

Surrey County Council  
Policy for dealing with horses  
fly-grazing on the public  
highway



SURREY

## Contents

Contents .....	2
Introduction.....	2
Legal Background.....	3
The Animals Act 1971 (section 7) as amended by the Control of Horses Act 2015 .....	3
Control of Horses Act 2015 .....	3
The Highways Act 1980 (section 155) .....	3
The Equine Identification (England) Regulations 2018 .....	3
Reporting a horse welfare issue .....	3
How we deal with reports.....	4
Initial report .....	4
Taking action.....	4
Escalation and involving equine bailiffs to remove horses .....	4
If ownership reverts to Surrey County Council .....	4
Roles and Responsibilities.....	5
Relevant links .....	6
Appendix A – Site notice under Animals Act 1971.....	7
Appendix B – Example image of notice placed in front of a fly-grazing animal.....	8

## Introduction

This policy has been created to address fly-grazing on public highway land within Surrey.

Fly-grazing is “the placing of horses on another person’s land to use their grazing, without their consent”. Surrey Highways recognises its duty, as part of a multi-agency approach, to protect the welfare of horses (or other fly-grazing animals) once in our possession, and ensure the highway is safe for all users.

As a general policy, we will investigate all reports of fly-grazing horses which are on highway land. Before any action is taken to detain the horse(s), we will make reasonable attempts to locate the owner (s) to require that they take back their horses which are unlawfully on highway land. We are unable to physically check whether a horse has a microchip or not.

As a Highways Authority, we claim no expertise in horse welfare and care, and rely strongly on guidance from appropriate animal charities.

We must also balance our approach with the risk to the public and competing priorities. All cases of fly-grazing will be dealt with on a case-by-case basis, based on the situation presented.

## Legal Background

There are several pieces of legislation which cover this area.

### **The Animals Act 1971 (section 7) as amended by the Control of Horses Act 2015**

This Act allows the owner or occupier of land to detain horses which stray onto their land and to claim expenses for damage done by the animal to the land, and the costs of keeping the animals until such time as the horses are restored to the owner or disposed of. The landowner becomes responsible for the reasonable care of the horses while being detained.

### **Control of Horses Act 2015**

This Act makes provision for the taking of action in relation to horses which are on land in England without lawful authority. The Act applies to horses which are unlawfully on land, whether they have strayed there or been placed there deliberately. This Act introduces a procedure regarding the detention and subsequent treatment of such animals.

### **The Highways Act 1980 (section 155)**

This Act makes it an offence for horses to stray or lay on, or at the side of a highway. This does not apply to highways which cross common land, waste or unenclosed ground.

The police have powers to remove horses straying on the highway and either return them to the horse owner or to remove them to a place of safety.

### **The Equine Identification (England) Regulations 2018**

These regulations make it a legal duty for the owner or keeper of a horse to ensure the animal is correctly identified.


## Reporting a horse welfare issue

Concerns for the welfare of a horse should be reported to World Horse Welfare, the RSPCA, or any local horse charity, in the first instance.

Problems with horses on the road or pavement, causing an **immediate** risk to motorists or pedestrians, should be reported directly to the Police.

All other concerns for horses fly-grazing on the Council's highway land, should be reported to Surrey County Council, using the following details:

 Web: <https://www.surreycc.gov.uk/reportahighwayproblem> (Select: Trees, hedges, grass and weeds >Grass> Any other grass issue)

 Phone: 0300 200 1003

 Address: Surrey County Council

Hazel House

Merrow Lane

Merrow

Surrey

GU4 7BQ

We aim to provide an initial response to all enquiries within 28 days.

We cannot provide an emergency response service to fly-grazing, and therefore any issue which presents an immediate risk should be referred to the RSPCA (or a local horse charity) or the Police.

## **How we deal with reports**

### **Initial report**

When we are made aware of a horse fly-grazing on the public highway, we will verify that the land is public highway and will carry out a site inspection. This may be a joint inspection with a horse charity or expert.

We will make reasonable efforts to locate the animal's owner but this may be difficult. We cannot undertake to check for any microchips as we do not have facilities to do this.

### **Taking action**

If the owner does not remove their horse(s) within 24 hours, we will place laminated notices at the location making it clear that the land is part of the public highway. This notice will include a map highlighting the area concerned and details of whom to contact.

The Surrey County Council Contact Centre should be advised of this action, in case of any phone calls.

