

1. Common Rights in the New Forest

Q: What are the common rights of the New Forest?

A: Commoners of the New Forest are those who occupy land or property to which attaches one or more rights over the Forest. These rights are:

- Common of pasture: commonable animals ponies, cattle, donkeys and mules are turned out into the Open Forest;
- Common of pasture for sheep: although some of the large estates have this right, it is infrequently exercised;
- Common of mast: the right to turn out pigs in the autumn pannage season which lasts for at least 60 days, to devour the autumn harvest including beech mast, chestnuts and acorns this provides food for the pigs and reduces the threat to ponies and cattle from the poisonous acorns;
- Estovers (Fuelwood): the free supply of a stipulated amount of firewood to certain properties;
- o **Common of marl:** the right to dig clay to improve agricultural land this right is no longer exercised;
- Common of turbary: the right to cut peat turves for the Commoner's personal use this right is no longer exercised.

Q: Do you have to have your own property to exercise commoners' rights, or is it OK to just be renting to exercise them?

A: Rights of common are associated with land, and can be exercised by the owner or someone renting that land. However, in the latter case, this would be a matter of agreement between the landowner and tenant. They do not attach to a person, or a building, but to the land itself.

Q: How can I find out if a piece of land has common rights?

A: The Verderers hold the Atlas of Forest Rights. The Atlas may be inspected at the office by appointment with the Clerk to the Verderers. To undertake an inspection, please contact the Verderers' Office. The New Forest Research and Publication Trust publishes a guide to the Forest Atlases.

Q: What are marking fees?

A: Marking fees are payments made on each animal turned out onto the Forest for the present year. They are set by the Verderers and help towards the agisters' (q.v.) salaries. No animal over 6 months age is allowed to be turned out on the Forest before the marking fee is paid and the animal marked by the agister.



2. Legal structure and organisation of the New Forest

Q. Who are the Verderers of the New Forest?1

The Verderers derive their offices, powers and responsibilities from an Act of Parliament in 1877.

Their role is to:

- protect and administer the New Forest's unique agricultural commoning practices;
- conserve its traditional landscape, wildlife and aesthetic character, including its flora and fauna, peacefulness, natural beauty and cultural heritage;
- o safeguard a viable future for commoning upon which the foregoing depends

The Court comprises the Official Verderer (Chairman), five elected Verderers representing the Commoners and four appointed Verderers: one each appointed by the Forestry Commission, DEFRA, the National Park Authority and Natural England. The post of Official Verderer is a statutory appointment made by Her Majesty the Queen.

They work in conjunction with the Forestry Commission (which manages the Forest on behalf of the Crown), Natural England, and with owners of other areas of common land within the Forest, such as the National Trust.

Q. What is an agister?

A: The Agisters are employees of the Verderers. Their work is to assist in the management of Commoners' stock in the Forest. Specifically, they:

- o watch over the Forest to ensure that the owners of depastured stock, and others, meet the requirements of the Verderers in respect of stock welfare, payment of marking fees, etc.;
- o inform the Verderers of any possible breaches of the Verderers' byelaws;
- attend road accidents and other incidents involving commoners' animals; deal with injured animals at the scene and humanely destroying animals if necessary;
- o organise the construction and ongoing maintenance of stock pounds within their area;
- arrange and manage the rounding up of ponies and cattle in the autumn and at other times as required;

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¹ http://www.verderers.org.uk/court.html

 by regular inspection on foot, vehicle and horseback, an Agister will acquire, and maintain, a thorough and up to date knowledge of depastured stock and of ground conditions.

There are five Agisters, including a Head Agister, each covering a particular area within the Forest.

Q: What is the New Forest Commoners Defence Association?

A: The New Forest Commoners Defence Association or CDA is an association whose membership is made up of commoners who depasture their animals on the New Forest, and others who support them. It was established in 1909 with the aims of supporting the right of commoners to turn their stock out on the open Forest and promote their interests in the day-to-day management of the Forest, as well as in the wider political arena.

More information can be found on their website http://www.nfcda.com/

Q: What is the New Forest Pony Breeding and Cattle Society?

A: In 1891, a society for the improvement of New Forest ponies was set up and started a show for stallions. This was followed in 1905 by the foundation of the Burley and District New Forest Pony Breeding and Cattle Society which started the Stud Book and the Breed Show. The Society is now the official body controlling the registration of New Forest ponies and controls the breed standard. It also runs the New Forest Pony Breed Show each year.

