

**P-04-500 Call For Regulation of Animal Welfare Establishments in Wales –  
Correspondence from the RSPCA to the Committee, 14.04.14**

Could I also draw your attention to the attached report by the Animal Welfare Network for Wales (of which I am Chair). We conducted a lengthy investigation into the need for regulating sanctuaries/rescues. This was a formal process which included a working group of experts (which included the Welsh Government and local authorities), oral evidence sessions and a written consultation process. We presented this to the Minister's predecessor (John Griffiths) but unfortunately we have yet to receive the Government's response.

If I can be of any further help, please do let me know. We would be more than happy to attend a committee meeting if that would be of use.

Best wishes,

Claire Lawson

Head of External Affairs

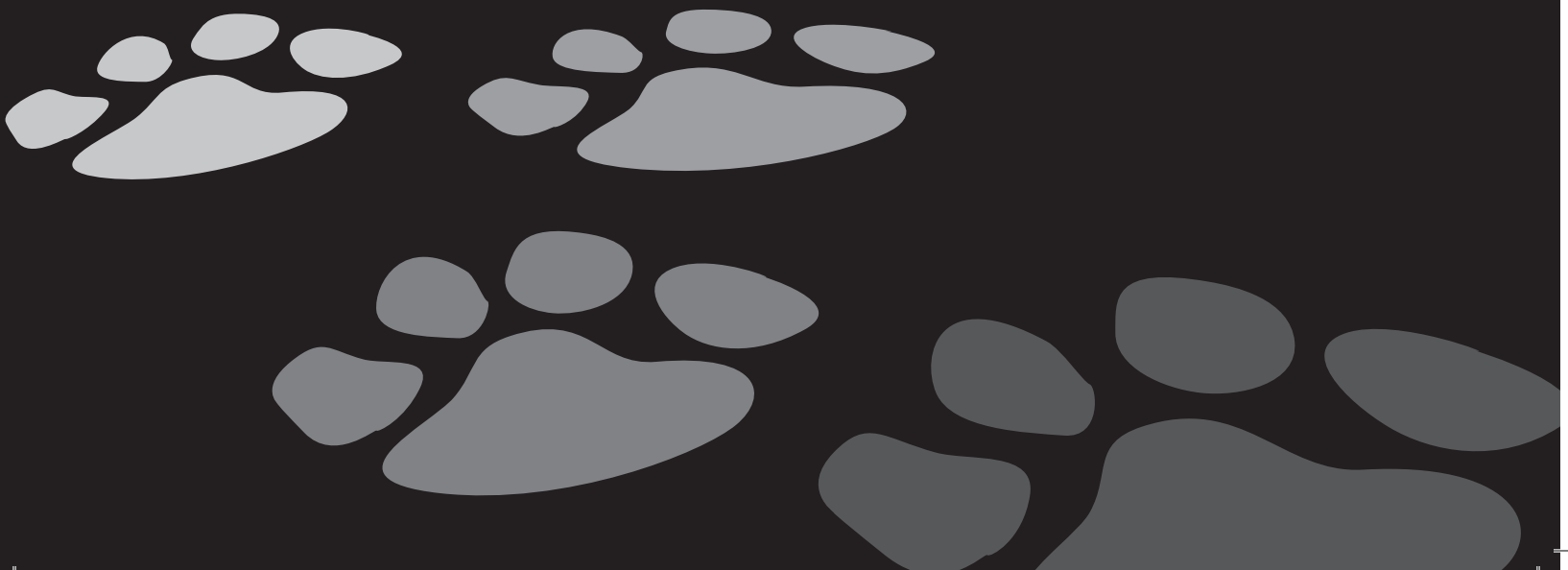
RSPCA Cymru



# The case for the regulation of Animal Welfare Establishments in Wales

A report produced by the AWNW Animal Welfare  
Establishments 'Sanctuaries' Working Group

**October 2012**



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***“Compassion needs to be encouraged, but  
compassion without a sense of responsibility  
can lead to cruelty.”*** **Gower Bird Hospital**

## FOREWORD

The Animal Welfare Network for Wales (AWNW) has been involved in the issue of Animal Welfare Establishments<sup>1</sup> (AWEs) or 'sanctuaries' and the possibility of regulation from an early stage in the group's history. It is an issue which is of particular concern to our members, many of whom could be classified as AWEs. Our members are therefore highly informed as to the factors that are necessary for running a successful AWE to high welfare standards, and also what can go wrong.

Back in 2009 AWWN's work in this area led to the organisation of a popular seminar on the subject in North Wales. This event clearly illustrated that Network members were eager to engage in a lively debate on the issue and that there was a considerable level of concern about AWEs that were not being run properly and where animals were at risk. Discussions from this seminar led to the formation of the Sanctuaries Working Group, which later changed its name to the AWE Working Group, who began work on investigating the opinions of the sector.

This report, built on that wide variety of evidence gathered both within and outside the animal welfare sector, lays out the case for secondary legislation by the Welsh Government under the Animal Welfare Act (2006) and the form that this could take. The group has done its utmost to secure the opinions of all who may be affected by future regulation, along with independent legal advice, and feel that the end result is a balanced and achievable set of recommendations on how to move forward in this area towards proportionate regulation.

The structure of the working group that has produced this report has also been an interesting exercise for AWWN. Working with the Welsh Government, from the beginning of the process, and bringing together a diverse group of partners to achieve a coherent consensus has at times been a significant challenge, but also, a productive achievement. It is hoped that this form of external subject based working group run in partnership with the Welsh Government could be used as a template for future work going forward.

Many thanks go to those working group members who have attended meetings and contributed their valuable opinions towards the report over an extended period of time. Special thanks also need to go to RSPCA Cymru for their considerable commitment of staff time and resources needed to produce this report. Without this support this considerable body of work would have been unlikely to reach fruition.



Tina Reece, AWWN Network Manager

# SECTION 1: BACKGROUND

## 1.1 Introduction

From the smallest organisation perhaps with just one individual acting on their own initiative to take in animals, to the largest rehoming centres of major UK charities, there are many issues that affect how well an AWE is run.

The Welsh Government has the opportunity to put in place legislation for Wales under the Animal Welfare Act (2006), or through an Assembly Act, which would both protect animals in this sector and ensure best practice. Public expectation would be high as to the protection of animals through the regulation of these establishments.

AWNW has a vested interest in this issue, as many of its members are AWEs. The Network has therefore investigated the issue and widely canvassed opinion from the animal welfare sector and those establishments who would be most affected by regulation, to produce this mapping document and a series of recommendations.

## 1.2 Working group members

<b>Chair:</b>	RSPCA Cymru/AWWN chair	Claire Lawson
<b>Members:</b>	BirdsFirst Born Free British Rabbit Council Catnip Cats Protection Dogs Trust Gower Bird Hospital and BWRC Great Dane Care HelpMyPet Hope Rescue Horse Trust Independent Pit Pony Sanctuary Redwings Horse Sanctuary RSPCA Tamlin Watson Animal Behaviour Specialist Torfaen County Borough Council World Horse Welfare Wrexham County Borough Council	Greg Glendell Chris Draper Alan Gibbs Liz Thomas Catherine Smith Paula Boyden/Chris Laurence Simon Allen Liz Davies Sarah Marsh Vanessa Waddon Liane Crowther Rebecca Evans Roy Peckham Nicolas De Brauwere Adam Grogan Tamlin Watson Alison Hughes Phil Jones Graham Capper
<b>Advisor:</b>	Aberdeen University Law Department	Mr Mike Radford
<b>Observer:</b>	Welsh Government	Sian Smith
<b>Secretariat:</b>	AWNW Network Manager	Tina Reece

### 1.3 Why legislation is needed

There are several pieces of legislation that cover the welfare of animals in Wales, the most prominent being the Animal Welfare Act (2006) (and its subsequent species-specific codes of practice) however no regulations exist to sufficiently and specifically govern the establishment of AWEs, nor their ongoing practices.

It is the opinion of this working group that in our experience much of the public are already under the impression that this area is regulated. However, the current situation is that any person, organisation or animal welfare establishment who holds themselves out to receive vulnerable animals on a regular basis, whether companion, farmed, protected or other animals, with a view to either rehoming, rehabilitating or providing long-term care, can do so. This has led to a catalogue of problems with this practice, including anything from basic animal welfare problems to the visibility of these individuals or organisations and access rights to monitor and inspect conditions in which animals are kept.

