



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Y Pwyllgor Amgylchedd a Chynaliadwyedd **The Environment and Sustainability Committee**

Dydd Mercher, 4 Rhagfyr 2013
Wednesday, 4 December 2013

Cynnwys **ontents**

Cynnig o dan Reol Sefydlog 17.22 i Ethol Cadeirydd Dros Dro
Motion under Standing Order 17.22 to Elect a Temporary Chair

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod
Motion under Standing Order 17.42 to Resolve to Exclude the Public from the Meeting

Bil Rheoli Ceffylau (Cymru)—Trafodaeth gyda'r Gweinidog Cyfoeth Naturiol a Bwyd
Control of Horses (Wales) Bill—Discussion with the Minister for Natural Resources and Food

Papurau i'w Nodi
Papers to Note

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mick Antoniw	Llafur Labour
Russell George	Ceidwadwyr Cymreig Welsh Conservatives
Llyr Gruffydd	Plaid Cymru The Party of Wales
Julie James	Llafur Labour
Julie Morgan	Llafur Labour
William Powell	Democratiaid Rhyddfrydol Cymru (Cadeirydd Dros Dro y Pwyllgor) Welsh Liberal Democrats (Temporary Committee Chair)
Antoinette Sandbach	Ceidwadwyr Cymreig Welsh Conservatives
Joyce Watson	Llafur Labour

Eraill yn bresennol
Others in attendance

Alun Davies	Aelod Cynulliad, Llafur (y Gweinidog Cyfoeth Naturiol a Bwyd) Assembly Member, Labour (The Minister for Natural Resources and Food)
Julia Hill	Gwasanaethau Cyfreithiol, Tîm Amaeth a Materion Gwledig, Llywodraeth Cymru Legal Services, Rural Affairs and Agriculture Team, Welsh Government
Fiona Leadbitter	Swyddog Polisi Ceffylau, Llywodraeth Cymru Equine Policy Official, Welsh Government

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Alun Davidson	Clerc Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Catherine Hunt	Dirprwy Glerc Deputy Clerk
Nia Seaton	Y Gwasanaeth Ymchwil Research Service

09:33

Cynnig o dan Reol Sefydlog 17.22 i Ethol Cadeirydd Dros Dro
Motion under Standing Order 17.22 to Elect a Temporary Chair

Mr Davidson: Good morning. The first item of business today is the election of a temporary

Chair in the absence of Lord Elis-Thomas. We have received a nomination that William Powell be elected as temporary Chair. Are there any objections? I see that there are none, therefore William Powell is duly elected.

*Penodwyd William Powell yn Gadeirydd dros dro.
William Powell was appointed temporary Chair.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions

[1] **William Powell:** Bore da, bawb—good morning and welcome to this meeting of the Environment and Sustainability Committee. We have, as has been said, received apologies from Lord Elis-Thomas. Everyone else is present, so we have a full complement. Are there any declarations of interest? I see that there are not, so we will move on.

09:34

Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod Motion under Standing Order 17.42 to Resolve to Exclude the Public from the Meeting

[2] **William Powell:** I move that

the committee resolves to exclude the public from item 4 to 7 of this meeting in accordance with Standing Order 17.42(vi).

[3] I see that the committee is in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 09:34.
The public part of the meeting ended at 09:34.*

*Ailymgynullodd y pwyllgor yn gyhoeddus am 11:04.
The committee reconvened in public at 11:04.*

Bil Rheoli Ceffylau (Cymru)—Trafodaeth gyda'r Gweinidog Cyfoeth Naturiol a Bwyd Control of Horses (Wales) Bill—Discussion with the Minister for Natural Resources and Food

[4] **William Powell:** Bore da, bawb. Welcome to the Minister for Natural Resources and Food and to your team this morning. Thank you very much indeed for issuing the committee with the draft guidance on the Control of Horses (Wales) Bill. Minister, I ask you to introduce the item briefly.

