

ADDRESSING THE PROBLEM OF STRAY/DUMPED/ABANDONED EQUINES ON WELSH COMMONS

INTRODUCTION

This document has been developed by the Welsh Government in conjunction with Local Authorities in Wales; the Hill Pony Improvement Society of Wales; the Welsh Commons Forum, Redwings Horse Sanctuary and World Horse Welfare. The purpose of the document is to make suggestions for a consistent approach for those involved in dealing with the issue of stray, abandoned or dumped ponies on common land across Wales.

The discovery of stray, abandoned or dumped equine can be a particularly difficult situation to resolve and until it has been proved that an animal is truly abandoned and not just stray or escaped, the owner has to be given a chance to come forward and claim the animal before any alternative arrangements can be made and action taken.

ABANDONMENT

It is an offence (Section 9 of the Animal Welfare Act 2006) not to provide for the needs of an animal as required by good practice, which would include abandonment. However, prosecution is often impossible as the process of abandonment means that it is unlikely that the owner will be traced. Although the Animal Welfare Act 2006 can be referred to in defining the fact that an offence has occurred, (when somebody leaves an animal for which he is responsible without taking reasonable steps to ensure that it is capable for fending for itself and living independently), it does not help with the complicated process of what happens to the animal after it has been abandoned.

This document aims to provide a general procedure to follow should a stray or abandoned equine be found on a Welsh common. The legal requirements in respect of animal welfare and the detention and sale of trespassing stock are complex and in this respect any individual who finds abandoned or trespassing livestock on their land is advised to seek independent legal advice from the outset.

ACTIONS TO TAKE

What to do when finding a stray on the common

- 1) Taking steps to ensure your own health and safety and the welfare of the animal, if possible catch and contain it somewhere safe and secure ensuring that it has adequate feed and water.
- 2) Check to see if the equine is freezemarked. If it is, make a note of the mark and contact either Farmkey on 01295 252544 or Freezemark Ltd on 01295 690090.
- 3) Scan the equine for a microchip and if it does have a microchip contact the National Equine Database (Tel No: 0845 0037210) so the owner can be

contacted (Local Authorities have microchip readers and may be willing to assist you or lend you one for the day)

- 4) Look for obvious signs of active care i.e. shod; clipped; hogged/maintained mane; trimmed tail and whiskers. These are all indications (not necessarily proof) that the equine may have an active owner and the equine has simply escaped and the owner(s) are looking for the animal.
- 5) Report the find to the police within 48 hours. An escaped/stolen equine may have been reported. Ask for an incident number for future reference.
- 6) Report the find to the Animal Welfare Inspector at your Local Authority and Equine Welfare charity such as the RSPCA. Although the RSPCA may not get directly involved, the organisation may have, or discover, relevant information which can assist in reuniting an equine with its owner. If the equine is in poor condition or has any visible signs of injury the RSPCA should be contacted immediately. Spread the word in the local area i.e. feed merchants; tack shops; post office; local vet and farrier, as they may know of somebody who has lost their equine.
- 7) Put up, in a number of prominent positions, an Abandonment Notice for a minimum of 14 days. This will notify passers-by that the equine has been abandoned and give the owner a reasonable period of time to come forward. The notice should state that if no owner is found, the person detaining the animal may in pursuance of Section 7 of the Animals Act 1971, sell the animal at market or by public auction. The location of the notices is vital i.e. entrances of the common; in town halls; on gates etc.
- 8) It is essential that a diary or some form of contemporaneous note is kept noting all dates when actions were taken along with a copy of the notice put up stating how long the owner has to reclaim the animal. If the owner comes forward after the animal has been disposed of, you will have the proof available that the correct procedures were followed in trying to locate the owner. Keeping a diary will mean that you will not have to try and recall all the steps you have taken at a future date.

EXTRA ADVICE

Many equines that are thought to be abandoned are owned by members of travelling communities who do not have their own land. These animals have not usually been abandoned as horses are valuable to travellers and the use of an abandonment notice often results in the equine disappearing as suddenly as it appeared.

If you are approached by someone claiming to be the owner, it is advisable to ask to see the horse passport which they should, by law, have in their possession. This will prevent someone fraudulently claiming the horse. The passport will contain either details of the microchip which will link to a passport or a silhouette and detailed description of the equine (including details of its appearance, age and breed/type) which can be checked against the abandoned animal.

OWNER/KEEPER

A passport is not legal proof of ownership. However, it should give some assurance that the person is the owner or keeper. There are situations, however, when a person may not have a passport to show, such as when they have only just purchased the equine and the passport has been returned to the Passport issuing Organisation for updating. Alternatively, if someone has photographs or can give an accurate description, this may be acceptable evidence that the person is linked in some way to the equine. If you do have concerns that the person who has come forward is not the legal owner of the equine, contact the Police for advice.

WHAT, IN LEGAL TERMS, ARE YOU PERMITTED TO DO WITH A STRAY/DUMPED/ABANDONED EQUINE?