A precedent for regulation already exists in parts of Europe<sup>2</sup>, and there are parallels for us closer to home with the regulation of other animal related undertakings such as riding schools, dog breeders<sup>3</sup> and dog and cat boarding in Wales and within other UK nations. Currently, although there is some information available, there is still no definitive data as to how many animal welfare establishments are operating in Wales<sup>4</sup>, because they are not required to register, which has wide ranging implications for animal welfare and disease control.

### 1.4 Size of the sector involved

The general visibility of the animal welfare sector is a major part of the issue of regulation for AWEs.

Although most AWEs are an invaluable part of animal welfare services, there are times when things go wrong, often leading to a rapid decline in standards. Resources may become overwhelmed for many reasons. This may include irregular fees or donations which do not meet the required levels of funding to maintain operations, capability being surpassed due to large intakes of animals or specialist welfare and husbandry problems being encountered (such as for wildlife and exotics especially). These are common issues encountered by both large and small organisations. In these cases a framework or safety net is necessary to protect vulnerable animals and the organisations trying to deliver their care. There has long been recognition in the animal welfare sector, and, we believe, amongst informed members the public that this step is a necessary and positive move that will protect both the people and animals involved.

Of 146 AWWN members, 65 have self-defined their organisations as 'sanctuaries' or AWEs within our definition<sup>5</sup>, whilst figures gathered by the Welsh Government in 2009-2011 identified 88 'sanctuaries' or 'refuges', and 54 'collectors' in Wales<sup>6</sup>.

<sup>2</sup>These countries and authorities include Jersey and others.

<sup>3</sup>Indeed the Welsh Government intends to bring forth stronger legislation in this area in the autumn of 2012.

<sup>4</sup>The CAWES baseline data project has given us a starting point for numbers of AWEs in Wales, but because of discrepancies in the data reporting of the different Local Authorities involved, the difficulty identifying relevant organisations and establishments, and the end of the scheme on the 31st of March 2011, we have been left with an incomplete picture of the scale of the problem.

<sup>5</sup>AWWN membership statistics – which are self defined by the organisation during their application process - showed that as of the 1st of January 2011 65 of our 145 members classified themselves as a sanctuary, rehoming centre, nature reserve/wildlife centre/zoo, rescue or rehabilitation centre. More would also be included under the stricter definition set out for an AWEs in section 2.4 above. Please refer to the AWWN website for the AWWN's full membership list, <http://awnwales.org/search.asp?hit=true>

<sup>6</sup>The Welsh Government defined 'collectors' for the purposes of this data as an: 'individual who keeps a number of different specimens of the same species for non-commercial purposes' which could also mean these premises fall into our definition of an AWE. WAG has stated that trends cannot be accurately measured by this data due to differences and difficulties in the local authorities reporting. The full data can be found at <http://wales.gov.uk/docs/drah/publications/101119cawesen.pdf>

*Welsh Government Baseline Data collected by 22 Welsh Local Authorities under CAWES:*

	<b>2008-9</b>	<b>2009-10</b>	<b>2010-11</b>
<b>Sanctuary/refuge</b>	<b>85</b>	<b>82</b>	<b>88</b>
<b>Collectors</b>	<b>12</b>	<b>34</b>	<b>54</b>

Unfortunately these figures still do not provide a comprehensive picture of the full extent of the sector. This is due to the definitions used for the data gathering process, which were not robustly defined, along with difficulties identifying all relevant individuals and organisations to be counted. As an example of this, wildlife premises were not included in the Welsh Government data. Local authorities were also only able to identify those organisations that they had the resources and understanding to cover. It should be noted that it can often be those who do not openly advertise themselves that are the organisations of particular concern.

The AWWN has very good representation from the active animal welfare sector in Wales, but its membership is not exhaustive. After an extensive mapping project of the sector in 2006, which was rerun and updated in 2009, AWWN databases show 122 animal welfare organisations who are not currently members of the Network. This project showed that overall there were approximately 268 animal welfare organisations in Wales, as well as many who remain unmapped due to issues such as their size or location<sup>7</sup>. It is worth noting here that members of AWWN are self-selecting, as there is no provision for automatic membership and organisations must apply and be accepted to the group<sup>8</sup>.

## **1.5 Problems to be addressed**

The primary concern identified by this report has been the poor standards of animal welfare that can affect AWEs. These concerns can be broken down as follows:

- There are numerous cases of poor standards at AWEs, often reported as a result of concerns raised by the public. Sometimes the standards have been so poor they have resulted in prosecutions for cruelty and other welfare offences. Please refer to section 1.6 for case studies;
- There is an element of trust in the system of sanctuaries from the public, which assumes some level of knowledge, professionalism and accountability which unfortunately is not always the reality;
- AWEs are vulnerable to rapid declines or large fluctuations in standards. The expenditure required to provide care and treatment can easily exceed income generated from rehoming fees (if any) so resources are typically strained. When donations are sparse, welfare standards are vulnerable and may be compromised. Fluctuations in numbers and types of animals depending on the season may cause difficulties in planning and can lead to AWEs becoming quickly overburdened. With fixed resources available, taking in more animals can lead to lesser standards of care available for each individual animal within an AWE. These organisations are typically heavily reliant on volunteers and thus when key individuals became temporarily or permanently unavailable, welfare standards can quickly deteriorate;

<sup>7</sup>Data as collected through AWWN membership review data collected in 2006 showing 629 animal welfare related organisations with dealings in Wales, many of which could be assumed to fall into the definition of AWEs.

<sup>8</sup>To date there have been no organisations that have been rejected for membership. The membership terms can be found at <http://awnwales.org/membersterms.asp>



- There are no safeguards to prevent people who lack the requisite knowledge, skills, resources, commitment, facilities and equipment, from operating an establishment;
- There is a lack of knowledge about which individuals and organisations are operating as AWEs, what types of animals they care for and what standards they operate to, which if standards are low may well lead to poor levels of animal welfare. Given this lack of knowledge it is currently difficult to identify where problems are occurring until they become of a severe nature and often animals are suffering considerably. Given that decisions regarding regulation should be based on good quality data, inspection of AWEs is necessary to obtain this data and identify which are 'high-risk' and which already have systems in place to ensure adequate standards of welfare. For example, small AWEs with limited funding, run by a small group or an individual, pose a greater risk of poor standards of welfare arising due to financial pressures. Some AWEs that are not open to the public can also carry a greater risk of problems not being visible to be picked up by enforcers.

## 1.6 Case studies

The need for regulation of AWEs can be illustrated by a number of prosecution case studies taken from recent years. It should be noted that by the time these situations came to light the problems were already at the suffering stage for the animals involved. Each of the cases below could have been prevented through regulation and careful regular monitoring. More worrying, are the cases that don't come to light and the AWEs that function with no oversight, perhaps with the public assuming wrongly that there is a system of external monitoring already in place.

### **Case Summary 1 (RSPCA)<sup>9</sup>:**

Mr and Mrs J – Animal sanctuary run from a three-bedroom semi-detached residential council house. Both defendants (Mr and Mrs J) were unemployed.

#### **Charges:**

Both defendants were charged with causing unnecessary suffering by unreasonably omitting to provide the animals (being 23 cats, five snakes, three lizards and one rabbit) proper and necessary care and attention contrary to section 1(1)(a) of the Protection of Animals Act (1911). Mr and Mrs J effectively became an AWE when they advertised that they would find good and loving homes for any unwanted animals. The animals were underfed, kept in dirty conditions (also the responsible Inspector found evidence of ringworm in the house) and the defendants failed to provide adequate veterinary care. Mr and Mrs J pleaded not guilty to all the charges and trial was heard on 30 September – 3 October 2003. The case was not concluded at this time and was adjourned to 10 November 2003.

#### **Outcome:**

Mr J – 30 convictions were brought against him. He received a three-year conditional discharge and is subject to a disqualification order in relation to all animals for life, except for one dog, one rabbit and three cats. Mr J was required to rehome the above animals within fourteen days following an agreement with the Court. Mrs J – 30 convictions were brought against her.

She received a confiscation order and is subject to a disqualification order in relation to all animals for life, except for one dog, one rabbit and three cats. Mrs J was required to rehome the above animals within fourteen days following an agreement with the Court. An appeal was lodged by Mr and Mrs J against their convictions and sentences. Mr and Mrs J withdrew their appeals on the day of the appeal hearing.

### **Case Summary 2 (RSPCA)<sup>10</sup>:**

Ms P – Ran a small scale animal sanctuary which was based at her home and in some barns. The defendant was unemployed.

