

From: [Kincardine Hounds](#)
To: [2002 Act Review](#)
Subject: Submission of written evidence
Date: 30 March 2016 10:17:23
Attachments: [Submission to Lord Bonomy.docx](#)

Kincardineshire Foxhounds



Lord Bonomy
2002 Act review
Wildlife Management Team
Natural Resources Division
Directorate for Environment and Forestry
The Scottish Government
1-C North
Victoria Quay
Edinburgh
EH6 6QQ

30 March 2016

Dear Lord Bonomy,

Please find enclosed my submission to your review into the Protection of Wild Mammals (Scotland) Act 2002 on behalf of the Kincardineshire Foxhounds.


It is my opinion, and the opinion of the Kincardineshire Foxhounds, that the Act is succeeding in representing the spirit of the law at present without any need for amendment. The Act achieves its intentions – prohibiting the chasing and killing of wild mammals, such as foxes, with dogs in Scotland – while simultaneously recognising that flushing these mammals with dogs to guns is an essential form of pest control, especially in the Highlands and other inaccessible areas. It is my view that the intention of the Scottish Parliament as it was when the Act was passed, namely the humane despatch of a target or pest species by shooting, is being met.

I commend this legislation and implore you to make a recommendation to Scottish Ministers in your report that the Protection of Wild Mammals (Scotland) Act 2002 is effective and should remain unchanged.

Yours sincerely,

Angus Holman-Baird

--

Kincardineshire Foxhounds
Rickarton, Stonehaven
E-mail: 

This email was scanned by the Government Secure Intranet anti-virus service supplied by Vodafone in partnership with Symantec. (CCTM Certificate Number 2009/09/0052.) In case of problems, please call your organisations IT Helpdesk. Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

This email has been received from an external party and has been swept for the presence of computer viruses.



Submission to the review of the Protection of Wild Mammals (Scotland) Act

2002

Angus J. Holman-Baird

Kincardineshire Foxhounds

Author Note

The Kincardineshire Foxhounds is a registered fox control pack with the Masters of Foxhounds Association. In this submission all references made to ‘hunting’ by the Kincardineshire Foxhounds refers to activities carried out in accordance with the exemptions stipulated in sections 2, 3 and 5 of the Protection of Wild Mammals (Scotland) Act 2002.



Summary

The Protection of Wild Mammals (Scotland) Act 2002 is providing a sufficient level of protection for wild mammals, while at the same time allowing for the effective and humane control of mammals, such as foxes, where necessary. The use of dogs to flush foxes to guns is integral for many fox controllers throughout Scotland, especially in remote areas with poor access where other forms of control, such as snaring or lamping¹, are logistically very difficult to perform. It is the Kincardineshire Foxhound's firm belief that any changes to this Act bringing in tighter regulations around fox control would have a severally detrimental effect on animal welfare and our ability to manage the fox population in the Scottish countryside.

Submission to the review of the Protection of Wild Mammals (Scotland) Act 2002

The Kincardineshire Foxhounds is a registered fox control pack with the Masters of Foxhounds Association and carries out fox control operations throughout the North-East in conjunction with gamekeepers, landowners, farmers and other fox controlling bodies in the region, operating within the bounds of the Protection of Wild Mammals (Scotland) Act 2002.

Introduction

The Kincardineshire Foxhounds were formed in 1997 to take over from the Grampian Hunt who had controlled foxes in the same area since 1976 but who were disbanded earlier in the year. The Kincardineshire Foxhounds are now responsible for fox control over, in excess of, 200,000 acres on top of the regular pest control carried out by keepers, landowners and farmers on this land. The Hunt operates under a strict code of conduct² and always acts to ensure foxes are dispatched as quickly and humanly as possible by the highly experienced marksmen and women who join us each day we go out.

A Typical Day's Fox Control

Below is a brief description of three average day's hunting – the running of the day depending upon the terrain, number of guns and whether or not the Huntsman is mounted – which I hope may be of some informative value.

An in-bye foot day

These days are often used in the spring and where we are presented with large blocks of forestry, they usually involve a large team of guns, organised by the area representative, and usually include marksmen from a wide area. This kind of day is slow, due to the time needed to move the gun line around when it includes so many people as well as the safety precautions that must

be taken when so many people are involved, and therefore is used primarily for large areas of ground such as forestry blocks rather than small woods or other patches of cover.

To begin the day the participants will meet at a set time and fixture date, normally communicated to Head Keepers and regular Hunt supporters via the fixture list or 'meet card', which is published on a bi-weekly or monthly basis by the Hunt. Participants on this sort of day normally include the Huntsman, his hounds, the Whipper-in and local people with the best knowledge of the ground who are normally referred to as 'the guns' and who, on the whole, are there as part of the day's work. They all see the work of the Kincardineshire Foxhounds as an integral part of the ongoing fox control operations on the land they manage and see the hounds as an essential tool with which to control foxes, especially in inaccessible areas where individuals have problems using alternative methods such as snaring or lamping.

