



BADGER PERSECUTION PDG

NEWSLETTER

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INTRODUCTION

DC Aaron Flint, Chair – UK Badger Persecution Priority Delivery Group

The UKBPPDG has been working tirelessly over the last few months. We are currently in the process of rolling out three Advanced Practitioner training courses (the first one being 23/11/2021), which aims to increase the knowledge and experience of selected WCO's from across the country with a view to increasing the effectiveness of investigations which in turn should reduce in the failure rate of cases.

Members of the PDG are also developing an expert witness training course, which aims to train experienced professionals in expert report writing and court room procedures. The reason for this course is to increase the number of expert witnesses available for use in investigations. This course will benefit the investigations of all of the Priority areas.

Another area the UKBPPDG is focusing on is that of public awareness, we want to bring

the plight of our badgers to the forefront of the minds of the general public. By doing this it is hoped that we will see an increase in the amount of information coming in regarding badger crime, it will also help us to push for a change in the legislation and powers to protect our badgers.

We are constantly looking for new and innovative ways to fight badger persecution and I have recently opened up the group to some new members, who will bring fresh ideas to the table. This is a very exciting time, the BPPDG is made up of some really enthusiastic individuals from a wide variety of organisations who really want to make a difference. I thank them all for their hard work and commitment.



Samantha O'Key, BPPDG Secretary

I have been a police officer for nearly fourteen years, initially joining Derbyshire Police in 2007 and then moving to Cumbria Police in 2013.

At the end of 2018 I became the Wildlife, Rural and Environmental Crime Co-ordinator for Cumbria Police. Since then, I have been striving to raise awareness of all forms of wildlife and rural crime.

Cumbria, like many areas across the UK suffers from badger persecution in all forms, but with partnership working, education and prevention I believe we can make a difference.

A fantastic job has already been done by all on the group and I look forward to working with Aaron and other BPPDG members to continue this hard work.

BADGER PERSECUTION AND CURRENT USE

Craig Fellowes, Wildlife Crime Officer and Trainer – Badger Trust

Badgers continue to be persecuted in a variety of ways with the recent Badger Incident Analysis showing that during lockdown the persecution of badgers continued. The issue of Sett Interference is still high and continues to raise concerns especially around the area of 'Development'. This can cover housing construction and large scale projects like HS2 and road building and we saw over 200% increase in 2020. This is no doubt down to increasing awareness and training raising the issues and encouraging reporting, but is no doubt due to the amount of housing development and construction either small or large scale going on across England & Wales.

One of the biggest challenges in relation to badger setts in the issue of 'Current Use'

S.14 of the Protection of Badgers Act 1992 says the term 'badger sett' means any structure or place which displays signs indicating current use by a badger, but the statute does not define the term 'current use'.

Independent definitions of 'current use' appear in guidance notes from the statutory nature conservation organisations. The 'Natural England' definition unequivocally differentiates between current use and current occupation, namely that establishing the first is not dependent on the second. That is a helpfully wide definition as badgers are peripatetic and use several sites consecutively. The presence of field signs - even several weeks old - can therefore be enough to establish current use, according to 'Natural England'.

Whilst there have been a small number of cases in the Magistrates' Courts that have addressed the issue of 'current use', it is important to understand that judgments in Magistrates' Court cases are never

binding; similarly any Appeals from the Magistrates' Court to the Crown Court (whether by Defence or Crown) are also never binding.

In *McLintock v Harris & McLaughlan* (2010), the Sheriff held that 'displays' means visibly shows; 'signs' means more than one mark, symbol or indicator; 'indicating' means pointing to; 'current use' means the fact of being used at the present time. This is an issue that has been raised time and again: some people lose sight of this when collecting evidence. To avoid problems in the future, it is advisable to get very good data on each hole in the sett, and make sure data on the field signs is collected to show that they relate specifically to the sett and not what could be just a passing badger. It has been suggested that the sett has to be shown that it was active and being used on the day of the offence, this is not necessarily the case at all and ideally yes this would be the case but can be rectified by early evidence gathering, body camera footage, good recordings of the 'signs' that can be viewed by a potential experts and opinions formed around that.

Consequently, specialist recording of the scene at the sett may produce a large quantity of irrefutable video evidence which can then be disseminated equally between the prosecutor and defence teams, resulting in expert opinion formed from the same basic material.

'Current use' is an objective test under the 1992 Act, so it should not be necessary to establish more than some of the signs for a prima facie case. The CPS has advised that any evidence recorded immediately before the offence and immediately after it would provide good circumstantial evidence of the sett's current use; however, the court would have to be directed to any 'before and after' signs of inhabitation and could then judge that there was current use in the intervening period. Further information on this issue can be found in 'The Persecution of Badgers: A Guide for investigators in England & Wales' and this can be obtained by making contact with the Badger Trust. It should be noted that this guide has been produced for those bodies involved in the investigation of suspected crimes against badgers.

THREE RECEIVE ASBOS FOR CAUSING ANNOYANCE IN CO ANTRIM

Police have welcomed an outcome at Ballymena Magistrates Court on May 13th to impose a five year Anti-Social Behaviour Order (ASBO) on three individuals who were causing continued annoyance, alarm and distress to the farming community in Co Antrim.

For full article: <https://www.farminglife.com/country-and-farming/three-receive-asbos-for-causing-annoyance-in-co-antrim-3242166>

NATUREWATCH FOUNDATION

Kate Parker

Having spent seven years on the frontline of animal welfare, I joined Naturewatch Foundation in September as their Wildlife Crime Campaign Manager.

