i. The gather of all equines from the common/private land to a suitable handling facility, which must include a race handling system.

- ii. Details of the provision of veterinary support to be provided to deal with any horses that have welfare issues.
- iii. Details of the facility where the equines will be held for a minimum of 7 days, although the preferred period would be at least 10 days.
- iv. Details of who will be responsible for the welfare of the horses during the period that they are held, to include details of feeding/watering and bedding to be provided etc.
- v. Details of how and when the applicant is going to allow public viewing of horses for potential owners to claim them.
- vi. How the applicant proposes to dispose of the horses:
 - a. Details of the veterinary surgeon who will be in attendance to determine fitness to travel or monitor humane destruction.
 - b. Sale.
 - c. Re-homing (details of National Equine Welfare Council affiliated members being used and numbers of horses being re-homed by each).
 - d. Destruction (details of numbers and who will humanely destroy, when destruction will take place, where destruction will take place and where carcasses will be disposed of). Note; where the proposal is for the destruction of horses this would require agreement by the Authority's Executive Committee prior to any involvement by Animal Health Officers.

Applicants will need to be able to satisfy the Authority that all the necessary arrangements can be put in place prior to any assistance being agreed.

Once a written plan has been submitted and been approved, local authority Animal Health Officers would be present when the animals are gathered. Animal Health Officers would seize and scan each horse for a micro-chip and where chipped make the necessary enquiries to determine the registered owner etc. Animal Health Officers would photograph and catalogue the horses and arrange for the required Notices to be displayed (and monitored on a daily basis) in the locality where the horses were seized and for the required notification to be made to the police. Animal Health Officers would then be present on the public viewing to determine if the claimed owner had a legal right to the return of any claimed horse(s), and present again at the dispersal of any unclaimed horses. Finally, Animal Health Officers would ensure that the required public register is maintained.

In addition to the above Animal Health Officers may also submit a funding bid to Welsh Government to offset the costs to the applicants and Local Authority. However no guarantees can be given that such a bid would be successful.