



Witness



the end
of hunting

A close-up, front-facing photograph of a fox's head. The fox has light brown fur with a white patch on its muzzle and chest. Its eyes are a warm, golden-brown color, and its ears are large and pointed upwards. The background is a soft, out-of-focus green, suggesting a natural outdoor setting.

What must change
Hunting Act 2004 Improvements

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Hunting Act 2004 Improvements

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Introduction

This document seeks to explain the failings of the Hunting Act 2004 and show, with evidence, ways to improve the Act and guide legislators. Our knowledge is based on over 60 years of observing hunts, both before and after the 2004 ban.

The Hunting Act 2004 was intended to prevent organised hunting with hounds (dogs) of most wild mammals. In that respect, it has failed. Although it has seen the end of publicly organised hare coursing events, it has not prevented the organised events of fox, hare, mink and stag hunting.

The hunting community, with the full support of its organising bodies, the Countryside Alliance, Hunting Office (now rebranded as British Hound Sports Association) and the Masters of Foxhounds Association, created the idea of 'trail hunting' to mimic the actions of hunting. In effect this utilised the exemptions and other deficiencies in the Act to allow hunting to continue more or less unaffected, while continuing to impact the habitat of the prey species, and to hunt and kill them. It has to be recalled that before the Hunting Act was passed, 3000 hunters signed a pledge saying they would break the law and continue hunting animals, despite any ban. It can be argued that they have remained true to their word. Alongside this charade, the police, who had been very prominent in policing hunts before the Hunting Act, removed themselves from policing

hunts, citing resource issues or actively turned a blind eye.¹ Combined with some senior officers actively participating in such hunts, it was almost inevitable that the Act would struggle to achieve its aims. To date, there has been only a single conviction against hunting with hounds based on police-sourced evidence. However, the Act has been used very forcibly to target hare coursing gangs, who do not act publicly but cause extensive property damage.

Meanwhile, several organisations stepped into the breach and collected evidence, either starting private prosecutions or, more recently, presenting such compelling evidence that the police and CPS were obliged to act. This has been the case for around 50 successful prosecutions to date.

However, many groups stopped the practice due to high court costs and the risk to staff. Only the Hunt Saboteurs Association (HSA) has continued to bear witness, observing hunts every week nationwide. The last 25 hunt convictions under the Act have been from HSA evidence.

¹ - <https://www.theguardian.com/uk/2005/feb/13/hunting.immigrationpolicy>

The present government rightly sees that the Act needs strengthening, making it a manifesto pledge. The only question to be decided is what changes need to be made to ensure that hunting with hounds is prevented within the spirit of the Act.



The case for improving the Hunting Act

There are still around 200 publicly registered hunts that were created to hunt deer, fox, hares and otters, alongside about 50 other unregistered hunts. Over the years, they have transferred their prey from hare to fox and otter to mink. However, these practices still disturb sensitive habitats and are mostly unobserved, while the original prey is hunted. This has a wide reaching impact on all wildlife.

Following the Hunting Act becoming law, hunting organisations created 'trail hunting' as the public face of how they would continue to ride out to hounds legally. It quickly became apparent to those who observed these activities that it was a farce and a thinly disguised operation to hunt as usual. This was confirmed with the public sharing of leaked training sessions, arranged by the Hunting Office showing how they used trail hunts to create a smokescreen to hide illegality.²

Notably, these online sessions were attended by hundreds of participants who all failed to report the blatant incitement to cover up illegality. Part of the advice for foot packs who hunt hare and mink was to pack up if anyone is observing them—something which is regularly witnessed when anti-hunt groups are at hunts. Following the exposé of the training session, major land owners such as the National Trust, Forestry England and Ministry Of Defence banned trail hunting.

A few fox hunts use the Bird of Prey (falconry) exemption, but this was not very successful in court. In contrast, the stag/deer hunts relied on the 'Research and Observation' exemption, despite

there being only a single research paper submitted since the Hunting Act came into law.

The Hunt Saboteurs Association, which has members attending hunts every week across the country, report that the vast majority of hunts do not attempt to hide their illegality, relying on the weakness of the Act and the reluctance of the police to enforce it. The vast majority do not bother to even pretend to lay a trail.

Some outspoken senior police officers have recognised this and have called for improvements to bring the enforcement of the Act in line with its intended purpose.³

The public has been very consistent in its attitude to hunting with hounds. Opinion polls show that since the 1960s, over 60% opposed such hunting, and this has gradually risen to around 80%, higher in the case of stag hunting. This is an issue that the vast majority of the population⁴ agrees with, whilst 85% oppose any form of repeal.⁵ The only aspect that does not take place is effective legislative changes to ensure the will of the public is accommodated.

