

Operational Advice on Responding to Hunting Incidents

The National Police Chiefs Council with the College of Policing has agreed to these revised guidelines being circulated to, and adopted by, Police Forces in England, Wales & Northern Ireland.

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These revised guidelines have been produced and approved by the National Policing Operations Coordination Committee Area. Guidelines produced by the NPCC should be used by chief officers to shape police responses to ensure that the general public experience consistent levels of service. The implementation of all Operational Advice will require operational choices to be made at local level in order to achieve the appropriate police response. It will be updated and re-published as necessary.

Any queries relating to this document should be directed to either the author detailed above or the NPCC Business Support Office on 020 3276 3800.



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1. Introduction

Hunting with hounds is an emotive subject bringing with it support, opposition and commentary from a wide spectrum of society, amplified by social media in this modern policing world.

It is accepted that many forces will have good operational working practice in place around hunting, thus this is not intended to replace, but designed to assist. It should be referred to in conjunction with own Force policy, guidelines and working practices.

The key strand running through is the impartiality of the Police and also the expectation to take positive action when the evidence exists.

2 History

The Hunting Act 2004 prohibits all hunting of wild mammals with dogs, except where it is carried out in accordance with the conditions of an exemption, and all hare coursing events.

Registered hunts that were hunting foxes, deer, mink and hares did not disband and concepts such as Trail hunting were introduced in order to continue hunting activities in line with the Act. Thus, the continuation of hunt meets is not in itself illegal, unless the provisions of the Act are being breached.

It's possible that such events may result in people who are pro-hunting being present at the same time and in the same location as those who are anti-hunting, thus leading to the possibility of disorder and criminal offences being committed by either party.

3. Hunting Terminology

3.1 The Master The person responsible for overall management and conduct of the hunt.

The Field Collective term for the riders following the hunt.

Field Master The person designated by the Master to control the field in their absence. They stop the mounted followers over-running the dogs.

Huntsman Responsible for controlling and directing the dogs during the days hunting (only the huntsman uses a horn).

Whipper-In Staff member who assists the Huntsmen in the control of the hounds by keeping the pack together and rounding up missing dogs.

Hunts Staff Collective term for the Joint Masters, Huntsman and Whippers-In.

Terrier (Country) Man Their role is to assist in the hunt and they are directly responsible to the Master, often seen on quad bikes. (Emotive issue Anti-Hunt believe they are there to remove foxes from underground for the hunt to continue or kill them)

Hounds These are pack animals and view the Huntsman as pack leader. The Huntsman will then train and control them by using voice and hunting horn.

Followers Follow the hunt on foot/car/bike.

3.2 Exempt Hunting

Provided there is no trespass, certain forms of hunting are exempt. These are very closely defined in Schedule 1, namely:

- Stalking and flushing out a wild mammal for certain purposes, with a view to its being shot forthwith, and not using more than two dogs;
- Use of not more than one dog at a time below ground in the course of stalking or flushing to protect birds for shooting;
- Hunting rats;
- Hunting rabbits;
- Retrieval of shot hares;
- Flushing a wild mammal from cover in connection with falconry;
- Recapture of accidentally escaped wild mammal;
- Rescue of wild mammal believed injured using not more than two dogs and no dog below ground; and
- Observation and study of a wild mammal, using not more than two dogs and no dog below ground.

3.3 Accidental Hunting

Where trail hunting is being undertaken there is the possibility that a wild mammal might be disturbed and take flight. Should this occur in the vicinity of the hounds there is a substantial risk that they might leave the laid scent and begin to hunt the live mammal. This is referred to by the hunting community as 'accidental hunting'.

N.B. For hunting to be illegal it must be intentional. Where hounds leave a laid scent and begin to hunt a wild mammal it is unlikely to be immediately illegal but it may become so if little or no effort is made to regain control of the hounds or if they are then encouraged to hunt.