Naturewatch Foundation has campaigned against various animal welfare issues over the past 30 years, including puppy farming, badger baiting and animal experiments. The charity has also funded sterilisation programmes in Eastern Europe, as well as Police training in The Link between animal abuse and domestic abuse.

For the past two years, Naturewatch Foundation's puppy farming and badger crime campaigns have included an investigative element. Our covert investigators build intelligence packages to provide law enforcement organisations the foundation to further action the offences uncovered. These have

covered illegal dog breeding, puppy farming and badger baiting to date.

Our covert investigators often see a crossover with badger baiting – those offending do not focus their attention solely on one species, leading to evidence of hare coursing, poaching, stag hunting, fox hunting and other elements of wildlife persecution using dogs. Evidence has also clearly shown direct links into other areas of organised crime such as illegal firearms, possession and sale of drugs, dog fighting and the sale of puppies abroad to be trained for badger baiting.

Consequently, we have now expanded our investigations to cover all hunting with dogs where there are named individuals.

We will continue our campaign to protect badgers (which are still one of the most persecuted wild animals in the UK), as well as look to the future by developing exciting projects.



We continue to partner with the Badger Trust regarding our joint publication, 'The Persecution of Badgers: A Guide for Investigators in England & Wales', contribute financially to the Forensic Analysis Fund and maintain close partnership working with our friends at the RSPCA. The Badger Persecution Priority Delivery Group is an important partnership group to be involved with, and one that we value having input into.

I am committed to partnership working, and wholeheartedly believe that by positively engaging as a group of organisations with similar goals, we can make a massive impact on ending the barbaric persecution of our British badgers.

Wales Establishes New Wildlife Coordinator Role



The Welsh Government have funded a 12 month trial of a brand new wildlife post within Wales.

The new "Wales Rural & Wildlife Crime Coordinator" has been given to experienced wildlife investigator and former North Wales Police Rural Crime Team manager, **Rob Taylor**.

Many will remember Rob, who was a previous member of the Badger Delivery Group and has recently re-

joined to offer his experience. He has presented many times at the National Wildlife Conference on wildlife investigations and has been the recipient of 4 WWF Wildlife awards including the prestigious 'Life time achievement' award.

The new post will bring together work and strategies in relation to many areas of wildlife crime with the aim of improving investigations and ultimately reducing wildlife crime overall in Wales. On taking up the post Rob said "Our work over the years has seen wildlife offence reports in North Wales drop by over 85% and I am optimistic I can bring those results to the whole of Wales. This is about bringing together a number of key people, with various skills, to tackle the problems we have here in Wales and already we have set up a number of strategic

groups, such as the Welsh Bird Crime Enforcement Group and others will follow".

The appointment, which is the first of its type in the UK, will look at wildlife issues which can be sometimes unique to Wales but will also assist to working closely with others throughout the UK. He added "This isn't only about Wales, but seeing what is best practice throughout the UK and I have already joined most Wildlife UK PDGs with the aim of learning those practices. I am passionate about wildlife and we have been particularly successful in prosecuting badger offences over the years and I'm hoping that experience is something I can bring to the group".

Rob can be followed on Twitter @ rural_wales for regular updates on his wildlife work.

Educating the Public about the Legal Protection of Badger Setts



Steve Harris, League Against Cruel Sports

In June 2020, an investigator from the League Against Cruel Sports received a report from a source that a badger sett situated in a small, suburban nature reserve in South Derbyshire showed signs of illegal interference.

During the first week in July, a Browning Dark Ops trail camera was placed overlooking this sett. When the camera was recovered, there was a significant amount of foot traffic recorded during that

week with walkers triggering the camera between the hours of 6am and 9.30pm every day and badgers triggering the camera at night.

The majority acted in a responsible fashion with some introducing their children to the very typical and active badger sett. There were a number with loose dogs that ran near the sett but only one example of serious interference to the sett where the adult and child involved

encouraged their dogs to dig. One hole was blocked when they left.

This was reported to the Derbyshire Police Rural Crime Team, who identified the adult involved relatively quickly. It was agreed, however, that this was simply ignorance rather than malicious and the individual subsequently received a warning. After the investigation, the RCT used the footage to educate the public about the legal protection of badger setts.

ANNUAL ANALYSIS OF INCIDENT STATISTICS

Sue Eddy, National Wildlife Crime Unit

The NWCU prepare an annual analysis of incident statistics on behalf of the Badger Persecution PDG. The incident data is provided by Badger Trust, RSPCA and LACS and the most recent analysis covers badger related incidents between 2016 and 2020. The analysis highlights which forces are most impacted by incidents of badger persecution and shows the associated seasonality for each different type of incident ('sett interference', 'baiting/fighting', 'traps and poisoning', 'shooting and 'hunting with dogs'). Overall in 2020, the incident figures have gone back up to the higher levels not seen since 2017 with nearly 60% of the total incidents being sett interference.

Because of the complexity of the 'sett interference' category, incidents

are analysed even further and a range of sub-categories have been identified. In 2020, 'Hunt-related' Sett Interference increased 15% from the year before. 'Development' related Sett Interference increased by 220%. The Badger Persecution PDG are undertaking a range of actions to deliver preventative strategies based

upon the findings of this analysis.

The analysis has been disseminated to all UK Police Forces. It is hoped that forces will use the evidence to plan preventative work around seasonality and consider proactive enforcement around those incident types which are most prolific in their area.