[5] **The Minister for Natural Resources and Food (Alun Davies):** Thank you very much. With me today is Julia Hill from our legal department and Fiona Leadbitter, our policy official dealing with these matters. The last time that I appeared before the committee, during the Stage 2 debate on this piece of legislation, in answering a question I gave a commitment to the committee that we would provide the committee with a copy of the draft guidance. We

have done that and I am grateful to the committee for taking the time to discuss it this morning. This is very much draft guidance. It has been provided to the committee at an early stage of its development. We have taken time to talk to people in developing the guidance, but it is clearly going through a process of iteration at present and the committee's deliberations are part of that process. We are, as I said when I gave the commitment to the committee last month, looking to publish this guidance on the same day as the legislation is commenced following Royal Assent, so, this is something that we see as being published in January. It will be published; it will not be a private piece of guidance. It will be publicly available.

[6] **William Powell:** Thank you, Minister. I am sure that colleagues will be relieved that there will be not be any kind of vacuum around the implementation of the legislation when it comes forward. I know that colleagues have a number of questions, but perhaps I could ask first what level of liaison there has been with the Ministry of Justice with regard to these matters.

[7] **Alun Davies:** Which matters?

[8] **William Powell:** The matters around the guidance that you have shared.

[9] **Alun Davies:** There has been no discussion with the Ministry of Justice over these matters. This is not a legal document. This is guidance that is provided to local authorities and to others, such as the police, charities and the rest. It is not a legal document. It does not form part of the legislation. We would not normally discuss these matters—and we have not done so—with the Ministry of Justice.

[10] **William Powell:** I call Antoinette.

[11] **Antoinette Sandbach:** I just want to refer to section 2, which is on the power to seize horses. Your appeals mechanism in the current draft Bill—

[12] **Alun Davies:** Which page are you on?

[13] **Antoinette Sandbach:** Page 9. It is subsection 2.8, 'What is meant by reasonable grounds?' My understanding is that the aim of this legislation is to get decisions made quickly, but, in your annex A to the Bill, the question as to whether or not there are reasonable grounds to seize a horse will be—in your current draft—challengeable in the county court or by judicial review, both of which are extremely lengthy proceedings, as identified in Annex A, section 2. What I am seeking to ask, Minister, is why you have the seven-day appeal process in relation to the challenge on costs, but you are happy for the legal challenge to go through the county court or judicial review, which is a very lengthy and expensive process and takes a very long time, as to whether or not there are reasonable grounds to seize.

[14] **Alun Davies:** Annex A is an annex to a letter to the committee. It is not an annex to the Bill. It is an explanatory note that I sent to the committee following our last session. It does not stand as an appendant to the Bill. In terms of where we are now, we are describing powers that currently exist and the current legal situation. We are not seeking to change those legal matters and we are not seeking to challenge them. It is simply a narrative description of the current law.

[15] **Ms Hill:** Perhaps I could explain it a bit better. The reasonable grounds test is quite commonly used in a lot of legislation when giving powers to local authorities, and obviously the police. It is meant to be a quick way for a problem to be dealt with. The test as to whether the power was exercised lawfully would be one that would be properly considered by the

court, because, first of all, the test is a subjective one, as to what was in the mind of the local authority officer, and then the court would look objectively, as a sort of second bite at the test, at, ‘If I were that officer, were the grounds met?’ On the examples given, if there was a horse on a roundabout, then it might be reasonable to believe that it was there unlawfully. We thought that the best place for the basis of seizure to be heard would be by determination in the courts, because of the nature of the test itself. It is quite a legalistic test and there is quite a lot of case law on it.

[16] **Antoinette Sandbach:** Exactly. So, have you decided that that might lead to lengthy and very expensive delays, either for the horse charities or local authorities, because there is no appeals mechanism to Welsh Government Ministers?

[17] **Alun Davies:** Could I say that we are here to discuss the guidance rather than other aspects of the legislation? There will be an opportunity to do that next week at the next stage, and we have already discussed some of these matters at a previous meeting. I am anxious that officials are not put in a position whereby they are asked to comment on other matters.

[18] **Antoinette Sandbach:** Okay, I will rephrase the question. Paragraph 2.8 issues guidance about whether or not the local authority will meet the threshold test, but it does not indicate what might happen if there is a challenge to the local authority as to whether it has met the threshold test and what may be the consequences for the local authority.