4 Police Considerations

4.1 Objectives

These should be considered in partnership with other agencies and include:

- Maximise public safety;
- Facilitate peaceful protest;
- Minimise disruption to the different communities we serve;
- Provide an appropriate and proportionate response to any incident of protest, crime or disorder at the locations of the hunts or ancillary to them;
- Preserve public order and take proportionate steps to deal appropriately with offenders if crime is committed;
- Lawfully gather and develop relevant intelligence & evidence;
- Maintain confidence in the Police Force

4.2 Key Considerations

- When dealing with hunt related activities consideration should be taken from APP (Public Order / Decision Making), NDM and relevant risk assessments in addition to relevant Force Policies and Working Practices.
- Be mindful of unconscious bias.
- Remain impartial whilst engaging with all parties to facilitate a lawful activity.
- Police action should be about preventing or investigating allegations of crime, with due consideration to public safety and rights to protest. Remain aware of the landowner's rights, which include the removal of trespassers & preventing unauthorised access and criminal acts. (see further within Section 68 of the Criminal Justice and Public Order Act 1994 for specific considerations)
- Verify accounts on all side, gather details and evidence objectively.
- All decisions and rationale made should be recorded.
- A debrief should be considered for any incident above a routine engagement.

4.3 Questions to consider upon report of a hunt

*****S31(1)(a)(b)*****

4.4 Spontaneous and Pre-planned incidents

SPONTANEOUS INCIDENTS REPORTED

As with everything in this advice, the below are for consideration and, depending on the individual circumstances of each incident, might not necessarily be utilised.

*****S31(1)(a)(b)*****

Upon initial attendance by Police obtain:

*****S31(1)(a)(b)*****

PRE-PLANNED INCIDENTS REPORTED

- Allocation and deployment of resources considered above
- Establish public rights of way on land
- Visit landowners / organisers of the hunt and obtain meet dates and locations
- If trial hunting then request copies of trail maps / layers / scents used (there is no legal obligation on the hunt to provide)
- High visibility patrols to reassure the community and provide further intelligence gathering opportunities
- Community Impact Assessment

POST EVENT / INCIDENT

*****S31(1)(a)(b)*****

5. Legislation

5.1 The legislation below are considerations to be utilised should the need be required. For more detailed information refer to PNLDB or engage with the relevant specialist resource (Wildlife Crime Officer, PSU Tactics Advisor etc)

5.2 The Hunting Act 2004:

- s1 – offence to hunt a wild mammal with a dog (unless the hunting is exempt)
- s3 – permitting land to be used
- s5 prohibits hare coursing events
- s7 (now repealed by SOCPA – s24 PACE applies)
- s8 – powers of entry / stop search (N.B refers to CURRENT and PAST activity, NOT suspected future activity)
- s9 – Forfeiture of dog/article/vehicle (N.B. there is no power to order the forfeiture of horses)

Wildlife Offences:

- Game Act 1831 (s30) (rabbits, hares, gamebirds)
- Poaching Prevention Act 1862 (s1) (rabbits, hares, gamebirds)
- Deer Act 1991 (s12)
- Badger Act 1992 (s3)
- Wildlife and Countryside Act 1981 (s19)
- Wild Mammals Act 1996 (s4)
- Protection of Animals Act 1911 (s12)
- Animal Welfare Act 2006

Other Associated Legislation:

- Public Order Act 1986 (s3, 4, 4A, 5)
- Common Law – Breach of the Peace
- s60aa CJPOA 1994 (Powers to require removal of disguises)
- s89 Police Act 1996 (Obstruct Constable)
- s68 & 69 CJPOA 1994 (Aggravated Trespass + Direction to leave)
- s50 Police Reform Act 2002 (Anti-Social Behaviour)
- s42 CJ&PA 2001 (Harassment of person in their home)
- s35 Anti-Social Behaviour, Crime and Policing Act 2014 (Harassment + Disorder and direction to leave)
- s14A POA 1986 (as amended by S70 & 71 CJPOA 1994) – Trespassers assemblies of 20 or more persons
- s137 Highways Act 1980 (Obstruction)
- s22 Road Traffic Act 1988 (Leaving a vehicle in a dangerous position)
- s34 Road Traffic Act (All-Terrain Vehicles (Quad Bikes) – Consider if being driven on Private Land or Public Road)
- s59 Police Reform Act 2002 (vehicle to cause alarm, distress or annoyance)

- Civil Trespass – Not normally a Police matter unless to prevent/deal with BoP or enforce criminal law.
- Drones (Distances/Locations allowed to operate)

5.3 Note on Aggravated Trespass and Trespassers Assemblies

Incidents of alleged Aggravated Trespass or Trespassers Assemblies may involve well organised direct action protest groups. These groups will probably have researched the issue against which they are protesting, have received legal advice and be well briefed.

