

A memorandum of understanding on the prevention, investigation and enforcement of Wildlife Crime between

- *the Department for Environment,
Food and Rural Affairs (Defra)*
 - *Natural England*
 - *Natural Resources Wales*
 - *The Crown Prosecution Service*
- and the**
- *National Police Chiefs' Council*

1 Purpose

1.1 This Memorandum of Understanding (MoU) outlines how the participants will work in partnership on the prevention, investigation and enforcement (including prosecution) of wildlife crime, both at a national strategic level and a local casework level.

1.2 This MoU outlines the current intention of the participants, but without either legal commitment (save as may be required by any of the legislative provisions referred to in it) or legal partnership, to how the participants will work in partnership.

2 The Participants to the Memorandum of Understanding

2.1 The participants to this agreement are:

- The Department for Environment, Food and Rural Affairs (Defra)
- Natural England
- Natural Resources Body for Wales
- National Police Chiefs' Council
- Crown Prosecution Service

3 Roles of the relevant bodies

3.1 The Department for Environment, Food and Rural Affairs (Defra) is the UK government department responsible for improving and protecting the environment. Defra's participation in this MoU is limited to the enforcement of offences which involve a suspect claiming that their conduct is lawful because it was carried out under and in accordance with the terms of a general licence granted by Defra.

3.2 Natural England (NE) is a Non-Departmental Public Body sponsored by the Department for Environment, Food and Rural Affairs. It is the government's statutory advisor on the natural environment. NE's purpose is to ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development.

3.3 The Natural Resources Body for Wales (NRW) is a Welsh Government Sponsored Body. NRW's purpose is to ensure that the environment and natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.

3.4 The National Police Chiefs' Council of England, Wales and Northern Ireland (NPCC) works on behalf of the police service to develop policing policy and for the purposes of this Memorandum of Understanding is a signatory on behalf of all police forces in England and Wales.

3.5 The Crown Prosecution Service is the principal public prosecuting authority for England and Wales. Although the CPS works closely with the police, it is independent of them. Casework decisions are taken with fairness, impartiality and integrity, delivering justice for victims, witnesses,

defendants and the public. The CPS advise the police during the early stages of an investigation, review cases submitted by the police for prosecution, prepare cases for court and then present those cases at court. The role of the CPS is to prosecute cases firmly, fairly and effectively when there is sufficient evidence to provide a realistic prospect of conviction and when it is in the public interest to do so.

3.6 The National Wildlife Crime Unit (NWCU) is a police led, standalone unit with a UK wide remit for wildlife crime. The NWCU gathers intelligence on national and international wildlife crime and also provides analytical and investigative support to the police, United Kingdom Border Force, Government Organisations, Statutory Nature Conservation Organisations and Non-Government Organisations. The NWCU is the intelligence conduit between all agencies, domestically and internationally, that have a legal obligation or interest in dealing with wildlife crime. The primary objective of the NWCU is assisting in the prevention and detection of wildlife crime. The NWCU is not a party to this MoU but is an additional body relevant to wildlife crime investigations so is included here for reference.

3.7 The Partnership for Action against Wildlife Crime (PAW UK) is a multi-agency body comprising representatives of statutory and non-government organisations working together to combat wildlife crime. Its objectives are to reduce wildlife crime through effective and targeted enforcement, better regulation and improved awareness. The Secretariat for PAW is housed within the Department for Environment, Food & Rural Affairs (Defra). PAW is not a party to this MoU but is an additional body relevant to wildlife crime investigations so is included here for reference.

4 Investigations

4.1 The participants to this MoU are committed to ensuring that any investigation into a wildlife crime is thorough, efficient, conducted to a high standard and in accordance with any internal processes in force at that time within and, particularly in respect of the police and CPS, between their respective organisations. The UK Government Wildlife Crime Priorities will give focus to the partnership approach but decisions in relation to who will lead an investigation, and the direction it will take, will be timely, informed by the best available evidence and technical expertise, and will take account of this MoU and the wider public interest. Should there be any issue as to who is to be involved in investigating wildlife crime then the participants will work together to reach a conclusion.

