

Response

If the space provided for your answers is insufficient please submit your answers on a separate piece of paper clearly marked with the question number.

Fly Grazing

Fly Grazing, as the problem has become known, is in simple terms the actions of irresponsible owners intentionally or negligently permitting their horses to graze on land where they do not have the consent of the landowner or where that consent has been withdrawn and the horse owner has refused to move them.

Question 1: *Do you agree with this definition of FLY GRAZING. If not what is missing and how would you define the term Fly Grazing?*

Yes, we agree with the definition of fly grazing.

Abandonment

Abandonment is the term used for those who release their horses on to land with no intention of reclaiming them.

Question 2: *Do you agree with this definition of ABANDONMENT. If not what is missing and how would you define the term abandonment?*

Yes, we agree with the definition of abandonment.

Experience of the problem

Question 3: *Have you experienced incidents of fly grazing / abandonment within your local area of Wales?*

Yes

If YES please provide details of how the incident(s) has/have affected you and your surroundings.

Natural Resources Wales' experience includes:

1. **Damage to Special Areas Of Conservation (SAC)** – Carmarthen Bay and Estuaries SAC monitoring team came across instances of fly grazing on saltmarsh within the SAC in the summer of 2012. The saltmarsh in these areas had deteriorated and poaching and overgrazing by the horses led to the sites failing to achieve favourable conservation status (especially Bynea saltmarsh by Llanelli). The Habitats Directive (Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora) and transposing regulations require the establishment of conservation measures for SACs corresponding to their ecological requirements and taking of appropriate steps to avoid deterioration and significant disturbance of the habitat types and species for which the SAC and Special Protection Areas (SPA) are designated.
2. **Sites of Special Scientific Interest (SSSI)** – Unauthorised ponies/horses have been put, from time to time, on a number of SSSI in South Wales. Whilst grazing can help improve the habitat on under-grazed land, if ground conditions are dry enough, the key problem is the lack of control over the timing of the grazing that can lead to disturbance of nesting birds and can be damaging to important features particularly in winter with localised poaching and trampling. The habitat most typically affected is South Wales coalfield marshy grassland, which is usually drier in summer than in winter as the water table falls and rises. Our recommendation for marshy grassland is therefore for light summer grazing by horses and/or cattle but winter grazing of these sites is mostly damaging. Marshy grassland is good for biodiversity but often looks 'scruffy' and is not valuable farmland so it tends to be vulnerable to fly grazing.
3. The presence of fly grazing or abandoned ponies/horses can prevent legitimate graziers from turning out their own ponies.
4. In 2 recent cases on SSSI in South Wales, the special features of the site were unaffected as the situation was quickly resolved, but there could have been long term damage to the features had the problem not been resolved quickly. A key factor here was that Mark Goulding, Wildlife and Environmental Crime Officer, NRW South Region has had extensive previous experience of dealing with abandoned horses/ponies and was able to arrange 2 meetings with Welsh Government and others involved to address the problem.

Legislative Framework

The following questions relate to legislation that is currently available to enforcement authorities to deal with the problem of fly grazing and abandonment.

It is noted that enforcement authorities will be best placed to respond to the questions on legislation drawing from their experience. However, we also welcome responses from other stakeholders and individuals who either have knowledge of when the legislation has been used or have opinions on the current legislation.

Animals Act 1971

Section 7 of the Animals Act 1971 provides that where livestock (to include horses) stray on to any land, which is not under the control of any person, the occupier of the land may detain it subject to that person notifying the police and the owner if known at the end of 48 hours. Once the animal has been detained for a minimum of 14 days the person detaining it may sell it at market or auction unless there are proceedings pending its return or a claim for damages. Section 7 of this Act may be applied by public and private landowners, farmers, commoners etc.

Question 4: *Have you used (or know of the use of) Section 7 of the Animals Act to find a solution to fly grazing / abandonment and if so did it provide an effective outcome?*

YES

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NO.....

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PARTLY SOLVED THE ISSUE

Not Applicable

If you have responded either 'No' or 'Partly solved the issue' please state what the problems were, what in your view prevented a resolution being found and what might the Welsh Government do to assist in providing an appropriate solution?

The Animal Welfare Act 2006 – Section 9 places a duty on the person who has responsibility for the animal to ensure its welfare. A person commits an offence if he/she does not take such steps as are reasonable in all the circumstances to ensure the needs of an animal for which he/she is responsible are met to the extent required by good practice.