² <https://www.huntsabs.org.uk/trail-hunting-a-pack-of-lies/>

³ <https://www.theguardian.com/uk-news/2023/jun/29/foxhunting-law-in-england-unworkable-says-police-chief>

⁴ <https://yougov.co.uk/society/articles/50958-where-does-the-british-public-stand-on-hunting>

⁵ <https://www.independent.co.uk/news/uk/politics/fox-hunting-poll-boxing-day-league-against-cruel-sports-ban-theresa-may-election-a8127851.html>



The public has been very clear in supporting an end to hunting mammals with hounds. The only question to be considered is how to achieve this. Overall, the recent public attitudes to hunting are as follows:⁷

- 85% of people think fox hunting should remain illegal
- 87% think deer hunting should remain illegal
- 90% think hare hunting and coursing should remain illegal
- 81% of people in rural areas believe fox hunting should remain illegal

Pro-hunting organisations will regularly state that an attack on hunting is an attack on rural life, despite these organisations being mainly created to promote hunting. The Countryside Alliance is the leading organisation which promotes itself as the protector of country life. Despite that, of its six campaign areas, three are connected to hunting animals, one is regarding shooting licenses, one is an award scheme and the last is a vaguely titled 'Communities' campaign. Many of the organisation's directors, past and present, have strong links with hunts who have been found to have breached the Act.

More importantly, surveys show that the vast majority of rural people have no connection or

interest in hunting, over 95% took no part in hunting with hounds, and the majority of those stated that such hunting should remain illegal.⁶

Hunting groups will point to the economic impact that riding to hounds has on local communities. The reality is that this relates to horse ownership, which currently stands at around 850,000 horses in the UK. If all these people rode to hounds, we would see hunts in the region of over 4,000 members. In reality, most hunts can muster less than 40 riders per week, which means around 0.004% of horse owners partake in hunting. Thus, horse ownership would not be impacted by a reduction in hunts across the UK.

⁷ https://www.ipsos.com/sites/default/files/ct/news/documents/2017-12/17-085298-01_im_hunting_poll_q1_191217_public.pdf
⁶ https://yougov.co.uk/topics/explore/issue/Fox_hunting



Impact on rural communities

One rarely mentioned factor is the detriment to rural life caused by hunting during its practice. Despite claiming to lay a false trail, the evidence shows that organised hunts regularly trespass across land they have no permission to be on, including major roads, railways, villages and even people's backyards. The frequency of this practice shows once again the falsity of the claims of following a pre-laid trail or, at the very least, it shows that hunts do not have control over their hounds.

Other dog owners who let their animals cause a public nuisance or health and safety hazards on public roads would be rightly prosecuted, but hunts are allowed to avoid such penalties for unknown reasons.⁸

In 2024 alone, there were 22 road traffic accidents caused by hunts in a 3-month period (which included livestock worrying) and nine pets reported killed.⁹

A specialist crash investigator has warned that someone will be killed by hunt activity after he documented 200 'near misses' and other dangers. In just over three years, he collected evidence, including photos and video, of scores of incidents that he says put Public Safety at risk. Seventeen cases involved Road Traffic Collisions, nine involved railways, and one meant an airfield had to shut, diverting planes.¹⁰

In 2022, a member of the public walking on a public bridleway was kicked by a horse, which

resulted in life-threatening injuries. The hunt in question had no risk assessment or first aid equipment on hand.¹¹

Hunting also regularly blocks roads, causing congestion and inconvenience for local communities, which, for them, is unavoidable as the hunt meets are not published, causing frustration and upheaval.

These are just a few of the instances of havoc caused by hunting communities every year. Most hunts will go out 2-3 times per week, so this impact is not insignificant.

⁸ <https://www.independent.co.uk/voices/cats-sanctuary-fox-hunt-invaded-sussex-hastings-government-laws-hunting-act-illegal-what-will-it-take-a8153291.html>

⁹ <https://www.independent.co.uk/news/uk/crime/fox-cub-hunting-hunt-havoc-pets-killed-b2643423.html>

¹⁰ <https://www.independent.co.uk/news/uk/home-news/hunt-hounds-road-safety-danger-horses-b1968797.html>

¹¹ <https://www.huntsabs.org.uk/hunting-a-health-and-safety-hazard/>



Hunting Act changes required

We recommend the following changes to the Hunting Act in order for it to be effective.

