



## Fly-grazing: The Challenge of Unauthorised Horse Grazing – NFU Action Plan

### Introduction

In January 2013 the NFU produced a report examining the scale of 'fly-grazing' in England and Wales and seeking to identify workable, cost-effective remedies for farmers affected by it. The report is primarily concerned with developing improved measures in England because we are aware of commitments made by the Welsh Government to develop better solutions for Wales (it has undertaken to publish an action plan in autumn 2013)<sup>1</sup>.

This Action Plan brings together the recommendations from that report and is updated to include a subsequent decision by the NFU's governing Council to press for fly-grazing to be made a criminal offence.

### Background

We use the term 'fly-grazing' to describe unauthorised grazing of land by horses and ponies, whether or not the horses' owner is in breach of a previous agreement or has simply placed the horses on the land without any discussion with the owner or tenant of the land.

The problem is a serious one with several thousand horses on land without consent in England and Wales, and believed to be getting worse. An NFU survey in 2012 found that around six per cent of our members (amounting to well over a thousand farmers) have direct experience of fly-grazing. We found that the problem has worsened over the previous three years, caused in part by the introduction of compulsory horse passports and micro chipping; these were intended to increase the traceability of horses, particularly those likely to enter the food chain.

There is no low-cost legal remedy readily available to all farmers throughout the country though there is scope for the authorities to provide more assistance using the existing law. The Animals Act 1971 needs to be amended to bring it into line with certain Private Acts, though successful use of the law relies on the willingness of the local authority to act. Hence local lobbying is needed to ensure that the council for the area acts decisively to deal with the problem.

We have focused on remedies applicable where horses have been either tethered in or left to roam in a field. We are aware of similar problems where horses are left on common land, and are considering the action needed to address them.

Concerted action on the part of police and local authorities acting together can be particularly effective.

Although much of this work can be done at a national level, there is a continuing need for local lobbying to reinforce it, for example in persuading local authorities and the police to enforce the law effectively and to use imaginative solutions such as ASBOs, and persuading the courts to ban offenders from keeping horses.

Displacement is a concern: action in one part of the country can exacerbate the problem elsewhere. Action by the Welsh Government could worsen the problem in England, and it will be important to ensure that Defra respond in a timely fashion to minimise the risk.

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<sup>1</sup> NFU Cymru is in discussion with the Welsh Government about the action required. Any changes we secure in approaches to policing or insurance can be expected to apply in Wales as well as England.

## Action Plan

### *Action for Parliament*

1. Fly-grazing should be made a criminal offence, to ensure that action can be taken swiftly and offenders brought to justice.
2. The Horse Passport Regulations 2009 should be amended so that they form a streamlined set of rules meeting the minimum requirements of the relevant EC directive and helping to improve traceability of animals.
3. The Animals Act 1971 should be amended to bring it into line with the best of the Private Acts of Parliament<sup>2</sup> that enable local authorities to act where horses are left on private land, making it clear that the Act covers animals deliberately placed on land by their owners.

### *Action for the Police*

4. All Police Forces should draw up protocols for dealing with fly-grazing and agree with local authorities in their area how such problems can be dealt with jointly.
5. The police should be prepared to attend horse seizures at the request of the local authority in order to prevent a breach of the peace.
6. The police should actively consider the scope for using ASBOs to control the behaviour of offenders.
7. Police forces should develop procedures for dealing with horses on the public highway that take account of the need for good biosecurity and respect property rights. In particular, the police need to be aware of the danger of spreading serious diseases such as African Horse Sickness, which poses a significant risk to the nation's horses, and avoid placing horses in fields containing sugar beet, which can pose a risk to their health if eaten.

### *Action for Local Authorities*

8. Local authorities should develop horse management protocols for dealing with horses left on private as well as public land, describing how they will work with public sector agencies and voluntary organisations to find cost-effective solutions.
9. Local authorities should consider the need to acquire secure sites to hold seized horses or to re-use publicly-owned land for such purposes where this would be an appropriate use and would be compatible with surrounding land uses.
10. Local authorities should be prepared to offer surplus land for rental to horse owners where this would be an appropriate use and would be compatible with surrounding land uses (and they should ensure compatibility by effectively consulting with neighbouring owners and occupiers).
11. Local authorities should work with the police in actively considering the scope for using ASBOs to control the behaviour of offenders.

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<sup>2</sup> In south Wales local authorities including Bridgend County Borough Council have made use of the Mid Glamorgan Act 1987, section 15 of which enables the local authority to destroy any animal not collected within 14 days after posting of notices. Similar provisions appear in certain other Private Acts (e.g. for Cardiff City and for Hampshire).

12. Local authorities should work together in effective cross-border enforcement campaigns to deal with repeat offenders, mounting unannounced inspections to check compliance with the Horse Passport Regulations 2009.
13. Local authorities should use the Animal Welfare Act to seek to have offenders who tether horses without proper regard for their welfare banned from keeping such animals.

*Action for the Insurance Industry*

14. Insurance companies should make any necessary changes to their policies to ensure that the cover they offer is capable of benefitting most if not all farmers suffering from fly-grazing

*Action for the NFU*

15. We are engaging with specialist bailiffs and similar professionals to ensure they can provide cost-effective services to members requiring the efficient and rapid removal of horses left on their land, and highlighting the availability of such services to members.
16. We have produced a notice that farmers can use to deter horse-owners from leaving animals in their fields.
17. We have produced a dedicated business guide with advice for members on how best to deal with fly-grazing (and avoid recurrence), and will prepare a separate guide to assist members with common land rights facing fly-grazing problems.
18. We are lobbying local authorities, police and Police & Crime Commissioners at local level to ensure that the authorities are doing all they can to assist farmers contending with fly-grazing.
19. We are lobbying border authorities to ensure that staffing levels and procedures are adequate to prevent the movement of horses between states without the necessary passports.

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