4.2 In England, the police are responsible for investigating most offences against protected species, with assistance from NE where their resources allow.

4.3 In England, the police are responsible for investigating breaches of general licences relating to species granted under the powers in section 16 of the Wildlife and Countryside Act 1981 (the 1981 Act). While breaching a condition of a general licence is in itself not a criminal offence, licence users must conform with the licence conditions in order to rely on that licence as a defence for undertaking activities that would otherwise be illegal.

4.4 In England, NE lead on investigations involving damage to Sites of Special Scientific Interest (SSSI), animals under the Wildlife Incident Investigations Scheme (WIIS) and breaches of all species licences that it issues, with the exception of general licences. The police will provide assistance to NE on such investigations where their resources allow.

4.5 In England, NE lead on investigations involving:

- Sites of Special Scientific Interest (SSSI's)
- Environmental Damage Regulations (in relation to damage to SSSIs and European protected habitats and species)
- Heather and Grass burning
- Agricultural work that affects uncultivated land or semi-natural areas
- Breaches of wildlife licences and notices that NE has granted (with the exception of General Licence breaches which are dealt with by the police), including under The Invasive Alien Species (Enforcement and Permitting) Order 2019
- Complaints relating to weeds

4.6 In England, NE also carries out field investigations in relation to the pesticide poisoning of wildlife, companion animals, and beneficial insects (including dealing with suspected pesticide-laced poison baits, spillages of pesticides that may lead to such poisoning and associated incidents) under the Wildlife Incident Investigation Scheme (WIIS) on behalf of the Health and Safety Executive (HSE). In cases categorised as abuse, these enquiries are passed to the police to lead on with NE assistance. In misuse cases, these are normally investigated by the HSE with NE assistance where appropriate.

4.7 In Wales, the police are responsible for investigating most offences relating to species, with assistance from NRW where their resources allow. NRW lead on investigations involving damage to Sites of Special Scientific Interest (SSSI) and breaches of conditions on species licences that it issues and may refer cases to the police where such breaches result in species offences or breaches of species licences as outlined in section 7.7.

4.8 In Wales, NRW lead on investigations of species offences under the Invasive Alien Species (Enforcement & Permitting) Order 2019. NRW can be assisted by seconded police officers, or other police officers, where resources allow.

4.9 Cases that are investigated by police and which are eligible under the [Director's Guidance on charging](#) will be referred to the CPS for a charging decision. Where appropriate, consideration will be given to seeking early advice from CPS Area Wildlife Coordinators.

4.10 Where one organisation leads on a case that body shall normally continue to take that case to its conclusion even if it is decided not to pursue an enforcement action that the respective body would normally be responsible for. If this is not possible, cases will only be passed to another relevant enforcement body for action if that other body accepts. All information relating to that case will then be made available without delay including all exhibits and undisclosed material.

5 Legal action

5.1 The decision whether to commence criminal proceedings rests with the appropriate enforcement body (Natural England - except in WIIS cases which are HSE/police led, Natural Resources Body for Wales or the Crown Prosecution Service). Nonetheless, enforcement action taken by one organisation does not preclude another organisation taking action if considered appropriate, provided the organisations coordinate so as not to duplicate legal proceedings. Investigators may refer cases to the CPS for Early Advice in accordance with appendix 6 of DG6¹. If co-ordinated enforcement takes place then all organisations involved will communicate regularly and share information, where

¹ Director's Guidance on Charging 6th Edition (DG6)

appropriate, pertaining to the case in question. Participants will follow the [guidance](#) provided by the CPS in relation to this.

5.2 As well as prosecution NE and NRW have access to a number of other enforcement mechanisms, including advice and guidance, warning letters, Civil Sanctions² (where applicable in connection with certain offences) and cautions. These outcomes address offences in a transparent, accountable, consistent, proportionate and targeted manner.

