

CYNGOR SIR POWYS COUNTY COUNCIL

Report for Delegated Decision by County Councillor John Powell Portfolio Holder for Highways and Public Protection 28th July 2014

REPORT BY: Clive Jones

SUBJECT: Authorisation of Officers for the Control of Horses
(Wales) Act 2014

REPORT FOR: Decision

1. SUMMARY

1.1 This paper sets out the request that Officers of Powys County Council's Trading Standards Service be authorised under the Control of Horses (Wales) Act 2014.

2. BACKGROUND

2.1 On 27th January 2014 Royal Assent was given to the Control of Horses (Wales) Act 2014, legislation made by the National Assembly for Wales to make provision for and in connection with the taking of action in relation to horses which are in public places without lawful authority or which are on other land without consent.

3. LEGISLATIVE SITUATION

3.1 The Act makes provision for Local Authority's to seize, impound and dispose of horses which are in public places without lawful authority, or are on other land without consent of the occupier of the land.

3.2 Local Authorities are empowered under the Act to seize and impound a horse which is on any highway, or in any other public place, in the local authority's area if the local authority has reasonable grounds for believing that the horse is there without lawful authority.

3.3 Furthermore, a local authority may seize and impound a horse which is on other land in the local authority's area if the local authority has reasonable grounds for believing; in the case of land of which the local authority is the occupier, that the horse is there without the local authority's consent, or in the case of other land in the local authority's area, that the horse is there without the consent of the occupier of the land and that occupier consents to the local authority seizing it and impounding it.

3.4 There are requirements within the Act that the local authority exercising powers under the act issue and display notices in relation to any horse seized and impounded under the act.

- 3.5 The Act allows local authority`s to recover any reasonable costs associated with seizure and impounding of any horse from its owner. The horse is not required to be returned without those costs having been paid by the owner.
- 3.6 Where the owner of a seized and impounded horse is not identified, or the owner has failed to pay the reasonable costs associated with the same, the local authority has the right to dispose of the horse. The local authority may dispose of the horse by sale or otherwise (including by arranging for its destruction). Where the amount of any proceeds arising from the disposal exceeds the amount of the costs incurred in connection with the disposal, the local authority is liable to pay the excess to the owner.
- 3.7 The Act provides a right of appeal against costs to the owner of a horse that has been seized and impounded by a local authority. Such an appeal will be heard by a Minister of the National Assembly for Wales.
- 3.6 Local Authorities are required to maintain records of any horses dealt with under the Act.

4 PROPOSAL

- 4.1 That the relevant Officers of the Trading Standards Service set out in paragraph 6 of the report be authorised under the provisions of the Control of Horses (Wales) Act 2014 (“ the Act”) to take action under the Act in respect of horses which are in public places without lawful authority, or are on other land without consent of the occupier of the land.

5 REASON FOR PROPOSAL

- 5.1 This will give Officers the powers to deal with horses that illegally grazed on land owner by, or occupied by the Authority. It would also enable Officers to deal with horses that are illegally grazed on private land with the consent of the landowner. The later would require to be a cost negative agreement.
- 5.2 To enable to the authority to continue to effectively enforce animal health, welfare legislation and deal with reports of illegally grazed horses.

6 OFFICERS TO BE AUTHORISED

Officers Name	Designation
Gavin Jones	Senior Enforcement Officer
Trevor Clark	Animal Health Officer
Andrew Jones	Enforcement Officer
Samantha Knill	Animal Health Officer
Helen Mills	Animal Health Officer
David Bayliss	Animal Health Officer
Daisy Davies	Animal Health Officer
Ebonie Gethin	Animal Health Officer

7. Support Services

- 7.1 The Lead Professional – Legal has commented as follows: “ The report can be supported from a legal perspective”

7.2 The Finance Officer (Resources) has commented as follows: “Horse Control – This should remain within budget as no extra costs incurred, and any residual income upon disposing of the animal will be given to the owners”.