The guns then disperse into positions which are allotted to them by the area representative, normally the Head Keeper of the estate over which we are operating. Some positions on the ground are traditional, being placed on paths known as 'runs' or 'trods', as generations of foxes have run the same lines. When the guns are in position, they inform the Huntsman by radio that he can make a start to look for or 'draw' for a fox.

The Huntsman then enters the forest or cover and allows the hounds to 'draw' or range away from him to look for the scent of a fox. He continues to control the hounds with the use of his voice and his horn even at distances of up to half a mile away. If and when the hounds 'pick up the scent' they will start to 'speak', i.e. bark, and they continue to do so during the entire time they are on that scent. This speaking by the hounds alerts the Huntsman but also, and more importantly, the guns to an approaching fox and prepares them for the opportunity of a shot when it is safe to do so.

A mounted day

These days are commonly used in the autumn and throughout the shooting season, particularly where there are a large number of small woods or covers; they usually involve a small team of guns who are able to postpone other, usually shooting related, responsibilities for the day and usually includes marksmen from the estate over which the Hunt is operating and neighbouring estates. This kind of day is quick, with the gun line being highly mobile and normally all in possession of radios to allow them to act in coordination around the hounds, and therefore is used primarily for areas of ground with many small woods or other patches of cover.

To start the day the participants will meet at a set time and fixture date which is normally communicated to Head Keepers and regular Hunt supporters via the fixture list or 'meet card' which is published on a bi-weekly or monthly basis by the Hunt. Participants on this sort of day normally include the Huntsman, his hounds, the Whipper-in, mounted Hunt followers known as 'the field' and local people with the best knowledge of the ground who are normally referred to as 'the guns' and who, on the whole, are there as part of their day's work. They all see the work of the Kincardineshire Foxhounds as an integral part of the ongoing fox control operations in the area and see the hounds as an essential tool with which to manage foxes.

The guns then move into their allotted positions on the land over which we are operating, normally on the far side of the cover from which the Huntsman and the field are going to enter the cover, staying near quads, Land Rovers or other ATVs to allow them to move quickly. When the guns are in position they inform the Huntsman by radio that he can make a start to look for or 'draw' for a fox. The field remain on the far side of the cover from the guns to turn or 'head' the fox towards the gun line. This keeps the operation safe by separating those who are carrying guns from those who are not and preventing the field from being near any live firing. These

mounted followers are controlled at all times by the 'Field-Master' who is connected to the Huntsman and the guns by radio. This system allows fewer guns to be effective in their efforts to shoot foxes as quickly as possible and prevents the need to have gaps in the gun line at the times of the year when getting a larger team of guns together is difficult.

The Huntsman then enters the wood or cover and allows the hounds to range away from him to look for the scent of a fox. He continues to control the hounds by the use of his voice and his horn. If and when the hounds 'pick up the scent' they will start to 'speak' i.e. bark and they continue to do so all through the time they are on that scent. This speaking by the hounds alerts the Huntsman, but also and most importantly the guns, to an approaching fox and prepares them for an opportunity of a shot when it is safe to do so.

When the Huntsman gets to the end of the wood or cover he is drawing he signals via radio to the guns and the field that it is safe to move. At this point the gun line, consisting of only a few people, can quickly move to the far side of the next wood or cover while the Huntsman takes his hounds and the field to the next cover or 'draw' where the process can begin again.

This kind of day allows the Hunt to cover a large area during the day and enables a limited number of guns to be effective during the shooting season when it may be more difficult to put together a larger team of guns. At all times the fox is shot as quickly as possible while maintaining a safe environment where mounted followers are not put at risk by being in close proximity to the guns.

A hill day foot day

These days take place throughout the season and occur when we are presented with large blocks of hill ground. They usually involve a small and highly mobile team of guns, organised by the

area representative, and usually includes marksmen from the estate over which we are operating and other keepers local to the area. This kind of day is slow due to the time it takes to cross this sort of rough terrain but is continuous, with guns moving around the Huntsman and his hounds, meaning he never has to stop drawing.

To begin the day the participants will meet at a set time and fixture date which is normally communicated to Head Keepers and regular Hunt supporters via the fixture list or 'meet card' published on a bi-weekly or monthly basis by the Hunt. Participants on this sort of day normally include the Huntsman, his hounds, the Whipper-in and local people with the best knowledge of the ground who are normally referred to as 'the guns' and who, on the whole, are there as part of their day's work. They all see the work of the Kincardineshire Foxhounds as an integral part of the ongoing fox control operations and see the hounds as an essential tool with which to manage foxes, especially in such inaccessible areas where individuals often have problems controlling foxes by other methods.

The guns then disperse, usually to hilltops with good access via hill tracks to enable them to move quickly, and from where they can see the hounds as they draw, so that they can move swiftly if a fox is found. As the Huntsman draws the hill ground the guns use telescopes and binoculars to scope the ground in front of him for a fox moving off ahead of him, they are often helped in this by the hounds who will 'fizz', i.e. get excited, when a fox has been in the area in the past couple of hours and who will often speak to an old line or 'drag' the fox made while out hunting during the night.