5.3 Community Resolutions, and Community Protection Warnings and Orders, will, where appropriate, allow the police to deal with offences proportionately and in particular, when dealing with offences in relation to species.

The Code for Crown Prosecutors

5.4 Where an investigation has been undertaken in partnership, the organisations party to this MoU that have contributed to that investigation can make representations on case decisions. But the decision to start or continue a prosecution rests with the appropriate enforcement body (see guidance referred to in 5.1 above).

5.5 When making decisions about whether to charge a person with a criminal offence, or whether to authorise an out-of-court disposal, all police/investigators and prosecutors subject to this MoU must apply the principles set out in [The Code for Crown Prosecutors](#) (The Code) and any relevant legal guidance or policy.

6 Sites of Special Scientific Interest (SSSIs)

6.1 SSSIs are given legal protection under Part II of the 1981 Act. NE and NRW are responsible for taking enforcement action for these offences, including prosecutions. A subset of SSSIs are also designated as European sites, which are given legal protection under The Conservation of Habitats and Species Regulations 2017 (as amended).

6.2 The police will provide appropriate assistance to NE in relation to offences under Part II of the 1981 Act. This will include witness statements and any other information and services they can reasonably and lawfully provide. When offences occur on SSSIs that are in contravention of other legislation that the police are normally responsible for investigating, for example when recreational off-roaders damage SSSIs and breach the Road Traffic Act 1988, a decision will be made by NE and local police as to whether a joint investigation will be undertaken and if so, which organisation will lead. Where NE do not take conduct of the prosecution, police will refer the case to the CPS in accordance with the Director's Guidance for a decision on whether the prosecution will proceed.

6.3 Defra is responsible for a general licence to release common pheasant and red-legged partridge on European sites and within 500m of the boundaries of European sites. This general licence applies in England only. Where there is a suspicion that the conditions of this general licence have not been adhered to, resulting in a possible offence under Section 14 of the 1981 Act, the police are responsible for investigations with CPS being the prosecuting authority. In Wales, work is ongoing in this area. MoU will be updated if there are subsequent changes to Welsh general licences.

² In Wales, civil sanctions are only applicable in relation to offences under the Invasive Alien Species (IAS) Order 2019.

6.4 NRW currently contract three police Officers as Wildlife Crime Officers on a secondment basis. These officers carry out investigations into offences under Part II of the 1981 Act and submit case files to NRW legal department for a decision to prosecute. They also have the power to investigate other offences that are in contravention of other legislation that the police are normally responsible for investigating such as illegal off-roading on SSSIs and breach the Road Traffic Act 1988.

7 Species

7.1 Species are given legal protection under a number of statutes including (but not exclusively):

- Part I of the 1981 Act
- Conservation of Habitats and Species Regulations 2017 “the Habitats Regulations”
- Protection of Badgers Act 1992
- Deer Act 1991
- Conservation of Seals Act 1970
- Wild Mammals (Protection) Act 1996
- Destructive Imported Animals Act 1932

7.2 The police are responsible for the prevention and investigation of most species (and associated) offences. NE and NRW have a power to assist and advise the police investigating offences under the Wildlife & Countryside Act and the Conservation of Habitats and Species Regulations. Both agencies can provide witness statements (experts and factual) and other relevant expertise that they can reasonably and lawfully provide. NE and NRW will determine such requests on a case-by-case basis taking into account available resources. Priority will be given to providing such assistance to cases under the National Wildlife Crime Priorities.

7.3 NE and NRW may make representations as to the nature and impact of species offences and, if made, the CPS will take these representation into account before making any decision based on the public interest stage of the test under the Code. Before police make any decision on whether to charge or take no further action on a species offence, they will consult with NE or NRW as to the evidence in the case and the nature and impact of the offence. Where, in accordance with DG6, police need to refer a case to the CPS for a charge to be authorised, they will include in the material submitted the outcome of their consultation with NE or NRW.

