

## **Control of Horses (Wales) Act 2014 - Recommendations**

### **Welsh Government response**

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

#### ***Welsh Government response:***

The Welsh Government considers that Local Authorities are best placed to establish a unified reporting mechanism and will encourage Local Authorities to work in partnership to consider the need for, feasibility of, merits and benefits of such a system. The Welsh Government will support the establishment of such a partnership.

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

#### ***Welsh Government response:***

The Welsh Government supports the permanent identification of equines seized under the Act but notes there is a cost to local authorities associated with micro chipping seized horses. At present, if an owner does not come forward, the local authority is required to identify the horse before a movement takes place. In some cases, where a horse is being rehomed with an equine charity, the identification is deferred until such time as the charity takes charge of the horse. In both of these situations, unidentified horses that are seized under the Act will be permanently identified.

In cases where the owner comes forward but the horse is unidentified, the Welsh Government agrees the local authority should identify the horse before it is returned to the owner. The full costs associated with the identification of the horse being passed to the owner.

Where local authorities undertake the identification of any seized equines the identification document (passport) and microchip will be registered to the local authority as it is the local authority that applies for the passport. Where horses are subsequently returned to their owners local authorities need to be aware of the requirement to transfer the ownership details as otherwise the registering local authority is likely to be considered to be the responsible authority in the event future seizures or welfare issues arise.

The Welsh Government will reiterate to local authorities that they should seek to ensure that all animals seized under the Act are permanently identified. It is understood that – as set out above - this recommendation is already being implemented by many local authorities.

- 3. 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 resource.**

***Welsh Government response:***

The Welsh Government vision is for a fly grazing free Wales, a zero tolerance approach to the practice which will ensure in future Wales is free from the unacceptable social, economic and environmental harm caused by the nuisance of fly grazing.

As set out in the report, in Wales only the local authorities are empowered under the Act. The Welsh Government agrees that land owners should be able to benefit from the provisions within the Act, for example, where this supports the removal of abandoned horses from privately owned land. As is recognised in the report, this engagement with land owners should be managed through the local authority. The Welsh Government will encourage local authorities to work in partnership with landowners to resolve incidents of fly grazing, straying and abandonment and will highlight the benefits of such an approach.

- 4. Where the issue of abandoned horses upon a common has been identified, measures should be taken to identify a sustainable solution through collaborative working.**

***Welsh Government response:***

As set out in the report, there is a requirement to establish the true and full extent of the issue in order for a long term solution to be put forward and implemented. The Welsh Government will work with local authorities to assess the scale of the problem and look to identify practicable and sustainable solutions. Welsh Government will encourage a partnership approach between Welsh Government, landowners, commoners, welfare organisations, those with an interest in common land and local authorities in order to resolve incidents of abandonment on common land.

The Welsh Government's commitment to introduce Electronic Registers of Common Land in Wales will in future go a long way towards identifying those who have grazing rights and therefore assist in identifying those horses that have a legal right to graze on common land.

- 5. Guidance should be issued recommending horses are only rehomed through members of the National Equine Welfare Council.**

***Welsh Government response:***

The Welsh Government supports this proposal, which is aimed at ensuring that when local authorities re-home horses, adequate and robust processes are in place to ensure the required welfare standards are achieved. The Welsh Government will issue guidance to local authorities recommending that horses are only re-homed through those welfare organisations that are members of the National Equine Welfare Council.

The Welsh Government proposes working with the Wales Animal Health & Welfare Framework Group and the Animal Welfare Network Wales to ensure the benefits of re-homing through members of the National Equine Welfare Council are understood and disseminated to local authorities dealing with fly grazing, abandonment and straying.

**6. Local authorities should be encouraged to re-home seized horses through the charitable sector and not directly to members of the public.**

***Welsh Government response:***

As many animals seized have health and welfare issues requiring specialist care the Welsh Government supports the recommendation to rehome seized horses through the charitable sector. The report sets out additional reasons as to why it is considered preferable to re-home seized horses through the charitable sector as opposed to re-homing them directly to members of the public, and reports that all local authorities have stated they would only re-home to dedicated charities and sanctuaries, despite the Act making provision for the sale or transfer of horses directly into private ownership. The Welsh Government's support for this recommendation will be drawn to the attention of local authorities.

Welfare Organisations have the skills to rehabilitate horses and match suitable animals to those looking to re-home.

**7. 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.**

***Welsh Government response:***

Under the Act, local authorities currently have 24 hours within which to erect a notice, and inform an owner how to pursue a claim for the return of their horses. The Welsh Government views this 24 hour period as reasonable, as it gives the local authority seizing the horse(s) a chance to accurately document those horses seized, prepare the notice and display it on or near the site. Posting a notice at the time of seizure could result in the horse(s) being inaccurately described and such notices could only be posted in the form of a paper copy which in bad weather would be unsatisfactory. The local authorities would have to return to the site with a more permanent (laminated) notice. Where the local authority takes the full 24 hours to erect a notice following seizure the guidance issued to local authorities states they should try to ensure that the notices displayed remain visible for the 7 day period following the putting up of the notice. This ensures the owner of any horse(s) seized has ample opportunity to learn of the seizure and know who to contact.

In the 3 years since the Act has been in place, the Welsh Government has not been made aware of any pressure – from either local authorities or horse owners or representatives - to change this timescale. The Act and guidance provide for a notice to be displayed at or near the site of seizure within 24 hours from the point of seizure, and therefore allows for the local authority to post a notice simultaneously.