More information can be found on their website: http://www.newforestpony.com/index.php

Q: What is the New Forest National Park Authority's role in the New Forest?

A: The New Forest National Park Authority was established on 1st April 2005.

As guardians of a national park the New Forest National Park Authority has statutory purposes and socio-economic responsibilities as specified in the Environment Act of 1995:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of the area
- To promote opportunities for the understanding and enjoyment of the special qualities of the Park by the public.

The National Park Authority is the planning authority for the National Park.

Working in partnership with other organisations it is also the Authority's duty to seek to foster the economic and social well-being of the local communities within the National Park.

More information can be found on their website: http://www.newforestnpa.gov.uk/

Q: What is the Forestry Commission's role in the New Forest?

A: The Forestry Commission manages the New Forest on behalf of the Crown. However, its responsibilities only apply to the Crown lands: the Northern and Western Commons which were brought under the jurisdiction of the Verderers by the 1964 New Forest Act are owned and managed by a number of different organisations, including the National Trust, Hampshire County Council and local parishes, as well as some private landowners.

On Crown lands the Forestry Commission is responsible for managing heathland, ancient woodlands and timber production in compliance with its agreements with Natural England and the European Union. It operates under the terms of its Design Plan and the Minister's Mandate to maintain the balance between commercial timber production, recreation and nature conservation, as well as managing the area in support of commoning.

Q: Do the RSPCA or other welfare organisations inspect the animals?

A: There are two welfare tours each year arranged by the Verderers. They are attended by DEFRA, British Horse Society, International League for the Protection of Horses, Blue Cross, RSPCA, Donkey Sanctuary, and local veterinary surgeons. The results of the survey are reported in the minutes of the Verderers' Court. The welfare organisations also carry out their own independent inspections.



3. Commoning Practice

Q: What is commoning?

Commoning is a form of farming which allows specific animal species (in the case of the New Forest this includes ponies, cattle, pigs, donkeys and, in certain areas, sheep) to graze and forage on unfenced common land. The animals are free to roam wherever they want but, at certain times of the year (e.g. during the drifts (q.v.) for ponies), they are rounded up and may be returned to their owner's holding.

It is an extensive farming system (as opposed to 'intensive') and, as such, contributes greatly to the maintenance of the New Forest's ecology and landscape. The grazing and browsing of the livestock ensures that the heathland remains open, reduces the spread of scrub and supplies manure to keep the chemical balance of the Forest stable. As a result, the area is covered by a wide range of national and international conservation designations and is widely recognised as one of the UK's most prized landscapes.

Q: Is commoning unique to the New Forest?

The use of 'common' land for grazing and other farming practices is widespread across the world. It also used to be widespread in the UK, with many areas of 'manorial waste' used to graze livestock, and collect fallen timber or other natural goods, as part of a peasant and smallholder based economy. The moves to enclose common land across much of lowland Britain started in the eighteenth and accelerated in the nineteenth century, when a series of enclosure acts deprived many small farmers of a large part of their income and forced them into the country's growing industrial towns. Grazing on common land now survives in a number of restricted areas, mostly in the uplands of England, Wales and Scotland. Many of these areas are now designated as national parks and make up some of the country's most precious landscapes.

More information about commoning in the British Isles can be found on the website of the Foundation for Common Land at: http://www.foundationforcommonland.org.uk/

Q: Who owns the animals?

All the animals are owned by commoners, who are people who occupy land in the New Forest with the right to graze livestock on the open Forest. This area now includes the northern and western commons, although the legal framework (set up in 1964) for these areas is slightly different (meaning that they have the right to graze sheep, which is not a commonly held right in the Forest. They also pay considerably reduced marking fees.)

The rights attach to the land, not to a house or an individual. As a result they cannot be inherited, but may be bought with land or used as part of a tenancy agreement by the person renting the property. The animals that graze on the New Forest by common right are the property of the person who holds that right. They may have been purchased, inherited or bred by the commoner, and are his or her personal property, for which the commoner is responsible. Uniquely in the New Forest, there is no restriction on the number of

animals a person who has pasture rights can turn out: the limit is set by the land the commoner has access to, and their ability to care for and manage their herd.

