

Protocol for Management of Horses in York

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Introduction

Horses have been tethered on land in York for many years. However, in recent months there has been an increase in the number of complaints and incidents relating to horses tethered and trespassing on council and private land, straying onto highways and footpaths, causing a danger to the public, nuisance and horse welfare.

The aim of this protocol is to document how the Council and its partners can help to manage horse related problems. The protocol explains the various roles and responsibilities of the agencies involved and the processes that should be followed.

Issues and Concerns

Horse-related problems can be divided into the following categories:

- Loose or stray horses which pose a risk to danger to the public or highway users.
- Unlawful grazing on public or private land (fly-grazing).
- Welfare concerns.
- Nuisance or damage caused by horses on private land.

These concerns may arise individually, but often they are in combination and require a multi-agency approach to deal with them effectively. This protocol seeks to provide a framework for effective communication and partnership working to ensure a joined-up approach to both preventing problems arising in the first instance and being able to respond to reported incidents as and when they arise.

Stakeholders and Partners

The key stakeholders and partners that have a role to play in effective horse management include: horse owners, land owners and CYC staff, enforcement agencies, councillors and the public. Experience has shown that a significant majority of the horses which are found to be unlawfully kept on public or private land, or found to be straying or loose on a highway are owned by Travellers, who have a strong tradition of horse ownership and trading. Effective engagement with representatives of the Travelling community will be required to deal with horse-related problems in York.

Land owners need to be clear about the land which they make available for grazing horses and conditions and controls that are applied to manage the horses which they permit to be on their land. Land owners also need to be clear about the measures that are available to deal with unlawful use of their land and how they effectively apply those controls into action.

There are a number of potential enforcement agencies that can become involved in tackling horse related problems, including the Police, City of York Council (Animal Health, Gypsy and Traveller Liaison) and the RSPCA. This protocol aims to provide clarity around the respective roles and responsibilities of these agencies and aid effective communication between them

When the public have horse related issues it is important that they clearly understand how and who to report problems to, and, after they have reported something, they are informed of what steps have / are to be undertaken and the appropriate timescales involved.

The Law

There are a number of controls available to deal with horse related problems – some in the capacity of an enforcing authority and others as a landowner.

The two most applicable legal powers available for dealing with loose or straying horses are:

The Animals Act 1971 (Section 7)

This Act allows the owner or occupier of land to detain horses (livestock) which stray onto their land and to claim expenses for damage done by the livestock to the land and the costs of keeping the livestock until such time as the horses are restored to the owner, or sold at a market or auction (after detaining the horses for no less than 14 days). The land occupier becomes responsible for the reasonable care of the horses while being detained. Although horses may have been put on land deliberately rather than “straying” onto it, this is the principle tool used for removing horse which are on public or private land without permission.

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 to return them to the horse owner or to remove them to a pound. A person found guilty of an offence can be liable for paying the expenses incurred in removing and pounding the horses. This is the principal tool used to remove horses straying on a highway.

There are a number other legal powers which might also be appropriate for dealing with horse related issues:

The Animal Welfare Act 2006

This Act creates an offence if a person with responsibility for an animal causes it suffering or fails to ensure its welfare. Allowing a horse to stray and potentially suffering harm and failing to secure adequate welfare, is likely to an

offence under the Act. The power is one of prosecution and potential additional powers to deprive or disqualify a convicted person from keeping animals. These powers are therefore useful as a deterrent and for potential longer term solutions for persistent offenders, but they do not offer relief to urgent situations. Although the local authority has powers to enforce the Animal Welfare Act, it is common practice for this to be carried out by the RSPCA.

One common query in relation to horse welfare is the practice of tethering horses. This prevents a horse from straying and potentially causing harm to itself or others, but the tether restricts the freedom of the horse and poorly designed or fitted tethers may lead to injury or harm. DEFRA recommends that tethers are not used as a long-term method of managing an animal, but may be useful as a short-term means of control. If horses are tethered, regular checks should be made on the horse and their tethering position should also be moved regularly.