The Welsh Government will discuss this recommendation with local authorities with a view to ascertaining whether there is any support for the course of action recommended in the report.

**8. The time constraint of informing a Police Officer within 24 hours of the seizure should be preserved.**

***Welsh Government response:***

The Welsh Government agrees the timeframe of 24 hours for informing a Police officer should remain. This requirement provides accountability and ensures an independent record exists relating to the seizure of any horse.

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

***Welsh Government response:***

The Welsh Government retains the view that 24 hours is a reasonable timeframe for providing written notification of seizure where the owner of the horses is known. Increasing the timeframe would result in local authorities having to retain seized horses for longer (increasing costs) as the 7 day period only starts once the notice has been given to the person identified as the owner. As set out in guidance, in cases where the owner or someone acting on behalf of the owner comes forward as a result of a notice being posted (within the 7 day period of the notice being displayed at the site of seizure) the clock stops and the 7 day period starts again from the day on which a notice setting out the costs for which the owner is liable is given to such persons.

The report states that all local authorities should continue to strive to issue written notification within the currently prescribed 24 hour period, and that the recommendation is made to address extenuating circumstances. The expectation remains therefore that written notification should be provided within 24 hours.

The Act was introduced at the request of local authorities who wanted a reduction in the time they were required to retain horses before disposal. Allowing a longer period in which to provide written notification would result in local authorities having to retain the horses for longer resulting in additional costs to the authority.

However, the Welsh Government will raise this issue with local authorities to see if this timeframe is a problem in practice and will take steps to find a solution if deemed necessary.

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

***Welsh Government response:***

The Welsh Government considers the retention of a 7 day period of seizure before a local authority may dispose of any seized horse to be a reasonable timeframe, allowing owners sufficient time to come forward and reclaim any horses which may have gone missing. The Animal Welfare Act 2006 introduces a 'duty of care' on owners and keepers ensuring the welfare of those animals within their care. It is

therefore considered reasonable to expect owners to check their animals on a regular basis (at least once every 24 hours) so 7 days provides ample opportunity for an owner to discover animals are missing and to take steps to recover them.

The Welsh Government agrees with the recommendation that the minimum seizure period under the Act, prior to the disposal of any horse, should be maintained at 7 days.

**11. 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.**

***Welsh Government response:***

It is noted that in the 3 years since the Act has been in force there has only been one recorded instance where an owner disputed seizure costs and raised this with the Welsh Government. Local authorities are expected to take a pragmatic approach when dealing with seizures and the return of horses when owners come forward.

In view of the costs involved in holding horses the Welsh Government supports a local authority making a judgement in the best interests of the horse, the owner and the local authority and to act accordingly in respect of the return of the horse to the confirmed owner whilst any dispute on costs is considered and resolved. The Welsh Government does not believe a change to the legislation is necessary; and would support local authorities taking action as circumstances dictate and in response to individual cases.

Guidance issued alongside the Act recommends that local authorities seek payment of costs so the horse may be returned to the owner whilst a dispute is pending. This reduces the burden of costs on both the owner and the local authority and once a dispute has been resolved costs can either be reimbursed or retained by the local authority. In the event the owner refuses to pay the costs the local authority would be expected to retain the horse until the dispute is resolved.

The Welsh Government is not aware of any cases where owners have been reluctant to challenge the seizure of their horses due to cost implications. However, the Welsh Government will discuss this issue further with local authorities, who may in turn seek the views of horse owners/keepers, to see if this issue is proving a barrier. The Welsh Government will consider responses raised in relation to this issue, in order to understand what factors may be influencing owners/keepers and any decision not to pursue a dispute with the Welsh Ministers. The Welsh Government will take steps to find a solution to any problems in this respect.

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

***Welsh Government response:***

In the three years since the Act has been in force the Welsh Government is not aware of any cases where a claim has been made for any proceeds arising from the disposal of a horse by the rightful owner. It is believed local authorities currently favour welfare charities as a re-homing option and as such no money changes hand

as the horse is gifted to the charity. As set out in the report, the current market value of most fly grazed, stray or abandoned horses is very low which effectively removes the viability of disposal through public sale. Furthermore, it is the Welsh Government's understanding that disposal through horse sales has previously resulted in horses being purchased by those considered to be the original owners which simply perpetuates the cycle of fly grazing. It is also considered that the costs of keeping a horse for the statutory period plus the associated costs of identification and transport to a market/sale would far outweigh the likely sale proceeds. As acknowledged in the report, this does not happen in practice as the disposal routes used by local authorities incur additional costs rather than generating an income.

The Welsh Government will raise this issue with local authorities and ask them to assess cases where owners have come forward to claim any proceeds from the sale of a horse in excess of costs. In the event this is seen as a problem the Welsh government is prepared to look again at setting a time period for owners to claim reimbursement.

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

***Welsh Government response:***

As noted at recommendation (1) the Welsh Government considers that local authorities are best placed to establish a unified reporting mechanism and will encourage local authorities to work in partnership to consider the need for, feasibility of, merits and benefits of such a system. The Welsh Government will support the establishment of such a partnership.

**14. 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 timeframes for completion should be established.**

***Welsh Government response:***

The Welsh Government recognises the need to revisit the action plan and will look to take forward those actions still outstanding in line with the consultation on and introduction of the updated equine identification legislation. This process will include an appraisal of previously identified objectives and their relevance to today's circumstances.