[19] **Alun Davies:** That is not a matter for guidance. Members need to understand and appreciate what is and what is not a matter for guidance. The guidance exists in order to provide guidance for local authorities and others—charities, for example, and for horse owners as well—on how this new piece of legislation should be interpreted and how it would work. It is not a comprehensive guide to the law in all its different aspects in terms of local authority decision making. Local authorities already know the legal context in which their decision making takes place. So, it would be inappropriate, when we issue every piece of guidance to local authorities, to outline what the consequences are for local authorities should they not follow the proper decision making. That is not the purpose of this guidance. The guidance is there to guide the thinking of people who work within this single piece of legislation.

[20] **William Powell:** Julie Morgan is next.

[21] **Julie Morgan:** Thank you, Chair. My questions are some of the questions that arose when you came to meet the group of Gypsies and Travellers. I am grateful to the Minister for giving that session, which I thought was very useful and helpful. On section 2, one of the examples that came up was of somebody who said that they had grazed their horse for 20 years on local authority land, I think, but without permission. It had never been agreed, but it had always been done. He wanted to know if that would be interpreted as fly-grazing by the new legislation. I was looking at the guidance, where it says:

[22] ‘What is meant by “without local authority or occupier consent”?’

[23] and I wondered how that sort of situation would be covered in this guidance.

[24] **Alun Davies:** Thank you for that; I enjoyed the opportunity to talk to members of that community. As you will be aware, we are taking forward a conversation with the community.

[25] **Julie Morgan:** Yes, I realise that those issues are being taken forward.

[26] **Alun Davies:** I think that we do need to spend more time and also to find ways of ensuring that this guidance reaches all parts of the community. The undertaking I gave in my

introduction to ensure that this is published and publicly available was not a limited assurance but a starting point. If Members believe that there are things that we should be doing in order to ensure that this guidance has a wider circulation or currency, then the Government is very happy to take that on board and do that.

11:15

[27] In terms of a direct answer to your question, Julie, clearly, individual circumstances will differ and a horse that is tethered—I think that an example of one around Rover Way in Cardiff was given—

[28] **Julie Morgan:** Yes, by the river.

[29] **Alun Davies:** Clearly, it would be a matter for the local authority to determine whether that is being done with or without its consent. It would be a matter for the local authority to determine whether the—. I did not answer your question. Do you want to run through this, Fiona?

[30] **Ms Leadbitter:** We had a discussion with Cardiff Council and it is very aware that it has a lot of horses that are tethered on local authority land. Its question was the same: ‘Is this going to apply?’ and, ‘Are we going to have to seize every horse that is on local authority land?’ Obviously, that is not practicable; it needs to work with the Gypsy and Traveller community to ensure that it has places for its horses. So, the council is now looking at a system of permission to tether. It is in the draft stages of providing some guidance on this. Once that has been agreed, we will feed it in and include it in this document, because, obviously, it is best practice and that is what we want to look at. The whole idea is to have best practice. So, there are things that are ongoing and we are discussing with other local authorities what they are doing in the way of making land available and all of that will be included as the document develops over time.

[31] **Julie Morgan:** I am very pleased to hear that, because, with the document as it stands, it could mean that all of these horses should be seized and that is the last thing that we want. We want to concentrate on the horses that really need to be seized, do we not?

[32] **Alun Davies:** Absolutely. That is a crucial point, which goes to the heart of the nature of this legislation. This is permissive legislation that enables local authorities to take decisions according to the circumstances that they face. This goes back to a conversation that I had with Llyr at the last meeting here, and it is why we want to provide clear guidance, and I hope that this guidance is clear, and will become clearer following further iterations, and I look forward to the committee’s views on it. What we did not want to do is to provide a straitjacket in having a duty that says, ‘If you see a horse, you must do this’, and then guidance that says, ‘You must do it in this particular way in all circumstances’. The law can be a very blunt weapon and a very blunt instrument. If you say, ‘You must do this and you must do that’, then you provide local authorities with no option but to follow that. What we are very anxious to do—and I did enjoy the conversation that we had a couple of weeks ago—is to be able to give permissive powers to local authorities that they can use in a way that they see fit to meet their circumstances, which will differ from place to place, and will enable them to draw up schemes such as this that enable us to work positively with different communities. It promotes the responsible ownership of horses, and the responsible use of legislation.