The Town & Police Clauses Act 1847 (Sections 21 – 29)

A similar power to that contained in the Highways Act, which provides powers to the Police to seize and impound horses that are “found at large in any street” and provides the power to recover reasonable expenses incurred in keeping the horses. The Act also creates a range of specific offences, including a number relating to horses and horse-drawn carriages in streets which cause obstruction, annoyance, or danger to residents or passengers. A person found guilty of an offence may be fined or imprisoned for up to fourteen days.

The Environmental Protection Act 1990 – Part III

The provisions in this Act provide powers to a local authority to investigate and deal with statutory nuisance, which includes “any animal kept in such a place or manner as to be prejudicial to health or a nuisance”. The powers are primarily used by environmental health practitioners and allow the service of a legal notice (an abatement notice) on the person(s) responsible for the nuisance requiring it to be abated. Failure to comply with the notice can result in prosecution with a fine of up to £5000. This provision might be best used if horses, by virtue of the way they are being kept, cause nuisance to local residents, however, proving a nuisance may be difficult.

Horse Passport Regulations 2009

These regulations require horses to have an identification document (passport) and micro-chip which are issued by and registered with an authorised Passport Issuing Organisation. The only exception to this is if the horse already had a passport prior to the regulations coming into force in 2009. Foals must be passported and micro-chipped by the 31 December in the year of birth or within six months of being born, whichever is the later. The passport system aims to prevent horse meat, which may have been treated with veterinary medicine, from entering the human food chain, and helps prevent the sale of stolen horses. Local Authority inspectors have powers to require passport

information and can prosecute people who do not comply. Although, in theory, this should be a useful tool for identifying horses that have strayed, or left in fields it is often the case that these horses are not micro-chipped and so identifying the owner is extremely difficult. One consequence of the legislation is that if a horse is seized and pounded it cannot be subsequently sold unless it has a passport and is micro-chipped, which places an additional cost onto the Council.

Licensing the Use of Land

The Council owns or manages areas of open land across York, which could be licensed out to individuals allowing them to use the land, for example to graze horses. The Council would have discretion whether or not to issue a licence, whether to set appropriate charges and to apply any conditions on the use of the land. Licenses would usually last for a set period. The relevant Council Department would have responsibility for issuing and managing compliance with the licenses granted for using their land.

Before any licence is issued, checks should be made to ensure the applicant is not disqualified from keeping animals, or has any convictions for animal cruelty or welfare offences. As a minimum requirement, the following conditions should be applied to any licence:

- All horses must have a passport and be micro-chipped.
- The requirements of DEFRA's Code of Practice for the Welfare of Horses, Ponies, Donkeys and their Hybrids must be followed.
- Horses should be kept so as not to cause a nuisance or danger to others.
- The lessee should have adequate public liability insurance and indemnify the Council against any loss or damage resulting from keeping the horse on the land.
- Any waste arising from the keeping of horses must be properly disposed of.
- Any damage to the land, including fencing etc, must be repaired at the lessee's cost.
- The horse owner, or their representative, must provide contact details in case of an emergency (full-time 24 hour contact, including cover when on holiday etc.).

If the land is also to be used as the main source of food (pasture) for the horses then the council should also consider the number of horses that the area of land can sustain. This will depend on the type of horse and the quality of the grazing area, but generally this should be a minimum of one acre per animal (*Equine Industry Welfare Guidelines Compendium for Horses, Ponies and Donkeys*, 3rd Edition, 2009; *British Horse Society Guide to Grassland Management for Horse and Pony Owners*, 2000).

Tenancy Conditions

CYC Housing Services at the next review of their tenancy agreement (which happens at a minimum annually as a result of the rent increase) should include a new clause in their Secure & Introductory Tenancy Agreement that states:

You or anyone living with you must not:

i) Tether horses, ponies, donkeys or any other livestock on any open plan areas or other land owned by the Council.