#### **Charges:**

The defendant was charged with causing unnecessary suffering by unreasonably omitting to provide proper and necessary care and attention contrary to section 1(1)(a) of the Protection of Animals Act (1911) to a Shetland type cross-bred mare pony. The pony was suffering from laminitis which the defendant made no effort to seek veterinary help to alleviate the animal's suffering. The pony was eventually euthanised. Ms P pleaded guilty to the charge and trial was heard on 7 April 2005.

#### **Outcome:**

The defendant is subject to an 80 hours Community Punishment Order and was ordered to pay costs of £100 and compensation of £634.47.

### **Case Study 3 (A Welsh Local Authority)<sup>11</sup>:**

A hobbyist caring for his chosen species of birds soon became known in the locality and people started taking injured birds to him to rehabilitate. When the residential property could no longer provide for the accommodation needs of the birds, he relocated and built new aviaries. People began to visit and give donations to fund his work. The population expanded, more aviaries were built and publicity resulted in more visitors.

Gradually the hobby and wish to educate people about wildlife became subject to the regulatory control of the Zoo Licensing Act (1981). The operator explained that there was no intention to become a business, as a zoo, and was reluctant to accept the situation and wanted to remain as a 'sanctuary' not subject to legislative controls. Unfortunately, the escalation in numbers of birds bred on site, injured wild birds and re-homed unwanted pets, brought about a decline in welfare standards.

#### **Outcome:**

Existing legislation was enforced, a closure notice under the Zoo Licensing Act (1981) was served and a prosecution taken under the Animal Welfare Act (2006). These actions proved to be very unpopular with the general public.

<sup>10</sup>Taken from RSPCA prosecution data.

<sup>11</sup>Supplied anonymously by a Welsh Local Authority by an officer involved with the incident.

This unlicensed zoo closed to visitors and continued as a 'sanctuary' thus a prosecution was not proceeded with under the Zoo Licensing Act (1981). The costs associated with prosecution and conviction under section 4 of the Animal Welfare Act (2006) amounted to £4,000, costs awarded to the council were £500. It should be acknowledged that the cost would have been substantially increased without the RSPCA Inspectors who assisted with transportation, accommodation and responsibility for several of the birds signed over to them without charge to the council.

#### **Case Summary 4 (RSPCA):<sup>12a</sup>**

Mr and Mrs M – Wildlife sanctuary. Mr M was employed. Mrs M was unemployed. A prosecution was not brought against Mr and Mrs M because it failed to meet the evidential and public interest tests. This was in relation to a number of birds kept at the sanctuary and the investigating Inspector felt the following offences had been committed:

1. Causing unnecessary suffering by failing to provide adequate care and attention contrary to section 1(1)(a) of the Protection of Animals Act (1911).
2. Keeping the birds in cages that were too small contrary to section 8(1) of the Wildlife & Countryside Act (1981).
3. Possessing wild birds which was contrary to section 1(2)(a) of the Wildlife & Countryside Act (1981).
4. Not registering a Schedule 4 bird contrary to section 7 Wildlife & Countryside Act (1981).
5. Displaying Annex A species to the public without the Article 10 certificates contrary to section 8(1) of the Control of Trade in Endangered Species (Enforcement) Regulations (1997).

#### **Outcome:**

Adult Cautions were issued and signed by both Mr and Mrs M.

<sup>12a</sup>The Report On Companion Animal Welfare Establishments: Sanctuaries, Shelters And Re-Homing Centres, The Companion Animal Welfare Council, 2004, 2.1.1, p14 [http://core.kmi.open.ac.uk/download/pdf/27685/34&sa=U&ei=ib7LTqqPGIWR8gPhyLDqDw&ved=0CCMQFJAH&sig2=OgY0KGLc8j\\_6lm4ht1-Yqg&usg=AFQjCNFDn8fHfuwWLUHTswwidIN9UhrUnw](http://core.kmi.open.ac.uk/download/pdf/27685/34&sa=U&ei=ib7LTqqPGIWR8gPhyLDqDw&ved=0CCMQFJAH&sig2=OgY0KGLc8j_6lm4ht1-Yqg&usg=AFQjCNFDn8fHfuwWLUHTswwidIN9UhrUnw)

## SECTION 2: PARAMETERS

### 2.1 Interpretation of terms

#### **Animal welfare establishment (AWE):**

Originally adapted from the CAWC definition<sup>12b</sup> which aims to better reflect the function of establishments and organisations such as 'sanctuaries' and provide an umbrella term for what can be a diverse sector. For the purposes of this report therefore, an animal welfare establishment is any establishment which held itself out to take in and to care (temporarily, permanently, or both) for vulnerable animals<sup>13</sup>. This could include establishments known as: animal home, sanctuary, shelter, rehoming centre, rest home, hospital, rehabilitation centre, rescue centre, stray animal facilities (local authority or contractor). The function of these establishments could include: taking in unwanted animals, rehoming, keeping for life, lost animals, treatment on a small or large scale or sick or injured animals, taking in retired animals, rehabilitation<sup>14</sup>. It would not be possible to create a definition of AWEs based on numbers of vulnerable animals taken in or by severe limitations on species, but rather the organisation must be defined by what they do.

#### **Vulnerable animals:**

The definition of a protected animal can be taken from the Animal Welfare Act (2006).<sup>15</sup> Animals which are lost, un-owned, unwanted, injured, diseased, neglected, abused, orphaned, at risk of harm, or whose owners are unable to cope should be included. These could be companion animals, farm animals or protected animals.

#### **Protected animal:**

An animal is a 'protected animal' if: it is of a kind which is commonly domesticated in the British Islands; it is under the control of man whether on a permanent or temporary basis; or it is not living in a wild state.<sup>16</sup>

#### **Wild animal:**

A 'wild animal' means any animal (including a wild bird) which is or (before it was killed or taken) was living wild; 'wild bird' means any bird of a species which is ordinarily resident in or is a visitor to the European territory of any member State in a wild state.

#### **Person:**

The definition of human responsibility for an animal can be taken from the Animal Welfare Act (2006).<sup>17</sup> For the purposes of this report a 'person' is an individual or company not associated with any group or organisation in regards to holding themselves out to receive vulnerable animals on a regular basis. For the issue of fostering, these individuals could be captured under the legal responsibility of the organisation they were acting for, rather than being personally liable or under a requirement to gain any sort of licence.

<sup>12b</sup>The Report On Companion Animal Welfare Establishments: Sanctuaries, Shelters And Re-Homing Centres, The Companion Animal Welfare Council, 2004, 2.1.1, p14 [http://core.kmi.open.ac.uk/download/pdf/27685/34&sa=U&ei=ib7LTqqPGUWR8gPhyLDqDw&ved=0CCMQFJAH&sig2=OgY0KGLc8j\\_6lm4ht1-Yqg&usg=AFQjCNFDn8fhfuwWLUHTswjdlN9UhrUnw](http://core.kmi.open.ac.uk/download/pdf/27685/34&sa=U&ei=ib7LTqqPGUWR8gPhyLDqDw&ved=0CCMQFJAH&sig2=OgY0KGLc8j_6lm4ht1-Yqg&usg=AFQjCNFDn8fhfuwWLUHTswjdlN9UhrUnw)

<sup>13</sup>For clarification this does not include veterinary practices.

<sup>14</sup>This is not an exhaustive list, but the working group as flagged those examples that they particularly want covered by regulation in this area. The group would prefer to see a non-prescriptive list with exemptions only if absolutely necessary and such a case was proven.

<sup>15</sup>Animals to which the Animal Welfare Act (2006) applies are listed in Introductory section 1: "animal" means a vertebrate other than man; (2) Nothing in this Act applies to an animal while it is in its foetal or embryonic form; (3) The appropriate national authority may by regulations for all or any of the purposes of this Act (a) extend the definition of "animal" so as to include invertebrates of any description; (b) make provision in lieu of subsection (2) as respects any invertebrates included in the definition of "animal"; (c) amend subsection (2) to extend the application of this Act to an animal from such earlier stage of its development as may be specified in the regulations. (4) The power under subsection (3)(a) or (c) may only be exercised if the appropriate national authority is satisfied, on the basis of scientific evidence, that animals of the kind concerned are capable of experiencing pain or suffering. (5) In this section, "vertebrate" means any animal of the Sub-phylum Vertebrata of the Phylum Chordata and "invertebrate" means any animal not of that Sub-phylum. <http://www.legislation.gov.uk/ukpga/2006/45/crossheading/introductory>

<sup>16</sup>Taken from the Animal Welfare Act (2006) definition, Introductory section 2: <http://www.legislation.gov.uk/ukpga/2006/45/crossheading/introductory>

<sup>17</sup>Animal Welfare Act (2006), Introductory section 3: a person responsible for an animal whether on a permanent or temporary basis.; (2) being in charge of it; (3) a person who owns an animal shall always be regarded as being a person who is responsible for it; (4) a person shall be treated as responsible for any animal for which a person under the age of 16 years of whom he has actual care and control is responsible. <http://www.legislation.gov.uk/ukpga/2006/45/crossheading/introductory>

### **Organisation:**

For the purposes of this report an 'organisation' is the persons (or committees or departments etc.) who make up a body for the purpose of administering an animal welfare establishment. If the organisation is a charity or trustee incorporated association, trustees would hold responsibility.