Q: How old do you have to be to be a commoner?

A: Many children are commoners often with their own brands – under 18s must have an adult as their agent for their animals on the Forest.

Q: How many animals are there grazing on the open Forest?

A: In 2016 marking fees were paid on:

- 5446 ponies,
- 5463 cows,
- 202 donkeys,
- 293 sheep and
- 376 pigs

so that they could graze, browse or forage on the open Forest. This is a total of 10,714 animals on which marking fees were paid. However, it is important to remember that many of these animals only spend part of the year on the Forest. Pigs are only allowed out during the pannage season (q.v.), while many cattle are brought in during the winter so that they can be given supplementary feed and shelter during the hardest months, or in the summer to make the most of better grazing on the holding or to run with the bull. Some pony owners also bring their animals in during the winter months or whilst the stallions are out to prevent them from getting in foal.

Q: Are the animals wild or tame?

All the animals are managed, but most of them are not 'tame', since they live much of their lives on the Forest and are only handled when necessary. They are normally described as 'semi-feral', being neither wild nor tame. However, some animals have been handled more than others: ponies may be retired riding ponies, or been taken off the Forest and handled for showing. Some owners halter break their foals to make it easier to handle them when future need arises, while others are almost entirely unhandled.

The cattle have to undergo regular TB tests. New Forest commoners have agreed to a more stringent testing regime than in other parts of the UK in order to protect the New Forest herd and they are often taken off the Forest or given supplementary feed over the winter, since there is little food for them and the hard winter months make it difficult for them to stay healthy. Most of the ponies remain out over the winter, unless their condition drops and they have to be brought in for some TLC. Some owners do remove their ponies during the winter, though, because of the increased risk of road accidents. Also some cattle owners remove their cattle from the Forest during the Autumn to reduce the risk of acorn poisoning.

Q: Are different stallions used each year? If not, is inbreeding a risk?

A: The stallions that run with the mares are carefully selected each year, and allotted an area. At present only 15 stallions are turned out for one month (mid-May to mid-June) to control the number of foals born on the Forest each year. The areas where they are released are carefully selected by the Verderers in

consultation with the New Forest Pony Breeding Society. The stallions are selected based on many factors including bloodlines, conformation and movement. They are DNA tested and vetted before being selected.

Even when the number of stallions running out was much higher, and they lived out of the Forest all year round, they were moved every three years, so that there was no likelihood of them breeding with their own daughters.

Q: How do commoners know which animals are theirs?

A: Commoners know their animals and can usually recognise them without difficulty. Each pony is branded with the owner's brand and each cow or sheep carries identification tags in its ears. Donkeys have a brand or an ear button. The local agister is familiar with the animals in their area and can often identify most of them individually, too.

Q: How do commoners find their animals when they can go anywhere on the open Forest?

The animals that graze on the Forest have their own 'haunts' – an area in which they move between grazing, water and resting places on a fairly regular cycle. Commoners know their animals and their usual haunt, and can usually find them without difficulty. However, in the spring when the stallions are turned out, they may move away from their haunt looking for a stallion, and commoners need to keep a close check on where they are on a regular basis. In summer, when grazing is more abundant ponies may wander further, but are often easier to find as they congregate at shades. Commoners know the different shades and ponies often shade in the same place for generations.

Q: How does commoning operate in the present day?

Today there are approximately 700 commoners who own animals grazing on the open Forest. They make up a modern farming community with a huge heritage, and strong family and community ties. They live right across the New Forest district, in towns and villages within the Forest, as well as quite a few living outside the perambulation (q.v.). They are linked socially as well as economically, and have a long tradition of taking part in local agricultural shows where they show their animals, their skills and their heritage to the wider community. Attending shows and the accolades associated with them are very important to some commoners.

There are almost as many ways of commoning as there are commoners, with each holding run to suit the owners' time and commoning herd. Some, especially those with small herds who are able, turn their animals out to graze in areas local to their holdings, to make keeping a check on stock (one of the regular tasks that commoning involves) easier and less time consuming. Where commoners buy ponies from other commoners these animals continue to run in the haunt where they were born. Those with a long commoning tradition may have ponies which come in on drifts in many different areas of the Forest.