The expectation is that the owner(s) will remove the horses from the highway land at this point.

### **Escalation and involving equine bailiffs to remove horses**

If the owner does not remove the horse(s), we may escalate the case and work with a horse charity or other relevant organisation to engage the services of equine bailiffs.

When horses are removed, we will put up a notice near where the horse was found with details of how the horse(s) can be claimed. See appendix A for a copy of the notice.

There is a statutory period of 96 hours, within which the owner may claim ownership. Within the first 24 hours of the 96-hour period, we must give notice to the owner (if known), and also let the Police know, at the most local station to where the animal was taken.

Where an owner comes forward, the owner must provide proof of ownership through the horse's passport and must reimburse all reasonable costs associated with the horse's detention, livery, care and transport.

If the horse(s) is not claimed within 96 hours, ownership will revert to Surrey County Council.

### **If ownership reverts to Surrey County Council**

Our preferred option is for the horse(s) to be given to a suitable new home and owner, through a horse charity.

In cases where this is not possible, the Control of Horses Act 2015 permits alternative options.

## Roles and Responsibilities

There are several different agencies who can become involved in reports of fly-grazing and horse welfare. The table below outline those involved and how they may be required to assist in resolving the issues reported.

Table 1: Roles and Responsibilities of the different agencies and organisations in the process of caring for fly-grazing horses

<b>Role</b>	<b>Responsibility</b>
Surrey County Council (Highways with Land and Property)	<ul style="list-style-type: none"> <li>• respond to all enquiries regarding horses fly grazing on the public highway</li> <li>• bringing all parties together and involving experts where necessary</li> <li>• seek advice and then decide on the most appropriate steps to take.</li> <li>• where required, serving the appropriate notices and engaging a bailiff service</li> </ul>
Police	<ul style="list-style-type: none"> <li>• respond to reports of horses causing a danger to highway users</li> <li>• support the council, and horse bailiffs, where required, in removing horses from the highway especially if there is a perceived risk to safety and possible public disorder</li> </ul>
Horse Charity	<ul style="list-style-type: none"> <li>• liaise with the Equine Bailiffs and/or Highways department as required</li> <li>• to provide any support where possible</li> <li>• assist in re-homing the horse(s)</li> </ul>
RSPCA / World Horse Welfare	<ul style="list-style-type: none"> <li>• investigate reports regarding horse welfare or cruelty, as reported to the organisation</li> <li>• liaise with the Highways department and/or bailiffs as required</li> </ul>
Equine Bailiffs	<ul style="list-style-type: none"> <li>• assist with the removal of horses from the highway as instructed</li> <li>• duties can include removal of horses to a safe place and looking after their health and welfare</li> </ul>

## Relevant links

- [Control of Horses Act 2015](#)
- [The British Horse Society \(Microchips and Horse passports\)](#)
- [RSPCA](#)
- [World Horse Welfare](#)
- [Equine \(Horse\) Bailiffs](#)
- [National Equine Welfare Council](#)

**Appendix A – Site notice under Animals Act 1971**



# **THE ANIMALS ACT 1971**

**(As amended by the Control of Horses Act 2015)**

## **NOTICE UNDER SECTION 7C FOLLOWING DETENTION OF HORSE(S)**

THIS NOTICE is placed under section 7C of the Animals Act 1971 (as amended by the Control of Horses Act 2015) by SURREY COUNTY COUNCIL in pursuance of its powers to **detain** horse(s) under section 7A of the Act.

Horse(s) described as:

Was (were) detained from the following location / address / area:

At the following date and time: **[dd/m/yyyy]** at **am/pm**

If you are the owner or person acting on behalf of the owner, or have any information regarding the ownership of the horse(s) please contact:

**[Name and address here]**  
**Email: [highways@surreycc.gov.uk](mailto:highways@surreycc.gov.uk)**

**If no information is forthcoming within 96 hours (equivalent of 4 working days) from the time of detention, steps may be taken to dispose of the horse (s) under section 7C (5) of the Act, which may include its destruction.**

Date & time of placing notice: **[dd/m/yyyy]** at **am/pm**

96 hour period ends: **[dd/m/yyyy]** at **am/pm**

Signed by:

Surrey County Council

**Appendix B – Example image of notice placed in front of a fly-grazing animal**



Figure 1: Example of a notice placed on site near a fly-grazing animal