### **Holding out:**

There was a need to distinguish between individuals buying and keeping animals and those 'holding themselves out' to receive animals. For the purposes of this report advertising or being well known in the locality for taking in vulnerable animals could be classified as 'holding one's self out' to receive animals. Hoarders of the type who buy or adopt their animals would therefore not be classified as an AWE. The issue turns on the vulnerability of the animal (such as the issue of selling rescue animals). Even if it means that some individuals escape the net, it was agreed that a distinction had to be made in this area.

## **2.2 Past definitions of what constitutes an 'animal sanctuary'**

Definition of an 'animal sanctuary' written in 2001 for the draft Animal Sanctuaries (Licensing) Bill<sup>18</sup>:

*In this Act "animal sanctuary" means any premises at which ten or more animals, or, in the case of equines, four, are normally kept for the purpose of protection, rehabilitation, rest or rehoming other than: any establishment at which any animal is kept and the use of the establishment for that purpose is licensed in accordance with, any other enactment; any premises owned or operated by a local authority and used for the detention or care of any animal by that authority in the exercise of its functions under any enactment.*

Definition of an 'animal sanctuary' written by Defra in 2006:

*An animal sanctuary is any **premises** which is **willing** to admit and care for displaced, injured or unwanted animals on a regular basis, whether companion, farmed, wild or other animals, with a view to either rehoming, rehabilitating or providing long-term care for them.*

And further refined by the RSPCA in 2006<sup>19</sup>:

*An animal sanctuary is any **facility** which **seeks to** admit and care for displaced, injured or unwanted animals on a regular basis, whether companion, farmed, wild or other animals, with a view to either rehoming, rehabilitating or providing long-term care for them.*

## **2.3 Agreed working definition of an 'Animal Welfare Establishment' for this report**

For the purposes of this report, an Animal Welfare Establishment shall be defined henceforth as:

*A person, organisation or establishment who holds themselves out to receive vulnerable animals on a regular basis, whether companion, farmed, protected or other animals, with a view to either rehoming, rehabilitating or providing long-term care.*

<sup>18</sup>Draft Animal Sanctuaries (Licensing) Bill, a Private Members Bill put forward by Ian Cawsey MP <http://www.publications.parliament.uk/pa/cm200102/cm-bills/022/2002022.pdf>

<sup>19</sup>Email exchange between the RSPCA's Adam Grogan and Sash Foreman, and Defra, 2006.

## 2.4 Legislative positioning

As mentioned earlier the Welsh Government has the capacity to legislate in this area either through introducing regulations (secondary legislation under the Animal Welfare Act) or by through primary legislation and what is called an Act of the Assembly. Indeed when the UK Government passed the Animal Welfare Act in (2006), which is enabling framework legislation, there was an intention by the drafters that the issue of sanctuaries should be considered next (along with other issues). This Act devolved the responsibility for introducing secondary legislation to Wales and indeed since it was subsequently implemented by the Welsh Government in March 2007 there have been several developments, namely Codes of Practice for cats, dogs, equines and rabbits, as well as a ban on the use of shock collars for cats and dogs.

Although the 2011 referendum saw the whole area of animal welfare devolved to Wales<sup>20</sup> the Animal Welfare Act still provides the simplest method for introducing regulations for sanctuaries because the purpose of the regulations would fit closely to the primary purpose of the Act, to promote animal welfare, although legislation would also help to make these organisations accountable in other areas, both formally and informally.

The European Convention for the Protection of Pet Animals<sup>21</sup>, which the UK has not yet signed up to, has some areas with which the four nations of the UK does not comply with currently, such as the requirement to have regulation of sanctuaries. If the UK was to sign up to the Convention in the future, such requirements would need to be addressed anyway. It is worth noting however, that the Convention's definition of sanctuaries is widely considered to be inadequate.

<sup>20</sup>The exceptions being Hunting and Animal Experiments

<sup>21</sup><http://conventions.coe.int/treaty/Commun/QueVoulezVous.asp?NT=125&CL=ENG>

## **SECTION 3: METHODOLOGY**

### **3.1 Timeline of inquiry**

The working group engaged in an investigation and mapping exercise to seek evidence from interested parties in Wales with the view to producing this report containing recommendations by the end of 2012. This is not a campaigning group and will cease to exist following the report's publication.

#### **June 2009:**

The issue was first examined in an AWWN seminar held in Llandudno on the 4th of June 2009. The topic had been suggested by the Board of the Network because of informal discussions and concerns on the topic gathered from members.

Key speakers at this event were: Adam Grogan (RSPCA Wildlife Department), Simon Allen (Gower Bird Hospital), Graham Capper (Wrexham County Borough Council) and Mr Mike Radford (Reader of Law at Aberdeen University).

This seminar was very well attended and sparked animated discussion amongst our members which resulted in a resolution to establish the AWWN Sanctuaries Working Group.

#### **December 2009:**

At the inaugural meeting of the working group on the 9th of December 2009 it was decided that proportionate legislation to address current and potential problems was the ultimate goal of the working group.

Mike Radford, a Reader of Law from Aberdeen University and a specialist in animal welfare law agreed to consult for the group as it completed the mapping exercise and developed recommendations with a robust definition of what constitutes an AWE.

#### **April 2010:**

The mapping exercise was undertaken through evidence gathering from interested groups across Wales through both oral sessions and written submissions. The forms inviting written submissions were distributed on the 29th of April 2010, with a deadline of the 30th of June 2010.

All members of AWWN were emailed evidence forms and an invitation to one of the three oral evidence sessions on the 29th of April 2010. Members were also encouraged to forward the evidence form and introductory email to any other organisation or individuals they felt may be interested in submitting evidence, or to pass on their contact details to the Network Co-ordinator who would forward them evidence forms.

The Network also forwarded evidence forms to a database of 162 vets in Wales and all 22 Welsh local authorities. The councils also received an appeal to forward copies of the evidence forms to all of the 'sanctuaries' identified by their CAWES baseline data gathering exercise, as these addresses were protected by data protection and could not be released to the Network.



**May 2010:**

Oral evidence gathering sessions offered at various venues in north, mid and south Wales during May of 2010 to ensure access to all interested parties and allow those not comfortable with submitting written evidence, or with literacy issues, to take part. No bookings were made for the north and mid Wales sessions on the 5th of May 2010 at the Welsh Government offices, Aberystwyth, the 25th of May 2010 Welsh Government offices, Merthyr Tydfil, and the 10th of June 2010 Welsh Government offices, Caernarfon. These sessions were subsequently cancelled. However, a fully booked south Wales session was held in Merthyr Tydfil on the 15th of May 2010.

**July 2011:**

Once the evidence was gathered and legal recommendations received, the working group met on five subsequent occasions to discuss the construction of the recommendations to be put forward to the Welsh Government in the form of this report.

**October 2012:**

Completed report submitted to the Welsh Government.

## 3.2 Engagement

The Animal Welfare Establishments 'Sanctuaries' Working Group is made up of AWWN members who expressed an interest in any future regulation of AWEs in Wales. The Welsh Government has also attended meetings in the capacity of an observer.

AWWN has been functioning since 2006 and has as yet never had to deny membership to an organisation wishing to join. All member organisations of the Network were given the opportunity to get involved with the working group and later, to submit their own evidence and circulate the evidence forms to others they thought may have an interest in responding.

Local authorities via the Welsh Government also circulated evidence forms and invitations to oral evidence sessions to all of the sanctuaries that they had identified through the CAWES Baseline Data project.

After the second meeting of the working group the list was closed to new members, although these organisations could still attend evidence sessions and submit their written evidence. This was to ensure all members of the group had an equal amount of knowledge on the subject and an adequate understanding of the issues being dealt with, and thus a collective responsibility for producing the report.

The working group meetings were covered by the AWWN normal terms and conditions, available on the Network website at [www.awnwales.org/membersterms](http://www.awnwales.org/membersterms).