Roles & Responsibilities

There are a number of different agencies and Council departments that can become involved in responding to and dealing with horse related issues, it is therefore important to identify clear roles and responsibilities and lines of communication. The sections which follow identify who is responsible for what and the reporting mechanisms which are involved. However the roles and responsibilities of each of the key agencies and Council departments involved are summarised below:

Role	Responsibility
Animal Health / Street Environment	To be the single point of contact and the co-ordinating body for the public, councillors and others to report horse related problems. To direct those problems to the most appropriate agency / department and to record all enquiries and incidents. To liaise with internal land owning departments, private land owners, the RSPCA, the police and other internal and external agencies to make sure all aspects of reported incidents are followed up. To also provide the enforcement role in relation to animal health.
Police	To respond to reports of horses causing a danger to highway users at all times and at other locations when Animal Health is not available. To effect the removal of loose horses to a place of safety and support the council in serving any appropriate notices where applicable and engaging the Horse Bailiff as and when required. To provide support to other agencies if there is a perceived risk to safety or possible public disorder. To report actions taken to Animal Health.
Horse Bailiff (contractor)	To respond to requests from the agreed contact agency for assistance to remove horses from the highway or other CYC land. The serving of notices and removal of horses from private land subject to separate agreement with the land owner with regards to the costs. To remove the horses to a safe place and keep

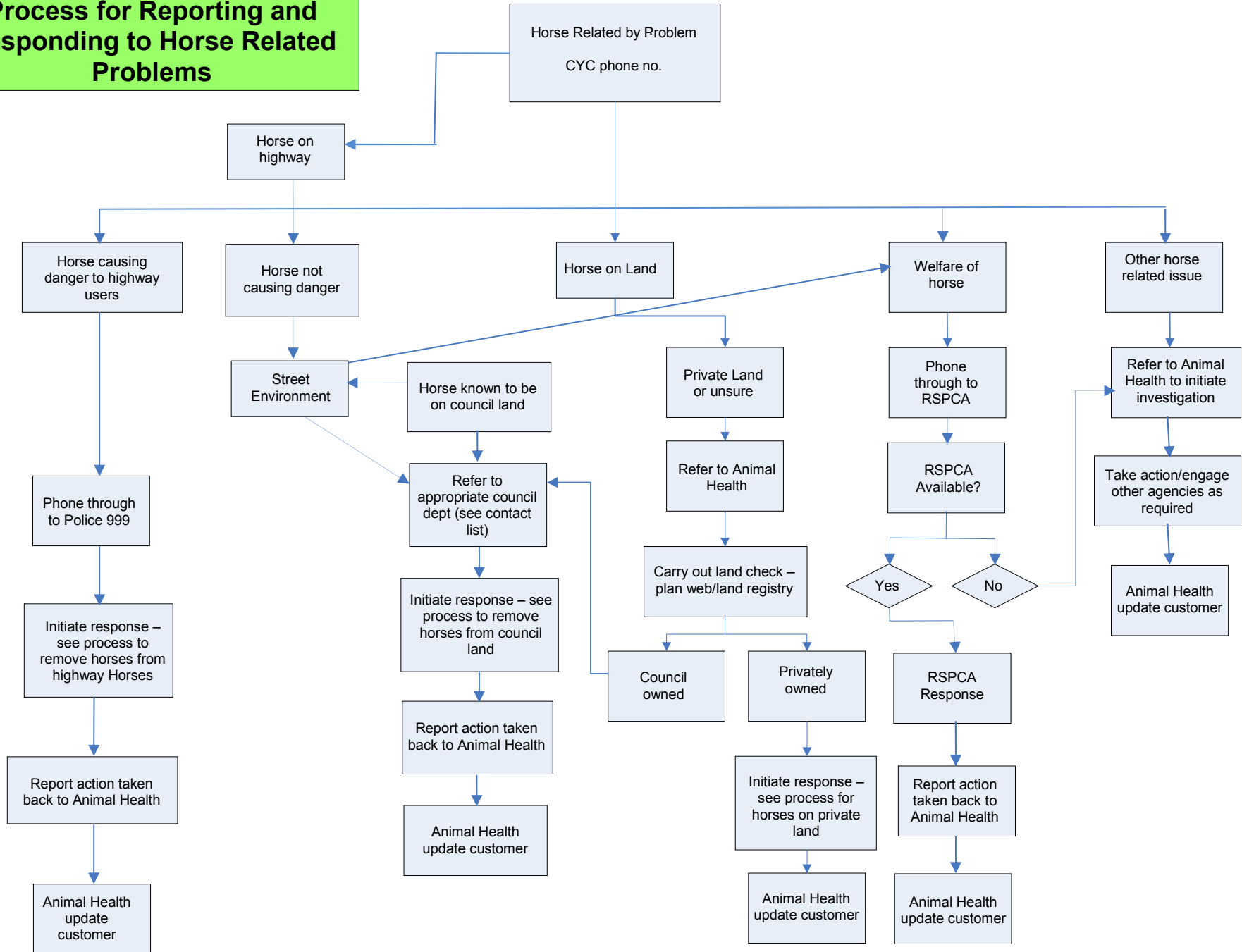
	them there, looking after their health and welfare, until advised that the horse can be sold at auction / market. To keep Animal Health and other agencies informed of action taken.
Land owning / managing Council Departments	To effectively manage their land and the permissions given to graze horses. To put arrangements in place to monitor land for illegal use / trespass and to respond to reports of trespass. To take the necessary action to secure removal of horses to a place of safety, serving any appropriate notices where applicable and engaging the Horse Bailiff as and when required. To liaise with Animal Health to arrange for the disposal of dead animals (inc horses) from their land.
RSPCA	To investigate any reports or concerns regarding horse welfare or cruelty and to report back to Animal Health. The RSPCA may also use the refer issues to the World Horse Organisation to investigate.