7.4 The CPS is responsible for prosecuting species offences investigated by the police in line with their policies and procedures.

7.5 In most cases where a species licence has been breached in England, NE are the investigating and prosecuting authority but may request assistance from the police. Where the police receive a report relating to a breach of licence out of NE’s working hours (08:30 – 17:00 Monday to Thursday and 08:30 – 16:30 on Friday’s), they will carry out an initial response to secure initial evidence and notify NE without delay. They will then pass on all information and evidence to Natural England to carry out and support their investigation in line with 4.6 above.

7.6 Defra is responsible for general licences to control certain species of wild birds in England. Where there is suspicion that the conditions of these licences have not been adhered to, resulting in a possible offence under Section 1 of the 1981 Act, the police are responsible for investigations with CPS being the prosecuting authority.

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7.7 NRW are responsible for enforcement of breaches of conditions attached to species licences issued under the Habitats Regulations. NRW are also responsible for enforcement of licence breaches under the Invasive Alien Species (IAS) Order but may request assistance from seconded police officers. All other species licencing offences under the Wildlife & Countryside Act 1981 and the Habitats Regulations will be investigated by the seconded police officer to NRW with the CPS being the prosecuting authority for the substantive offences for which the licences were issued.

8 Joint action on SSSI and species offences

8.1 Where an incident occurs which breaches both the SSSI and species legislation in England, a decision will be made by NE and local police, as to whether a joint investigation is undertaken. Defra will assist other participants to this MoU in their investigations wherever resources and powers allow, with all necessary details on a case being shared between participants where appropriate. There may be a need to involve other bodies as well depending on the nature of any associated offences (e.g. the local authority, Environment Agency (in England), Marine Management Organisation (MMO) (in England)).

8.2 Where an incident occurs which breaches both the SSSI and species legislation in Wales the seconded police officer will investigate on behalf of NRW and the police.

8.3 In both cases coordination will be conducted with all participants involved in the first instance before involving another body to prevent duplication of any investigative or enforcement action.

8.4 Participants will follow the [guidance](#) provided by the CPS in relation prosecutions of these matters.

9 Data Exchange and Disclosure

9.1 In the interest of best practice, data exchange between the organisations is encouraged but will only take place in appropriate circumstances and in compliance with data protection and other relevant legislation. Any personal data being shared on a regular basis will require an information sharing agreement (ISA) to ensure that all participants understand what data will be shared; that the information being shared is justified, proportionate and necessary; and that the data is shared securely. An ISA will also help to prevent data breaches and ensure DPA compliance is covered. The NWCUC will separately progress ISA's with respective legal teams.

9.2 Where necessary the organisations will establish procedures to share data and intelligence at a local and national level. All participants will share data and, where appropriate for their organisation, intelligence with the NWCUC. Where there is regular data sharing for enforcement purposes of personal data identified, ISAs will be constructed and maintained outside of this MoU as appropriate. NE and NRW will provide information on species licence applications and licences and SSSI consent/assent notices and consents/assents granted to the police in connection with possible criminal enquiries.

9.3 All the participants to this MoU have duties regarding disclosure and there is an expectation that all participants of the MoU will assist in relation to provision of third-party material. All participants will comply with the provisions set out in the [Criminal Procedure and Investigations Act 1996](#) ("the CPIA"), the [Code of Practice](#) and the [Attorney General's Guidelines on Disclosure](#).

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10 Partnership working

10.1 Partnership working plays a fundamental role in tackling wildlife crime both at a local operational level and nationally at a strategic level. Partnership working will enable all participants to focus resources and efforts towards the UK National Wildlife Crime Priorities and other local priorities of NE and NRW.

10.2 In England, the Wildlife Crime Regional Enforcement Groups will enable NE, the police and CPS to tackle wildlife crime effectively and expediently at a local level. These groups will identify operational roles and responsibilities and set out effective working arrangements between the participating bodies. This will ensure, amongst other issues, that the partner with the most appropriate enforcement powers takes the primary enforcement action on individual cases.