8.0 Statutory Officers

- 8.1 The Solicitor to the Council (Monitoring Officer) has commented as follows: “ I note the legal comment and have nothing to add to the report.”
- 8.2 The Strategic Director Resources (S151 Officer) notes the comments made by finance.

Recommendation:	Reason for Recommendation:
The Officer named in Paragraph 6 of the report are authorised to take action to take action under the Control of Horses (Wales) Act 2014 in respect of horses which are in public places without lawful authority, or are on other land without consent of the occupier of the land.	To allow enforcement of the Control of Horses (Wales) Act 2014.

Relevant Policy (ies):	
Within Policy:	Y
Within Budget:	Y

Relevant Local Member(s):	None
----------------------------------	-------------

Person(s) To Implement Decision:	Clive Jones, Professional Lead Trading Standards
Date By When Decision To Be Implemented:	11th August 2014

Contact Officer Name:	Tel:	Fax:	Email:
Clive Jones	01874 623420		clive.jones@powys.gov.uk

Control of Horses (Wales) Act 2014

An Act of the National Assembly for Wales to make provision for and in connection with the taking of action in relation to horses which are in public places without lawful authority or which are on other land without consent.

[27 January 2014]

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:

1 Overview

This Act makes provision for local authorities to seize, impound and dispose of horses which—

- (a) are in public places without lawful authority, or
- (b) are on other land without the consent of the occupier of the land.

2 Power of local authority to seize horses

(1) A local authority may seize and impound a horse which is on any highway, or in any other public place, in the local authority's area if the local authority has reasonable grounds for believing that the horse is there without lawful authority.

(2) A local authority may seize and impound a horse which is on any other land in the local authority's area if the local authority has reasonable grounds for believing—

- (a) in the case of land of which the local authority is the occupier, that the horse is there without the local authority's consent, or
- (b) in the case of other land in the local authority's area, that the horse is there without the consent of the occupier of the land and that the occupier consents to the local authority seizing and impounding it.

3 Notices about seizure etc.

(1) A local authority must, within 24 hours of seizing a horse under section 2, place in a conspicuous position at or near the place where it was seized, a written notice—

- (a) stating that the horse has been seized and the date and time at which it was seized, and
- (b) giving details of how contact can be made with the local authority.

(2) A local authority must, as soon as reasonably practicable after seizing a horse under section 2, take reasonable steps to ascertain who is the owner of the horse.

(3) A local authority must, within 24 hours of seizing a horse under section 2, give a written notice to—

(a) a constable, and

(b) if any person appears to the local authority to be the owner of the horse or to be acting on behalf of the owner in relation to the horse, that person.

(4) Where, within the period of 7 days beginning with that on which a horse is seized under section 2, a local authority ascertains that a person who has not been given a written notice under subsection (3)(b) is the owner of the horse, the local authority must, within 24 hours, give a written notice to that person.

(5) A notice under subsection (3) or (4) must be dated and include—

(a) a brief description of the horse,

(b) a statement of the date, time and place at which the horse was seized, and

(c) details of how contact can be made with the local authority.

(6) A notice under subsection (3)(b) or (4) must also state—

(a) why the recipient appears to the local authority to be the owner of the horse or to be acting on behalf of the owner in relation to the horse, and

(b) the effect of the operation of section 5 in relation to the horse (including when the power conferred by subsection (3) of that section will become available).

(7) A notice under subsection (3)(a) must also state who has been given a notice under subsection (3)(b) in relation to the horse.

4 Costs of seizure etc.

(1) The owner of a horse seized by a local authority under section 2 is liable to pay to the local authority costs reasonably incurred in the seizure and impounding of the horse and in feeding and maintaining it while it is impounded.

(2) The local authority is not required to return the horse until the costs so incurred have been paid.

(3) The local authority must give to the owner a notice stating the amount that it considers the owner is liable to pay under subsection (1) and containing an explanation of—

(a) how that amount was arrived at, and

(b) the right to refer a dispute for resolution by the Welsh Ministers and how to exercise it.