Process for Reporting and Responding to Horse Related Problems

Refer to the attached flow-chart. The main points of this process are:

- All horse-related issues should be referred to the Council on **01904 55XXXX**
- Problems with horses on the highway causing an immediate risk to motorists should be referred to the Police by telephoning 999
- Horses on Private Land should be reported to Animal Health, however it is the private land owners responsibility to deal with this.
- Horse welfare issues should initially be reported to the RSPCA
- All agencies should report their findings / action back to Animal Health for any follow-up action and, if necessary, to feedback to the customer.

Process for Reporting and Responding to Horse Related Problems

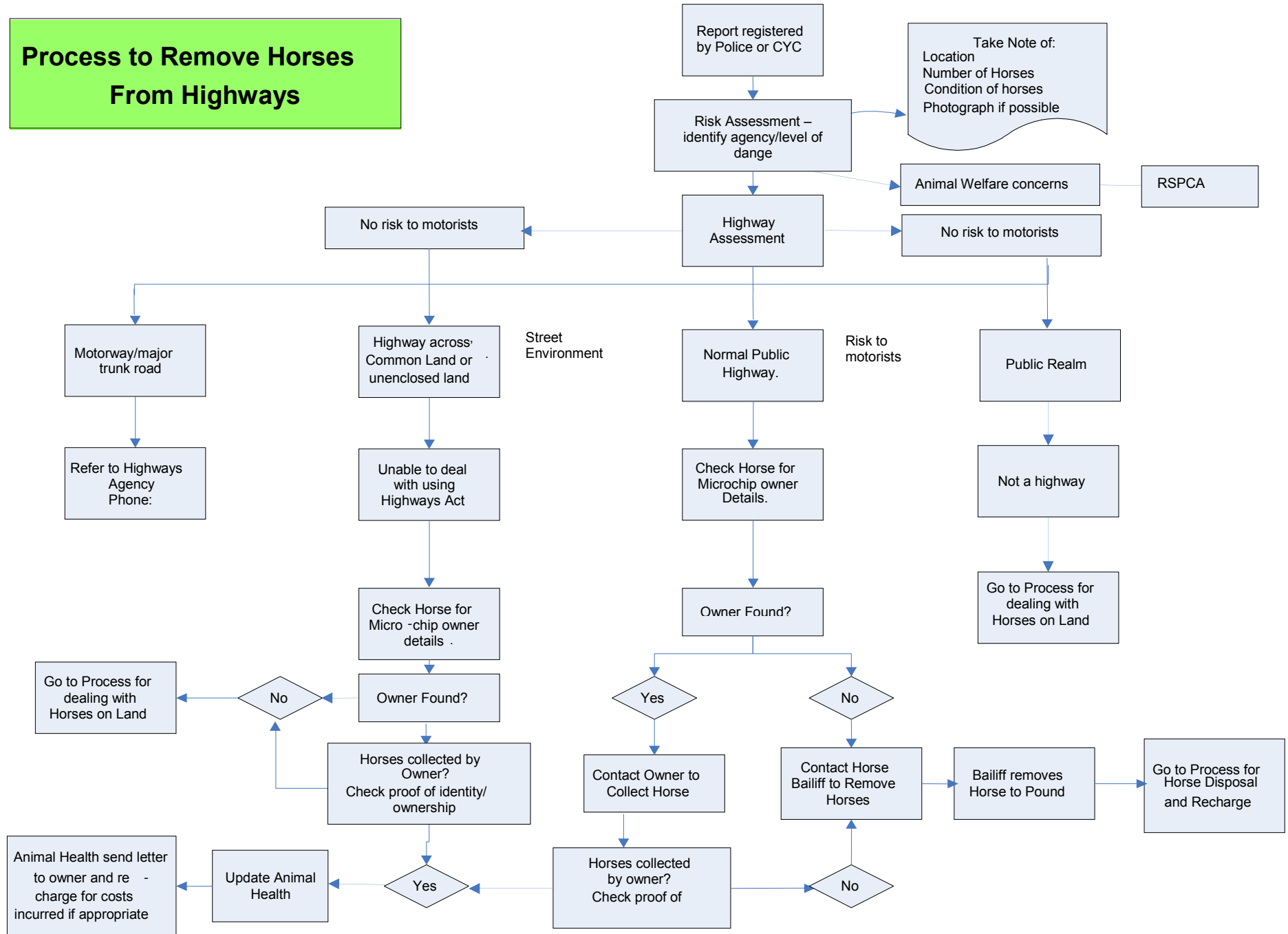


Process for Dealing with Horses on Highways

Refer to the attached flow-chart. The main points of this process are:

- Loose horses on the highway causing a risk to motorists will be dealt with by the Police. The primary concern is the risk of danger for both highway users and the horses and therefore the priority is to remove that danger. N.b. All officers should have regard to the Health & Safety Risk Assessment
- Horses can be removed from the highway, or from the side of a highway, under the Highways Act 1980. The Highways Act can be used for most situations with horses straying onto roads, but there are exemptions if the horses are on common land, waste or unenclosed land, in which case action under the Animals Act 1971 should be considered.
- The reasonable costs incurred in dealing with horses which stray onto the highway can be recovered from the horse owner, which includes damage done to the highway, officer time, costs incurred by the Horse Bailiff, passport and micro-chipping, feed, transport costs etc.
- A person who allows their horse to stray onto the highway can also be prosecuted under the Highways Act and this should be a consideration, particularly for repeat offences, in accordance with the council's enforcement policy.
- If possible, horses should be checked for a micro-chip and passport details obtained.
- Any concerns regarding animal welfare should be reported to the RSPCA
- All agencies should report their findings / action back to Animal Health / Street Environment as the single point of contact and liaison with the public and other agencies.