When a fox moves off in front of the hounds the guns use ATVs to quickly surround the area in which he has been found and shoot him as quickly as possible; this is made possible due to the use of rifles, as opposed to shotguns which are used for safety reasons on in-bye days,

which allow a marksman to be a great distance from the fox and still take a safe and accurate shot to dispatch the animal. During this kind of day it is impossible for the guns to line out before a fox has been located because of the large area being covered and the natural contours of the terrain which mean a vast number of stationary guns would be needed to efficiently cover the ground, making such a system impractical.

Once a fox has been found

Once a fox has been found there are a number of possible outcomes. While it is always the intention to shoot the fox as quickly as possible a number of factors dictate how a hunt will conclude, the most common of which have been outlined below, but as is always the case when dealing with nature nothing is ever certain and variations of these outcomes occasionally occur.

The fox is shot outright. Over a season on suitable ground this will happen in the vast majority of cases, details of which can be found in the tables section, with an average hunt lasting anywhere between 5 and 15 minutes.

The fox could be wounded. In a perfect world this would not happen, however it does. The 'expert marksman' who always kills cleanly and never misses does not exist; when a fox is travelling at anywhere up to 25 miles an hour and a gun is some distance away mistakes are inevitable. Almost all the guns who operate with the pack are professional shots, however wounding incidents still do occur, and this is where the hounds are again essential to reduce suffering and help to eliminate stress. At this time one of three outcomes may occur:

The fox may be shot again. When a fox is shot at it often turns and heads back into the cover it has just come out of, in this situation it may allow for another shot further along the gun line at which point it can be cleanly dispatched. If the wounded fox

breaks cover, the guns will attempt to reposition themselves around the next wood or patch of cover it enters where it may present itself again to be shot.

The hounds may dispatch the fox. Still following the scent the hounds are able to track down the wounded fox and despatch it. No foxes are left to slink off to die a lingering death caused by a loss of blood, starvation, or worse, infection, as purpose bred fox hounds will see a hunt through to its conclusion and swiftly dispatch the wounded animal.

The fox may go to ground. Often when a fox is wounded it will go to ground before it can be dispatched by the hounds or shot again. In this situation the use of terriers is critical in locating and allowing for the dispatch of this fox so as to minimise its suffering. Further details on this are outlined below.

The fox can be caught by the hounds. This does occasionally happen, when you are dealing with wild animals there is always the possibility that one may do a silly or naïve thing leading to it being caught by the lead hound and speedily dispatched. For example, a young fox may run under some windblown trees or crawl under some large shallow stones, where the hounds will work up to it and kill it instantly by breaking its vertebrae, evidence for this is outlined below. Another example is that of an experienced fox, such as one that has been shot at before, who may hear or scent the guns moving into position and may therefore refuse to leave the cover, thereby not giving the opportunity of a shot.

The fox may be run to 'ground'. i.e. go into a hole before any opportunity of a shot. This may include an earth in the ground, a drain or a cairn (i.e. a large rock scree or pile of stones). This is to escape from the hounds or to die slowly after being wounded. If the fox goes

into a badger sett then the hounds are immediately removed by the Huntsman when he arrives and the fox is left. This situation is further explained in the section headed under terrier work.

The fox may 'break out'. i.e. leave the wood or cover without being shot. There are many reasons why a fox may not be shot when it exits the cover, a gun may have been distracted, the shot may not be safe or there might be a blind spot where a fox may manage to get past the gun line unseen, such as in a ditch or behind a dyke. While every effort is made to cover these points occasionally foxes do manage to get through. At this point one of three outcomes may occur:

The guns may reposition. If the fox breaks cover and is heading for an obvious cover or wood the guns may attempt to reposition themselves around the next wood or patch of cover it enters where it can be shot when it presents itself to the guns.

The hounds may be called off. If the guns cannot reposition then the hounds will be called off and taken back into the wood or cover. While every effort is made to call the hounds off as quickly as possible if the Huntsman is some distance away it may take a few minutes for him to get to his hounds and, in the meantime, they will continue to follow the fox as they have been trained to do. For this reason there may be a slight delay before the hounds return to the Huntsman, however, this process is always carried out as swiftly as possible in any given situation and will never take longer than a matter of minutes to perform.

The fox may go to ground.

Terrier Work

If the fox does go to ground during the day then the hounds will stand and 'mark' or bark at the hole until the Huntsman arrives. As this is a pest control operation it is essential that this fox is

still accounted for. Often foxes will also go to ground after being wounded and therefore this can also be important to reduce suffering. For these reasons a terrier, fitted with a locator collar to track its movements below ground, is entered into the earth. Nets are then placed over the holes and a standing gun is placed on the earth or cairn so that a shot can be achieved if and when the fox is flushed from below ground. If however after 15 to 20 minutes the fox does not bolt then a locator box, connected to the terrier's collar, is used to indicate where the terrier and fox are situated and a small team, led by a licenced Terrierman or National Working Terrier Federation member, will then act to rescue the terrier from underground using the signal on the locator box and humanly dispatch the fox with a shot to the head at close range.