The possibility of any incident of trespass occurring, and the intended Police response, should be based on intelligence, including community intelligence. The Senior Police Officer present at any incident of trespassing will need to conduct enquiries into the circumstances before deciding on the appropriate course of action.

It is recommended that any enquiries conducted include the following:

*****S31(1)(a)(b)*****

5.4 NOTE ON s60AA CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994

Changes in the interpretation and actual legislation surrounding s60AA of the Criminal Justice & Public Order Act 1994 have reduced the authority level to that of an Inspector. This is a stand-alone power to direct the removal of any item used to conceal identity and can be employed independently of s60 of the same Act.

Face coverings / balaclavas have been worn by both pro and anti-hunt groups to intimidate. This piece of legislation enables Police to deal with such activity.

s60AA provides:

(3) If a police officer of or above the rank of inspector reasonably believes— that activities may take place in any locality in his police area that are likely (if they take place) to involve the commission of offences, and that it is expedient, in order to prevent or control the activities, to give an authorisation under this subsection, he may give an authorisation that the powers conferred by this section shall be exercisable at any place within that locality for a specified period not exceeding twenty-four hours.

(4) If it appears to an officer of or above the rank of superintendent that it is expedient to do so, having regard to offences which— have been committed in connection with the activities in respect of which the authorisation was given, or are reasonably suspected to have been so committed, he may direct that the authorisation shall continue in force for a further twenty-four hours.

(5) If an inspector gives an authorisation under subsection (3) , he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.

A person commits an offence if they fail to remove an item worn to conceal their identity when requested to do so by an officer in uniform subject to Section 110 Serious Organised Crime and Police Act 2005.

A person commits the offence of obstruction of a police officer if they fail to hand over such a face covering for seizure contrary to Section 89 (2) Police Act 1996.

Warning and wording upon arrest:

“I believe that you are wearing an item wholly or mainly to conceal your identity, I require you to remove it. Failure to do so is an offence contrary to Section 60AA of the Criminal Justice and Public Order Act 1994 and will lead to your arrest.”

“I am arresting you for failing to remove the item which I believe you are wearing wholly or mainly to conceal your identity.”

“I intend to seize this item as I believe you intend to wear it wholly or mainly to conceal your identity. The seizure is authorised by Section 60AA of the Criminal Justice and Public Order Act 1994. Failure to do so will be construed as an obstruction of my duty and may lead to your arrest.”

5.5 NOTE ON S35 ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

This is a flexible power which can be used in a range of situations to disperse anti-social individuals and provide immediate respite to a local community. Authorised by an officer of at least the rank of an inspector the power can be used in any public place and in common areas of private land with the landowners or occupiers consent.

Two conditions will need to be met for a dispersal order to be given. Firstly, the officer has to have reasonable grounds to suspect that the behaviour of the person has contributed or is likely to contribute to, members of the public in the locality being harassed, alarmed or distressed, or the occurrence of crime or disorder.

Secondly, the officer has to consider that giving a dispersal order to the person is necessary for the purpose of removing or reducing the likelihood of ASB, crime or disorder.

This power has been used successfully when dealing with anti-social behaviour at hunts; both in relation to the Anti and the Pro Hunt individuals, so is certainly worth consideration.

6. Other agencies' and landowners' roles and responsibilities

Private Prosecutions – On occasion it might be more appropriate for an individual or organisation to consider either a private prosecution or a civil action in respect of alleged offences, rather than the police embarking on a criminal investigation. Prosecutors should apply the guidance for whether to take over such cases as set out in the CPS Guidance Manual (Chapter 1).

International Fund for Animal Welfare (IFAW) and League Against Cruel Sports (LACS) have monitors who will attend certain hunts to record activities and any breaches of legislation. They can provide witness statements and evidence if applicable.

