

# **Consultation on the Implementation of revised EU Rules on Equine Identification In Scotland**

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## **Summary of Key Themes**

The following is an executive summary of the responses to the consultation which forms part of the revised EU rules on Equine Identification.

### **1. Time limits for identification of equidae**

There were 3 deadline options for respondents to choose from which were within 6 months of birth, not later than 12 months of birth or end of calendar year of birth. Respondents had mixed views with key themes ranging from the sooner equidae are identified the better to greater flexibility allows for greater compliance.

### **2. Movement of equidae within Scotland using a smart card**

Respondents were in overwhelming agreement that they want to take up the option to be allowed to move equidae within Scotland by use of a smart card rather than an identification document.

### **3. Deadline for submission of identification documents**

EU 2015/262 requires the Member State to set a deadline for submission of identification documents. Our consultation asked if that limit should be 20 days in line with current Minimum Operating Standards. Respondents were generally in favour however, there was a suggestion that this should be extended as the time limit was tight, in certain circumstances.

### **4. Chipping of older animals**

More than half of respondents said that they thought it necessary to identify equines born pre 1 July 2009 with a transponder. A range of opinions were expressed giving reasons both for and against.

### **5. Financial Impact on the equine sector**

Generally respondents didn't envisage an increase in costs.

### **6. Minimum pricing for Passport Issuing Organisations**

Respondents were not in favour of this option given the variance in organisation administrative costs.

### **7. Fixed Penalty Notices**

Respondents believe that the application of Fixed Penalty Notices would help to drive up compliance with the Regulations. However, there was a view that Fixed Penalty Notices would make no difference to those who already break the law.

## Introduction

Following the horse meat fraud in 2013, the European Commission set in place a 5 point plan. One element of this plan was to revise the Equine Identification Regulation (EC Regulation 2015/262) to tighten up controls on the issue, use and quality of horse passports. In August 2016 the Scottish Government launched a consultation document on the implementation of revised EU in Scotland and the consultation aimed to seek views on proposed changes to the current domestic legislation; The Horse Identification (Scotland) Regulations 2009.

The EU Regulation has been expanded, however, many aspects remains the same. The main changes include the establishment of a Central Equine Database (CED), more stringent passport quality standards, controls to reduce the risk of fraud and clear powers to require withdrawal and re-issue of passports if there is evidence of non-compliance. A number of derogations that have been added that gives us the opportunity to examine what is working now and what, if any, changes need to be made. The consultation gave individuals, organisations and businesses the opportunity to contribute their thoughts and ideas as to how they would like the Regulation to be implemented.

## About the Consultation

The Consultation on the implementation of revised EU rules on Equine Identification in Scotland contained 7 questions all of which were tick box with space for comments. The public consultation period was 22<sup>nd</sup> August 2016 to 3<sup>rd</sup> October 2016.

The Scottish Government provided a webpage with information about the consultation, with links to:

- the consultation document, questionnaire and respondent information form for download; and
- an on-line version of the consultation questionnaire (including respondent information form).

Respondents could also submit their responses by email or by post to the Scottish Government's Animal Health and Welfare Division.

## Error Corrected

Two weeks into the consultation period, an IT glitch was identified which meant that two questions did not give respondents the option to use a tick box and offered space for comments only. The seven respondents who had completed the consultation questionnaire prior to this glitch were contacted to give them the opportunity to respond using the 'YES/NO' tick box. Two respondents chose not to answer and their response has been recorded as 'Not Answered'. One respondent also replied to the consultation twice. The second response was removed with the respondent's permission.

## Overview of Responses

A total of 22 consultation responses were received; 9 from individuals and 13 from organisations.

The consultation respondent information form (RIF) included a list of sectors, and respondents were asked to tick the sector they most aligned with for themselves or for their organisation. These sub-groups were used to enable analysis as to whether differences, or commonalities, appeared across the various different types of organisations and/or individuals that responded.

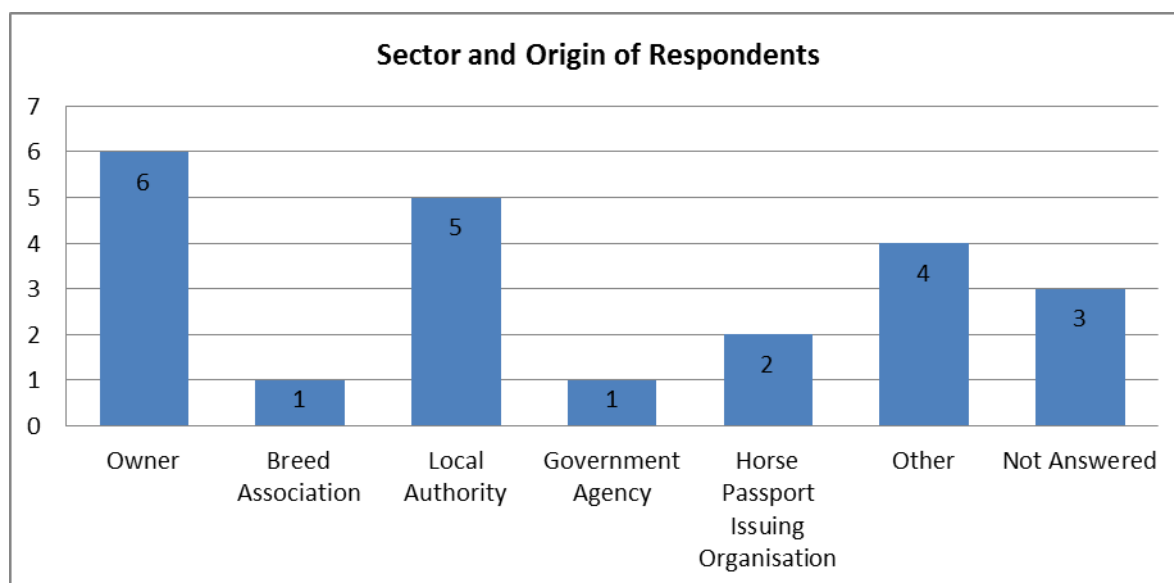
Respondent categories are:

The 'Breed Association' category is from The Eriskay Pony Society Limited (TEPSL);

The 'Local Authority' category includes Perth & Kinross Council, Aberdeenshire Council and Argyll and Bute Council;

The 'Government Agency' category is a response from Food Standards Scotland (FSS);

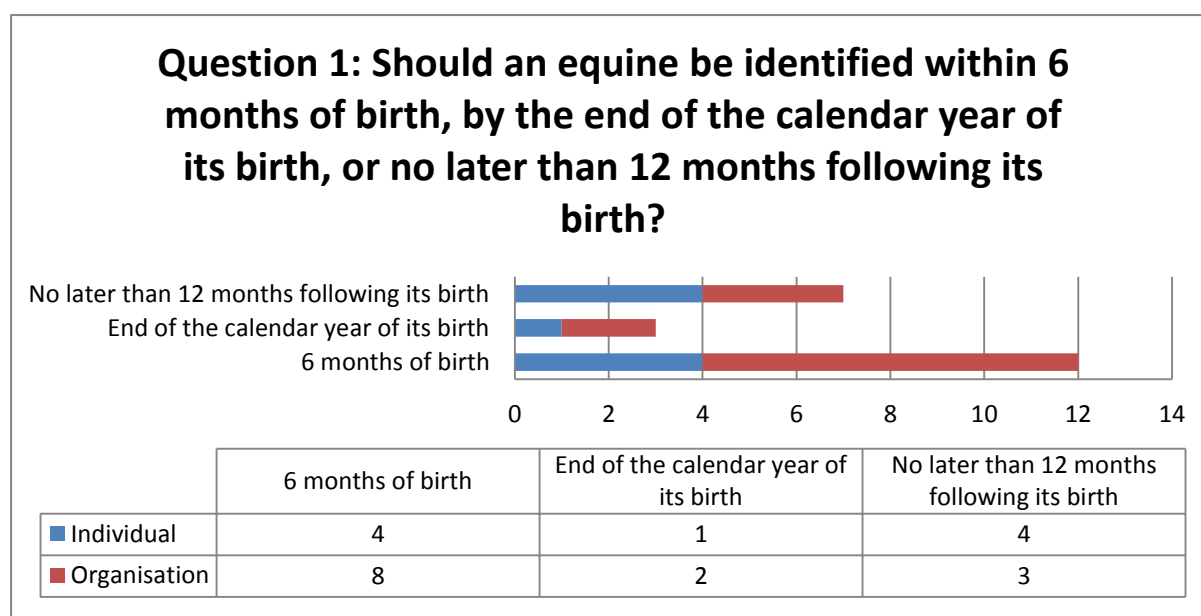
The 'Other' category includes World Horse Welfare (WHW), National Farmers Union Scotland (NFUS), National Fallen Stock Company (NFSCO) and a Veterinary academic.



## CONSULTATION RESPONSE RESULTS

### Should an equine be identified within 6 months of birth, by the end of the calendar year of its birth, or no later than 12 months following its birth?

Article 12 of EU Regulation 2015/262 made clear the time limits for identification of equidae. The new Regulation states that the deadline for identification should be no later than 12 months following the date of birth. Article 12(2) provides a derogation which allows Member States to limit this to 6 months or to the calendar year of birth. Currently in Scotland, an equine must be identified within 6 months of birth or by the 31 December in its year of birth, whichever is later. The new Regulation allows a greater degree of flexibility in that the deadline for issue of a passport should be no later than 12 months following birth. However, there is the option for this to be limited to within 6 months of birth or the calendar year of birth.



The first question in the consultation paper asked ‘Should an equine be identified within 6 months of birth, by the end of the calendar year of its birth, or no later than 12 months following its birth?’

All 22 respondents answered the question; however, responses were mixed for all three options.

Respondents were also asked to provide comments supporting their views, although this was not mandatory. It was noted that in terms of the regulatory requirements some of the responses suggested that this would not be permissible under the regulatory requirements.

### **Within 6 months of birth**

Those bodies with no direct day to day responsibility for issuing passports e.g. enforcement bodies, NFUS and NFSCO thought that horses should be identified within 6 months of birth.

### **End of calendar year of birth**

Those who responded for the end of calendar year included one organisation with day to day responsibility for horses and The British Horse Society (BHS).

BHS added that for owners this deadline is more straightforward and easier to understand rather than trying to remember multiple cut off dates for every individual animal that is born. The example they also added referred to the 'not later than 12 months of birth' deadline and was:

*“That if a weanling was found to have not been identified on February 1<sup>st</sup>, it would be obvious to enforcers that it had not been born that year and was therefore in breach of the Regulations. However, it would not be possible for enforcers to determine on what date it had been born the previous year. Assuming 12 months after birth was chosen as the cut-off point, enforcers could not possibly know whether that weanling had been born on January 10<sup>th</sup> the previous year (and therefore should be identified) or February 24<sup>th</sup> (and therefore would not yet need to be). The same principles (with different dates) would apply if 6 months of age was chosen.”*