The use of terriers by those people who know how to work them effectively and humanely is an absolute necessity in the control of foxes. Used in conjunction with hounds and guns they are an integral part of the fox controller's toolbox, without them Moorland Management would become almost impossible and predation on sheep flocks, ground nesting birds and ground game, would be greatly increased.

Example

A specific example of an in-bye day foot day, which further emphasises the importance of the work carried out by Kincardineshire Foxhounds to local pest control and the way with which we operate, occurred on Tuesday the 23rd of February 2016 on the Castle Fraser Estate near Aberdeen. The Castle Fraser Estate consists of mainly arable land with a small shoot and many large areas of woodland. There are few serviceable access points for vehicles on the Estate when the fields are under the till and there is a considerable amount of public access over the land, for these reasons it is difficult to lamp foxes on much of the Estate for a large extent of the year and snaring cannot be safely conducted in many areas.

On this day the Hunt met at 9:30 am with 19 hounds, around 20 guns and a small number of other followers. During the day the Hunt drew a number of thick areas of windblown trees, a large area of thick, semi-mature trees and some other extensive woods. 9 foxes were accounted for during the day with 7 being shot and killed instantly and a further two being wounded by the guns and not killed outright, both of these foxes once wounded retreated into areas of windblown trees where they were quickly found and dispatched by the hounds. In both of these instances the speed with which the foxes were dispatched was less than two minutes from the time when they were shot – significantly less time than had the hounds not been able to dispatch the wounded individuals and they had died slowly of starvation, dehydration, gangrene or other ‘natural’ means – and in both cases the time with which the foxes were found was significantly reduced from where it would have been if fewer hounds had been used. This was a very significant boost to the welfare of these animals once they had been shot.

Had fewer hounds been present or had the hounds not been available to dispatch the wounded individuals once they had been shot then the suffering caused to these foxes would have been significantly increased. It was essential on this day that a large number of hounds were used so that the foxes could be found in the thick cover provided by the Estate, especially by the windblown trees, and so that any wounded foxes could be quickly found once shot and speedily dispatched.

The original report written by the Rural Development Committee back in 2001 recognised the importance of this kind of fox control stating “The Committee concluded that the activities of the Scottish Hill Packs are entirely necessary.”

Effective and Humane Control

Lord Burns stated in his report into hunting with dogs that “None of the legal methods of control is without difficulty from an animal welfare perspective.” It is impossible to argue that the use of dogs during the control of foxes is without complication from a welfare perspective however, it is clear that their use under the Protection of Wild Mammals (Scotland) Act 2002 acts to much reduce the suffering caused to foxes during the process of pest control. This was a view supported by Lord Burns in his report when he specifically addressed the issue of gun packing stating “In the event of a ban on hunting, it is possible that the welfare of foxes in upland areas could be affected adversely, unless dogs could be used, at least to flush foxes from cover.”

Lord Burns goes on to address the issue of wounding in relation to the shooting of foxes, his report outlines a good deal of evidence arguing that it was not easy to shoot foxes and that a fair number were wounded and the Committee goes on to reach the obvious conclusion that “this is correct.” Shooting foxes is not a single, standard activity, it is an activity with many different aspects and features with a host of variables many of which, such as the movement and direction of the fox, exposure time, terrain and weather cannot be controlled. Fox *et al.* (2005) found that, with their first shot, skilled marksmen using a shotgun seriously wounded 47% of the foxes they attempted to dispatch during their study into the wounding rates of shot foxes. They go on to explain that in pest control the first priority is to put the fox out of action, suggesting it is logical to fire at extreme ranges on the off chance that a lucky pellet might hit a vital spot when attempting to dispatch troublesome individuals.

This issue was further highlighted by Morgan (2000). In his submission to the Committee of Inquiry into hunting with dogs in England and Wales, from records collected over a number of years in Wales, Morgan estimated that, for a Welsh gun pack using hounds to drive

foxes towards waiting shotguns, around 15-20% of foxes were wounded and not killed outright. It is reasonable to assume that these figures are similar for gun packs in Scotland and therefore from an animal welfare perspective the continued ability of fox controllers to dispatch wounded foxes using packs of hounds should be considered essential to reducing the suffering of wounded individuals.

Questions have been asked surrounding the use of hounds to dispatch wounded foxes, however, post mortems carried out on the kill itself demonstrates it to be a very quick process taking only a matter of seconds, a far quicker death than the slow and painful one that would inevitably ensue if these wounded individuals were not dispatched by the hounds. Evidence submitted to the Committee of Inquiry into hunting with dogs included 2 cases commissioned by the Inquiry and a further 13 submitted by two veterinary practitioners, one from mid Wales (Jones 2000) and the other from Buckinghamshire (Baskerville 2000). The cause of death in 10 of the 15 cases was diagnosed as cervical dislocation and fracture while the remaining 5 foxes died from massive trauma to the thorax and abdomen.