Process to Remove Horses From Highways



Process for Dealing with Horses on Council Land

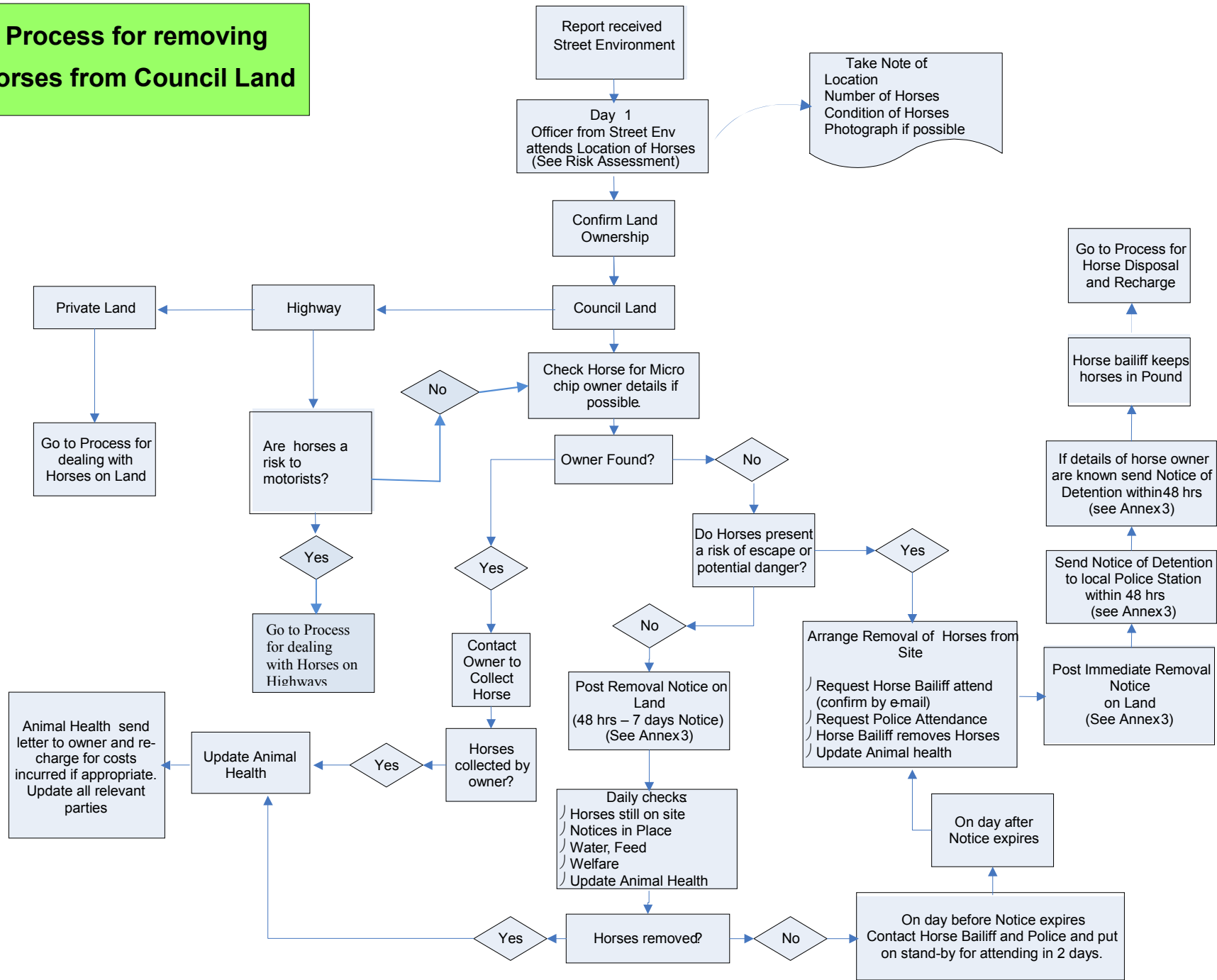
Refer to the attached flow chart. The main points of this process are:

- Horses on council land will be dealt with by the councils Street Environment Team.
- Officers should have regard to the Health and Safety Risk Assessment.
- Action can be taken to remove horses from land using the Animals Act 1971.
- The Act allows horses to be “detained” on the land, but in practice this may require removal of the horse. This can be done immediately, and should be done immediately if there is a clear risk that the horse will escape or cause a risk of danger to the public. However, if there no foreseeable risk then it would be more appropriate to leave the horse on the land and place a legal notice on the land near to the horse requiring the owner to remove it – usually between 48 hours and seven days.
- If the horse has not been removed after the expiry of the notice period, or if the horse is to be removed immediately then an Immediate Removal Notice must be posted on the land.
- The Police must be given notice that the horses have been detained on the land within 48 hours of the horses being detained on the land, or taken to a horse pound.
- If details of the horse owner are known then notice must be given to the owner within 48 hours of the horses being detained on the land, or removed.
- As soon as a horse comes under the possession of the Council, the Council becomes responsible for its welfare while in its care. A daily check should be carried out to make sure the horse has access to water and, if necessary, feed, that it is in a good condition and that any legal notices posted on the site are still in place (and replaced if necessary).
- The Horse Bailiff must be contacted to remove any horse from land, and a request should be made for the Police to also attend in case the horse owner arrives during the removal process.
- The horse can be disposed of by the Council, or more often the Horse Bailiff acting under instruction from the Council, but the horse cannot be disposed of until 14 days after notice has been given to the Police and Horse Owner that the horse has been removed. After the horse has been kept for 14 days it can be disposed of by selling at a market or auction.
- It may be necessary for a horse to be passported and micro-chipped before it can be sold. This should be checked as soon as the horse is pounded and if

necessary a passport and micro-chip obtained at the earliest opportunity to avoid delays in selling the horse and incurring additional stabling costs.

- The reasonable costs incurred in dealing with horses which stray onto council land can be recovered from the horse owner, which includes damage done to land, officer time, costs incurred by the Horse Bailiff, passport and micro-chipping, feed, transport costs etc.
- If a horse owner collects the horse they must be able to prove identity and ownership before it is released. The owner must also pay a release fee, which includes all the costs incurred before the horse is returned to the owner.
- All agencies should report their findings / action back to Animal Health / Street Environment as the single point of contact and liaison with the public and other agencies.