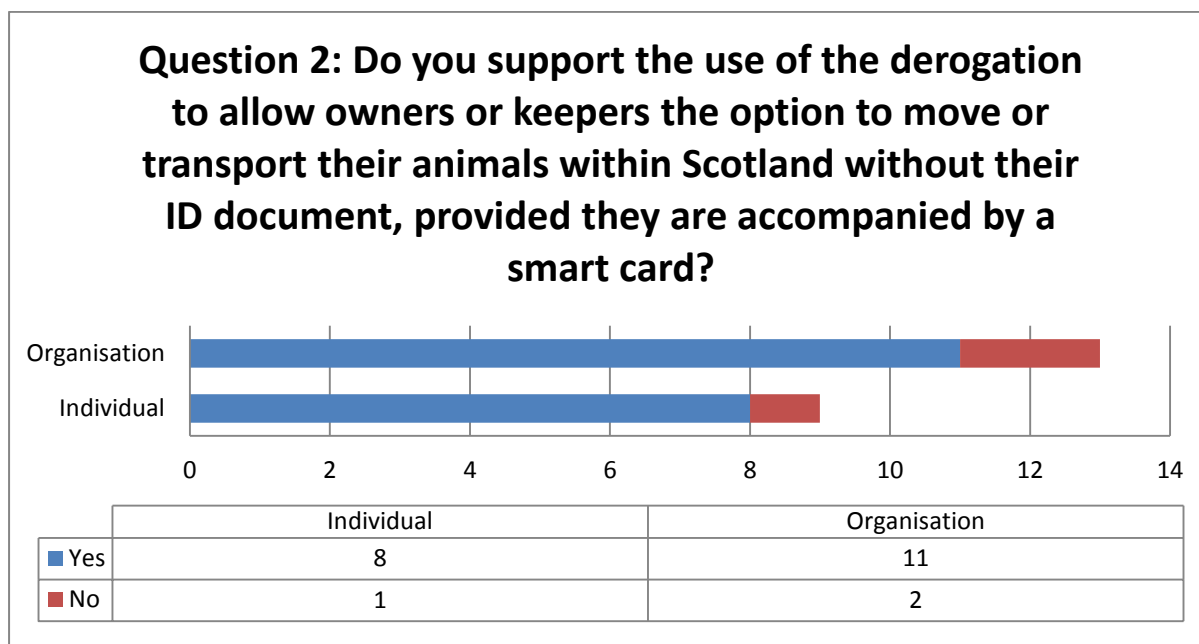
### **Not later than 12 months following its birth**

There were mixed responses to the identification of horses 'not later than 12 months following their birth.' Amongst the 7 responses on this point it was believed that this timescale offers a greater amount of flexibility to owners and would lead to higher levels of compliance. This included a veterinary academic, WHW and FSS. The Eriskay Pony Society added that with the longer deadline that this may possibly result in fewer late applications.



**Do you support the use of the derogation to allow owners or keepers the option to move or transport their animals within Scotland without their ID document, provided they are accompanied by a smart card?**

Article 25(1) allows the movement or transport of equidae within the same Member State with a smart card rather than its passport provided the smart card carries the information set out in Annex II of the new Regulation and is issued by the same body that issued their identification document. We anticipate that a smart card could be produced at a minimal cost and would provide an additional practical benefit of identification.

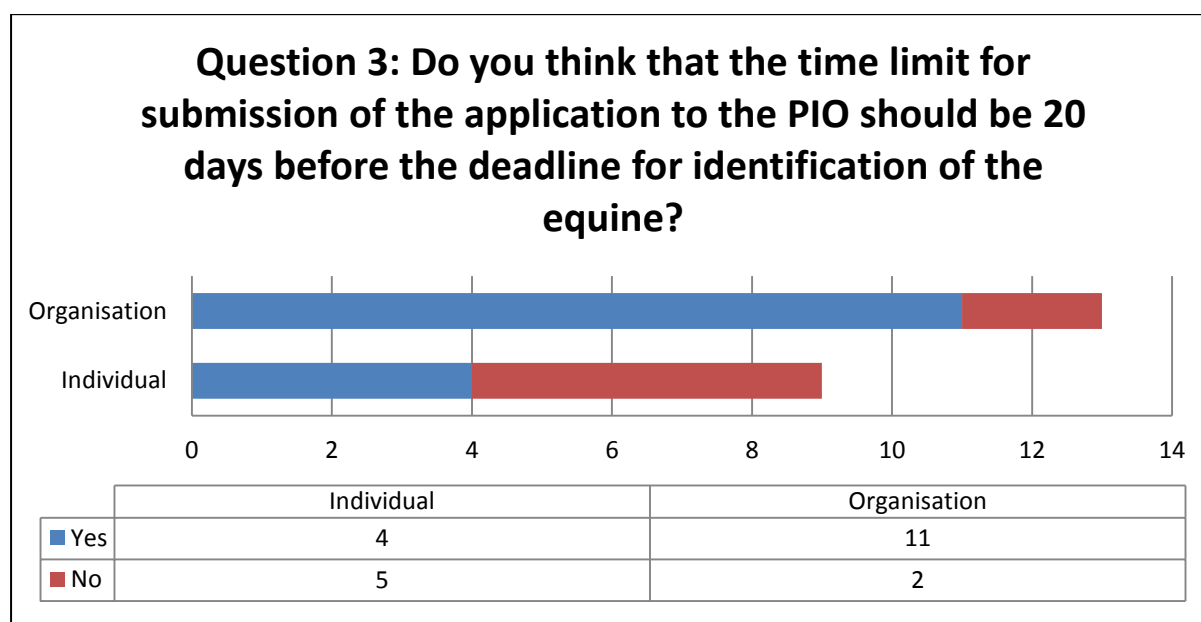


There is overwhelming support for the use of smart cards for movements in Scotland. All 22 respondents answered the question with 19 in favour.

Smart cards were seen to be a more practical solution to travelling with a passport within Scotland. It was also suggested that due to the user friendliness of a smart card that keepers of equine animals would be more likely to actually carry them with them as opposed to a passport. A possible issue was highlighted about the accessibility of the data contained within the smart card in areas where internet access may be limited.

## Do you think that the time limit for submission of the application to the Scottish Passport Issuing Organisation (SPIO) should be 20 days before the deadline for identification?