Section 7(2) of the Animals Act 1971 provides that where any livestock (which includes horses) strays onto any land and is not then under the control of any person, the occupier of the land may detain it (subject to further provisions in the section). For the purposes of section 7(2) of the Animals Act 1971 the term "livestock" means cattle, horses, asses, mules, hinnies, sheep, pigs, goats and poultry, and also deer not in the wild state.

As stated above, the legal requirements in respect of animal welfare and the detention and sale of trespassing stock under section 7 of the Animals Act 1971 are complex. In this respect it is advisable that any occupier who finds abandoned livestock on their land seeks independent legal advice at the outset in relation to the provisions of the Animals Act 1971 and the Animal Welfare Act 2006 and their responsibilities and liabilities in respect of the animal.

Commoners will know their own animals and be familiar with their neighbour's livestock and are therefore best placed to identify stray equines on the common over which they exercise rights.

If the animal is unclaimed following the advertisement of the abandonment notice and concerns are raised as to the equine's future welfare, the occupier should speak to a qualified Veterinary Surgeon or a recognised welfare charity who may well be able to offer advice or assistance in respect of the needs of the equine.

It is recognised that when animals are dumped or abandoned, those having to deal with the problem will face difficulties with moving the animals as the passport status of the animal will be unknown. The passport (which is a legal requirement), is essential if you want to sell the animal or need to have it treated by a vet. Under the passport system it is not straightforward to issue a passport for an equine that should already possess one and you will need to contact the Welsh Government for advice on the Equine Identification (Wales) Regulations 2009. The helpline number is 02920821499 or 01267 245022.

If, following the advised time period for an abandonment notice (minimum of 14 days), the equine is still on the common and no owner has come forward, your next action will largely depend on whether the equine is of high value or would be able to be re-homed privately. Section 7 Animals Act 1971 provides that where livestock has been detained in pursuance

of that section for a period of not less than 14 days the person detaining it may sell it at a market or by public auction.

In addition to giving the owner a clear time period to respond you are advised to keep clear records such as the dates that the equines are found, dates of abandonment notice issued, date it expires, dates that the vets are contacted and used or the police contacted so that in the event of a future claim/conflict, you can demonstrate that you have acted responsibly and given the owner a clear time period to respond.

If you decide to sell the equine privately you will need to obtain an ID only passport and have the animal micro-chipped (including being signed out of the food chain). It is advisable to obtain a valuation by an equine professional, and once sold you would be entitled to deduct reasonable costs. Any money left over should be kept for a reasonable time period in case an owner comes forward at a later date. This may be unlikely, but some situations involve loaning-out where the legal owner isn't immediately aware of the equine's plight.

Whatever course of action you decide to take, it is imperative to keep full records of money spent or received, expenses incurred and actions taken (such as veterinary treatment, vaccinations, worming and so on) for several months afterwards. If an owner does come forward, you are entitled to ask for some compensation to cover your outlay, although this must be a reasonable sum.

There is a remote possibility that an owner will come forward in the future wishing to reclaim the equine (if the equine has been stolen before it was abandoned, they may have spent a considerable period of time looking for it). Here the law becomes even more complex and if an agreement with the owner cannot be reached, you may need to take legal advice to resolve the situation satisfactorily. You are advised to seek the views of a specialist equine lawyer in such circumstances.

Any costs incurred will not be reimbursed by the relevant Local Authority or the Welsh Government.

TRAPPED/INJURED EQUINES ON COMMONS

Emergency Services

The Emergency Services Protocol is a set of general operating procedures for responding to emergency incidents involving horses.

If an equine is injured, or thought to be injured, a veterinary surgeon, ideally an Equine Veterinary Surgeon from the British Equine Veterinary Association (BEVA) Directory of Equine Veterinary Practices, should be summoned unless the horse owner's own Veterinary Surgeon is already in attendance or en route.

The Protocol for Horse Rescue and the latest copy of the Register of Equine Veterinary Practices can be downloaded from the BEVA ([Downloads](#)) page.

Vets from the BEVA Directory will work under the Incident Commander and can support the rescue team in the following ways:

- By providing welfare advice
- Administering sedation/anaesthesia to facilitate animal and human safety
- Stabilising an injured animal
- Humanely destroying a severely injured animal.

Even if the horse has no apparent injuries, a vet should examine it to determine its overall condition and check for less obvious injuries. It may also be necessary for the vet to sedate the animal in order to make the rescue safer for all involved.

The absence of an animal's owner must not preclude the immediate attendance of a vet. In the event that the owner is untraceable and all efforts to obtain payment have failed, the costs of attendance, initial treatment, and if necessary euthanasia, plus transport to a more appropriate premises for further treatment will be reimbursed from the Equine Rescue Fund administered by BEVA.