- 1) Recklessness clause - to ensure that injury or damage to any animal is a breach of the Act
- 2) Reversal of the burden of proof to ensure participants are responsible for any action taken with hunting hounds
- 3) Ban of trail hunting for artificial scent, animal-based or otherwise, to prevent trail hunting from being used as smokescreen for actual hunting
- 4) Removal of all Hunting Exemptions as they have been used to facilitate actual hunting
- 5) 'Hunting' definition to include the Act of 'searching for a scent or animal'
- 6) Criminal penalties to be aligned to Animal Welfare Act 2006

The Hunting Act 2004 intent was obvious: to end hunting with hounds. Due to the exemptions and lack of definition, this has not been achieved. Alongside this, the penalties for breaching the Act have been so minor as to be virtually non-existent as a deterrent.

We are proposing the following changes, which will see greater ease of enforcement and penalties for breaking the law, and, more importantly, meet the spirit in which the original law was formulated.

1) Recklessness Clause

A Recklessness Clause would make it an offence to be the cause of any mammal's death during a hunt. It would encourage proper behaviour from those with packs of dogs, as the onus would be on the person in charge of the animals to prevent such activity. It would align with the Dogs (Protection of Livestock) Act 1953,¹² which puts the responsibility on the person in charge of the dog(s) in question.

2) Burden of Proof

A change in the requirement of the Burden of Proof is needed to encourage correct behaviour in organisations. The Health and Safety at Work (etc.) Act 1974 creates general duties for employers to 'ensure, so far as is reasonably practical, the health, safety and welfare' of employees (section 2) and members of the public (section 3), and creates an offence should any person 'fail to discharge' such a duty (section 33). In practice, this means that any time a work activity injures a person, the duty has been breached. The burden then falls on the employer to prove that it was 'not reasonably practicable to do more than was done' to discharge that duty (section 40).

The rationale underlying what might be seen, in effect, as a reversal of the Burden of Proof is that when a person chooses to conduct a potentially harmful activity for profit or pleasure, they ought first to take reasonable steps to ensure that that activity harms no person or animal. A revision to the Act should use this as a framework: requiring hunts and their staff to ensure, so far as is reasonably practical, that dogs hunt no mammal

and placing the burden on them to prove that they have done everything reasonably practicable to discharge that burden.

Any recklessness clause would focus on the intentional or conscious disregard of risk, with the focus is ensuring that those in charge of hounds take all possible steps to prevent harm to a wild mammal. The reversal of the burden would fall on the huntsman to prove that they have done everything reasonably practicable to prevent harm; this is where we see the distinction made with the Health and Safety at Work Act 1974 (HSWA).

The Health and Safety Act and the recklessness clause could follow a similar burden of the proof principle. For instance, if an animal is harmed during a hunt, the onus would be placed on the huntsman (as the person in charge of the dogs) to demonstrate that they took all reasonably practicable steps to prevent harm, just as the HSWA places the burden on employers to show they did everything reasonably possible to avoid injury in the Workplace.

We should loosely define what we mean by reasonably practicable, which is not to be confused by setting a legal definition and providing key examples as stated below.

A huntsman would be expected to demonstrate that they have taken all reasonable steps, such as controlling the hounds in a manner that aligns with the standards set. Avoid areas populated by wild mammals, such as their known habitats. The amended legislation could specify that the huntsman (like an employer) must ensure that the hounds do not cause harm to any wild mammal during the hunt. The burden would be on the huntsman to prove they've taken all reasonably practicable steps to discharge this duty.

¹² Dogs (protection of Livestock) Act 1953 – Section 1(2)(b)

3) Ban on Trail Hunting for artificial scent, animal-based or otherwise

Trail hunting was invented in the wake of the creation of the Act to mimic the pursuit of hunting and, as such, puts dogs and the hunted prey in close proximity as part of the deliberate process. The scent used is also mainly linked to the original prey animal, but hunters are very vague about what they use, and their claims change regularly. When trails are used (observers state that most hunts never lay a trail), they deliberately enter the coverts and areas where the original prey animal resides, meaning 'accidental hunting' is almost inevitable. The exposure of training sessions, where the then Hunting Office (now British Hound Sports Association - BHSA) officials stated that the reason for the practices outlined was to create a legal smokescreen to allow all the old hunting processes to continue.