[33] **Julie Morgan:** Thank you. I have one other quick question. In subsection 2.11, regarding where the horses will be impounded, it says that that ‘may include remaining in-situ’. So, do you anticipate that there will be some situations where you would leave the horse where it was while—

[34] **Ms Leadbitter:** Yes. If you have, say, a group of 200 or 300 horses, it might not be practicable to remove them instantly, so they would be seized in situ; they would remain where they are.

[35] **Alun Davies:** To give an example, that was the situation that we faced in the Gower some months ago.

[36] **William Powell:** Julie James is next.

[37] **Julie James:** That is precisely the point that I wanted to raise with the Minister. On the reasonable grounds test, I have only very briefly looked at this guidance, so forgive me if it is covered somewhere else, but what about the issue of privately owned common land? It is not specifically mentioned there, and most of the horses struggling in the Gower are, in fact, on privately owned common land, not on publicly owned common land. It is land owned by an estate, or by the National Trust, or somebody. First, does the guidance need to be specific for that? I do not know whether it does or not. Secondly, in terms of reasonable grounds, does it need to say something about the apparent welfare of the horse? One of the reasons that we think that the horses are there illegally or ought not to be there is because they are quite visibly starving, so you cannot imagine that anybody could be reasonable in keeping them there, because there is nothing for them to eat, and they are in a terrible and pitiful state. So, I wonder whether it needs to have a paragraph about how to deal with that, because, although it looks like open public space, it is almost all privately owned, in fact.

[38] **Alun Davies:** Subsection 2.4 includes a reference to common land that is privately owned, which might cover your points. I am certainly happy to look at all those areas, Julie.

[39] **Julie James:** In terms of the paragraph on reasonable grounds, I am thinking of the poor local authority officer looking at this and thinking, 'What am I going to do?' This is just guidance to them, is it not? I wondered whether you might want to cross-reference it or something. To be honest, that is the most common problem in my area. Horses with insufficient grazing on privately owned common land are the most common difficulty.

[40] **Alun Davies:** That is a very good point. It might well be useful if we amended the guidance to refer to that. In terms of the example that you quote, and if we go back to that example on the Gower, you use appropriate legislation to deal with different circumstances. Where there is a horse that is suffering extreme distress for whatever reason, we have the Animal Welfare Act 2006 available to us. Action that was taken in the Vale of Glamorgan quite recently was taken under that legislation, rather than this legislation, because of the suffering of the animals concerned. So, if there is that sort of situation, we have existing legislation to deal with it. Having said that, it might be useful for the committee, if it wishes, to make a recommendation on that. I would be very happy to accept that we amend this part of the guidance to include a cross-reference to animal welfare legislation.

[41] **William Powell:** That would be very helpful.

[42] **Julie James:** Great, thank you. I have one other completely unrelated point. Again, forgive me, because I had a brief reading of the guidance when very tired last night. My point is about the seizure of a horse where the seizure itself is going to be disputed through the court, who is responsible for the costs, and when might the appeal to the Welsh Minister about the level of cost occur. You have something in subsection 4.10, but I wondered whether more guidance to the local authority about dealing with the dispute through the courts while the horse is being cared for by it might be appropriate, if that makes any sense. You might have a dispute about the seizure while the horse is still being cared for and the costs are piling up. At what point will the appeal to the Minister about the costs become relevant if you have a court procedure which is ongoing? That was the question.

[43] **Alun Davies:** I presume that the cost of any court proceeding will be dealt with by the court.

[44] **Ms Hill:** Yes.

[45] **Julie James:** However, what about the costs of keeping the animal? For example, if the council loses the court case and is found to have improperly seized the horse, is it then responsible for all the costs? Would there be an appeal by the council to the Ministers about what level of costs were appropriate?