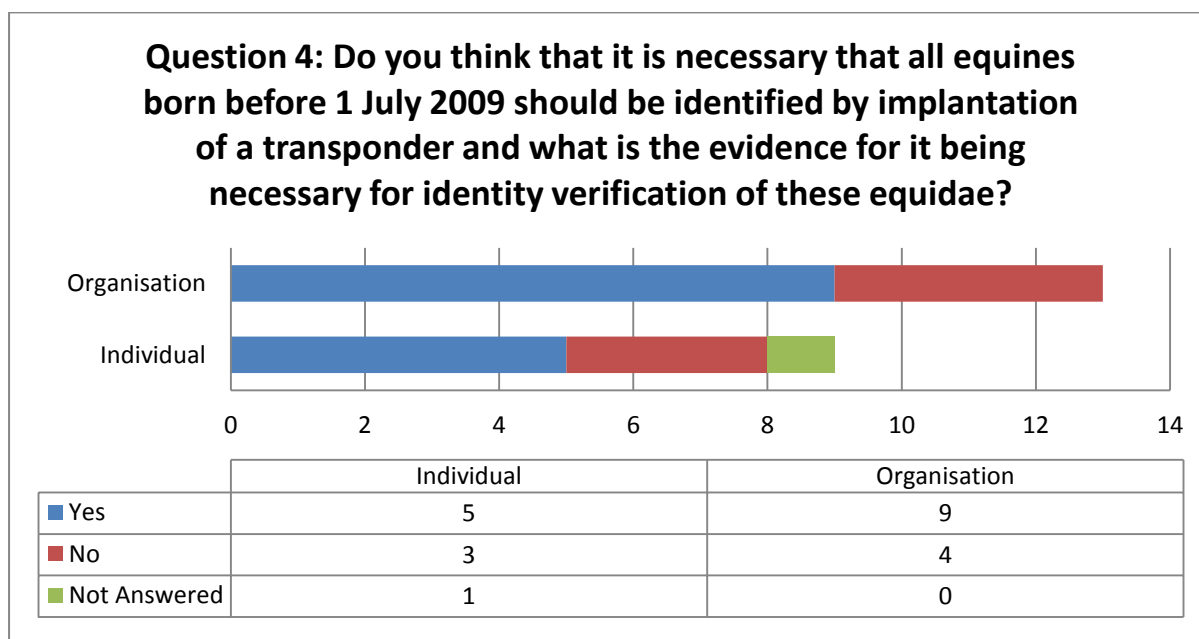
Article 11(2) states that Member States shall set the time limits for the submission of the application for identification. Whichever limit is set, issuing bodies should have sufficient time to process applications. We consider that this should be 20 days before the deadline for identification of the equine. This would be in-keeping with the current Minimum Operating Standards for UK approved PIOs, whereby a PIO, on receipt of a correctly completed application form is required to issue a passport within 20 working days.



15 out of the 22 respondents who answered this question are in favour of the time limit of 20 days for the submission of an application to the PIO. However, comments from the respondents suggest that while in favour of a deadline for submission of application of documents to PIOs, 20 days may not be long enough. It was suggested that a more reasonable period would be 30 days to allow the PIO ample time to process the application and, in particular, to resolve any queries and the return of application to the owner if information is missing.

**Do you think that it is necessary that all equines born before 1 July 2009 should be identified by implantation of a transponder and what is the evidence for it being necessary for identity verification of these equidae?**

The Competent Authority may require that equine animals deemed to be identified in accordance with the new Regulation, are marked by implantation of a transponder where the Competent Authority considers it is necessary to ensure identity verification. This gives Scottish Government the option of requiring that all equidae identified before 1 July 2009, but without a transponder, to be implanted. This would in effect be a requirement for microchipping of older animals.