Royal Society for Prevention of Cruelty to Animals (RSPCA) to be considered if there are any reports of purposeful cruelty to an animal, either wild or domestic or in a case of neglect by an owned animal such as a dog.

Department of Environment, Food and Rural Affairs (DEFRA) - DEFRA are responsible for the implementation of Government policy in respect of hunting. They were also responsible for drafting the legislation and carrying out the consultation process. Although the State Veterinary Service forms part of DEFRA, this service is not available to police in respect of hunting matters unless there are associated animal health or notifiable animal health disease issues.

Local Authority Environmental Health Departments - In the event of animal carcasses being dumped in any public place as part of any protest, responsibility for removal and cleansing lies with the appropriate Local Authority Environmental Health Department.

Environment Agency - Where animal carcasses have been dumped either in or close to a watercourse and there is a risk of contamination to a water supply, then the Environment Agency must be contacted.

Private Land Owners - Any carcasses dumped or found on private land are the responsibility of the landowner to remove within Animal Health Legislation. Environmental Health Departments can advise regarding this legislation.

7. Police Response

7.1 Tactics used to disrupt hunts

HORN BLOWING

Blowing horns similar to the Huntsman to confuse the hounds or make them distrustful of commands or playing the sound of barking hounds or hunting horns over a PA system.

Considerations

The simple carrying of a hunting horn is not an offence. Where the person carrying was committing trespass the carriage of such items may be one of the factors in aggravated trespass.

Where the use of such items was used in a manner likely to cause a breach of the peace consideration should be given to take action to prevent that breach of the peace.

Similarly if horns were used in a manner that caused the hounds to possibly cause a danger to the public then consideration should be given to dealing with this by way of Common Law Public Nuisance (even if they were on private land at the time as the danger would be on public ground) and seize the items.

SPRAYING

Anti-mate and citronella spray may be used by anti-hunt person(s) as a means of upsetting the hounds' extremely sensitive sense of smell.

These can be sprayed across the path of where a fox has run, an area of ground where they suspect a fox has gone to ground, or directly onto the hounds or their path as they run into it.

Use of these methods may put the health and comfort of the animals at risk and, if the circumstances are severe enough might provide grounds for the police to take action.

Considerations

The simple carrying of citronella or similar is not an offence. Where the person carrying was committing trespass the carriage of such items may be one of the factors in aggravated trespass.

Where the use of such items was used in a manner likely to cause a breach of the peace action should be taken to prevent that breach of the peace.

Section 7 of the Animal Welfare Act 2006 may not apply here as the person doing it must be responsible for the animal (i.e. owner) or under their temporary control and the substance administered was injurious or poisonous. However if an irritant (Citronella oil based liquid) then Section 4 offence under this Act may apply - causing unnecessary suffering to an animal by an act, if proved the animal was under their temporary control, being not the owner.

The substance used would need to be examined by an expert witness as Citronella, per se, is not believed to cause harm to the hounds.

LOCKING AND SECURING GATES

D-Locks, plastic ties and chains are used by saboteurs to secure gates and fences blocking the route of the hunt

Considerations

The hunt will carry cutters to enable them to remove simple locks and ties or if they are unable to remove they tend to find an alternative route.

Legislation such as breach of the peace may be considered and possibly criminal damage if appropriate.

In general the Police should not get involved with the removal of locking devices on private land.

7.2 ARRESTS

Arrests under the Hunting Act are to be considered in line with the NDM and evidence / risk presented. Different Forces have different policies, but a common view is to investigate once an offence is alleged to have occurred rather than acting on a basis that one is about to be or is being committed.

S1 of The Hunting Act 2004 is a summary offence (thus No Attempt offence) and in proving it, the action must be intentional with that person engaging or participating, not just be watching (see Accidental Hunting above for further considerations)

7.3 Power of Entry

In relation to evidence gathering by the police, the Act does not itself provide any power of entry. Police Officers should investigate the status of the land which they may need to access to ensure they can lawfully do so (express or implied permission or public place public/common land)

Entry to enable search and seizure is covered within s8 of the Act. This provides that a constable may search without a warrant any suspect, and any "vehicle, animal or other thing" if the constable reasonably believes that evidence of an offence under the Act is likely to be found sections 8 (2) and (3).