[46] **Ms Hill:** Say it is an unlawful seizure, and we have a scenario where the owner comes and says, 'You took my horse but it was lawfully grazing', and they want to dispute that separately, because it is a legal test as to whether the reasonable grounds were met, I would envisage a situation where the local authority would give notice as to the costs. If those costs were paid, but the person in receipt of them did not agree with them, I think that they would still need to pay them. Then, they would have to make a referral to the Welsh Ministers to dispute that cost, and then run a parallel case for damages, presumably, for the unlawful seizure. If it was a scenario where they decided that they would keep the horse with the local authority, then they would be on notice that, if you lose to the Welsh Ministers about the costs, you will also be liable for an extra amount—

[47] **Julie James:** I wonder whether that might be usefully brought out in the guidance, so that if you are a person who is going to dispute that, or you were the council officer who was looking at whether the council should usefully fight the court case, you would have some guidance about how that would work in practice.

[48] **Alun Davies:** We are happy to accept that.

[49] **Llyr Gruffydd:** Rwy'n ategu'r diolch i'r Gweinidog am rannu hwn gyda ni. Rwy'n meddwl ei fod yn ymarferiad gwerthfawr iawn ac yn helpu nifer ohonom i weld sut mae'r ddogfen hon yn ffitio i mewn i'r modd y bydd y Bil yn cael ei weithredu. Fel Julie James, byddaf angen ychydig mwy o amser i'w gymryd i mewn yn ei gyfarwydd, er mwyn cynnig ymateb llawnach. Rwy'n deall yr hyn a ddywedoch ynglŷn â'r angen i beidio â rhoi awdurdodau lleol mewn rhyw fath o *straitjacket*, ac mae rhywun yn deall y rhesymeg y tu ôl i hynny. Yn y cyd-destun hwnnw, a ydych chi'n derbyn y bydd elfennau o anghysondeb yn y modd y bydd awdurdodau lleol yn gweithredu mewn rhai amgylchiadau?

Llyr Gruffydd: I would also like to thank the Minister for sharing this with us. I think that it is a very useful exercise and helps us to see how this document fits in to the way in which the Bill will be implemented. Like Julie James, I will need a little more time to take it in in its entirety in order to give a full response. I understand what you said about the need not to put a straitjacket on local authorities, and one understands the rationale for that. In that context, do you accept that there will be elements of inconsistency in the way in which local authorities will act in certain circumstances?

[50] **Alun Davies:** Rydym ni'n trio cael y cydbwysedd. Byddwn i'n meddwl eich bod, fel minnau, yn credu mewn llywodraeth leol ac nid dim ond gweinyddiaeth leol, a bod yn rhaid i ni gael unedau mewn llywodraeth leol gyda'r hawl a'r grym i wneud penderfyniadau ac nid dim ond gweinyddu ewyllys y Gweinidog. Ar yr un pryd, rydym

Alun Davies: We are trying to strike that balance. I would think that you, as I do, believe in local government rather than just local administration, and that we must have local government units that have the right and the power to make decisions and are not just administering the will of the Minister. At the same time, we want consistency, and that is

ni eisiau cysondeb, ac mae hwnnw'n gydbwysedd anodd ambell i waith i drio ffeindio. Dyna beth rydym yn trio ei wneud yn y fan hon. Nid ydym eisiau gorfodi awdurdodau lleol i wneud penderfyniadau maen nhw'n meddwl nad ydynt yn addas ar gyfer y cyd-destun maen nhw'n ei wynebu neu yn ei reoli. Fodd bynnag, ar yr un pryd, rydym eisiau i bobl deimlo bod cyfiawnder yn y ffordd y mae llywodraeth leol yn gwneud ei phenderfyniadau. Dyna'r math o gydbwysedd rydym yn trio'i daro yn y fan hon. Mae'n fater i chi i benderfynu os ydym ni wedi gwneud hynny. Rwyf i wedi cael bron yn union yr un faint o amser â chithau i ystyried hyn, felly mae'n gynnar iawn yn y broses o gytuno ar y weinyddiaeth. Rwy'n hapus iawn i barhau i ystyried y ddogfen hon wrth i chi wneud hynny, ac i dderbyn gwelliannau a newidiadau i sicrhau ein bod yn dod yn agosach at y cydbwysedd rwy'n credu bod pob un ohonom yn chwilio amdano.