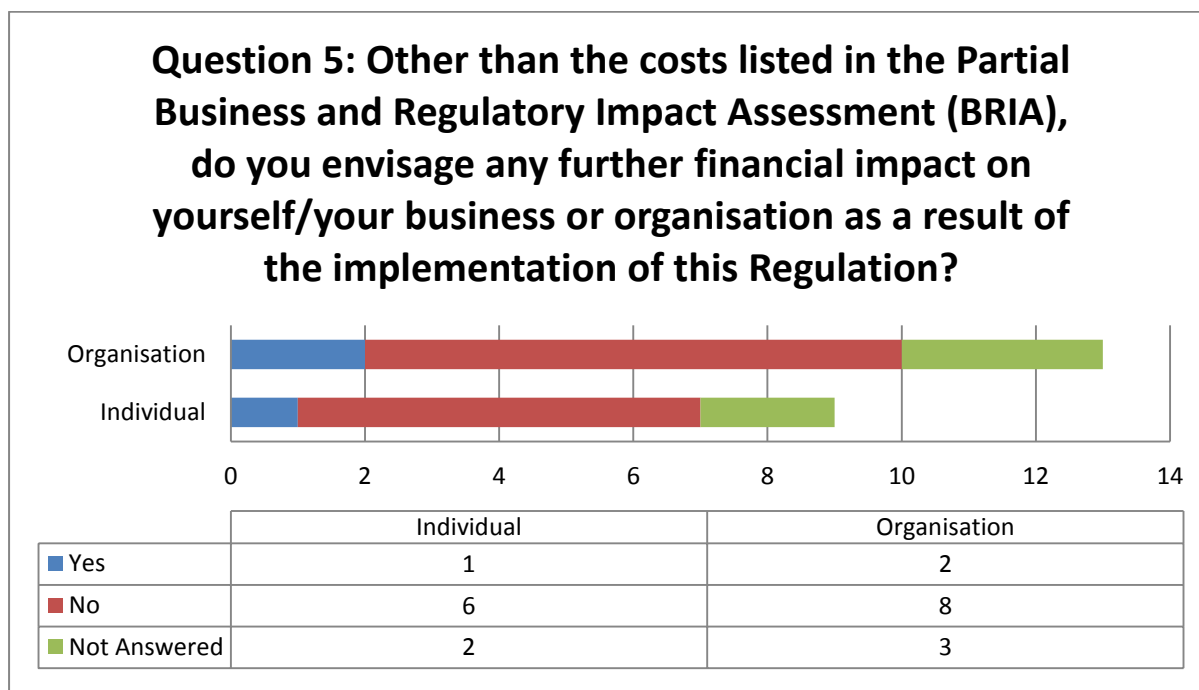


14 of the 22 respondents think it necessary to identify animals born before 1 July 2009 with a transponder. Organisations were more in favour of this proposal than individuals. While more than half of respondents answered ‘Yes’ there were a wide range of views covering possible extra costs and the suggestion of alternatives such as freeze branding (which is prohibited), DNA testing (which is not an option) and waiting until older horses die. Those in favour of microchipping pointed out that it would help prevent abandonment and would ensure all horses are identifiable and traceable and it would improve disease control.

**Other than the costs listed in the Partial Business and Regulatory Impact Assessment (BRIA), do you envisage any further financial impact on yourself/your business or organisation as a result of the implementation of this Regulation?**

As part of the consultation process Scottish Government takes into consideration any financial impact that proposed changes could have to individuals and businesses and completes a Business Regulatory Impact Assessment (BRIA).

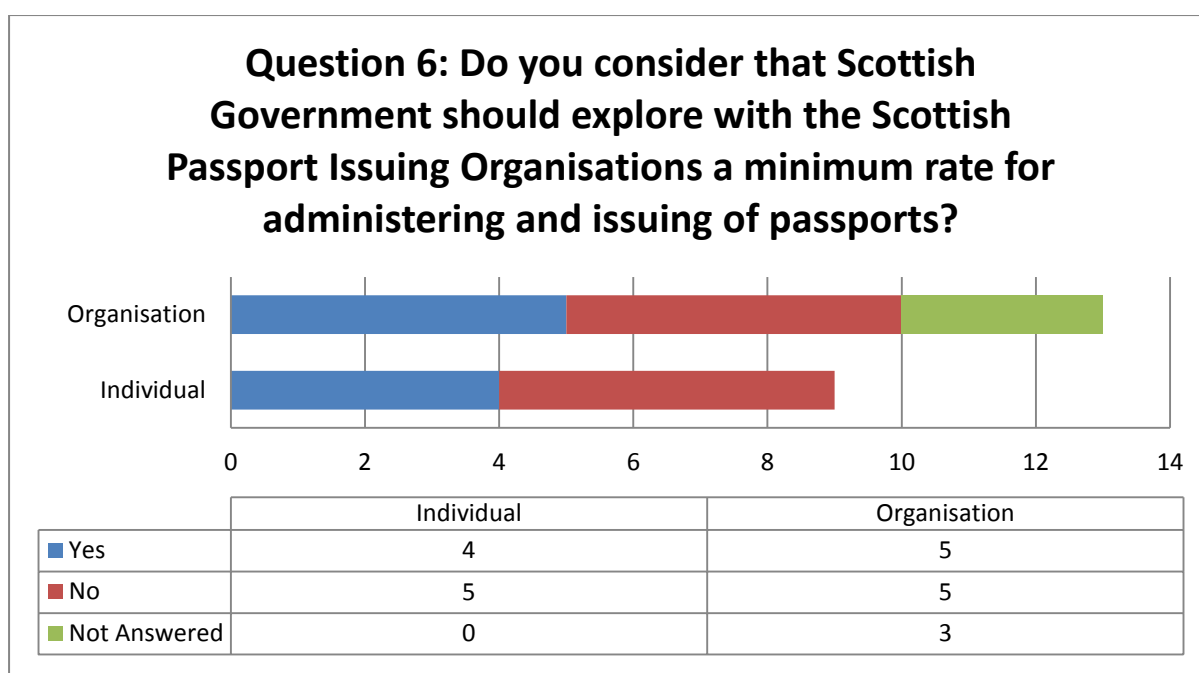
The Business Regulatory Impact Assessment (BRIA) considers all costs which may be borne by all parts of industry as well as individuals. In order to carry out this assessment Scottish Government have asked those who complete the consultation about any additional costs they may have considered and if they are an accurate reflection of the costs involved within the equine community. The Scottish Government has sought the help of people working within the equine business/community for their input into the final Business Regulatory Impact Assessment (BRIA).



Out of the 22 respondents 14 envisage no extra costs than those listed in the BRIA. One respondent's answer was rejected as the comment made did not relate to the question. 3 respondents made some comments relating to perceived potential extra costs covering passport production; possible tooling of smart cards, microchipping and possible future increase in costs for official controls if a horse abattoir was ever to open in Scotland.

## Do you consider that Scottish Government should explore with the Scottish Passport Issuing Organisations a minimum rate for administering and issuing of passports?

An Official Food and Feed Controls (OFFC) Audit recommended that Scottish Government should consider with Scottish PIOs, a standard set of fees for administering and issuing passports. Under EU legislation, Scottish Ministers are responsible for approving breed organisations or associations. This approval confers responsibilities, such as the right to issue horse passports, i.e. to become a PIO. As such, PIOs are providing a service to horse owners on Ministers' behalf.

