



Evidence Paper

FROM THE EXTERNAL AFFAIRS WALES DEPARTMENT

National Assembly for Wales, Environment & Sustainability Committee Session Control of Horses (Wales) Act 2014, Post-Legislative Scrutiny

February 2015

RSPCA Cymru welcomes the opportunity to submit evidence, both in written and oral format, to the Environment and Sustainability Committee's post-legislative scrutiny session in relation to the Control of Horses (Wales) Act.

The implementation of this important legislation was a key step for equine welfare, and forms a key tenet of the Welsh Government's wider plan for the nation's horse population. Whilst not a panacea to the horse crisis which has long gripped Wales, the legislation remains an important, much-needed step, equipping Local Authorities with consistent powers to take swift action to tackle fly-grazed or abandoned equines.

Whilst the introduction of these new powers may act as a deterrent to irresponsible equine ownership, robust enforcement of the new law is crucial to ensure its effectiveness. As such, the Environment and Sustainability Committee's exploration of the relative successes and issues thus far following the law's commencement is a welcome body of work.

Clearly, there is a continued need to progress a broad framework to meet the wide-ranging equine challenges facing Wales, including on the issues of traceability, identification, irresponsible ownership, tethering and the regulation of livery yards. However, powers now held by Local Authorities under the Control of Horses (Wales) Act can play a key role in tackling an issue which can have severe consequences for the welfare of equines and community safety.

RSPCA Cymru has been very pleased to work proactively with a number of Local Authorities carrying out operations under the new legislation. Though our resources are limited, we have managed to provide support to a number of those utilising the legislation, and continue to work with Councils in Wales regarding their policy and plans concerning the use of these powers to tackle local fly-grazing and abandonment issues.

The legislation itself was introduced through a streamlined procedure. Given the RSPCA organised a summit, with the Welsh Government, in September 2012 which highlighted the need for urgent legislation, this much-needed action was welcomed. However, on-going, robust monitoring of its successes, and whether it is achieving its aims, is key.

It should be noted, further to the Act coming into force, the RSPCA continues to champion the need for legislative change in England. At Westminster, the Control of Horses Bill is currently progressing through the House of Lords, and it is hoped Local Authorities in England will soon be equipped with similar powers to those in Wales. This would also mitigate risks of problems associated with fly-grazing and abandonment being displaced from Wales into England, given that the legislative toolkit to deal with these issues is currently stronger on one side of the border.

Impact of legislation since it was passed

Caution is necessary when seeking to make any sweeping statements as to the wider impact of the Control of Horses (Wales) Act. However, with the new powers now in place for just over one year, the Environment & Sustainability Committee's exploration of this issue offers a timely opportunity to assess the relative strengths and weaknesses of the new legislation thus far, and additional steps which can be taken to ensure its potential is realised.

Data indicates that some Local Authorities have been in a position to be proactive with regards to tackling incidences of fly-grazing and abandonment via the new legislation. Broadly, and positively, the legislation has enabled Local Authorities to act on the issue of locally fly-grazed or abandoned equines, beyond the geographically-defined areas which the three Local Acts previously in place covered.

With regards to the welfare of equines in Wales, a robust assessment as to the impact of the law is problematic as, notably, fly-grazing is not always a welfare issue. However, animals in such situations can quickly become a concern in welfare terms because of their environment and nourishment and, indeed, the Act has successfully removed equines from situations with potentially grave welfare consequences.

Additionally, the RSPCA has recently noted a significant, and very positive, fall in the number of horses at risk of welfare problems in Wales. In January 2015, broad estimates - whilst very difficult to quantify - from RSPCA and other groups indicate the number of equines deemed at risk of welfare problems in Wales was 570; a significant fall from the 3,550 deemed at risk in January 2014. Whilst we lack the evidence to directly attribute such positive trends to the introduction of the new legislation, it could be suggested that equipping Councils with additional powers to tackle horses left fly-grazed or abandoned may have played a key role in stimulating this change.