5 Disposal of impounded horses

(1) Subject to section 7, this section applies if, after a horse has been seized by a local authority under section 2—

(a) neither the owner of the horse nor a person acting on behalf of the owner of the horse has contacted the local authority before the end of the period of 7 days beginning with the relevant day, or

(b)the owner of the horse or a person acting on behalf of the owner of the horse has contacted the local authority before the end of that period but, having been given notice under subsection (3) of section 4, has failed to comply with subsection (1) of that section before the end of the period of 7 days beginning with the day on which the notice was received.

(2)The “relevant day” means—

(a)if the local authority gives notice under section 3(4), the day on which that notice is given, and

(b)otherwise, the day on which the local authority places the notice under section 3(1).

(3)The local authority may sell or otherwise dispose of the horse (including by arranging for its destruction).

(4)Where there are no proceeds arising from the disposal, or the amount of the costs incurred in connection with the disposal exceeds the amount of such proceeds, the owner of the horse is liable to pay to the local authority the amount of any costs incurred in connection with the disposal, or the amount of that excess.

(5)Where the amount of any proceeds arising from the disposal exceeds the amount of the costs incurred in connection with the disposal, the local authority is liable to pay the excess to the owner of the horse.

(6)But subsection (5) does not require the payment of any amount to a person if the local authority has previously paid that amount to a person whom it reasonably believed to be the owner of the horse.

(7)The local authority must give to the owner notice stating the amount that it considers the owner is liable to pay under subsection (4) or that it is liable to pay under subsection (5) and containing an explanation of—

(a)how that amount was arrived at, and

(b)the right to refer a dispute for resolution by the Welsh Ministers and how to exercise it.

6 Record of horses dealt with

(1)A local authority must keep a register of all horses seized by it under section 2.

(2)The register must contain, in relation to each horse—

(a)a brief description of the horse,

(b)a statement of the date, time and place at which it was seized,

(c)a statement of when it was impounded, and

(d)details of the steps taken to ascertain the identity of its owner,

and, if the horse has been disposed of under section 5, particulars of the manner in which it was disposed of.

(3)The register must be open for inspection by the public (whether in person or via the internet) at all reasonable times.

7 Resolution of disputes about amounts payable

(1)This section applies where a dispute arises between the owner of a horse and a local authority as to—

(a)the amount that the owner of the horse is liable to pay to the local authority under section 4(1) or 5(4), or

(b)the amount that the local authority is liable to pay to the owner of the horse under section 5(5).

(2)The owner of the horse may, within the period of 7 days beginning with that on which the owner receives notice under section 4(3) or 5(7), refer the dispute for resolution by the Welsh Ministers by giving to the Welsh Ministers notice containing a statement of the reasons for disputing the amount.

(3)Where the Welsh Ministers receive a notice under subsection (2) they must forward the notice to the local authority.

(4)The local authority may make representations to the Welsh Ministers within the period of 7 days beginning with that on which it receives the notice forwarded under subsection (3).

(5)The Welsh Ministers may require the local authority to provide any information which they consider may assist them in resolving the dispute.

(6)The Welsh Ministers must resolve the dispute by determining the amount of the liability as soon as is reasonably practicable in all the circumstances.

(7)Where the dispute relates to liability under section 4(1), the local authority may not dispose of the horse while the dispute is awaiting resolution by the Welsh Ministers.

8 Consequential repeals

The following cease to have effect—

(a)section 29 of the [Cardiff City Council Act 1984 \(c. xv\)](#);

(b)in section 15(8) of the [Mid Glamorgan County Council Act 1987 \(c. vii\)](#), the words “horses (including ponies, mules, jennets),”; and

(c)in section 35(7) of the [West Glamorgan Act 1987 \(c. viii\)](#), the word “horses,”.

9 Interpretation

In this Act—

- “horse” (“*ceffyl*”) includes a pony, donkey or mule or any other equine animal;
- “local authority” (“*awdurdod lleol*”) means the council of a Welsh county or county borough.

10 Commencement and short title

(1) This Act comes into force on the day after the day on which it receives Royal Assent.

(2) The short title of this Act is the Control of Horses (Wales) Act 2014.