Organisations who submitted written evidence were (in alphabetical order):<sup>22</sup>

1. BirdsFirst
2. Blaenau Gwent County Borough Council
3. Cardiff County Council
4. Cats Protection
5. Dogs Trust

<sup>22</sup>Please see Appendix C for a link to the full written evidence.



11. Maesteg Animal Welfare Society
12. National Ferret Welfare Society
13. North Wales Reptile and Raptor Sanctuary
14. Pembroke Hospital
15. Pet Care Trust
16. Raptor Rescue
17. RSPCA
18. RSPCA Llys Nini Branch
19. Veteran Horse Welfare
20. Wild Futures
21. World Horse Welfare

Organisations who submitted oral evidence were (in alphabetical order):<sup>23</sup>

1. Gower Bird Hospital
2. Great Dane Care
3. Greyhound Rescue Wales
4. Hope Rescue
5. Horse Trust
6. National Federation of British Herpetologists
7. Redwings Horse Sanctuary
8. RSPCA

Overall, 26 separate organisations submitted evidence to the enquiry.

### **3.3 Evidence forms**

A standard evidence form was sent out as a template for submitting written evidence and structuring the oral evidence sessions.<sup>24</sup> Responders were also encouraged to add any information not covered by the questions in the form which they saw as relevant.

## **SECTION 4: FINDINGS AND RECOMMENDATIONS**

### **4.1 Role in society**

The place of AWEs is very important in the role of animal health and welfare and is a central element in society's response to these issues. It should be stressed that this is an essential service and offers a very significant contribution to animal welfare and the ethical and social needs of society. Those involved range from large organisations, to very small, to individuals – but well run versions of each of these AWEs offer something special to the field. In many cases, without smaller AWEs, larger organisations would not be able to cope. The existence of AWEs is therefore a public good.

The many and varied roles undertaken by AWEs include:

1. Assisting in reuniting owners and keepers with their animals;
2. Providing an important source of animals for those seeking new companions;
3. Rehabilitating companion animals to make good companions;
4. Alleviating and preventing animal suffering;
5. Protecting animal health and public health and safety;
6. Protecting vulnerable species and wildlife/protected animals;
7. Treating injury and disease;
8. Educating the public about animal welfare;<sup>25</sup>
9. Absorbing the costs of animal rehabilitation/treatment and housing for unwanted animals;
10. Reducing public nuisance;
11. Rehabilitating wildlife, and;
12. Promoting responsible animal ownership.

***“Even in the best regulated society it is inevitable that some animals will become unwanted for a variety of social reasons such as relationship breakdown, death or financial hardship.”*** Dogs Trust

### **4.2 The issue of hoarding**

The problem of hoarding animals should be seen as distinct and separate to that of the regulation of AWEs covered in this report. Unfortunately, individuals engaged in hoarding animals can often be suffering from issues such as financial strain and mental health problems which exacerbate their inability to provide for their animals' welfare. These individuals can also come to be informally labelled as an AWE by the public because of general misconceptions about their situation, which can in turn add to the pressure on them to take in more animals.

<sup>25</sup>Covering all relevant educational areas including wildlife, farm and domestic animals.

This issue has been raised at numerous points during this enquiry in both the evidence sessions, by the working group members and our legal advisor. It has been agreed by the group that the issue of animal hoarding is separate to the regulation of legitimate AWEs. They are private individuals who hoard animals and although they may take in animals from the public from time to time, they do not qualify fully under the definition of sanctuaries as stated earlier. These situations are also difficult to monitor and the authorities rely on social services, neighbours and visits to report animal welfare concerns, once this has happened they can usually be dealt with under the Animal Welfare Act directly, thus it is inappropriate to include 'hoarding' under any proposed AWE regulation.

Those individuals in a similar situation who are 'holding themselves out to the public' to receive animals however, should be covered by proposed regulation. It is unlikely individuals in this situation would be able to meet the requirements of any such regulation and consequently the welfare needs of the animals in their care, in which case regulation would act to protect them from their own good intentions.



70 cats kept in a house © RSPCA

### 4.3 Examples of concerns about AWEs raised during the inquiry

*"We have seen tremendous welfare problems arising from the existence of well-meaning but unregulated and poorly run 'sanctuaries'."*

**Wild Futures**

*"Sanctuaries often begin as a well-meaning person's hobby developing into a genuine wish to help their chosen species, which can grow beyond their expectations. This escalation can result in attempting to care for too many animals without the financial means to ensure sufficient food, satisfactory accommodation, cleanliness, socialisations, exercise, veterinary treatment etc."*

**Blaenau Gwent County Council**

*"There are many [AWEs] with poor standards such as overcrowding and high levels of infectious disease..."*

**Cats Protection**

*"In 2006, the RSPCA assisted with a raid on an establishment thought to be holding illegally caught wild birds. They seized over 100 animals of various species which were being kept in some appalling conditions. The owner was found guilty of a number of offences under the Protection of Animals Act and of one offence under the Wildlife and Countryside Act. However, the sanctuary had a good public profile in the neighbourhood and because of this the owner was charged with improving the conditions of the establishment with the assistance of the RSPCA."*

**RSPCA**

*"90% of sanctuaries I have visited are disgusting. People 'rescue' animals and are unable to care for them."*

**Veteran Horse Welfare**



Self-plucked mitred conure in sanctuary, UK © Greg Glendel/BirdsFirst

## 4.4 Options for regulation

Given the evidence submitted to this working group and the problems that have been identified in the past, it was established that the status-quo was not an option and that some form of regulation was required.

There was a general recognition that a proactive scheme of compulsory regulation for organisations defined as AWEs would be preferable for animal welfare to that of registration or self-regulation, specifically because it is essential that the system offers tools such as access and enforcement of penalties, to ensure compliance.

Registration would allow general visibility of establishments, but not any level of accountability, which would not solve the problems of identifying welfare problems before they escalated. Self-regulation would also be undesirable because of a lack of visibility and the wide and varied range of opinions and experience in the sector.

There were concerns raised about the ability of smaller organisations to meet monetary and bureaucratic requirements for this. A number of suggested solutions to this have been raised, including that of a tiered payment system. It was generally agreed that the fees for inspection and regulation must be proportionate to the costs involved. It was also agreed, however, that any inability to meet such running costs should indicate that there may be a lack of sufficient funds to ensure welfare standards, particularly given the costs of veterinary treatment.

We accept that given the variety within the sector any form of regulation must be proportionate but effective.

***“The existence of small establishments which care for companion animals and/or wildlife is crucial to the ongoing welfare of animals in [rural] areas, where transportation of the animals to larger centres in built up areas may be impractical or impossible.” RSPCA***

## 4.5 Size of AWEs

Any regulation would not be about big organisations versus small – for example the larger groups forcing out the small, as there should be room for all sizes of organisations to function in this area, so long as they provide an adequate standard of care. To an extent, in some sectors the large organisations need the small and vice-versa, in terms of ensuring standards and providing spaces for all animals in need of care. The point should also be made that regulation would allow identification of these smaller AWEs, which can often exist without any official or public knowledge.

Any future implemented regulation scheme could necessitate the closure of some AWEs which are unable to reach the required standards due to cost etc. This could be regarded as a positive outcome in cases where AWEs are operating without proper regard for welfare or beyond their capabilities and funds. Although this should only affect a very small number of establishments, the effect on the remaining AWEs would be felt due to increased demand on their services.



## 4.6 Data collection and visibility

It is essential that the legislation makes the return of certain data a compulsory requirement. There is no reliable information concerning the total number of AWEs in Wales at this time and the nature of their interaction with animals in their care i.e. welfare outcomes, euthanasia, disease/condition incidents. Regulation would allow local authorities to retain a comprehensive list of all AWEs in their area, including locations, animals/species catered for, resources and training available, contact numbers etc. This could be an invaluable resource for joint working and visibility in the future. Statistics on the nature of the work being undertaken would also become clearer and more easily quantified and analysed to give a more accurate picture of the impact on the animal welfare sector.

## 4.7 Animal welfare policy documents

There must be a clear standard for AWEs to achieve, and this must be clearly documented and generally available.

While the working group accepts that it is preferable to inspect outputs (results of animals taken into care) rather than inputs (culture and policies), we recognise the difficulty in doing so with such a broad spectrum of species. However many output matters can be dealt with by the provision of adequate documentation by the establishment. Such policy and operating procedure documents would be required to demonstrate compliance with the Animal Welfare Act (2006), and particularly to Section 9. The issue of a licence should be dependent on the provision of satisfactory documentation (in addition to an inspection – see 5.8).