Where and when the Act has been used

The following grid of information was compiled further to discussions with the BBC, who received

responses to information requests from Local Authorities in January regarding their use of the Act. Approximately one year after its implementation, according to these figures, the new legislation has been used by 11 of Wales' 22 Local Authorities, on 291 occasions involving 460 equines.

	Occasions Act Used	Number of Equines
Blaenau Gwent	1*	49*
Bridgend	5	34
Caerphilly	2*	50*
Cardiff	73	73
Carmarthenshire	18	38
Merthyr Tydfil	6	8
Neath Port Talbot	1	0
Powys	2	2
Swansea	175	233
Vale of Glamorgan	7	20
Wrexham	2	2
TOTAL	291	460

* = a joint operation between Blaenau Gwent and Caerphilly was undertaken

As these figures suggest, and as observed through RSPCA Cymru's collaborative working at both a policy and operational level, it is clear that very different approaches to utilising new powers under the Control of Horses (Wales) Act are being adopted across Wales.

To this end, the figures above indicate that Local Authorities who previously had powers to act under Cardiff City Council Act 1984, the Mid Glamorgan County Council Act 1987 or the West Glamorgan Act 1987 have been, largely, more prolific in utilising their new powers. This could be due to the existence of fly-grazing 'hot spots' within the local area but, also, due to their experience in utilising similar legislative provisions previously.

Certainly, both Swansea City Council and Cardiff City Council are using powers held under the Control of Horses (Wales) Act on a regular basis, including – we understand - to deal with individual horses in urban areas. Many other Councils are adopting a different approach.

Wrexham County Borough Council, for example, have been proactive in working with fellow Local Authorities and other organisations across North Wales with regards to adopting a policy concerning enforcement of the new legislation. Wrexham CBC have, subsequently, implemented an approach of risk-based intervention, highlighting costs of veterinary care, stabling and livery as a key barrier to utilising the powers more frequently, particularly in the context of receiving no additional budgetary resources to deal with issues of fly-grazed and abandoned equines.

Variances across Wales with regards to enforcement create a risk of displacement. Worryingly, irresponsible equine owners could conceivably target areas of Wales where Local Authorities are

financially unable, or have made the decision not to use their legislative powers. We would welcome further discussions, including all stakeholders, regarding any barriers which may be preventing some Local Authorities from using the legislative provisions contained within the Control of Horses (Wales) Act and, indeed, all legislation pertaining to equines.

Meeting its aims and objectives?

As indicated in the figures above, the legislation has, in approximately its first 12 months, had some success in dealing with equines left fly-grazed or abandoned, with some 460 seized under the new legislative provisions.

Equine-related problems remains a significant problem dealt with by the RSPCA's Inspectorate in Wales. Whilst the Control of Horses (Wales) Act is not, on the surface, a dedicated piece of animal welfare law; it is hoped the legislation increasingly acts as a deterrent to an element of irresponsible ownership - namely fly-grazing and abandonment - which can lead to significant welfare issues for the equines involved.

One key objective of the legislation was to ensure uniform enforcement across Wales. However, as identified, different Local Authorities have undertaken markedly variant approaches to utilising the legislation, and 11 had not done so within a one-year period. More research is necessary to ascertain the consistency of enforcement across Wales, taking account of the different resources provided within each Local Authority area.

As noted, Cardiff Council has been one of the most prolific Local Authorities with regards to utilising the new legislation. Whilst the old law was subtly different, the Council stated that the introduction of the Control of Horses (Wales) Act left legislative provisions in the city "*largely unchanged*" from the powers held previously via the now-defunct Cardiff City Act 1984¹. This indicates something of a 'business as usual' approach for Councils in this position.

We have previously identified that Councils that did not have at their disposal local Acts, such as the Cardiff City Act 1984, will not have been practiced in undertaking this type of specialism previously, and may wish for further support, which could be gained by working closely with neighbouring Councils. Consequently, one year on, stakeholders may wish to consider the need for further guidance, perhaps specified on a geographic basis, acknowledging the existence of fly-grazing 'hot spots' across Wales and the fact some Councils were recently equipped with these powers for the first time.

Barriers to implementing the legislation?