On top of this evidence, three autopsies were carried out independently by Cunningham (1999) on foxes killed by hounds who also went on to attribute the cause of death to cervical dislocation. In all of these cases it would be fair to conclude, as did the Committee of Inquiry, that death was almost instantaneous. This view was further validated by the Phelps Report which endorsed the view that the death of a fox by hounds is instantaneous or virtually instantaneous and in the vast majority of cases it is caused by the leading hound grabbing the fox by the base of the neck, or on the back behind the shoulder, and shaking it causing the dislocation of the cervical vertebrae, as well as Baskerville (2000) who wrote "My observations have convinced me that the death of a fox caught by hounds is as rapid ... as any natural death

can be.” Burns went on to add further weight to this by suggesting that “Arguably, the precise cause of death is irrelevant. What is more critical is how quickly insensibility and death result and how much suffering, physical or mental, the fox experiences.”, he went on to conclude that “There seems little doubt, however, that in the vast majority of cases the time to insensibility and death is no more than a few seconds, bearing in mind the great disparity between the size and weight of the fox and the hounds.” The Rural Development Committee also agreed that “a conclusion on this point [of whether or not the killing of a fox by a dog should be considered to be cruel] must be left to the moral standpoint of the individual” and they therefore suggested this was not a subject on which they felt they should, or could, pass judgement.

The use of hounds and other dogs to flush foxes to guns is itself essential to providing effective and humane control of these mammals, especially in many inaccessible or other difficult to control areas in the Scottish countryside. Morgan (2000) stated that many areas of the country are impractical or unsafe for lamping and the rifle shooting of foxes while Reynolds (2000) identified the well-known phenomenon of “lamp shy” foxes that require many man-hours per fox killed – at best, 2 to 5 hours and increasing as the pool decreases (Thomas and Allen 2002) – as important when considering the effectiveness of hounds as a method of pest control. For these reasons many keepers, farmers and other pest controllers consider the use of a pack of hounds to be essential when assessing their ability to control foxes over the land which they manage.

The use of hounds and other dogs to identify the presence of foxes and other pest species is another reason the Hunt is often sort by wildlife managers, foxes are elusive and in many cases the only way to discover whether foxes are using a particular cover or woodland is through the use of hounds. An example of this is the Hebridean Mink Project. Iain MacLeod from SNH,

Operations Manager for the Hebridean Mink Project and Uist Wader Research, has identified the use of dogs to locate the den sites of mink and indicate their presence or absence in target areas as fundamental to the success of the project saying “Dogs are essential to the project especially at the low densities we now encounter” (personal communication, February, 2016).

It is vitally important for flushing foxes to guns to be effective that a full pack of hounds should be used, fewer hounds only acts to extend the length of the hunt by taking pressure off the fox, needed for it to break cover allowing for a clean and safe shot. Reducing the number of hounds used to flush foxes also reduces the likelihood of a fox being found, especially in thick cover such as windblown trees, old heather, thick rushes, whins or forestry. Naylor and Knott (2013) found that when a pack of hounds was used as compared to a pair, more foxes were flushed, it took less time to flush the first fox and considerably less time from hounds starting to speak to a fox being flushed. They concluded that their findings provide reliable support the obvious fact that a pair, rather than a pack of hounds, is less effective in flushing foxes to guns and imposes a longer duration of pursuit on foxes. This evidence also supports a statement made by Douglas Batchelor when he was Chief Executive of the League Against Cruel Sports in which he stated categorically that “Pairs of dogs are utterly useless in flushing to guns.” (personal communication, August, 2005).

On top of a reduction in the number of hounds severally reducing the effectiveness of the Hunt, the act of flushing the fox cannot in itself be considered in any way to constitute an inhumane act no matter how many dogs are used. Lord Soulsby of Swaffham Prior stated during his speech to the House of Lords during the second reading of the Hunting Bill, on 12 March 2001, on behalf of the Committee of Inquiry, “A compromise of animal welfare was found only in the terminal stages of the hunt”. Webster (1994) defines that period as when the intensity or

complexity of stresses exceeds or exhausts the capacity of the animal to cope, or when it is prevented from taking constructive action. This final phase will be brief, usually less than 2 minutes for a conventional fox hunt (Thomas and Allen 2002) and non-existent for a fox that is cleanly dispatched by a marksman. It must therefore be assumed a fox will be under no more stress whether it is pursued by one dog or multiple and therefore any reduction in the number of dogs used to flush foxes to guns would not benefit animal welfare, rather, it would simply act to hinder the ability of wildlife managers to control the fox population in the Scottish countryside and to diminish animal welfare by increasing the length of time taken to find and dispatch wounded individuals.

Misinterpreted Research

There has been some confusion by those who oppose using dogs to flush foxes to guns in their interpretation of research conducted in the 1980s by Dr Terry Kreeger, a wildlife veterinarian working in the USA. Dr Kreeger and his team undertook two studies of foxes in different situations in order to measure certain responses to external stimuli.