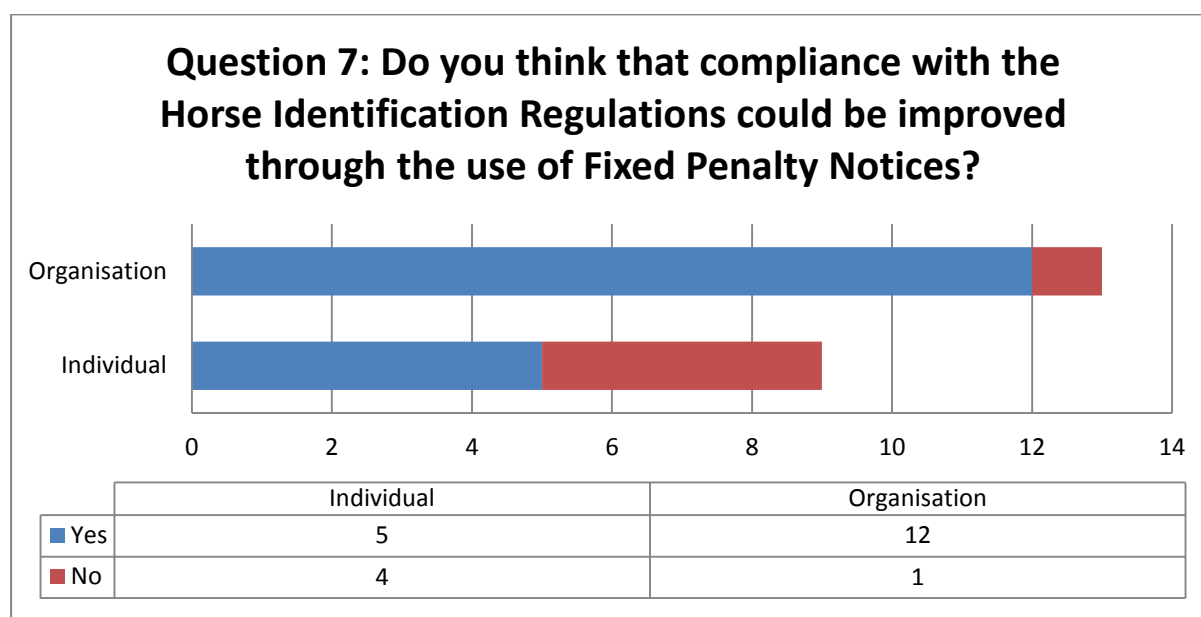


19 respondents answered this question with 1 Local Authority, WHW and NFUS choosing not to answer.

There was a wide range of views on this which were fairly divided with some responses suggesting that this should assist in ensuring consistent standards between PIO's and there should be both a minimum and maximum charge. Of the 10 who answered 'No', 5 were individuals and 5 were organisations. Both individuals and organisations felt that PIO's should set their own costs given that they have different administrative costs and should set their fees accordingly and that horse owners had the ability to choose which PIO they used. It was also suggested that Government should not be involved in setting charges.

## Do you think that compliance with the Horse Identification Regulations could be improved through the use of Fixed Penalty Notices?

Enforcement of the Horse Passport Regulations is undertaken by Local Authorities; FSS would be responsible for carrying out appropriate checks at slaughterhouses. We currently do not have any slaughterhouses in Scotland processing horses. The Scottish Government is considering the principle of introducing an enforcement mechanism whereby failure to comply with certain provisions of the Regulations carries a fine in the form of a Fixed Penalty Notice (FPN). This would fall short of a criminal court prosecution.



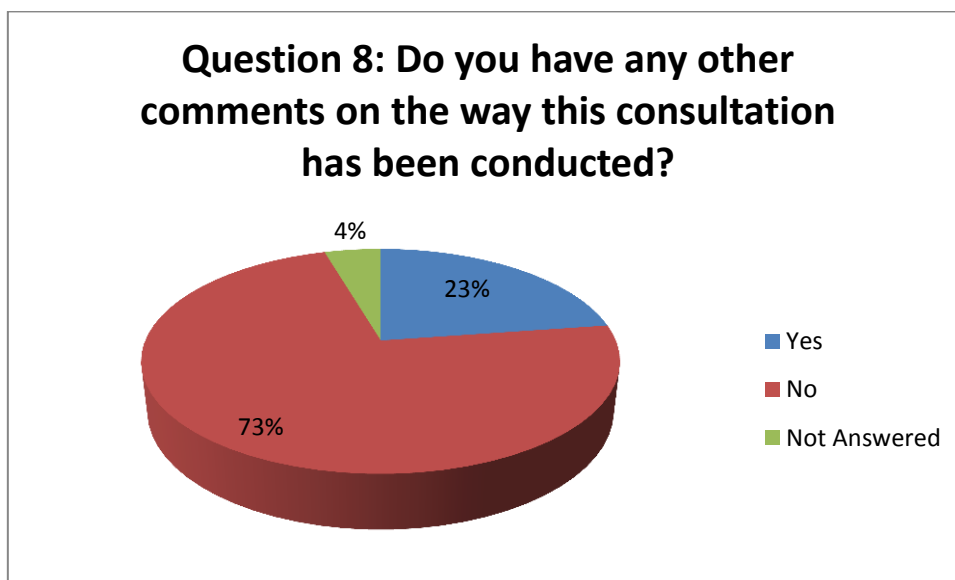
All 22 respondents answered this question with 17 of the respondents in favour of FPN's.

Many of the comments carried the same themes from both individual respondents and organisations. While those who answered 'Yes' to the introduction of Fixed Penalty Notices there were assertions about the lack of routine enforcement currently being carried out by Local Authorities, either due to lack of resources or in the knowledge that no prosecution will ever take place. Some comments suggested that compliance with the Regulation would increase with FPN's.

Individual responses suggested that a penalty is only ever a deterrent if enforced, monitoring is patchy, and that the regulatory requirements were not well known by the industry. If FPN's were to be introduced there should be consistency across the livestock sector.