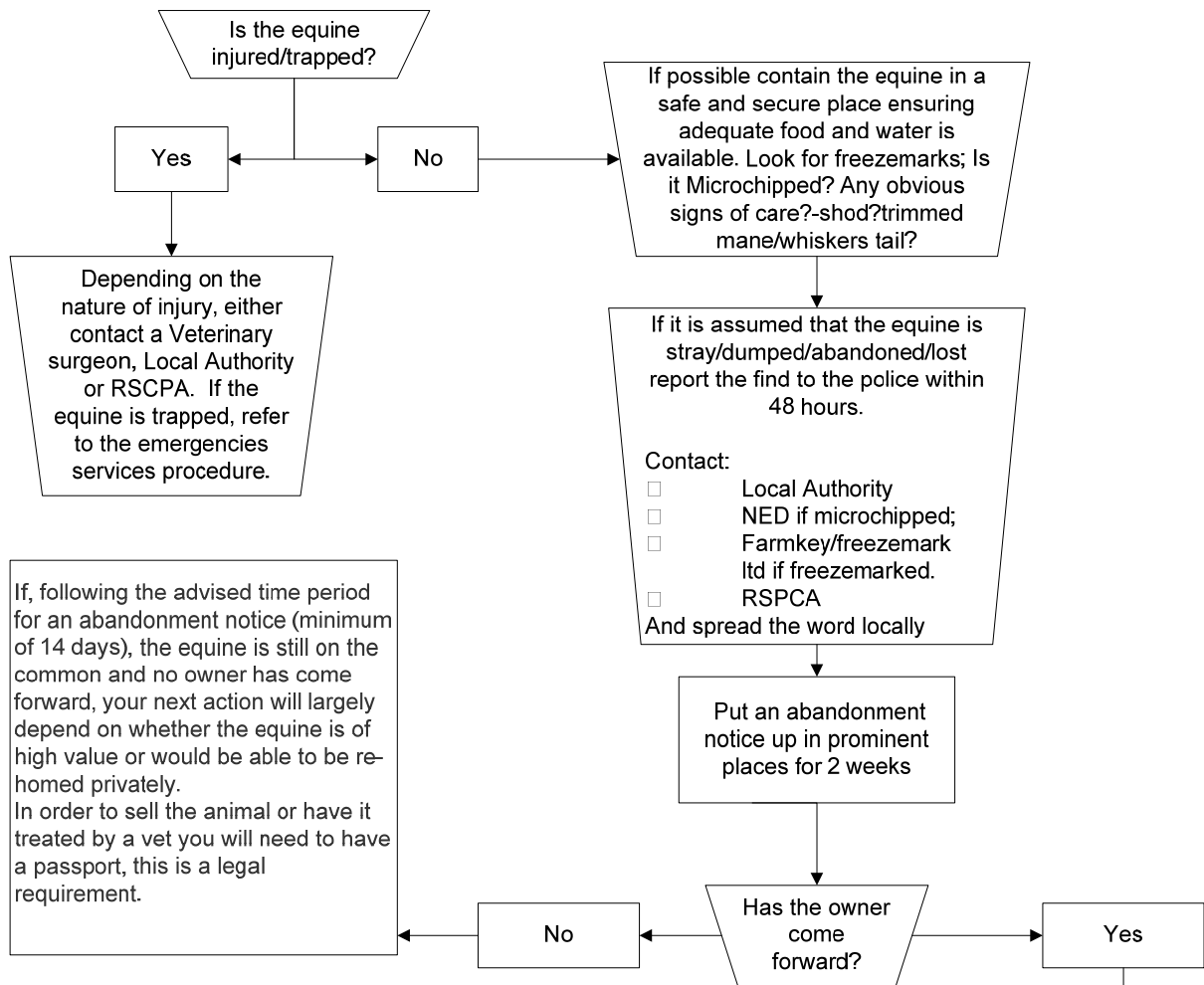
The emergency services should not incur any costs for calling out a vet from the Directory of Equine Veterinary Practices. Funding enquiries should be directed to BEVA Tel. 01638 723555.

In an Emergency

1. Dial 999 and ask for the Fire & Rescue service.
2. Call your vet.
3. Keep calm.
4. Calm the equine (keep the area round the horse quiet and offer food if possible).
5. Let the emergency services do their job

A national group was set up with the support of the Chief Fire Officers Association and is led by Hampshire Fire and Rescue Service. It was established in 2008 in recognition of the importance the fire and rescue service now places on public safety at animal incidents. The group has accredited training programmes for firefighters and animal rescue teams.

Flowchart on procedures to follow upon finding a stray/dumped/abandoned equine on a Common



If, following the advised time period for an abandonment notice (minimum of 14 days), the equine is still on the common and no owner has come forward, your next action will largely depend on whether the equine is of high value or would be able to be rehomed privately. In order to sell the animal or have it treated by a vet you will need to have a passport, this is a legal requirement.

The owner may produce a passport for the equine, check that the silhouette matches the description of the equine and the written description of breed/sex is verified.

A passport is not legal proof of ownership, however it should give some assurance that the person is the owner. There are situations, however, when a person may not have a passport to show, such as when they have only just purchased the equine. Alternatively if someone has photos or can give an accurate description this would be acceptable as an indication of some connection with the equine.

*Always ensure that you keep a diary of events noting all dates when actions have been taken so that you are able to evidence correct procedures in the event of an owner coming forward at a later date. If the disposal route is by private sale you are advised to keep all receipts for any costs incurred as you may be entitled to deduct reasonable costs at a later date.