***Of those organisations who responded to the call for evidence for this enquiry, many of whom are defined as AWEs, 23 out of 26 agreed with some form of policies being required of all AWEs as a condition of their registration/licence.***

A recognised and enforced minimum standard needs to be the basis of any regulation of AWEs. This has been proposed as taking the form of AWEs providing compulsory policy documents covering certain set areas. These policies would be made available for scrutiny as part of any inspection process and would be available to the public if requested. It would be required that the policies comply with Section 9 of the Animal Welfare Act (2006) and cover certain defined areas in order for a licence to be granted.

Because of the diversity of animals kept by AWEs it is advised that current Animal Welfare Act Codes of Practice be used as the basis of any compulsory policy documents for those species they have currently been produced, and other recognised sources (such as those used by RSPCA, BVA, GFAS etc.) be utilised for other species until such time as further Codes of Practice are developed to cover them.

The person responsible for the development of the compulsory policy documents should be the operator of the AWE, which means the natural or legal persons responsible for ensuring that the requirements of animal welfare and licensing law are met within the AWE under their control; it may be that another person or persons will take the lead in developing these policies, but the operator of the AWE cannot delegate overall responsibility for this work.

Such policy documents would demonstrate a level of forethought and contingency planning in key areas of animal health and welfare and general management regimes and should cover key areas. This would help to remove any ambiguity over the organisation's practices and intentions and allow consistency over the entire sector.

Policies provided should include the compulsory and non-compulsory requirements listed below, and should aim to avoid any unnecessary suffering of animals in care as outlined in the Animal Welfare Act (2006):<sup>26</sup> The level of detail needed for the compulsory policy documents will depend on the type and size of AWE undertaking, but will as a minimum need to be in writing, in a format that can be readily viewed, and kept at the AWE in question at all times so that they can be viewed as part of any inspection process.

Collaboration and information sharing should be utilised in this process, with guidance and model templates already in use by other AWEs and the local authority. Those establishments not able to prove that their policies comply with the Animal Welfare Act should be denied a licence and either encouraged to reach the standards required within a specified time period or to close. Help should be offered to those organisations below standard and who wish to upgrade to improve, perhaps through support from nominated organisations recorded on a list of experts such as the RSPCA.<sup>27</sup>



Single hoglet being hand fed at Stapeley, UK. © Joe Murphy/RSPCA

<sup>26</sup> 'Unnecessary suffering' as defined by the Animal Welfare Act 2006: (1)A person commits an offence if— (a)an act of his, or a failure of his to act, causes an animal to suffer, (b)he knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or be likely to do so, (c)the animal is a protected animal, and (d)the suffering is unnecessary. (2)A person commits an offence if— (a)he is responsible for an animal, (b)an act, or failure to act, of another person causes the animal to suffer, (c)he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening, and (d)the suffering is unnecessary. (3)The considerations to which it is relevant to have regard when determining for the purposes of this section whether suffering is unnecessary include— (a)whether the suffering could reasonably have been avoided or reduced; (b)whether the conduct which caused the suffering was in compliance with any relevant enactment or any relevant provisions of a licence or code of practice issued under an enactment; (c)whether the conduct which caused the suffering was for a legitimate purpose, such as— (i)the purpose of benefiting the animal, or (ii)the purpose of protecting a person, property or another animal; (d)whether the suffering was proportionate to the purpose of the conduct concerned; (e)whether the conduct concerned was in all the circumstances that of a reasonably competent and humane person. (4)Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

<sup>27</sup> This would have to be a request made separately to the RSPCA for their consideration.

Policy documents should include:

### **Compulsory requirements:**

- *Record keeping - must be put in place to cover any key areas of animal welfare, to include, as a minimum, the receipt and disposal of animals, any veterinary care and the feeding and care regime for each animal (refer to compulsory wildlife recording 5.5 below);*
- *Euthanasia – under what circumstances a decision to euthanase would be made and ability to enact;*
- *Vet checks/vaccinations – nominated veterinary surgeon and ability to provide;*
- *Breeding from animals in care – reasons;*
- *Hygiene/disease control;*
- *Staff and volunteer training/competency: a) the establishment licence holder is responsible for ensuring that they, or a responsible member of staff at a managerial or supervisory level, have adequate knowledge and skills to implement legislative requirements and to ensure the well-being of animals in their care; b) where existing skills and knowledge are not demonstrable, completion of a programme of training from an accredited education provider should be attained by the licensee and/or responsible member of staff;*
- *Number and type of animals able to be accommodated and where. If wild animals are to be taken in, how each species will be housed etc.*

### **Non-compulsory requirements to provide guidance on best practice:**

- *Public access/display (not appropriate for wild animals);*
- *Ownership – such as “signing over” animals when they are taken in;*
- *Rehoming;*
- *Fostering arrangements – for organisations that utilise a network of fosters or multiple small sites, they would need to register as a single organisation and provide robust policies to cover this and enact a level of self-regulation to ensure their fosterers standards where maintained;*
- *Release protocols for wildlife;*
- *Neutering and microchipping where appropriate.*



***“Because wild animals are perceived as not having owners, members of the public believe they can “have a go”, attempting great feats of orthopaedic surgery on animals with open fractures and broken spines, with bandages and lolly pop sticks.”***

***Gower Bird Hospital***

#### **4.8 The question of wildlife**

Wild animal rehabilitation is a specialised area of animal welfare with many different needs, facilities and outcomes than for companion or farm animals. There are risks to human safety as well as separate and additional legislation governing protected wild animals. Consideration must be given to the number of different species admitted, types of housing available, rehabilitation methods and provision for monitoring success rates, as well as the potential to spread disease to other protected or domestic animals, livestock or people. Record keeping for compliance with the Wildlife and Countryside Act (1981) is compulsory for those species listed on Schedule 4 of this Act, however for most other species it is the responsibility of the keeper to demonstrate the provenance of the animals in their care. Such records should be kept in all centres treating wildlife and this should be a requirement of any new legislation. Animal welfare for wild animals is poorly understood, wild bred animals have a natural fear response to people and can exhibit high levels of stress behaviour in captivity. Furthermore, these animals are not pets and should not be treated as such.

Wildlife rehabilitation centres admit many different species of wildlife, requiring different housing, handling and treatment protocols. They must be able to demonstrate knowledge of the biology and ecology of the species being cared for as this is particularly important for the successful treatment and rehabilitation of protected animals.

Given all the above it would be unlikely that any wildlife AWEs, if they have a non-euthanasia policy, would be able to satisfy the welfare requirements of permanently disabled protected animals under the Animal Welfare Act. A large percentage of wildlife casualties are non-releasable and permanent captives would put enormous strain on facilities at AWEs, reducing the effectiveness of centres to rehabilitate those wildlife casualties that have a chance of being released and potentially compromising the welfare of releasable and non-releasable animals. Therefore a pragmatic euthanasia policy for non-releasable animals is essential.

If wildlife AWEs are already established and visible through advertising or through agreements with the RSPCA and other organisations, the effect of any regulation would appear to be small due to the limited number of wildlife rehabilitation facilities in Wales and their specialist role. There is however perhaps an unknown number of individuals and organisations that hold themselves out to receive wildlife casualties from the public and private veterinary practices across Wales.

## 4.9 Accountability

It was felt by the working group that an organisation or nominated person should be licensed under any regulation scheme which required it, rather than licensing a physical address. The issue of internet based animal welfare organisations should also be considered in any future regulation, as these are increasing in number in recent years, making knowledge of physical addresses and visibility harder to achieve.

The question of accountability in regards to other individuals within AWEs or their organisations should also be considered. These other individuals include: fosterers (approved/inspected/informal), veterinary surgeons and surgeries, boarding establishments, satellite sites and satellite organisations.

Any regulation to cover these individuals would need to be proportionate. For example, if an AWE utilises a network of fosterers or multiple small sites, they would need to register as a single organisation and provide robust policies to cover their arrangements and enact a level of internal regulation to ensure their fosterers' standards were maintained. We do not want a situation where each individual fosterer needs licensing. However, in the interests of transparency comprehensive records of fosterers and animals cared for should be kept by each AWE.

### 4.10 Veterinary surgeons

Veterinary surgeons play an important role in the effective management of an AWE, and could also contribute to the visibility of these organisations under a regulation scheme.

A nominated veterinary surgeon with the necessary expertise relevant to that organisation and the animals being kept by them should also be recorded as part of the policy documents detailed in section 4.3 above.