In addition officers have the power to detain a "vehicle, animal or other thing" if it may be used as evidence or be the subject of a forfeiture order under section 9 of the Act.

Section 8 (5) provides the power of entry to land, premises other than a dwelling, and a vehicle for the purposes of a search. There is no equivalent power for the purpose of effecting an arrest under the Act.

The issue of what constitutes evidence of an offence must be determined at the time. Horses, dogs, and other paraphernalia normally associated with hunting do not by themselves constitute evidence of the possible commission of an offence under Sections 1, 3 or 5 of the Act. Therefore, these animals or items should only be seized in exceptional circumstances and even then taking into account facilities to store, welfare and safety considerations in line with a dynamic risk assessment prior to seizure.

However, evidence in the form of *******S31(1)(a)(b)******* may be considered for seizure under the criteria stipulated in Section 8 of the Act. As an alternative to seizure, a Police Officer may consider using the procedures under the Police and Criminal Evidence Act, Codes of Practice – Code B, Paragraph 7.4. This allows a notice to be served on a person so they do not conceal, alter, lose, damage or destroy any property which may be required at a future date for a criminal trial.

Section 9 of the Act allows a court to order the forfeiture of any dog or hunting article used in the commission of an offence or in the possession of the person at the time of their arrest, following the conviction of that person for an offence under Sections 1, 3 or 5 of the Act. In addition, a vehicle used in the commission of an offence may also be made subject of a forfeiture order.

There is no power to order the forfeiture of horses. This power to order forfeiture is discretionary, and it is likely courts will consider the proportionality and necessity of making such an order carefully.

7.4 Firearms

Legal possession of firearms at a hunt is a likely possibility, as they are still required to destroy animals humanely. There could be a number of conditions which relate to this and will be found on the relevant certificate.

Officers should be aware that although offences under this act are non-recordable, they should be taken into account when assessing an individual's suitability to grant/renew a firearms licence/certificate. Advice should be sought from the relevant Force Licensing Dept.

7.5 Intelligence

*****S31(1)(a)(b)*****

7.6 Community Tactics

*****S31(1)(a)(b)*****

7.7 Investigation

- Obtain advice from Wildlife Crime Officer / Co-ordinator / SPOC
- Support from National Wildlife Crime Unit (NWCU)
- Awareness of 6 month prosecution on wildlife offences
- Awareness of the National Priorities for wildlife crimes
- Refer to CPS nominated wildlife prosecutor, when applicable (When dealing with an offence of illegal Hunting, the CPS will offer early investigative advice)
- Media liaison to be considered as the investigation progresses as often crimes of this nature can attract considerable and often disproportionate media attention compared to other news items.
- Consider forfeiture of any dog or hunting article (not horses). Welfare of hounds to be considered if doing this; pack animals, would need appropriate kennelling, transport etc
- Advise any witnesses or groups not to post anything capable of being used in a trial or prejudicing a fair trial, on social media as per Attorney Generals comments and enquiry. <https://www.gov.uk/government/news/attorney-general-seeks-evidence-on-the-impact-of-social-media-on-criminal-trials>
- Video evidence should be passed to police – where edited will need to explain gaps and time jumps.
- The Hunt should be requested by OIC to provide any evidence to police of trail laying, names, contact details, videos, photos or any other record of where and when trails were laid, any GPS data, where the records have been kept and continuity of evidence. How was trail laid, by what means and using what substance. Where was this obtained from?

7.8 Points to prove

Once an illegal hunt begins, only a person who engages or participates in the pursuit of an 'identified' wild mammal is guilty of an offence. The terms engage or participate mean to take an active and direct part in the hunting of the mammal, thus differentiating it from just observing.

There must be some form of evidence adduced to prove that there was an actual pursuit of a wild mammal. This may be obtained and supported by eye-witness accounts of the activity, video evidence or evidence of preparatory activity such as earth stopping; that is the practice of blocking fox, rabbit or badger holes to prevent a fox going to ground. It is not necessary to prove the outcome to the live mammal, i.e. it was killed or escaped

*****S31(1)(a)(b)*****