10.3 In Wales the partnership between NRW and the Welsh police forces is progressed through the secondment of police officers. There are a number of established working groups and panels to address key issues. This approach involves partners from a broad cross section of organisations and ensures that there are effective working arrangements between the bodies and that the most appropriate enforcement powers are being applied. This partnership approach is reviewed³ and may therefore be subject to change in the future.

10.4 All participants to this MoU will work closely with PAW UK. This will enable PAW UK to have an overview of enforcement activity and continue to contribute towards the development of MoU participants' strategic objectives when tackling Wildlife Crime i.e. the [NPCC Wildlife Crime Policing Strategy 2022-2025](#).

11 Guidance and training

11.1 In the spirit of partnership working all participants believe that the sharing of knowledge and working practices is beneficial in tackling wildlife crime. All participants will provide information, guidance and training to each other without charge as their resources allow. NE and NRW will produce reasonable information, guidance and training on SSSIs, protected species and species of special concern listed under the IAS order to the police and the CPS in England and Wales. The CPS will provide training and guidance to its Wildlife Coordinators as appropriate. The police will provide to NE and NRW information, guidance and training on conducting investigations, collecting and preparing evidence, and the PACE Act 1984 insofar as the PACE Act 1984 relates to the work of NE and NRW.

12 Costs and charging

12.1 The CPS does not routinely apply for investigative costs but where there are circumstances in any particular case which make it just and reasonable to do so, the CPS will make applications in accordance with the law and principles set out in our legal guidance.

12.2 Where such an order is sought the relevant police force will give early notification to the relevant CPS unit and will provide a rationale as to why recovery of such costs is just and reasonable.

³ 2023/24 = Dyfed Powys, Gwent and North Wales police forces

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12.3 It is anticipated that the services provided by all participants subject to this MoU will be without charge to each other in all respects (whether case related or in other areas such as the provision of training). No charges will be levied without prior acceptance of the charges by all the participants'. Without prejudice to 12.1 above.

13 Publicity

13.1 All participants will endeavour to raise awareness of wildlife crime for example by highlighting key issues and prosecution cases. Media options will be considered and use of joint press releases will be the default where a joint investigation has led to a prosecution. The responsibility for leading on communications will be decided well in advance of the possible release date (first hearing date in Court cases if the defendant may plead guilty at that hearing) and pre-emptive lines to take will be produced, where possible, to allow for consistent communications to external participants.

14 Communication

14.1 For the purposes of this Memorandum of Understanding the following are lead contact points:

In **Department for Environment, Food and Rural Affairs** the contact is the Team Leader of the Defra General Licensing Team.

In **Natural England** the national contact is the Principal Adviser in the national Enforcement & Appeals Team.

In Wales, the Operations Manager - South-Central Wales, is the contact for both the Seconded police officers and **Natural Resources Wales**.

The contact for the **National Police Chiefs' Council** is the Chief Constables Staff Officer (Wildlife Crime portfolio).

The contact for the **Crown Prosecution Service** is CPS lead for heritage and wildlife crime.

15 Review

15.1 All participants will review this Joint Memorandum of Understanding and its implementation after 2 years. If a change in circumstances or forthcoming legislation requires the document to be reviewed earlier all participants will commit to doing so at the earliest opportunity.

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Signatures



..... Date: 27/09/2023
Edward Barker, Director
Defra



..... Date: 13/12/2023
Marian Spain, Chief Executive
Natural England



..... Date: 25/09/2023
Clare Pillman, Chief Executive
Natural Resources Wales



..... Date: 10/10/2023
Jaswant Narwal, Chief Crown Prosecutor London North
on behalf of CPS lead for heritage and wildlife crime
Crown Prosecution Service



..... Date: 14/12/2023
Deputy Chief Constable Nigel Harrison, North Wales Police
National Police Chiefs' Council lead on Wildlife Crime

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