### 4.11 Inspections

An annual or risk-based inspection should be a central element of any licensing scheme, which would also allow for a cost recovery element. It could be difficult to justify inspections for licensing if the process was not mandatory, so mandatory inspections with a right of entry for Inspectors included in the regulations would be preferable<sup>28</sup>.

Although it was generally accepted by the working group that local authorities are in the best position to enforce any new regulations and conduct inspections in this area, there is some concern that they are already overstretched financially and in terms of resources. However, this role could easily integrate into the current local authority responsibilities for animal welfare legislation providing the costs are fully recoverable.

<sup>28</sup> In the Welsh Government's draft Animal Welfare (Breeding of Dogs) (Wales) Regulations 2012, Powers of Entry are addressed in section 21 as 'Breach of a licence condition must be treated as a relevant offence for the purpose of section 23 of the Act (entry and search under warrant in connection with offences)'.

There was also concern that Inspectors would not necessarily have sufficient expertise to inspect certain specialist AWEs such as wildlife rehabilitation centres. The use of a vet would not always resolve this problem due to the specialist nature of some disciplines, but it has been suggested by most responders to this inquiry that veterinary input would be necessary. It was also suggested that difficulties could be overcome by providing contact details for a panel of experts who would be available to support the inspecting officer. Possible experts could include veterinary surgeons and individuals from established AWEs or, in the case of wildlife rehabilitation centres, individuals from wildlife establishments used by the RSPCA in the local authority's area.

Extra animal welfare training could also be provided for Inspectors throughout Wales by organisations such as the RSPCA, British Horse Society, Donkey Sanctuary and others. This training would also be of benefit to other areas of the Inspector's animal welfare role.

Inspections should not use a similar format to current dog boarding licensing procedures where inspections are prearranged with the management of the facility once a year. Unannounced inspections would allow the Inspector to see the establishment in its normal working condition.

Inspections should be risk-based where risk is related to the condition of the establishment, its management and the size of the establishment. Licences could run for up to three years with the frequency of inspection set at a minimum of annual but as frequently as considered necessary for high risk establishments. There should be some financial implication for those high risk establishments, for example by charging for any additional inspections required on a cost neutral basis.

It would be preferable to have standardised local inspection protocols to ensure consistency and fairness. This could be achieved by ensuring minimum standards are contained within the legislation and also in a similar way to other legislative enforcement, through training for enforcement officers, Welsh Government additional guidance and the use of existing local authority liaison arrangements.<sup>29</sup>

There have been suggestions that the current Zoo Licensing Act (1981) could cover AWEs open to the public, but these organisations are in many cases unlikely to apply for a Zoo Licence either because they fall outside the legal definition, or because their motivations for running an animal welfare establishment mean that they do not want to be classed as a zoo. Any establishment granted a licence under the sanctuaries inspection scheme should be specifically exempt from the Zoo Licensing Act, unless they fall under the definition of a zoo as defined in the legislation.<sup>30</sup>

Access to AWEs in order to carry out an inspection is an important issue which will determine the effectiveness of any regulation. Right of entry for proactive and reactive inspections and other regulatory intervention visits are therefore a crucial aspect of this system.

<sup>29</sup> As a point of reference or example of standards currently in use, the RSPCA's site inspection standards can be found in Appendix D.

<sup>30</sup> Definition of a zoo: A zoo is an establishment that displays wild animals to the public for more than 7 days in any one 12 month period, as defined by the Zoo Licensing Act (1981). Zoos are required to be licensed by local authorities after the receipt of a satisfactory report on the establishment by a vet appointed by Defra. The definition of a wild animal as given in section 27 of this Act is any animal not normally domesticated in Great Britain. This has been clarified in a subsequent Defra circular an extract of which can be found in Appendix E at the end of this report.

There is currently a toolkit available to local authorities when standards slip, which has already been included in the Animal Welfare Act (2006). It was felt by the working group that it would therefore be advisable to also adopt the penalties outlined in the Act, namely the issuing of improvement notices and finally, seizure. The group would advise that any regulation should state that it would be an offence not to comply with an improvement notice issued under the regulation, which is not currently the case under the Animal Welfare Act (2006). It is imperative that the improvement notice is constrained by a time period. This differing requirement could be justified by the expectation of a higher degree of compliance with the Animal Welfare Act from an AWE, whose direct function is that of animal welfare and where expertise should have been developed to a higher standard, than those of private animal keepers.

The working group would like to add that if the Animal Welfare Act could be amended to allow enforcement notice compliance to be compulsory, such as in Scotland, this would strengthen the position of this regulation and add extra weight to Local Authorities enforcing it. It would also allow robust enforcement without removing the AWEs licence, which would potentially close those premises.

## **4.12 Compliance and penalties**

Compliance with any regulation could be enforced by giving Inspectors the ability to amend the numbers of animals and the types of species licensed at a particular AWE overall. This would mean that if problems were to arise, the ability of the AWE to take in any new animals could be halted by the Inspector in a probationary capacity until any problems were resolved.

The working group wants to reinforce that it does not want a system of regulation that would remove a licence for non-compliance, as this would lead to a situation where the AWE in question was no longer able to be inspected because the authorities would no longer be able to gain access without a warrant.

## **4.13 Costs and charges**

Options are either cost-neutral or cost-recovery through a licence/registration fee, or Government funding however, it should be noted that we would not want this option to harm the ability to introduce regulation and feel that a cost neutral cost recovery system through a fee is a viable alternative.

Fee structures should be set by the Welsh Government and not left to the discretion of the local authorities, on the condition that they are on a true cost recovery basis. This must be equivalent to costs and not confer undue profit. Fees should be proportionate so as not to unfairly burden smaller organisations.

The concern that smaller organisations could not afford a licence fee even if means-tested and, subsidised by the larger establishments' fees can be justified by the concern that an establishment running without sufficient funds would also have limited ability to provide for animals in their care and should be encouraged to cease operating.

## SECTION 5: CONCLUSION

After thorough examination of the issues involved, a summary of the recommendations contained in this report include:

- AWEs provide a range of essential services for animal welfare in the community;
- Hoarding is a distinct and separate issue to the regulation of AWEs and can be dealt with under the Animal Welfare Act (2006);
- Compulsory regulation of AWEs is recommended in the form of secondary regulation brought under the Animal Welfare Act (2006);
- Compulsory registration of AWE details would be an integral part of any regulations;
- Data collection should be prioritised as an important resource for information and visibility of organisations operating as AWEs;
- Animal welfare policy documents should be a requirement of organisations under any regulation. These should include both compulsory and recommended requirements. Those establishments not able to prove that their policies comply with the Animal Welfare Act should be denied a licence and either encouraged to reach the standards required within a specified time period or to close;
- The unique challenges and specialties of wildlife rehabilitation should be specifically addressed in any regulations;
- A nominated individual should hold responsibility for an organisation, but with reference to other individuals who may also carry varying levels of responsibility (i.e. fosters);
- Each AWE should have a nominated vet with knowledge of their operations;
- A Local Authority administered mandatory risk-based inspection to involve veterinary presence should be a central element of any registration scheme, considered on an annual basis, which would also contribute to cost recovery;
- Compliance should be addressed by the current Animal Welfare Act toolkit, Improvement Notices, amendments to the numbers of animals licensed for an AWE to keep or instructions to carry out specified works to meet the legal minimum standards, rather than removal of licenses that could lead to problems of access;
- Proportionate fees should be set by the Welsh Government on a self-funding cost-neutral/cost recovery basis.

In conclusion, the AWNW AWE working group **strongly** recommends that regulation of AWEs be introduced in Wales. This sentiment was also reflected by a majority of those organisations who submitted evidence to this enquiry, and so should be seen as a relatively uncontroversial move from within the sector and the wider public.

## APPENDIX A: THE ROLE OF AWWN

The Animal Welfare Network for Wales (AWNW) is an independent initiative set up to bring together all organisations with volunteers who work within the animal welfare world in Wales. Currently there are 146 member organisations (including animal welfare organisations and other NGOs, vets, local authorities) that make up the Network, which is a large representative section of the sector.

It should also be pointed out that AWWN is already functioning as a facilitation group for the animal welfare sector, representing many AWEs who would be affected by any future regulation. Therefore the AWWN is in a position to facilitate forums, networking and joint working with local authorities, Government etc. in the context of regulation of AWEs. AWWN does in fact already have a working relationship with the proposed enforcers and parties outlined in this report. The AWWN's existence could also help to mitigate any possible negative effects on the sector.