All commoners are aware of each other's animals and will inform the owner or a local agister if they see anything of concern when they are out checking their own animals. They are also aware of wider problems they see on the Forest: poor fencing, dangerous stream and river crossings, open gates, dumped rubbish and many other things that are a risk to the animals depastured on the open Forest or those riding out to check on them.

Besides the routine daily management of stock, commoners collectively work to round up the pony herd through the annual round of drifts (q.v.), bring ponies forward for and attend the Beaulieu Road Pony sales, support the Verderers in the maintenance of the pounds (q.v.) and arrange numerous small, local work parties to support their commoning activities. Sharing of information is also a central aspect of the commoning way of life: with animals free to roam and a collective responsibility for the herd, it is vital that commoners share information as well as their social and working lives to underpin their farming activities.

But it is important to remember that very few commoners make a living from commoning – almost all have other jobs which they have to work around. These include farm and forestry work, Forestry Commission staff as well as teachers, solicitors, cleaners, nurses, etc. Many commoners use up their annual leave attending drifts and managing their stock.

Q: What is a drift?

A: Ponies belong to a large number of commoners and graze at will over the heath. Most of them are unused to being handled and are difficult to catch. So, each year, the agisters organise up to 40 round ups or 'drifts' across the Forest to drive the local ponies into holding areas and then into a pound (q.v.) where each can be inspected, tail marked by the agisters (q.v.) and wormed by their owners. Foals are also branded by their owners or the agisters if the owner wishes it, and any that the owner wishes to remove are loaded into trailers to be taken back to the owner's holding.

Q: What is a pound?

A: A pound is a wooden corral erected on the open forest into which animals can be driven to be inspected or loaded into a trailer by their owners or an agister. Pounds are generally sited in an area where natural or manmade fence lines or other boundaries help to funnel the animals into a safe holding area and then into the pound.

Q: What is a tail mark?.

A: There are five tail marks for each area of the Forest, which are usually cut into the animal's tail when it is in the pound on a drift (q.v.). All animals marked by the agisters have different cuts made in the tail hair to indicate the area in which their owner lives. When marking fees are due agisters then have a record of the number of animals they have marked for each individual owner. It also assists the agisters in identifying animals.

Q: Why do some ponies have reflective collars, while others do not?

A: Reflective collars are normally fitted onto ponies when they are in the pound at a drift. Although commoners are encouraged to fit collars and many do so — especially if they know that their ponies run close to dangerous roads - some owners do not wish their animals to have them fitted, and they can be a risk for young animals — particularly foals — that can get caught up by them.

Some ponies are good at losing them resulting in quite a few being found attached to bushes or lying on the ground. And, as some ponies avoid being rounded up in the drift, some of them escape having a new one fitted each year.

Collars have also been tried on cattle, but it is very difficult to keep collars on them as they come off on the Forest or when cattle come in to the barn for supplementary feed.

Q: What is the purpose of a reflective collar?

The collars are fitted to make the animals more visible in poor light conditions, and especially at night. This is particularly important because of the volume and speed of traffic on some Forest roads, where animals may cross at any time of the day or night. However, motorists need to be aware that not all ponies (and few cattle) have collars fitted and, if the animal is facing away from you, the collar may not be visible.

Q: What is the Beaulieu Road Sale Yard?

A: The Beaulieu Road Sales yard is used by commoners to sell their ponies by auction. There has been a sale yard on this site since just after the Second World War. Previously, sales had been held under the auspices of the New Forest Pony and Cattle Breeding Society (q.v.) at Swan Green near Lyndhurst and on the Lyndhurst Racecourse, but they were moved to Beaulieu Road station to be close to the railway line used to transport many animals to the mines or the markets in London and elsewhere.

In 2002 the New Forest Livestock Society took over the management of the sale yard and completely rebuilt it to incorporate modern Health and Safety standards, using a design which closely followed the previous construction. The traditional timber construction with earth and gravel floors, considered to be the safest and most humane for its purposes, has been retained and the sales continue much as they have for many years.



4. History of commoning

Q: What is the origin of commoning in the New Forest?

A: Following the Norman Conquest William the Conqueror designated the area we now call the New Forest as a Royal Hunting reserve (between 1066 and 1068). The designation resulted in the introduction of Forest Law which meant that the land couldn't be enclosed for agriculture or housing - and introduced other controls that might interfere with the King's hunting rights. In exchange for these controls, the Law established common rights to be exercised by those who owned or rented land within the hunting reserve.