## ABOUT THE CONSULTATION

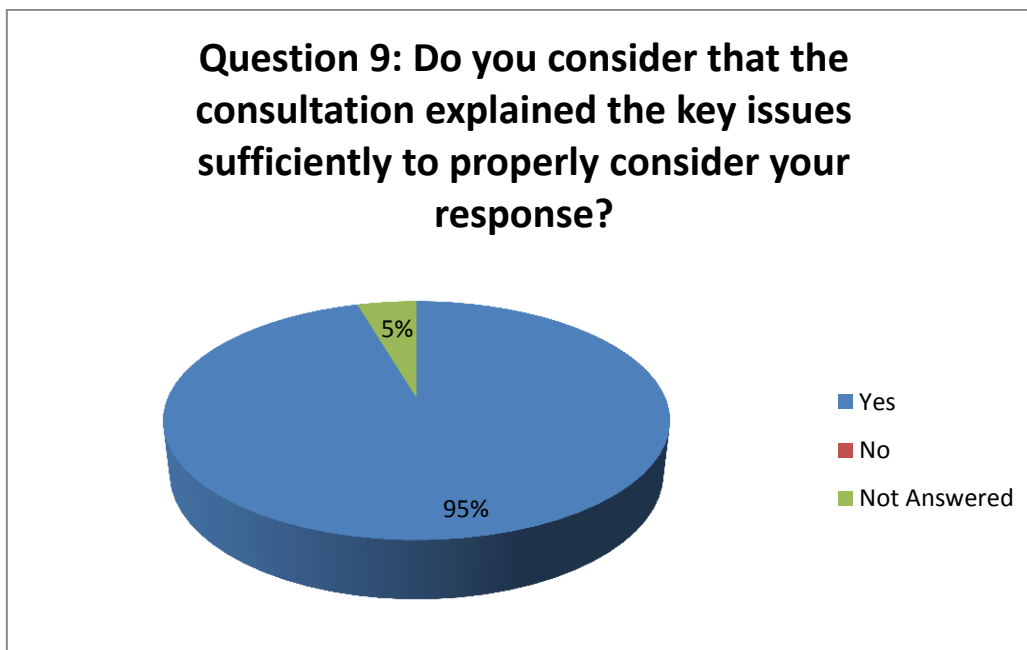
The final section of the consultation paper asked respondents a series of questions about the consultation. Respondents were asked 'Do you have any other comments on the way this consultation has been conducted?'



As the chart above demonstrates, views were very positive, with a majority of 16 respondents happy with the way the consultation had been conducted with others making some comments. 1 respondent chose not to answer.

Respondents suggested that publicity, promotion and contact with individuals and organisations could have been better prior to the launch of the consultation.

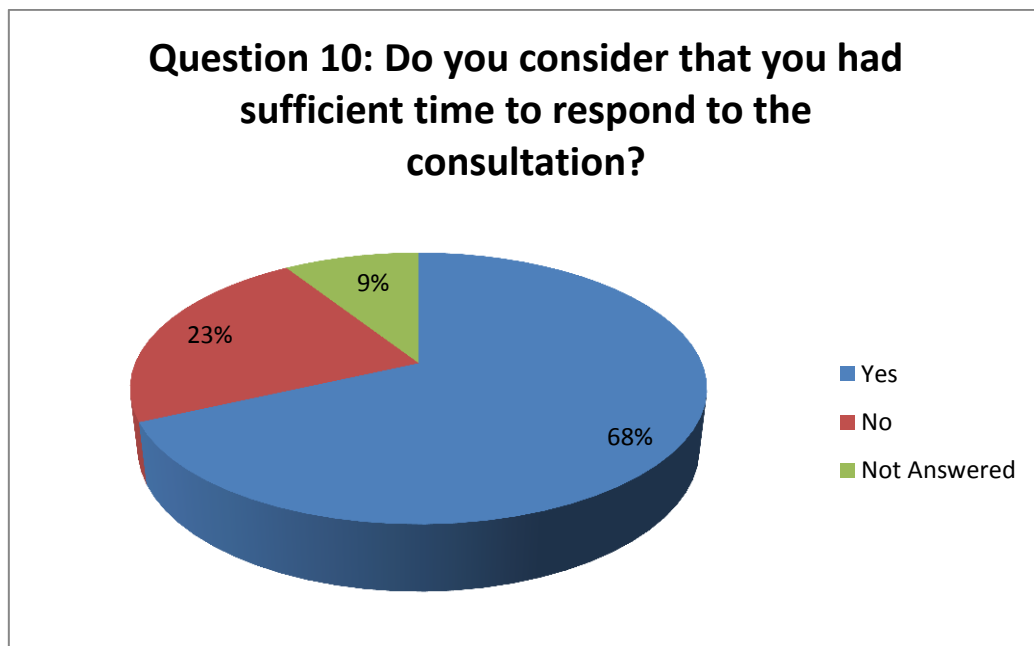
Respondents were then asked 'Do you consider that the consultation explained the key issues sufficiently to properly consider your response?'



Only 1 respondent did not answer with the remaining 21 answering 'Yes'. 5 respondents chose to comment that the explanations were very clear.