In the first study³ radio implants recorded the physiological response of foxes in reaction to a number of different situations (sleeping, being awake, feeding, running and being chased). In one experiment, a fox was chased for 5-10 minutes by a dog in an enclosure. The animal's temperature and heart rate were recorded and both increased, as one might expect when an animal experiences some form of physical exertion. This was a view supported by Bateson and Harris (2000) who stated that "the temperature increase seen in chased foxes is probably due primarily to the exercise involved in escaping from the dog", they went on to point out that "body temperatures as high as this can be measured in other species during exercise, with

minimal adverse response to the welfare of the animal.” There were no post mortem examinations and no evaluation of mental stress or long-term effects.

In a second experiment⁴, Dr Kreeger examined the physical effects of foxes caught in foothold and box traps. Once again, the responses were recorded and again heart rate increased, this time however the foxes were subject to post-mortem examinations of their internal organs and blood chemistry. The results of the post mortem examination in relation to this second study showed that on post-mortem the foxes showed haemorrhage of heart and lungs and congestion of adrenal glands and kidneys. Blood analyses showed high levels of enzymes reflecting tissue damage.

Dr Kreeger made his position on the issue clear in a letter to the Sunday Times in November 1999 when he categorically stated that “There was no evidence of capture myopathy in any of the chased foxes. Since there was no capture myopathy, any sequelae such as brain damage, paralysis and death were purely speculative on your part⁵. Although a chased fox is physiologically stressed, there was no evidence of any heart, lung, or liver damage that would lead to mortality.”

Comparison

Lord Burns suggested in his report into hunting with dogs that “In assessing the impact of hunting on animal welfare we are persuaded that it is necessary to look at it on a relative, rather than an absolute, basis. It should not be compared with only the best, or the worst, of the alternatives.” It is therefore worth considering the fact that Kreeger’s research would suggest that rather than hunting it is in fact the type of live catch traps often used by those who oppose the use of dogs to control pest species that should be up for review. The practice of containing a wild animal, such as the capture of feral cats by certain wildlife groups so that they may be

neutered, spayed or relocated⁵, clearly exerts a great amount of stress on the animal causing considerable suffering to the captured individual.

This is a view also expressed by Wise (1999) when he discusses the difficulty of interpreting any physiological parameters as measurements of stress or suffering in hunted deer, he goes on to point out that it is only when these otherwise normal responses⁷ occur in conditions of constraint or captivity that severe suffering occurs. That is when the animal is prevented from taking constructive action, as defined by Webster (1994). Wise (1999) went on to suggest that this observation was predominantly seen in wild animals that had been trapped, physical restrained or transported in constrained conditions. He concluded that such actions put wild animals at risk of succumbing to shock, while pursuit *per se* does not do so.

Clearly therefore the use of dogs to flush foxes to guns involves less suffering than other forms of pest control, such as live catch traps. It is obvious therefore that by allowing the control of pest species by a combination of dog and gun the welfare of the wild mammal being controlled at that time can be best protected.

The Law Is Effective

It is clear the law is both effective and enforceable. Official statistics⁸ show that 210 charges were brought under the Protection of Wild Mammals (Scotland) between 2002 and 2014, of those cases 87 lead to successful convictions; this amounts to a conviction rate of 53% for those cases that proceeded to trial. In light of these statistics it is clear that the Act is enforceable and convictions are clearly achievable, however, no pack of hounds registered with the Masters of Foxhounds Association or the Scottish Hill Packs Association has ever been successfully charged with breaching the law, indeed only one case involving a registered pack of hounds has

ever made it to trial^{9,10} and it was ruled definitively that the accused was not guilty of any offence.

In that trial further weight was added to the law by Sheriff Drummond when he clarified that “The use of what might be termed "token guns" ... is not available by virtue of sections 2(2) or 5(3) [of the Protection of Wild Mammals (Scotland) Act 2002] as a justification for the continuation of what was referred to in the evidence before me as traditional foxhunting.” Thus it is clear that the Act is effective in banning hunting in its traditional format.

The fact that registered packs are acting within the law was given further standing after Alex Fergusson MSP, who sits of the Rural Affairs Committee, asked a specific question during the Rural Affairs, Climate Change and Environment Committee evidence session on the Scottish Government's Wildlife Crime in Scotland Annual Report 2014 with Police Scotland and the Crown Office and Procurator Fiscal Service on the 13th of January 2016. Mr Fergusson asked Detective Chief Superintendent Scott from Police Scotland whether – given the level of interest from the general public and the high level of monitoring of mounted fox hunting activity – there is still no evidence to suggest that the mounted fox hunts are acting outwith the legislation that is in place at the moment, to which the Detective Chief Superintendent replied “That is correct.”

The evidence suggesting mounted packs of hounds are acting within the law can also be seen in the 2014 Wildlife Crime Report itself where Dr McLeod states that “The figures show that there have been ten cases of hunting foxes with dogs reported to COPFS since the 2002 Act was introduced, but only five of these were associated with mounted fox hunt activities. Three prosecutions resulted in a conviction but none of these were associated with mounted hunts.”