However, the right to graze animals on common land was widespread across the country at least until the end of Feudal times. Prior to the introduction of Forest Law, the New Forest, like many other areas of Britain was made up of large tracts of land whose common usage was an essential part of peasant farmers' economy.

From the 12th century onwards, increasing areas of land over which common rights were exercised were incorporated into the great estates of the nobility and church. Over succeeding centuries, the common agricultural land that had supported the lives of tenants and copyholders, was enclosed and converted to pasture at the whim of the landowner. In the 18th and 19th centuries, the enclosure of manorial waste and commons was accelerated under a series of Enclosure Acts, until very little land over which common rights operate now exists in lowland Britain.²

The New Forest was not seriously threatened by inclosure until, in 1851, an act of parliament (the Deer Removal Act) introduced a 'rolling power of enclosure' which threatened to turn all the best land in the Forest into timber enclosures and sell the remainder. As the full implications of the Act became apparent, local landowners whose rents were increased through the added income provided to smallholders by access to the common grazing, organized opposition through a petition to parliament in 1867. Shortly afterwards, this group founded the New Forest Association and set about preventing further inclosure. Using the growing interest in landscape, the Association galvanized the power of public opinion to save the Forest from inclosure and build the foundations for the 1877 New Forest Act which re-instated the powers of the Verderers and assured the future of the New Forest.³

During the latter part of the nineteenth century the urban populations around the New Forest spread considerably, while the development of the railway through the Forest and extension of the road network meant that new residents started to move into the villages in the Forest itself. Increasingly, commoners and their animals came into contact with people who had little understanding of their way of life, and often found the presence of their animals on roads and village greens a nuisance. In 1909 the New Forest Commoners Defence Association was founded in response to the increasing level of such conflict, and has continued to defend the rights of its members against numerous threats to the present day.

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² Hammond, J L and Barbara (1920) *The Village Labourer 1760 to 1832: A Study in the Government of England before the Reform Bill.* Longmans, Green and Co, London.

³ Pasmore, Anthony (1977) *Verderers of the New Forest: A History of the New Forest 1877-1977*. Pioneer Publications, Beaulieu.

Q: How did commoners run their holdings in the past?

A: Historically, the use of common grazing and other rights enabled small holders and small tenants to live more comfortably than would have been the case if they relied on just the land they owned or rented. Even as recently as the middle of the 20th century the Baker Report⁴ recorded a commoner of long standing who said that he could keep three times as many cattle on a small holding in the Forest as on 50 acres in the Midlands. However, the use of common land as a shared resource means that the way the resources are used is very different from traditional agricultural practice.

The peculiar nature of commoning in the New Forest – where a large number of small holders grazed their animals on common land, and grew crops on their holdings (typically less than 20 acres) meant that they worked together to grow and harvest their produce. When animals are grazing freely across large areas with no fences to restrict their movement – information shared between one commoner and his neighbour – or with the agisters and keepers was vital to manage the herd effectively and care for the animals.

The great majority of commoners have always had work outside their holding as part of their domestic economy. This may have been in agriculture or forestry, or in the industrial and commercial centres outside the Forest. Commoning has often been the work of weekends and evenings, families and neighbours working together. Traditionally commoners have not had large areas of crops to plant or harvest, and their small herds of ponies and cattle grazed together on the heath. So when the time for complex or heavy labour was required, commoners joined together to share the work and the machinery - and the conversation.

But commoning is also part of the New Forest's cultural heritage, with a community that has existed and evolved for many hundreds of years. Some families have been commoners for hundreds and years, passing down their experience and knowledge through the generations. Families inter-marry and meet socially, as well as co-operating through work. The drifts, sales, markets, shows and informal social events have always been the meeting places for sharing information, making working arrangements and meeting friends.

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⁴ Baker Report: Forestry Commission 1947. Report of the New Forest Committee. Cmnd 7245. HMSO, London



5. Miscellaneous

Q: Why shouldn't people feed carrots to ponies?