4) Removal of all Hunting Exemptions

- a) Stalking a wild mammal, or flushing it out of cover

The reasons given for this exemption are to allow acts to prevent damage to livestock, growing timber, etc. There is no reason why the flushing of animals cannot be done by humans making noise, and as such there is no need to allow this exemption to use dogs for such purposes.

- b) Use of dogs below ground to protect birds for shooting

There is, of course, no reason to introduce dogs (terriers) to earths during a hunt following a trail, although the evidence shows this is a frequent occurrence. Introducing dogs to an animal's earth or sett to kill or force it to move on should be no part of hunting with hounds, and causes suffering to both the dogs involved and the hunted mammal. In most instances, it would be illegal under current legislation. Introducing a terrier to the earth often causes the terrier and the hunted animal to become trapped underground, forcing the owner to dig into the earth to retrieve both animals. On the rare occasions that this is required, it would make more sense simply dig into the earth without the use of a dog. Protection of birds introduced into the UK (or as natural inhabitants) can be achieved by many other means. Destroying the habitat of indigenous mammals is not required and is an overreaction to the small amount of predation foxes cause. It

needs to be restated that, depending on location, the vast majority of a fox's diet is rabbits, slugs, carrion and fruit.¹³

- c) Rats

Despite the exemption for rats, there have been convictions under the Hunting Act in 2007 for the setting of dogs onto rats on private land.¹⁴

There are numerous ways of dealing with issues of rats on your property, which do not involve setting a large number of dogs to hunt them, making this exemption superfluous to the Act.

- d) Rabbits

As with rats, there have been convictions under the Act for hunting rabbits on land without permission. Again, issues with rabbits do not have to be dealt with by setting dogs onto them, and it is, at best, an impractical solution.

In a paper published in the European Journal of Wildlife Research 2011, Bryony Tolhurst at Sussex University and her colleagues presented their findings on foxes visiting farm buildings. Tolhurst and her colleagues analysed video and still footage from 422 separate visits and observed that the foxes rarely ate the animal feed (although they frequently scent-marked it); instead, the biologists noted frequent pouncing behaviour, suggesting that the foxes were visiting the buildings to hunt rodents. Scottish naturalist James Lockie estimated that a fox could eat at least a thousand voles each winter, saving the farmer a potential 10.5kg (23 lbs) of grass (i.e. sheep/cattle food).

It is doubtful that foxes could control the populations of either rodents or rabbits in rural Britain, but they do represent a significant source of mortality for both groups. In Conservation and Conflict: Mammals and Farming in Britain,¹⁵ David Macdonald and his co-workers (including Jonathan Reynolds from the Game & Wildlife Conservation Trust, a pro hunting organisation, used the 1997 grain price to calculate, (all other inputs ignored), that a farmer about to shoot a young fox, newly recruited into the rabbit-eating population, could forfeit between £156 (in 1997) and almost £900 in saved grazing. In other words, depending on the population density of rabbits, the number of rabbits the fox could take would eat some £900 worth of the farmer's crop.

¹³ *Country Foxes* by Hugh Kolb, 1996 ISBN 1873580290

¹⁴ <https://www.liverpoolecho.co.uk/news/liverpool-news/gang-fined-setting-dogs-rats-3501462>

¹⁵ *Conservation and Conflict: Mammals and Farming in Britain*: v. 4, 2022, ISBN 978-1841030012



*Overall the biologist David Macdonald concluded:
'If we apply the calculations presented...a total national annual
saving of approximately £30-£150 million (in 1997) worth of crops
thanks to foxes killing rabbits, would be suggested.'*

e) Retrieval of hares

This exemption is in relation purely to a hare which has been shot on the owner's land (presumably dead); as such, the deceased animal is not being hunted, and the exemption is moot.

f) Falconry

In official Falconry, there are generally two types of use, and these will depend on the bird used.

The first use is Falconry with 'long wings' (Peregrine falcons, or similar hunting grouse, duck, etc) will often use pointers that will find the quarry bird and freeze (point at it). These can then be flushed to the falcon, which will already be flying high above and allowed to stoop on the prey. They are not flown from the fist of the falconer, but are released.

The second type involves someone flying a Goshawk or similar 'short wing' which is generally flown from the fist with a pursuit flight of the quarry at a low level after being flushed by something like a spaniel. Short wings will hunt anything flushed, like rabbits, hares (if the bird is large enough), pheasants, partridges, etc.