Given this information it is clear that, while it is possible to charge individuals under this piece of legislation and despite a majority of the cases that reached court having achieved a

successful prosecution, registered packs of hounds in Scotland are acting within the law. It is clear therefore that this legislation is not only robust but it also succeeds in preventing individuals from hunting in its traditional form without being prosecuted under the law as it stands while allowing for the humane control of wild mammals, such as foxes, in its exemptions.

Vicarious Liability

It has been suggested that extending vicarious liability, such as that seen introduced for transgressions involving wild birds by section 24 of the Wildlife and Natural Environment (Scotland) Act 2011, may act as a deterrent for individuals who may be tempted to commit offences under the Protection of Wild Mammals (Scotland) Act 2002¹¹, however such a clause already exists.

Subsections 2 and 3 of the Offences section of the Protection of Wild Mammals Act already make it an offence for an owner or occupier of land “knowingly to permit another person to enter or use it to commit an offence under subsection (1)” or “for an owner of, or person having responsibility for, a dog knowingly to permit another person to use it to commit an offence under subsection (1)”. The Act goes on to stipulate that in order to be acting within the ‘stalking and flushing from cover’ or ‘use of a dog in connection with falconry and shooting’ exemptions set out in sections 2 and 3 of the Act then a person must be the land owner or must have the permission of the owner or lawful occupier of the land on which the stalking, searching or flushing referred to in these sections takes place in order not to commit an offence under section 1(1).

This clearly demonstrates that, given that the aim of vicarious liability is to force the land owner into taking responsibility for any offence committed while acting as the employee or agent of the land owner, vicarious liability already exists for offences committed under this legislation.

To introduce further offences relating to vicarious liability would not serve to strengthen the Act and would only serve to complicate the law with regard to this issue, muddying the water if a case involving 1(2) or 1(3) were to make it to court.

References

- Baskerville, R.E. (2000). Second stage submission to the Committee of Inquiry into hunting with dogs, Home Office, London
- Bateson, P., & Harris, R. (2000). Report of contract 7 on welfare to the Committee of Inquiry into hunting with dogs, Home Office, London.
- Burns, Lord. (2000). Committee of Inquiry Report into hunting with dogs, Home Office, London
- Cunningham, J.A. (1999). Post mortem findings in 3 foxes killed by hounds. *Veterinary Record* **144**, 483
- Drummond, T.A.K. (2004). Judgment in the cause Procurator Fiscal, Jedburgh against Trevor Adams
- Fox, N.C., Blay, N., Greenwood, A.G., Wise, D., & Potapov, E. (2005). Wounding rates in shooting foxes (*Vulpes vulpes*), *Animal Welfare*
- Jones, I.G. (2000). Second stage submission to the Committee of Inquiry into hunting with dogs, Home Office, London
- Kreeger, T.J. (1989). Monitoring heart rate and body temperature in red foxes, *Canadian Journal of Zoology*
- Kreeger, T.J. (1990). Pathological responses of red foxes to foothold traps, *Journal of Wildlife Management*
- McLeod, A. (2015). *Wildlife Crime in Scotland 2014 Annual Report*, Scottish Government, St Andrew's House, Edinburgh
- Morgan, I. (2000). Second stage submission to the Committee of Inquiry into hunting with dogs, Home Office, London

Naylor, J.R.J., & Knott, J. G. (2013). A pack of dogs is more effective at flushing red foxes (*Vulpes vulpes*) to guns than a pair, Retrieved from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308553/FOI_Hunting_27_March_14_6454_Annex_A_Research.pdf

Phelps, R., Allan, W.R., & Harrop, S.R. (1997). Phelps Report, Report of a Review of Hunting with Hounds, The Countryside Movement¹², 367 Kennington Road, London

Protection of Wild Mammals (Scotland) Act 2002, Retrieved from <http://www.legislation.gov.uk/asp/2002/6/contents>

Reynolds, J.C. (2000). Fox control in the countryside, The Game Conservancy Trust, Fordingbridge, Hants, UK

Rural Affairs, Climate Change and Environment Committee. (2016). Official Report, Wednesday 13 January 2016, Scottish Government, St Andrew's House, Edinburgh

Rural Development Committee. (2001). Stage 1 Report on the Protection of Wild Mammals (Scotland) Bill, Scottish Government, St Andrew's House, Edinburgh

Soulsby, Lord. House of Lords, Official Report (Hansard), 12th March 2001, col. 564

Thomas, L.H., & Allen, W.R. (2002). A Veterinary Opinion on Hunting with Hounds, Retrieved from <http://www.vet-wildlifemanagement.org.uk/images/stories/item-images/pdf/VetOpinion.pdf>

Webster, A.J.F. (1994). Animal Welfare: A cool eye towards Eden. Blackwell, Oxford

Wildlife and Natural Environment (Scotland) Act 2011, Retrieved from <http://www.legislation.gov.uk/asp/2011/6/contents/enacted>

Wise, D.R. (1999). The Bateson report: Use or abuse of science? Countryside Alliance, 367 Kennington Road, London

Footnotes

¹ Lamping refers to the shooting of foxes at night using a spotlight and a rifle, usually from a vehicle.