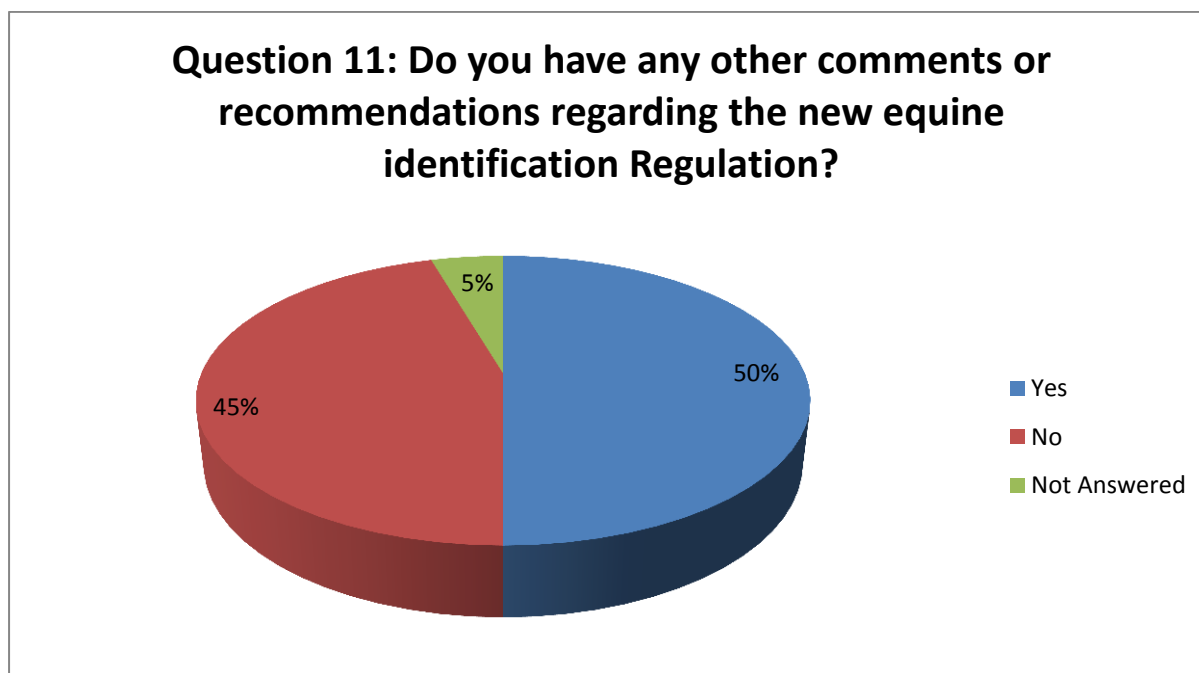


The next question about the consultation asked respondents ‘Do you consider that you had sufficient time to respond to the consultation?’



15 respondents felt that they had sufficient time to respond to the consultation. 5 felt that they did not, with the main theme being that the consultation period was too short and that there was a general lack of awareness of the consultation which meant that more time would have been welcomed.

The final question asking about the consultation asked ‘Do you have any other comments or recommendations regarding the new equine identification Regulation?’



Of the 10 respondents who answered ‘Yes’, 6 of those who commented were individuals and 4 were organisations.

2 respondents reiterated that there should be an awareness campaign within the equine industry when the new Regulations come into force to let owners/keepers know their responsibilities for equine identification. 4 respondents commented that there needs to be more robust enforcement of the Regulations. 1 respondent suggested there should only be one SPIO. 2 respondents were looking for consistency in the implementation of the Regulation through the UK particularly regulatory derogations.

## **NEXT STEPS**

The Scottish Government is committed to ensuring that all Equine identification systems are as effective as possible. Carrying out a review of the Equine identification systems that will be introduced in 2017 will help to ensure that the system continues to be as effective as possible. This consultation is part of that process.

## ANNEX A: LIST OF RESPONDENTS TO THE CONSULTATION

As part of the consultation, all respondents were asked to indicate using the appropriate tick box whether they wished their full or partial details to be made available to the public. A mark of 'Private Individual' has been used to indicate respondents who either chose for their details to remain private or whether no tick box was marked to indicate choice of disclosure. Below is a list of all respondents to the consultation who have given their permission for their names to be shown.

	<b>Respondent Name</b>
1	Mrs C Vincent – Individual
2	Jane Rockingham - NFSCo CIC
3	Dr Tim Parkin – Individual
4	Private Individual
5	Private Individual
6	Food Standards Scotland
7	Private Individual
8	David Kerr - Argyll & Bute Council
9	Kirsteen Mackenzie - Perth and Kinross Council
10	Lee Hackett, Sue Kilby and Helene Mauchlen – The British Horse Society (Scotland)
11	Roly Owers – World Horse Welfare
12	Penny Johnston – NFUS
13	East Ayrshire Council
14	Pauline Anderson – Aberdeenshire Council
15	Private Individual
16	Ruth McMinn – Individual
17	Nigel McWilliam – Eriskay Pony Society (TEPSL)
18	Highland Pony Society
19	Mona Parr - Individual
20	Animal Health and Welfare Strategy Group
21	Private Individual
22	The Shetland Pony Stud-Book Society

## ANNEX B: NUMBER OF RESPONSES RECEIVED, BY QUESTION

Question		Number of organisational responses	Number of individual responses	Total number of responses
Q1	Should an equine be identified within 6 months of birth, by the end of the calendar year of its birth, or no later than 12 months following its birth?	13	9	22
	Comments	13	9	22
Q2	Do you support the use of the derogation to allow owners or keepers the option to move or transport their animals within Scotland without their ID document, provided they are accompanied by a smart card?	13	9	22
	Comments	12	8	20
Q3	Do you think that the time limit for submission of the application to the PIO should be 20 days before the deadline for identification of the equine?	13	9	22
	Comments	11	8	19
Q4	Do you think that it is necessary that all equines born before 1 July 2009 should be identified by implantation of a transponder and what is the evidence for it being necessary for identity verification of these equidae?	13	8	21
	Comments	12	8	20
Q5	Other than the costs listed in the Partial Business and Regulatory Impact Assessment (BRIA), (see Annex), do you envisage any further financial impact on yourself/your business or organisation as a result of the implementation of this Regulation?	9	8	17

	Comments	6	5	11
<b>Question</b>		<b>Number of organisational responses</b>	<b>Number of individual responses</b>	<b>Total number of responses</b>
Q6	Do you consider that Scottish Government should explore with the Scottish Passport Issuing Organisations a minimum rate for administering and issuing of passports?	9	10	19
	Comments	8	8	16
Q7	Do you think that compliance with the Horse Identification Regulations could be improved through the use of Fixed Penalty Notices?	13	9	22
	Comments	13	8	21