[51] **Llyr Gruffydd:** Un peth a ddaliodd fy llygad yn y memorandwm esboniadol a oedd yn dod gyda'r Bil, ac rwyf wedi codi hyn o'r blaen, oedd cyfeiriad at sefyllfa lle efallai byddai person ifanc 16 oed, sef yr oed cyfreithiol i berchen ar geffyl, yn ffeindio ei hun mewn sefyllfa lle byddent yn cael eu hadnabod fel y perchennog. Roedd y memorandwm esboniadol yn cyfeirio at fel y byddai'r awdurdod lleol efallai am ystyried a oedd yn addas fod person o'r oed hwnnw yn cael ei erlyn yn sgîl rhyw ddogfyddiadau. Roeddwn yn teimlo bod hynny'n agor y drws i sefyllfa lle bod perchnogion llai cyfrifol yn trosglwyddo perchnogaeth i'w plant neu bobl eraill, gan deimlo eu bod nhw yn llai tebygol o gael eu herlyn ac yn y blaen. Nid wyf yn siŵr a oes cyfeiriad at sefyllfa o'r fath yn y ddogfen hon, ond, yn sicr, dyna'r math o gonsyrn oedd gennyf.

[52] **Alun Davies:** Dyna pam, Llyr, rydym yn trio dweud yn y fan hon fod angen cael yr hyblygrwydd i wneud penderfyniadau synhwyrol yn lle cael y *straitjacket* hwn. Mae ambell i beth yr wyt ti wedi'i ddisgrifio yn dod o dan asgell y Ddeddf Lles Anifeiliaid ac nid y ddeddfwriaeth hon. Wedi dweud hynny, os ydych yn gweld ffyrdd, drwy'r broses hon, o edrych ar y canllawiau hyn er mwyn eu gwella i roi'r math o bwysigrwydd rydych yn

quite a difficult balance to strike sometimes. That is what we are trying to do here. We do not want to force local authorities to take decisions that they feel are not appropriate for the context that they are facing or managing. However, at the same time, we want people to feel that there is justice in the way that local government decisions are taken. That is the type of balance that we are trying to strike here. It is up to you to you to decide whether we have succeeded in doing so, and I have had nearly exactly the same amount of time to consider this as you have had, so it is very early on in the process of agreeing the administration. I am very happy to continue to consider this document, as you are doing, and to receive amendments and changes to make sure that we get closer to the balance that I think that all of us are hoping to strike.

Llyr Gruffydd: One thing that caught my eye in the explanatory memorandum that came with Bill, and I have raised this before, was a reference to a situation where a young person, aged 16, the legal age to own a horse, might find themselves in a situation where they were recognised as the owner. In the explanatory memorandum, there was a reference to the fact that the local authority might want to consider whether it was appropriate for a person of that age to be prosecuted in the wake of certain events. I felt that that opened a door to a situation where less responsible owners transferred ownership to their children or to other people, feeling that they were less likely to be prosecuted and so forth. I am not sure whether there is a reference to such a situation in this document, but, certainly, that is the kind of concern that I had.

Alun Davies: That is why, Llyr, we are trying to say here that there should be the flexibility to take sensible decisions rather than having this straitjacket. Some of the things that you have described come under the Animal Welfare Act and not this legislation. Having said that, if you as a committee see that there are ways, through this process, of looking at these guidelines to improve them to place the emphasis that you

chwilio amdano, rwy'n hapus iawn i drafod are seeking, I am very happy to discuss that hynny ymhellach. further.

[53] **Russell George:** Looking at subsection 3.12 on page 13, on how a local authority verifies the ownership of any horses that it has seized, I see that it is not made clear that there is supposed to be a passport, as should be the case. I have not read the rest of the document, so I cannot say whether it does in context, but it does not make it clear in that subsection.

[54] **Alun Davies:** This subsection does not try to give a full explanation of equine identification law. That is not the purpose of it. Any responsible horse owner will know what their duties are under equine identification law, and I think that most people who own horses do so. The purpose of this is to give additional guidance on how a local authority might act within the context of that law. I do not believe that this is an appropriate place to try to rework and explain again the whole of the equine identification regulations. Is that what you were trying to—

[55] **Russell George:** In reading that subsection, that was not made clear to me, but I have not read the rest of the document, so I do not know whether it would in context.

