

Australasian Gypsy Horse Society

Information on Buying and Selling Gypsy horses

With the Gypsy Horse fast becoming a popular choice for the horse enthusiast, we thought it would be a timely reminder for both **buyers and sellers** on the responsibilities involved in buying and selling horses.

There has been a few cases of people selling horses without DNA verification of parentage and not supplying registration papers.

Remember a breeder is expected to register their progeny, not the buyer. The buyer can then have the horse transferred into their name.

The AGHS is not a legal body that can intervene between parties. It is ultimately the responsibility of the buyer to verify that the horse they have chosen is correctly represented. The association can assist in determining the status of a horse's registration and can provide information on this to members.

Buyers- ensure you sight the registration papers before agreeing to the sale.

Fortunately, these days it is easier than ever to document an equine sale. Written contracts can potentially protect buyers and sellers in equine transactions. Here are a few examples:

Description of the horse sold.

The sale contract can describe the horse being sold, such as the registered name, breed, registration numbers, markings, age, brands or tattoos, and height. At the very least, this could prevent the problem of a buyer who has purchased a horse off of a website, sight unseen, only to suspect that a different horse was delivered later on.

Papers.

We often receive calls from buyers who never received registration papers, but no contract exists to confirm that the seller even had them. Buyers can protect themselves by specifying in the contract that the seller has the registration papers and will transfer them to the buyer within a specified period of time. The contract can even attach a copy of them.

"The seller declares the horse is registered with AGHS Registry. (Copy attached) Any and all registration papers, shall be turned over to the Buyer as soon as reasonably possible, upon complete payment for the Horse. Transfer costs are the responsibility of the Buyer"

If it is a foal you are buying, expect to see similar to the following

"The Seller guarantees that the Horse is eligible for registration with the AGHS registry. The Seller will pay the initial registration fees to register the Horse . The Seller will be listed as The Breeder of the Horse and the Horse's registered name will begin with the Seller's prefix"



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Soundness and Veterinary History.

If a seller insists that the horse offered for sale is completely sound with no vices or bad habits, he or she should not hesitate to put it in writing if the buyer asks. Otherwise, it can be difficult to prove that the seller made these promises.

Payments.

Sellers can take extra precautions when selling horses on an instalment basis. For example, when the buyer promises to pay one-half of the purchase price now and the rest later, sellers can insist that the contract specify, at a minimum, what was paid, what remains to be paid, when payments are due, and to whom payments must be sent.

A common myth when buying and selling horses is that the principle of "caveat emptor" or otherwise known as "let the buyer beware" always applies to the sale.

Whether you are buying or selling it is important to know that this is not always the case.

Firstly, is the sale a private transaction or commercial? This just means, did you buy from someone who sells horses as a hobby, or who buys and sells horses as a business? (And just because a seller claims to be a hobbyist, doesn't mean that they are!)

The principles of **contract law** will apply to either transaction, but if you purchase a horse from a business then the seller will also be subject to the **Australian Consumer Law**.

Basically this means that the horse you buy must be subjected to the same merchandise regulations as if you went to a big chain store and bought a computer!

For instance the horse must be:

- Fit for the purpose for which they are purchased;
- Of merchantable (acceptable/saleable) quality;
- Match the advertising description;
- Meet any additional promises or guarantees offered by the seller.

Failure to meet any of the above guarantees, may mean that you can make a claim for damages through the Department of Fair Trading.

BUT that doesn't mean private sellers get off the hook! Contract law principles apply when a legal contract has been made. The next logical question that follows is this:

What constitutes a legally enforceable contract?

A contract is simply an agreed set of specific terms between consenting, competent adults, for consideration (simply put, most of the time "consideration" just means money). I give you something and, in return, you give me something.

- Does it have to be formalised by a solicitor? - No
- Does it have to be witnessed? - No (there are exceptions to this rule, but for horse sales, generally no)
- Does it have to be written? - No (but it's easier if it is!)

Don't rush in !
Do your homework, research the breed and look at several horses and speak to as many studs, breeders and fellow owners as possible.



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The types of conditions are very important when it comes to horse sale contracts.

Terms need to be specific and measurable: for example, describing a horse as a "good jumper" or a "extravagantly moving dressage horse" are very broad and subjective and are unlikely to give rise to grounds for pursuing breach of contract.

However should a seller describe a horse as a "competitive Grand Prix dressage horse" or "World Cup jumper", these are measurable qualities. Has the horse competed in a Grand Prix dressage or world cup jumping competition? If not, and the buyer only discovers AFTER the sale that this statement is untrue, then the buyer may have an avenue for recourse.

AGHS recommend having an appropriately qualified professional assess a horse's suitability for first time buyers, green riders or people returning to horses after a break.

Overseas purchasing

People need to be very savvy when purchasing horses from overseas. Many Australian gypsy cobs owners have had some very bad experiences when purchasing and importing Gypsy horses into Australia and our recommendations from these experiences are:

- Try not to buy sight unseen, visit the stud itself and view the horse/horses you are interested in, or if this is not an option have someone you trust view on your behalf.
- Sight the DNA and parentage report of the horse being offered for sale as well as the colour analysis if purchasing for these reasons. You can also double check these with the lab to ensure the records you are sighting are accurate.
- Have an extensive vet check examination including a reproductive one if you want to purchase the horse for breeding. Also ensure they check that the age and height of the horse are being represented honestly.
- Request video of the horse including it moving at all paces, standing square and being haltered. If the horse is advertised as broken in to riding or harness request video footage of this as well
- If purchasing a proven stallion or broodmare request photos and video of any progeny. Also request names and contact details of the owners of this progeny so you can contact them directly for references.
- Have a sales contract in place outlining the purchase arrangements so you are aware of every contingency. Overseas horses cannot immediately be transported to Australia, they need certain vaccinations before-hand and you need to ask if costs will be incurred on top of the purchase price for agistment, transport, farrier and vet fees.

The best advice we can offer is to speak to people who have been through the experience themselves. AGHS are happy to help connect you with people who have knowledge of, and understand the procedure involved. Ensure you speak to a few people to get a comprehensive overview and we recommend you get legal advice on any written contracts.