² For the Kincardineshire Hounds Code of Conduct please see Appendices.

³ Kreeger (1989).

⁴ Kreeger (1990).

⁵ In response to an article in the Sunday Times on the 14th of November 1999 published with the headline, “Foxes may die of stress after escaping hunt”.

⁶ A project set up by the Scottish Wildcat Association in 2008 under the name of Wildcat Haven is working in the West Highlands neutering feral cats.

⁷ Such as being allowed to flee in the presents of a perceived danger.

⁸ Retrieved from <http://www.crownoffice.gov.uk/foi/responses-we-have-made-to-foi-requests/795-wildlife-crime>.

⁹ Procurator Fiscal, Jedburgh v Trevor Adams.

¹⁰ Correct at the time of writing.

¹¹ Letter from Rob Gibson, Convener of the Rural Affairs, Climate Change and Environment Committee to Dr Aileen McLeod MSP, Minister for Environment, Climate Change and Land Reform, 3 February 2016.

¹² Now part of the Countryside Alliance

Tables

Table 1

Hunt tally

Year	Days hunted	Foxes shot	Foxes to ground and shot	Foxes caught by hounds
2010/11	30	34	3	5
2011/12	35	35	9	5
2012/13	42	40	8	4
2013/14	34	23	3	2
2014/15	32	38	5	0

Note: Table 1 shows the number of foxes dispatched by the Kincardineshire Foxhounds during the last five seasons. When reading this table it must be remembered that certain days during each season will have been ‘blank’, i.e. no foxes were found, and the number of foxes accounted for may have varied due to other factors such as the level of other fox control activities, the weather and scent. It should also be noted that foxes that go to ground in places where they cannot be dislodged, such as badger setts, are not counted in this table. The land over which the Kincardineshire Foxhounds operates has other ongoing fox control operations, such as lamping and snaring, as well as any fox control carried out by the Hunt so any foxes accounted for are over and above that regular control.

Appendices

KINCARDINESHIRE HOUNDS - CODE OF CONDUCT

“The Kincardineshire Foxhounds will offer a fox control service to farmers and landowners using hounds. This will involve the use of guns and will be conducted within the bounds of the Protection of Wild Mammals (Scotland) Act 2002 and all other relevant legislation.”

General

The Hunt will offer a fox control service to farmers and landowners operating within the bounds of the Protection of Wild Mammals (Scotland) Act 2002 (“the Act”).

The Hunt will operate only with the permission from the farmers and landowners who own the land over which any fox control shall take place.

The Hunt will keep the Police informed of their whereabouts and operations, as requested.

The Hunt will ensure that safety issues are paramount.

Operating within the Act

The Hunt will not deliberately hunt a fox as defined within the Act.

The Hunt will use their hounds to flush out foxes from covert.

The Hunt will act to ensure that foxes are shot as soon as it is safe to do so.

The Hunt will use experienced marksmen and women.

The Hunt will use an appropriate number of guns dependent on terrain and location.

The Hunt will use assistants (either mounted or on foot) to turn foxes towards the guns, away from roads, dwellings etc. and the sides of a covert where it is either unsafe, or too difficult, to shoot on.

The Hunt will ensure that their operations comply with one of the six purposes listed in the Act, principally

- 2 (1) (a) protecting live stick, ground nesting birds....fowl (including wild fowl), game birds....from attack by wild mammals;
- (d) preventing the spread of disease
- (e) controlling the number of pest species; or
- (f) controlling the number of a particular species to safeguard the welfare of that species.

Operational recommendations

Farmers/Landowners

- permission to undertake fox control must be granted
- one of the six purposes should be identified, e.g. protect livestock or ground nesting birds, control of pest species

Huntsmen

- may only search for a fox in covert in order to flush it to guns or to find and dispatch a wounded individual
- may not lay hounds on out of covert or go to a view unless he believes the fox is diseased or wounded
- may regard “covert” as meaning any natural growth in or under which a fox can hide, e.g. gorse, bracken and heather as well as woodland
- will make every effort to see that wounded foxes are dispatched as quickly as possible using any method available to him given the situation with which he is faced
- will wear identifying dress

Guns

- a minimum of two guns should be available
- shotguns preferred with No. 4 shot or less
- guns should be in radio contact with the Huntsman
- guidance to guns will be issued
- experienced guns to be used

Assistants

- assistants will be appointed at the discretion of the Master in charge
- they should be used to control hounds, to turn foxes towards guns, to limit the number of guns that would otherwise be required and for safety reasons, e.g. roads
- numbers of assistants will depend on location, type of country, proximity of habitation, etc.
- other spectators must be kept at a safe distance

Terrier work

- terriermen must be licensed by MFHA or National Working Terrier Association members and operate under the code of the National Working Terrier Association
- a fox may be bolted to be shot
- all reasonable steps must be taken to avoid injury to the terrier (1A 2(b))
- hounds must be available at all times in case of wounding