The aim of the Network is to facilitate affective communication between all animal welfare organisations who work in Wales at a crucial time for the sector – March 2011 saw animal welfare devolved to Wales as a whole sector<sup>31</sup>, The Welsh Government has a Compact with the Voluntary Sector, which provides for a seat on animal welfare issues on the Third Sector Partnership Council (TSPC). The RSPCA holds that seat as a representative of AWWN, to facilitate information across all interested groups in Wales.

The Network provides a number of services for its members – from information facilitation of political developments related to animal welfare, to networking events and topic lead seminars. The Network was also involved in the former Welsh Government administered the Companion Animal Welfare Enhancement Scheme (CAWES) which allowed its members access to meetings with local authorities on companion animal welfare issues and be involved in special projects run by the councils.

Following the conclusion of CAWES on the 31st of March 2011, AWWN, the Welsh Government, local authority representatives and the WLGA (Welsh Local Government Association) ran a successor scheme which operated without funding. This scheme only covered four meetings throughout Wales for the discussion of companion animal matters between the Welsh Government, local authorities, AWWN members and others with an interest in animal welfare. The Welsh Government provided the chair and venues for these meetings, whilst the AWWN provided the secretariat. The Network is in discussions about this scheme's future.

More details about the AWWN work can be found on the AWWN website at [www.awnwales.org](http://www.awnwales.org)

<sup>31</sup> Exceptions being hunting and animal experiments



## APPENDIX B: CALL FOR EVIDENCE LETTER AND FORM



10 March 2010

Dear Sir or Madam,

RE: AWNW Animal Welfare Establishment "Sanctuaries" Evidence Gathering

The Animal Welfare Network for Wales (AWNw) is conducting an evidence gathering exercise to determine views on animal welfare establishments (sanctuaries) and regulation in Wales. We are attempting to reach as many sanctuaries and related organisations as possible for their input.

We are interested in hearing from any animal welfare establishment, which includes: rehoming, retired animals, rescue, rehabilitation, community based activities etc. We are also interested in all types of animals including: companion, wildlife and farm animals.

AWNw would be very pleased to receive any evidence which your organisation would like to submit on the issue of sanctuaries and regulation. There are two ways to give evidence: written, orally or both.

If you would like to submit oral evidence, please use the form attached for guidance. If you have other comments not covered by our questions, please feel free to include these as we want to hear all of your thoughts on this topic. The deadline to submit this written evidence is the 30<sup>th</sup> of June 2010. Please submit your evidence in email format to [contact@awnwales.org.uk](mailto:contact@awnwales.org.uk)

If you would prefer to give your evidence orally or if you wish to supplement your written submission, then the AWNw Animal Welfare Establishment "Sanctuaries" working group will be available on three dates. This will be a chance for you to have an informal chat with a few of the working group members to have your organisations views heard.

We will be holding sessions throughout Wales on the following dates:  
05.05.10 Welsh Assembly Government offices, Aberystwyth  
25.05.10 Welsh Assembly Government offices, Merthyr Tydfil  
10.06.10 Welsh Assembly Government offices, Caernarfon

To book a slot at one of these sessions, please contact the Co-ordinator using the details below before the 9<sup>th</sup> of April 2010.

If you have any questions or would like to discuss anything further, please feel free to contact me. I thank you for your time and hope to hear from you soon.

Kind regards,

A handwritten signature in black ink, appearing to read 'Tina Reece', written in a cursive style.

Tina Reece

0300 123 8910 • [contact@awnwales.org.uk](mailto:contact@awnwales.org.uk) • AWNw, 10 Ty Nant Court, Cardiff CF15 8LW



## Animal Welfare Establishment Sanctuaries Call for Evidence

### Contact Details

1. Full name of organisation: .....
2. Contact name .....
3. Contact address: .....
..... Postcode: .....
4. Contact number: ..... 5. Email: .....

### Questions

*We would like to hear anything you have to say on this issue. Please use the questions below as informal guidance and feel free to add anything else you wish to discuss under question 5. As there is only limited space allow below we would prefer you to submit your answers in an email to [contact@awnwales.org](mailto:contact@awnwales.org)*

1. What role do you see animal welfare establishments playing in Wales? If you run an animal welfare establishment (sanctuary, rehoming centre, rescue/rehabilitation, wildlife hospital, animal retirement centre etc.) we would also like to know details of your operation such as size, staffing, running costs, income generation etc. which would be pertinent to regulation. If you are a Local Authority please add how many animal welfare establishments are in your area and any relevant details. ..... ..... ..... ..... ..... ..... .....
2. Do you agree with the practice of sanctuaries providing policies regarding their animal welfare work (such as policies on how to handle euthanasia, transfer of animals etc.)? ..... ..... ..... ..... ..... ..... .....



3. Do you agree with the principle of regulating sanctuaries? What concerns do you have, if any?

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4. Do you agree that a compulsory Local Authority run registration/licensing system for sanctuaries would be the most appropriate method of regulation?

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5. Please add anything further that you wish to discuss on the issue of regulation for animal welfare establishments.

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## APPENDIX C: EVIDENCE

Transcripts of written evidence can be accessed at: <http://www.awnwales.org/AWEwritten>

Transcripts of oral evidence can be accessed at: <http://www.awnwales.org/AWEoral>

## APPENDIX D: RSPCA INSPECTION STANDARDS

A full copy of the Licensing Conditions for all RSPCA Animal Centres (December 2009) can be found at:  
[www.politicalanimal.org.uk/RSPCA/Licensing Conditions.pdf](http://www.politicalanimal.org.uk/RSPCA/Licensing%20Conditions.pdf)

A copy of the standards for non-RSPCA centres for wildlife can be found at:  
[www.rspca.org.uk/allaboutanimals/wildlife/rehabilitation/standards](http://www.rspca.org.uk/allaboutanimals/wildlife/rehabilitation/standards)



### Licensing Conditions for all RSPCA Animal Centres Branch & Animal Centre Support Department

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## APPENDIX E: DEFRA CIRCULAR 02/2003 – ZOO LICENSING ACT 1981, ANNEX E

Animals considered normally domesticated or not normally domesticated for the purposes of the Zoo licensing Act 1981. The Secretary of State is not in a position to give an authoritative statement on which animals fall into the 'normally non-domestic' and 'normally domestic' categories as interpretation of legislation is a matter for the Courts. However, an informal view on the more common cases that have caused uncertainty is set out below.

To explain the thinking, the two categories have been sub-divided into the following five subcategories. Species not in categories 1 to 4 will almost certainly be in 5. Hybrid species should be treated as not normally domesticated if one of the parents is from sub-categories 3 to 5. Where there is doubt about a species, local authorities, Inspectors or operators may check with Defra who may seek views through the Zoos Forum.

<i>Species normally domesticated in Great Britain and therefore not "wild animals" for the purposes of the ZLA.</i>		<i>Species not normally domesticated in Great Britain and therefore to be considered "wild animals" for the purposes of the ZLA.</i>		
<p><b>1.</b> True domestic breeds of species that have been kept in this country for so long, and in such large numbers, that their status as "normally domesticated in Great Britain" is clearly justified (exotic domestic breeds of the same species as those listed here are included, eg. Vietnamese potbellied pigs).</p> <p><b>Examples:</b> horses/ponies, donkeys, cattle, sheep, goats, pigs, dogs, cats, ferrets, rabbits, pigeons/doves, chickens, turkeys, ducks, geese.</p>	<p><b>2.</b> True domestic breeds, and selectively bred wild species, introduced to this country relatively recently, but now so commonly kept outside zoological collections as to justify regarding them as "normally domesticated in Great Britain".</p> <p><b>Examples:</b> guinea pigs, hamsters, gerbils, rats, mice, chinchillas, budgerigars, canaries, guinea fowl, peafowl, goldfish, koi carp, golden orfe.</p>	<p><b>3.</b> True domestic breeds of species introduced to this country relatively recently, and kept in relatively low numbers, and that therefore should be regarded as "not normally domesticated in Great Britain" (exotic domestic breeds of species in list 1. Are included in that list).</p> <p><b>Examples:</b> llamas, alpacas, camels, water buffalo, Ankole cattle, yak, reindeer.</p>	<p><b>4.</b> Wild species, commercially farmed or widely bred by hobbyists (including some species which have been selectively bred and therefore may be considered domestic), but where this is so recent as to render the species "not normally domesticated in Great Britain"</p> <p><b>Examples:</b> deer, ostriches, wild boar, American bison, aquarium and pond fish (excluding those in 2.), cage and aviary birds (excluding those in 2.), waterfowl (excluding those in 1.), giant African land snails.</p>	<p><b>5.</b> True wild species, where domesticity is not seriously suggested.</p> <p><b>Examples:</b> All species not listed</p>