Section 3 makes it clear that the owner will always be considered as the person responsible but it also places a duty on a person who has responsibility for the animal whether on a temporary or permanent basis and who is not necessarily the owner. That person must also ensure the animal's welfare. It is a criminal offence for a person responsible for an animal to allow it to suffer unnecessarily. Section 4 sets out the definition of an offence relating to unnecessary suffering.

Question 5: *Have you used (or know of the use of) any of the provisions under the Animal Welfare Act 2006 to find a solution to fly grazing / abandonment and if so did it provide the necessary outcome required?*

YES

NO.....

PARTLY SOLVED THE ISSUE

If you have responded either 'No' or 'Partly solved the issue' please state what the problems were, what in your view prevented a resolution being found and what might the Welsh Government do to assist in providing an appropriate solution?

The Animal Welfare Act 2006 puts a 'duty' on the landowner/occupier to ensure the animal(s)' welfare. Tracing the owner can take a long time and can lead to significant costs to the landowner/occupier in terms of ensuring the welfare of abandoned animals. The cost of micro-chipping can be expensive, varying from £20-£60 per animal, which can exceed the amount returned by sale of the animal.

Question 6: *Do you have any further views on the provisions available under the Animal Welfare Act which might assist the Welsh Government in providing a solution to fly grazing / abandonment? Please provide details.*

Not applicable

The Equine Identification (Wales) Regulations 2009

These regulations require every horse to have a passport that has been issued by an approved Passport Issuing Organisation (PIO). If they do not, the owner commits an offence. From 1 July 2009 all horses being issued with a new passport are required to have a microchip inserted (in the nuchal ligament by a veterinary surgeon) linking the horse to its passport via the microchip.

Question 7: *Have you used (or know of the use of) provisions under the Equine Identification (Wales) regulations 2009 to find a solution to fly grazing / abandonment and if so did it provide the necessary outcome required?*

YES

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NO.....

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PARTLY SOLVED THE ISSUE

If you have responded either 'No' or 'Partly solved the issue' please state what the problems were, what in your view prevented a resolution being found and what might the Welsh Government do to assist in providing an appropriate solution?

Not Applicable

Question 8: *Do you have any further views on the provisions available under the Equine Identification (Wales) Regulations 2009 which might assist the Welsh Government to provide a solution to fly grazing / abandonment? Please provide details.*

Not Applicable

One issue often raised by those enforcing the Equine Identification (Wales) Regulations 2009 is the fact that many of the horses and ponies found fly grazing or abandoned have no way of being identified. Despite the requirement for every horse or pony to have a microchip inserted since 1 July 2009 many of the horses fly grazing have not been identified in this way and therefore tracing owners is very difficult.

Question 9: *Please provide your views on how you think this issue might be resolved.*

One suggestion is to examine the true cost of resolving abandonment issues against the cost of providing free micro-chipping. Piloting this approach in areas where the problem is currently acute may be helpful. Whilst it may not solve the problem entirely, it may help reduce some instances of abandonment. Another option would be to encourage early micro-chipping and passporting of foals – offer a discounted rate (say 50%?) of chipping foals under 4 months old that are still on their dams - this could reduce the number of weanlings being sold in batches to new owners without identification and then used as horses who fly graze

Highways Act 1980 – Section 155 makes it an offence for the keeper of an animal to allow it to stray onto a highway.

Question 10: *Have you used (or know of the use of) provisions under the Highways Act 1980 to find a solution to loose or abandoned horses fly grazing and if so did it provide the necessary outcome required?*

YES

NO.....

PARTLY SOLVED THE ISSUE

If you have responded either 'No' or 'Partly solved the issue' please state what the problems were, what in your view prevented a resolution being found and what might the Welsh Government do to assist in providing an appropriate solution?

Not Applicable

Environmental Protection Act 1990 – Section 79(1)(f) provides that any animal kept in such a place or manner as to be prejudicial to health or a nuisance constitutes an actionable nuisance under the Act. A local authority, if satisfied that a statutory nuisance exists or is likely to occur or recur, may serve an abatement notice imposing requirements for the nuisance to be prohibited or restricted and/or requiring taking of steps necessary to prohibit or restrict that nuisance.

Question 11: *Have you used (or know of the use of) provisions under the Environmental Protection Act 1990 to find a solution to fly grazing / abandonment and if so did it provide the outcome required?*

YES

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NO.....

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PARTLY SOLVED THE ISSUE

If you have responded either 'No' or 'Partly solved the issue' please state what the problems were, what in your view prevented a resolution being found and what might the Welsh Government do to assist in providing an appropriate solution?