As indicated, the most significant barrier to the implementation of these powers is the financial pressures faced by Local Authorities across Wales. We have long highlighted that the issue of resources must be a key consideration for the Welsh Government when monitoring and analysing

¹ City of Cardiff Council, Environment Scrutiny Committee, Future of Stray Horse Management in Cardiff, 8 July 2014

the success of this legislation. The new powers, whilst exceptionally welcome, came - understandably, given the exceptionally difficult economic climate - with no additional resources for enforcement.

Consequently, many Local Authorities have had to adopt workload associated with the Control of Horses (Wales) Act into existing staffing resources. This has created an element of uncertainty. A number of Local Authorities have stated, "*matters of policy on the use of the powers and the frequency of instances of occurrence may have budgetary implications which are difficult to predict and quantify*"².

We understand the Welsh Government has made funding available in certain circumstances. An example was the £3,500 provided by the Welsh Government in response to a request from Blaenau Gwent Council; to fund 50% of costs for the work required under the Control of Horses (Wales) Act 2014 for an operation at Manmoel Common³. As we enter the second year of the Act being in force, we believe Local Authorities may benefit from the receipt of information at regular intervals as to the occasions in which funding has been provided to assist with meeting veterinary, removal, disposal and other costs in line with the provisions of this legislation, and the circumstances in which this has taken place.

Furthermore, it would be expedient for the Welsh Government to examine whether any additional training need is required within Local Authorities, primarily among those not accustomed to using such legislative provisions previously. Indeed, anecdotal evidence suggests some Local Authorities do not feel equipped to put these powers into use or, in some instances, have favoured arguably less appropriate legislation to tackle matters, such as the Animals Act 1971.

Utilising these powers also carries public relations issues for Local Authorities in Wales. Unfortunately, the disposal of equines under the legislation may, in many situations, involve euthanasia for the horses involved. Whilst this sad situation is a direct consequence of the irresponsible actions of many horse traders in Wales, many Local Authorities may be uncomfortable with this potential scenario. These are tough decisions for Local Authorities to make, and methods for dealing with such difficult, emotive and tragic circumstances can be shared between key stakeholders, further enabling best practice.

Conclusions and moving forward

In summary, RSPCA Cymru continues to regard the introduction of the Control of Horses (Wales) Act as a hugely positive step, and a vitally important component of the toolkit to tackle the nation's long-standing equine crisis, for which the Welsh Government should be commended. Clearly, resources are a considerable issue for many Local Authorities in Wales, and one which the

² Local Authorities in North Wales have stated this in reports to Council Members concerning the adoption of the legislation, for example Wrexham CBC [here](#), and Denbighshire County Council [here](#).

³ Welsh Government - Meeting the costs of fly grazing and abandoned horses on Manmoel Common, 24 February 2014

Welsh Government must monitor closely. The consistency of enforcement in Wales requires further enquiry, and potentially highlights questions regarding whether displacement could occur.

Concerning animal welfare services generally, standards of provision vary considerably. Enabling laws often come with no new resources for Local Authorities; and RSPCA Cymru will be calling for the Welsh Government to review, generally, the capacity, resources and expertise of local government to enforce key legislation which impacts upon animal welfare; including the Control of Horses (Wales) Act.

Generally, we were extremely pleased to be involved in a multi-agency Equine Task Force⁴, previously established in November 2012. This was central to tackling a specific, long-standing issue with a prolific horse breeder in South Wales, including as a key resource for the sharing of intelligence. This highlights the benefits of a multi-agency approach in tackling issues related to equines and their welfare, and should an operation of this nature be necessary again in the future, the deployment of the Act would be of great benefit.

The Welsh Government has previously outlined its intention to monitor the success of this legislation. We welcome this; and look forward to seeing information regarding the Act's successes thus far. We would hope there would be a qualitative analysis regarding the views of Councils, whether they feel equipped to utilise their powers, and what barriers have been identified which may be preventing consistent enforcement, and plans to address such issues.

⁴ Stakeholders involved with this Equine Task Force included RSPCA Cymru, Welsh Government, Police and Local Authorities.