In reality, birds of prey in the UK do not attack adult foxes, which are large and dangerous as prey for the bird in question. The exception would be Golden Eagles, mainly used in the USA.

The Falconry governing body (The Hawk Board), which has strong links with the Countryside Alliance, state that foxes are not a recognised quarry, due to quarry and bird welfare issues, plus they also state they shouldn't be used with packs of hounds.

There is no reason to link Falconry, which requires a license,¹⁶ to hunting with hounds, which does not. The license requires any activities taken on land to be with the owner's permission and only for sporting purposes. With the above changes to the Act, flushing animals to a bird of prey by a pack of hounds would already be illegal, so this

exemption is not required.

g) Recapture of wild mammals

Organisations such as the RSPCA do not use dogs to capture wild mammals. Nets and traps are the preferred methods, as using a dog would only serve to chase the animal away and cause considerable distress to the hunted animal, injured or otherwise.

h) Rescue of a wild mammal

As in recapture, the rescue of an injured mammal is done by reputable organisations using noose poles, nets or humane traps.

i) Research and observation

Since 2004, this exemption has only been used in court cases related to stag or deer hunting. The only published study since 2004 is 'A study of the incidence of bovine tuberculosis in the wild red deer herd of Exmoor' by Keith J. Collard¹⁷. The blood samples collected have been taken once the prey has been shot, after being hunted by hounds.

This study ended in 2022, and we can find no evidence of current studies. This study states that no deer were culled explicitly for this project, which logically would mean that the killing of the mammals then breached the Act, as the hunting involved was not for observation or research.

To date, we can find no evidence of the process used in collecting the blood for the study apart from the links to hunts, so how varied and random the collection was is under question. Regardless, this type of research could be carried out using other methods that do not involve hunting and killing the subject animal.

This fact alone shows that a single study has been done in over 20 years, and that, similar to 'trail hunting', a cynical exploitation of the exemption to continue the practice of stag hunting is why this exemption should be removed.

¹⁶ <https://www.gov.uk/government/publications/wild-birds-apply-for-a-licence-to-kill-wild-birds-for-falconry>
¹⁷ <https://pubmed.ncbi.nlm.nih.gov/36694617/>

We suggest the following definition - 'Hunting'; is the activity of chasing, searching, pursuing, or killing a wild mammal with dogs, where the activity is carried out for sport or recreation. This includes the use of dogs to flush or pursue wild mammals from their habitats or coverts.

5) 'Hunting,' definition to include the act of 'searching for a scent or animal'

A definition of hunting was not included in the original Act, which has caused many legal issues. Courts have ruled that 'seeking' an animal is different from 'hunting' and does not contravene the Act.

6) Penalties

The Act should be aligned with the Animal Welfare Act 2006 as follows:

- a) On conviction or indictment, to imprisonment for a term not exceeding 5 years, or to a fine not exceeding level 5 on the standard scale
- b) The owner of an animal in relation to which the offence was committed, the court by or before which he is convicted may, instead of or in addition to dealing with him in any other way, make an order depriving him of ownership of the animal and for its disposal
- c) Any hunting article that was used in the commission of the offence or in the possession of the defendant when arrested to be confiscated. A hunting article is defined in section 9(3) as any article designed or adapted for use in connection with hunting a wild mammal and any vehicle used in the commission of the offence for example, the van or trailer (does not have to be a motor vehicle) used to bring the dogs to the start of the hunt
- d) A recordable offence under 'The National Police Records (Recordable Offences) Regulations 2000'
- e) Act to recognise that a hunting organisation is a corporate body and all staff present on day of the offence, directors of the organisation and participants should be charged with any offence



Conclusion

These suggestions would make the Act easily enforceable by the police and enable speedy convictions of those who seek to continue the practice of illegally hunting with hounds.

Executive Summary

The Hunting Act 2004 was intended to prevent the organised hunting with hounds (dogs) of most wild mammals. In that respect, it can be said, it has failed. Although it has seen the end of publicly organised hare coursing events, it has not prevented the organised events of fox, hare, mink and stag hunting.

Although there have been a number of prosecutions under the Act, there are weekly breaches of the Act witnessed where both claimed exemptions, and the idea of 'trail hunting' are employed as a smokescreen, ensuring hunting continues and any legal liability is avoided.

Organised hunts continue to trespass on private property and cause dangerous situations on public roads, as well as injuring and killing wildlife, livestock and pets.

To ensure that hunting with hounds (where animals are injured or killed) is ended the Act needs to be amended as detailed in this document.



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