Dear Anne,

Horse Welfare

Thank you for your letter of 12 September following my oral evidence session with the Committee on 3 September.

You asked about my comment that legislation is a distinct possibility. As you know Julian Sturdy’s Bill on the Control of Horses (England) 2014 received its Second Reading on Friday 24 October. This Bill introduces several small but important changes to the existing Animals Act 1971 which would help people deal effectively with the problem of fly-grazing. The Government is happy to support this Bill.

Seized horses

You asked about what can be done with seized horses, which currently, under section 7 of the 1971 Animals Act, can only be sold at market or public auction. The 1971 Act was drawn up at a time when animals fetched a good price at auction and fewer horses were grazed. However, as was expressed by witnesses during the EFRA Horse Welfare meeting, in many cases fly-grazed horses now have very low market value. The new Bill provides a more flexible set of options for those detaining fly-grazing horses, including euthanasia, rehoming or gifting the horse to a charity.

Alternatively, where a horse is in distress, or is likely to suffer if its circumstances do not change, the Animal Welfare Act 2006 affords inspectors and constables powers to seize the horse.
Detention periods

With regard to the minimum detention period for fly-grazing horses, the Government considers that the fourteen day detention period prescribed in the Animals Act 1971 is a long time for a landowner or public authority to have to care for, house and support a horse. Julian Sturdy’s Bill reduces the time before a person can deal with a fly-grazing horse to the equivalent of four working days, reducing the burden on the person detaining the horse.

Responsibility for identification of ownership

Unfortunately, many fly-grazed horses are not identified as required (Horse Passports Regulations 2009 and Commission Regulation No 504/2008) by passport and since 2009 by microchip, making it especially difficult for persons or authorities detaining the horse to identify its owner.

If someone is concerned that their stray horse will be detained and euthanised, the DEFRA Code of Practice on the Welfare of Horses prescribes that the person responsible for a horse should check on it at least once a day. Under the Control of Horses (England) Bill 2014 being debated, any person or authority detaining a fly-grazing horse must inform the police of this fact within 24 hours. This will allow the horse’s owner to know with some certainty that if the horse has been detained the police will have those details within 24 hours of its detention and will therefore ensure that the horse’s owner can come forward to claim the horse within the specified detention time period.

Alternative legislative options for addressing fly-grazing – civil and criminal offences

You mention that witnesses commented that the ASB legislation might not be useful for controlling fly-grazing, being difficult to apply and restricted geographically. However, new measures under the Anti-social Behaviour Crime and Policing Act 2014, in particular the Community Protection Notice (CPN), will be much more effective in addressing fly-grazing, where the owner of the horse(s) is known. The CPN is a statutory notice issued by the local authority or the police requiring a person to take any steps reasonable to prevent his anti-social behaviour. It can be issued more or less on the spot, although we fully understand that the owner of the horse needs to be known, which will restrict its application. A breach of the CPN would be a criminal offence punishable on conviction of up to five years imprisonment or a fine or both.

In addition to those new measures on anti-social behaviour, the new Control of Horses (England) Bill 2014 proposes to amend the Animals Act 1971 by introducing new procedures for dealing with fly-grazing horses. It does not seek to make fly-grazing a criminal offence. The intention of the amendments to the 1971 Act is to provide a prompt and effective remedy for dealing with fly-grazing, rather than depending upon potentially protracted criminal proceedings which may not ultimately achieve the aim of allowing for the quick removal of fly-grazing horses.
Nonetheless, persistent cases of fly-grazing, or cases of horse neglect and suffering, can become criminal offences under the alternative legislative measures detailed above (the Anti-social Behaviour Crime and Policing Act 2014) or through the Animal Welfare Act 2006.

Displacement of fly-grazing horses between Wales and England

It has been suggested that the problem of fly-grazing is being exported from Wales to England, but there is no substantive evidence to support that assertion. In any case, the introduction of a similar Control of Horses Act in England should prevent any displacement of fly-grazing horses.

National Equine Database

I am pleased to report that progress has been made on the legislation on equine database at European level. In September 2014 a new regulation was agreed in Brussels to strengthen existing requirements on the identification of horses. The key changes require all Member States to have a Central Equine Database with tighter controls on microchips as well as a requirement to notify the central database and Passport Issuing Organisations when a horse has been signed out of the food chain. It also introduces new minimum standards for passports and provides stronger powers to allow Government to suspend or withdraw approval to issue passports from organisations which fail to meet the requirements of the new regulation.

This regulation will be transposed into national law in due course, and the new national database will be set up during mid-2016. The focus for Defra is to work with the devolved Governments and equine stakeholders to plan the best way of implementing the new requirements.

While the new regulation is to be welcomed I must stress again that its primary purpose is to protect the food chain and it will be of limited use in addressing fly-grazing. The vast majority of horses which are fly-grazed have not been identified by their owners (which is illegal) and there will therefore not be a record of that horse.

Thank you for your help and advice with this.

Yours sincerely,

[Signature]

P.S.