11:30

[56] **Alun Davies:** This comes back to what I said earlier: this is a guidance document for this particular piece of legislation. It does not seek to rework the whole of the existing law on other related matters—though, as I said, I accept that it is clearly closely related. This note of guidance does not seek to restate owners' responsibilities in full; owners should be aware of that, and this note does not seek to change fundamentally, or at all, equine identification or responsibilities of ownership in that sense. Neither does it seek to restate owners' responsibilities under existing animal welfare law, in terms of codes of conduct and the treatment of equines within somebody's ownership. It does not seek to do all of those different things. It seeks simply to say to the person reading it how we expect this individual, discrete piece of legislation to be delivered locally. It is a limited document in that sense. I think that we already have—and I will ask Fiona to comment on this—substantial advice available for horse owners in terms of their responsibilities under equine identification law.

[57] **Ms Leadbitter:** Yes, there is a lot on the Welsh Government website, and there is a lot in the public domain, on owners' responsibilities. It has been covered elsewhere.

[58] **Antoinette Sandbach:** Can I perhaps just pick up on that? In the cross-party group on the horse there were two problems that were identified: that about two thirds of the horses seized do not have passports; and that some of them have fake chips, or two chips. So, it may well be that you scan in accordance with your guidance here, which indicates that local authorities should scan, but it may well be that two chips identifying different owners come up, or it may be a horse with no passport or documentation whatsoever. This subsection does not appear to give any guidance to local authorities on how they should approach those circumstances. My understanding from the evidence of the cross-party group on the horse was that those are the most common circumstances: that horses are not identified, rather than that they are. It is clearly a breach of the equine identification regulations. However, this does not assist the local authority's approach in terms of what they should do in those circumstances, which are the most common circumstances facing local authorities.

[59] **Alun Davies:** Local authorities already have responsibilities and guidance on the actions that they take if they come across horses that are failing to abide by existing law.

[60] **Antoinette Sandbach:** Do you think that it might be worth including a link to that

guidance? Julie talked about owners looking at this guidance and seeing what might be available to them; I think that it would probably be useful if—

[61] **Ms Leadbitter:** I thought that there was a link, but it may well have come out in one of the amendments that we had. However, I am quite happy to put a link in to the guidance on the website on equine ID.

[62] **William Powell:** I think that it is also addressed in subsections 5.12 and 5.13.

[63] **Alun Davies:** Yes, that is where the link is.

[64] **William Powell:** Are there any further questions for the Minister? I am conscious of the passage of time and we are running slightly over. If there are not, I would like to thank you, Minister, and your team for joining us this morning and for being so open to Members' suggestions. The plan is that we now have a little more time to familiarise ourselves with the detail of this—

[65] **Alun Davies:** That is our plan, too.

[66] **William Powell:** Absolutely. After our meeting next week, we will be drafting a formal written response to you, as a committee, to feed into things further. Thank you very much indeed for attending this morning and for a very interesting and useful session. Diolch yn fawr.

[67] **Alun Davies:** Thank you very much, Chair. I would like to say that I am grateful to the committee for the time that you have taken to do this. This is a novel approach—I do not think that Government tends to bring this sort of guidance to committee at all; it is published after we have been through the legislative process—and I always take advice from the senior legal adviser on these matters. So, it is something that is quite novel for us as well. In that way, if individual Members, over recess, find that there are things that they would like to write to me about, I am more than happy to accept correspondence on that matter following the committee's meeting next week.

[68] **William Powell:** Thank you very much. Diolch.

11:35

Papurau i'w Nodi Papers to Note

[69] **William Powell:** Under this agenda item, we simply have papers to note, namely the minutes of the previous session and a letter on committee remit, which we received recently from the Presiding Officer, Rosemary Butler. I see that they have been noted. Diolch yn fawr.

*Daeth y cyfarfod i ben am 11:35.
The meeting ended at 11:35.*