Process for removing Horses from Council Land

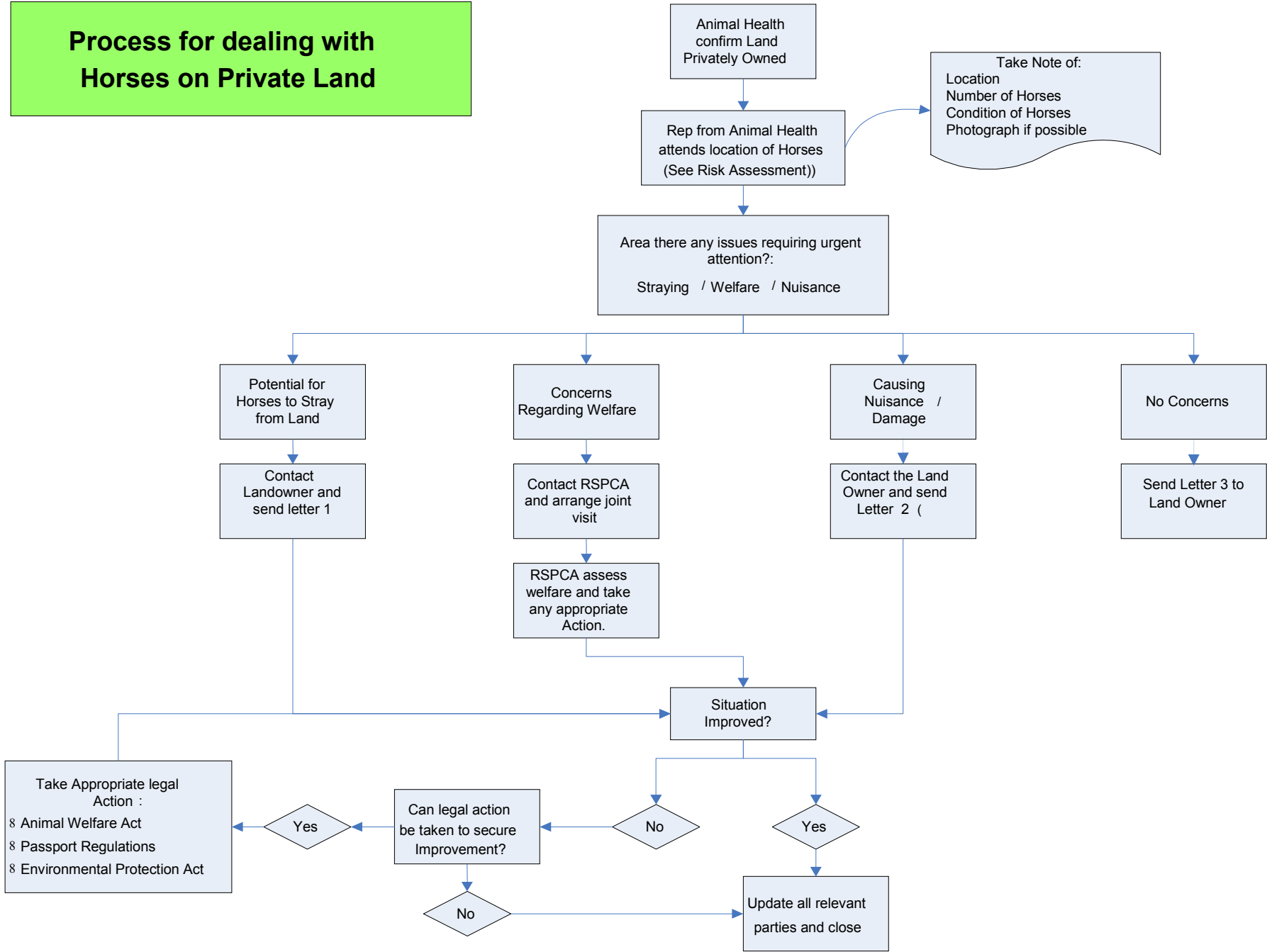


Process for Dealing with Horses on Private Land

Refer to the attached flow chart. The main points of this process are:

- The Council or other agency does not have a legal duty to deal with horses on private land. It is the responsibility of and a decision for the landowner as to whether action should be taken to remove horses from their land.
- Private land owners can use the Animals Act 1971 to detain and remove horses from land and to recover expenses for damage etc, in the same way that the Council uses these powers for horses on its land.
- The Council or other agencies may become involved with dealing with horses on private land if there is a breach of legislation, for example:
 - Animal Welfare
 - Horse Passport requirements
 - Potential escape of horses from the land.
 - Nuisance or damage caused to Council or other people's land
- The private landowner, whether they have permitted horses on their land or not, may become liable for any damage or nuisance caused by horses on their land, if they fail to take action to prevent such damage or nuisance.
- Animal Health will be the principal agency for dealing with horse related problems on private land, except in relation to animal welfare issues when the RSPCA will be the principle agency.

Process for dealing with Horses on Private Land



Animal Health confirm Land Privately Owned

Rep from Animal Health attends location of Horses (See Risk Assessment)

Take Note of:
Location
Number of Horses
Condition of Horses
Photograph if possible

Area there any issues requiring urgent attention?:
Straying / Welfare / Nuisance

Potential for Horses to Stray from Land

Concerns Regarding Welfare

Causing Nuisance / Damage

No Concerns

Contact Landowner and send letter 1

Contact RSPCA and arrange joint visit

Contact the Land Owner and send Letter 2 (

Send Letter 3 to Land Owner

RSPCA assess welfare and take any appropriate Action.

Situation Improved?

Take Appropriate legal Action :
§ Animal Welfare Act
§ Passport Regulations
§ Environmental Protection Act

Can legal action be taken to secure Improvement?

Update all relevant parties and close

