

WELWYN HATFIELD BOROUGH COUNCIL
ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE 12TH SEPTEMBER 2016
REPORT OF THE DIRECTOR (GOVERNANCE)

CONSIDERATION OF A FLY GRAZING PROTOCOL

1 Executive Summary

- 1.1 This report relates to the introduction of a fly grazing protocol to deal with the practise of leaving horses on someone else's land without permission. On the 26th May 2015 the Control of Horses Act 2015 provided improved powers for both local authorities and owners and occupiers of land in England to deal with fly grazed horses. The main issue arising from fly-grazed horses (aside from welfare concern) is one of road safety and a consistent approach across the country is needed to address the problem and send a clear message that the practise will not be tolerated.

2 Recommendation(s)

- 2.1 For Members to note the contents of the report and the protocol and decide whether to recommend to Cabinet that the protocol is adopted to form the basis of a working document to be updated as operationally required.

3 Explanation

- 3.1 Under the new legislation the council has powers to deal with fly grazed horses. Although this is not a duty, given the fact that Hertfordshire has a high level of fly grazing and that a number of serious road traffic accidents have been attributed to fly grazed horses, there is an expectation that the council will be in a position to use these powers should it become necessary in the circumstances.
- 3.2 Within 24hrs, beginning with the time when the horse is first detained, notice must be given to the officer in charge at a police station and (if known) the person who owns the horse to say the horse has been detained under section 7B of the Animals Act 1971 as amended by the Control of Horses Act 2015. This notice can only be given to the owner of the horse if you know their address or whereabouts.
- 3.3 A notice is also displayed at prominent places on the land where fly grazing is taking place stating that the horses have been detained and unless the horses are claimed and any costs paid within 96hrs the horses will be disposed of either by sale or destruction. (Example notices in the protocol at Appendix A.)
- 3.4 The owner of the horse is liable to pay the landowner or occupier for any damage done by the horse to the land or any property on it and any expenses reasonably incurred by the person detaining it. However, in practise the chances of recovering these expenses are very limited.

- 3.5 The landowner or occupier who detains the horse is responsible for the welfare of the horse whilst it is detained. As well as facing potential welfare prosecutions if the horses do not receive adequate care, the person detaining the horses may be liable for any damage caused to the horses due to failure to provide adequate care, food and water whilst it is detained. It is therefore, always worth getting a vet to check over the horses and confirm the condition that they are in at the time they are detained.
- 3.6 At the end of the detention period if the horses are not claimed they can be sold at a market or public auction, however there are practical difficulties to overcome. If the horses were ever issued with passports these will be in the possession of the owner and it is an offence to buy, sell, or change ownership of the horse without one. A replacement passport is not easy or practical to obtain. If the animals have never had a passport new ones would need to be obtained. There are costs associated with this, as it will be necessary to have the assistance of a vet to obtain the passports. Also, all foals born after July 2009 have to be micro chipped and the details included on the passport.
- 3.7 Decision processes on the disposal of detained horses are identified in the protocol at Appendix A.
- 3.8 A landowner/occupier is entitled to apply to the County Court for an order to require the owner of the horses to remove them from the field.

4 Legal Implication(s)

- 4.1 If fly grazing occurs in England horses may be detained by the occupier of the land or the freeholder (with the occupiers consent, if relevant). Within 24hrs notice must be given to the officer in charge at a police station and if known the person who owns the horse. A notice is also displayed on the land and unless the horses are claimed and any costs paid within 96hrs from the date of detention, the horses will be disposed of either by sale or arranging for it to be destroyed. These processes need to be followed correctly in order to comply with the Act.
- 4.2 Notices have followed a template provided by the NFU

5 Financial Implication(s)

- 5.1 There is a cost associated with moving horses off of council owned land and subsequently boarding them at a 'green yard' or registering them for onward homing or resale. In some instances horses may have to be destroyed which would also incur costs to the Council. The problem of intimidation and threats may incur the necessity to employ Bailiffs to carry out removals and transport of horses.
- 5.2 The landowner or occupier who detains the horse is responsible for the welfare of the horse whilst it is detained. As well as facing potential welfare prosecutions if the horses do not receive adequate care, the person detaining the horses may be liable for any damage caused to the horses due to failure to provide adequate care, food and water whilst it is detained. It is therefore worth getting a veterinary inspection of the animals to confirm the condition they are in at the time they are detained at an additional cost.

6 Risk Management Implications

- 6.1 Additional powers are also given to Local Authorities to remove horses from public land, which includes common land. However, as these are powers, rather than duties, local authorities do not have to act in all cases.
- 6.2 The problem of intimidation and threats may incur the necessity to employ Bailiffs to carry out removals and transport of horses.
- 6.3 The risks related to this proposal relate to the handling of large animals that may not be amenable to being moved and may require specialist treatment or the potential for animals to stray onto the highway and cause accidents or injuries to the public.

7 Security & Terrorism Implication(s)

- 7.1 The council has an overarching duty to have due regard to the need to prevent people from being drawn into terrorism, in the context of this report, that means measures should be put in place to prevent anything incompatible with this duty.

8 Procurement Implication(s)

- 8.1 None directly arising from this report.

9 Climate Change Implication(s)

- 9.1 Wet cold weather may mean the availability of grazing land reduces which may increase incidents of fly grazing.

10 Link to Corporate Priorities

- 10.1 I confirm that the subject of this report is linked to the Council's Corporate Priority "maintain a safe and healthy community" and is linked to statutory requirements under the control of horses act 2015.

11 Equality and Diversity

- 11.1 An Equality Impact Screening Assessment has been carried out in connection with the proposals contained in this report and the conclusion is that there are no differential impacts against any of the 9 protected characteristics. .

Kate Payne
Licensing Team Leader
July 27th 2016

Appendix A – fly grazing policy