A: Although stable kept ponies enjoy eating carrots they can be a danger to health if fed whole or cut up in to rings causing 'choke'. They are not natural food for semi-feral animals and are likely to become an attraction to ponies that run on the Forest. The best way to train most animals is to feed them – hand feeding ponies and donkeys trains them to seek out people and congregate close to roads and car parks, where they are at risk from traffic, and may become a risk to the public. Hand feeding keeps them away from their natural diet and role as 'conservation grazing stock'. They are also more likely to lose weight as there isn't enough food at feeding hotspots to sustain the ponies and can lead to overgrazing.

Q: There appears to be a market for horse meat. Who can take this forward (through legal hoops) to see horse meat on sale at local butchers?

A: There has been discussion of the possibility of operating an abattoir in the Forest, and some commoners would like to see this include horse meat. However, there is also considerable opposition to the human consumption of horse meat and there are no abattoirs in the locality of the New Forest that can process the animals. A study was recently carried out to investigate the viability of an abattoir in or close to the New Forest, and found that it would not be viable: however, the study specifically excluded horses from its calculations.

Q: Why not fence the roads?

A: Fencing the roads would lead to the break-up of the Forest, into a series of large 'fields'. It would destroy the character of the Open Forest. It would disrupt the movement of livestock and therefore damage the area's biodiversity; it would totally change the landscape and would, for many people who come to see the new Forest's free ranging animals, destroy the New Forest that we have come to know. The three A roads across the Forest have already been fenced and to fence others would require statutory authority. What is meant by 'fencing the roads' anyway? The New Forest is an area of small villages and hamlets through which the animals wander, with greens where they graze, and woods where they shelter. These villages are linked by a network of minor roads and lanes. If this is what is being proposed then, no more New Forest.

Even fencing the roads through the Forest which are used as commuter routes or rat runs would have a seriously negative effect on the Forest. People who make such proposals don't seem to think of the downsides. Who would pay for the fencing? Would underpasses be built and who would pay for them? How much more of the grazing would be lost to verges and difficult to fence areas? Who would pay for the grass cutting and shrub clearance of these areas? Who would be responsible for checking that the fences remain stock proof and repairing them immediately that dangerous fencing/ access routes are found?

And what effect would fencing have on the speed of traffic crossing the Forest? The New Forest hosts millions of recreational visits every year. People come to walk, cycle and ride their horses - often using the roads as part of their journey. The presence of the animals and the speed limits on the roads actually make drivers take greater care, making the roads safer for other road users. Very few people now chose to walk, cycle or ride on the Forest's fenced roads these days.

Q: Who pays if a car hits an animal?

A: Commoners' animals have the right to roam on the open Forest, and this includes over the unfenced roads. Drivers are warned about the presence of free ranging stock when they cross the cattle grid and therefore have a responsibility to watch out for animals on the road. As a result, if a vehicle collides with an animal, the driver is normally deemed to be at fault and their insurance is liable to pay for veterinary costs or the value of the animal if it is killed.

Q: Why don't commoners have a restricted access Facebook page?

A: The Young Commoners do have a Facebook page, but there is no general page for commoners. Perhaps the older commoners just don't want one.

The answers to the following FAQs can be found on the Verderers' website at: http://www.verderers.org.uk/faq.html

Frequently asked questions

- 1. What steps are the Verderers taking to reduce animal accidents?
- 2. Why not fence the roads?
- 3. How do I find out if I have Forest Rights?
- 4. Can a member of the public attend Court and address the Verderers on Forest issues?
- 5. Why do some of the animals occasionally look in poor condition?
- 6. Does the RSPCA or other welfare organisations inspect the animals?
- 7. How many animals are killed each year on the roads in the Forest?
- 8. <u>Do the Verderers have a policy on dogs? Do they harm stock?</u>
- 9. Do the Verderers have responsibilities for deer?
- 10. What are the Verderers' relationships with the Forestry Commission and National Park?
- 11. I want to hold an event in the Forest; do I need permission?
- 12. Can I camp in the Forest?
- 13. What is the geographical area of the Court's jurisdiction?
- 14. Can anyone become a Verderer?

- 15. How can I help to reduce animal accidents?
- 16. Can I feed the animals?
- 17. What happens to the ponies when they are sold, or get old?
- 18. Who do I complain to about Forest matters?
- 19. What do I do if there is a problem with a Forest animal?
- 20. Can I attend a pony round-up?
- 21. Where can I cycle in the Forest?