Not Applicable

Local Acts for use by Unitary Authorities – There are seizure of stray animals provisions within the Mid Glamorgan Act 1987, the Cardiff City Council Act 1984 and the West Glamorgan Act 1987 which allow local authorities covered by these Acts to seize, impound and dispose of horses found on land within their local authority area. Once certain notifications and time limits are met, the local authority may after a further clear 14 days from the date of the owner not having claimed the animals and paid its expenses, destroy the animal humanely.

Question 12: *Have you used the seizure of stray animals provisions under the Local Acts (Cardiff, Mid Glamorgan, West Glamorgan) in your local authority area to address fly grazing / abandonment and if so did it provide the necessary outcome required?*

YES

NO.....

PARTLY SOLVED THE ISSUE

If you have responded either 'No' or 'Partly solved the issue' please state what the problems were, what in your view prevented a resolution being found and what might the Welsh Government do to assist in providing an appropriate solution?

Not Applicable

Question 13: *Have you used the seizure of stray animals provisions under the Local Acts (Cardiff, Mid Glamorgan, West Glamorgan) to destroy horses found as a result of fly grazing / abandonment?*

YES

NO.....

If you have responded No' please state why not? If you have responded Yes, please provide details

Not Applicable

Question 14: *If you are responding on behalf of a local authority that does not currently have access to the Local Acts described or are responding as a non local authority consultee, please let us know what you think about the potential destruction of horses*

Not Applicable

Question 15: *Do you think that the seizure of stray animals provisions under these Local Acts (Cardiff, Mid Glamorgan, West Glamorgan) are appropriate to deal with the issue of fly grazing / abandonment? If not what is missing and how do you consider the changes you suggest may affect the situation?*

Not Applicable

Question 16: *It is recognised that the seizure of stray animals provisions under the Local Acts (Cardiff, Mid Glamorgan, West Glamorgan) are not available to all local authority areas across Wales. Should the Welsh Government consider extending those fly grazing provisions to the whole of Wales?*

YES

NO

If you have answered No, why not and what else might the Welsh Government do to assist in providing an appropriate solution?

Not Applicable

Question 17: *Do you consider that new or amended legislation is required or that it is sufficient that the Welsh Government issue detailed guidance to enforcement authorities.*

Please state your preference and why

1. For NRW, where special features on SSSI are damaged, the biggest issue is finding the owner of the horses/ponies and meeting the costs. There also needs to be clarity on:
 - a. Who is responsible for removing the horses/ponies from the SSSI – is it the owner of the land or NRW?
 - b. Who should bear the cost of removing the abandoned animals on the SSSI? Feed and vet costs can be significant if there are large numbers of animals involved, and these are not recoverable unless and until a court awards costs.
2. Guidance should not be restricted to enforcement authorities. Others, such as site managers, as well as land owners/occupiers, need guidance on how to find solutions to this problem and who they can contact for advice.

Question 18: *Do you have any alternative information / ideas that may help the Welsh Government to find a long term solution to fly grazing / abandonment?*

There is a need to understand the underlying issues causing the problem of abandonment and fly grazing in order to find long-term solutions, e.g. understanding how the “low cost” horse industry works and how breeders and dealers manage their horses and ponies, including understanding what are the current key drivers for them to fly graze. We understand that abandoned animals have been chipped by the Unitary Authority and subsequently bought cheaply, at less than the cost of chipping, by the original owner, who then sold them for export to the EU. This market has now collapsed and has resulted in the current problem with abandonment of horses/ponies. The welfare problems and damage to habitats are worst in winter when there is little grazing to sustain the animals and the land is more susceptible to poaching.

NRW’s Wildlife and environmental Crime Officers are on secondment to help us address problems such as abandoned horses/ponies and we are fortunate in that our South Region Officer, Mark Goulding, who is on secondment from South Wales Polices, has considerable previous experience with this issue. Mark has helped to set up a scheme called ‘Gate Safe’ dealing with this problem in the Vale of Glamorgan

Question 19: *We have asked a number of specific questions in relation to the legislation which is currently available to assist in resolving the problem of fly grazing / abandonment of horses and ponies. If you have any related issues which we have not specifically addressed, please use this space to report them or provide comments. Please note, this consultation relates to the issues surrounding fly grazing and abandonment it does not relate to the welfare or breeding of equines in general.*

Consultation on the Abandonment / Fly Grazing of horses and ponies: Finding a sustainable long term solution to the problem in Wales

Consultation

Response Form

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Confidentiality

Responses to consultations may be made public – on the internet or in a report. Normally the name and address (or part of the address) of its author are published along with the response, as this helps to show the consultation exercise was carried out properly.

If you would prefer your name and address to be kept confidential, please tick here:

If you would prefer your response to be kept confidential, please tick here: