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## **Derbyshire Constabulary**

### **Guidance for Dealing with Animals and Birds (Formerly Standing Order A51)**

#### **POLICY REFERENCE KBA**

**This guidance is suitable for Public Disclosure**

**Owner of Doc:** Divisional Commander, Operations

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**ANIMALS AND BIRDS – GUIDANCE**

Amended 15/03/08

This document provides guidance on the issues listed below. It should be noted that there is a Force Wildlife and Countryside Site on the Force Intranet which provides detailed advice on a variety of Wildlife Crime issues. It site can be accessed via “alphabet express” under “W”.

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**ANIMALS – INJURED LEGISLATION**

1. The legislation in connection with injured animals under Section 11 of the Protection of Animals Act 1911 is as follows:-

Section 11(1)

If a police constable finds any animal so diseased or so severely injured or in such a physical condition that, in his/her opinion, having regard to the means available for removing the animal, there is no possibility of removing it without cruelty, he/she shall, if the owner is absent or refuses to consent to the destruction of the animals, at once summon a duly registered veterinary surgeon, if any such veterinary surgeon resides within a reasonable distance, and, if it appears by the certificate of such veterinary surgeon that the animal is mortally injured, or so severely injured, or so diseased, or in such physical condition, that it is cruel to keep it alive, it shall be lawful for the police constable, without the consent of the owner, to slaughter the animal, or cause or procure it to be slaughtered, with such instruments or appliances, and with such precautions, and in such manner, as to inflict as little suffering as practicable, and, if the slaughter takes

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place on any public highway, to remove the carcass or cause or procure it to be removed therefrom.

### Section 11(2)

If any veterinary surgeon summoned under this section certifies that the injured animal can without cruelty be removed, it shall be the duty of the person in charge of the animal to cause it forthwith to be removed with as little suffering as possible, and, if that person fails so to do, the police constable may, without the consent of that person, cause the animal forthwith to be so removed.

### Section 11(3)

Any expense which may be reasonably incurred by any constable in carrying out the provisions of this section (including the expenses of any veterinary surgeon summoned by the constable, and whether the animal is slaughtered under this section or not) may be recovered from the owner summarily as a civil debt, and, subject thereto, any such expense shall be defrayed out of the fund from which the expenses of the police are payable in the area in which the animal is found.

### Section 11(4)

For the purposes of this section, the expression "animal" means any horse, mule, ass, bull, sheep, goat, or pig.

## **PROCEDURE**

**2.** It is essential that whenever decisions are made which may affect a person's human rights that the decisions, along with its rationale are recorded by the decision maker at the time.

### WHERE ANIMALS MAY BE REMOVED

**3.** Where domesticated animals are found in the street injured or in such a condition that veterinary treatment is necessary, they should be taken, wherever possible, to the nearest RSPCA establishment or, if this is not practicable, to the PDSA.

**4.** Such action, of course, is only necessary when the owner of the animal is not present or is unable to take such action him/herself.

### WHERE AN ANIMAL CANNOT BE MOVED

**5.** Circumstances may arise when it is not possible to remove an animal to the premises mentioned above and removal elsewhere will cause further suffering and cruelty because of the animal's physical condition. Only under such circumstances would it be appropriate for a police officer to destroy a certain class of animal in order to relieve its suffering and prevent distress to onlookers. The type of animal an officer may destroy will be the small quadrupeds, either domesticated or wild, such as dogs, cats, foxes, etc.

**6.** It is essential that all reasonable steps be taken in such cases to trace the owner of the domesticated animal immediately and obtain his/her consent to the destruction if at all possible.

## **DESTRUCTION OF ESCAPED AND INJURED ANIMALS**

7. Weapons suitable for the destruction of dangerous escaped animals are held in Headquarters Armoury. Such duties are only to be carried out by suitably authorised members of the Firearms Support Unit, or in certain circumstances the Armed Response Unit, who should be called out by the Force Central Incident Control Room.

### VALUABLE ANIMALS

8. In the case of a valuable animal, eg a champion show animal or rare species, or the larger quadrupeds, a police officer should not attempt to destroy it but should summon a veterinary surgeon to carry out the destruction. A certificate explaining the necessity for the destruction should be obtained from the veterinary surgeon.

## **PAYMENT OF FEES**

### INITIAL TREATMENT

9. The criteria for payment of fees is as follows:-

- (a) Where a veterinary surgeon, at the request of the police or at a Magistrate's direction attends to examine, examines, gives first aid treatment to, or if necessary, destroys an animal and if the owner is present, the latter should be asked to pay the fee direct. If he/she does not pay or is not present at the scene, the surgeon's account should be forwarded to the police who will contact the owner of the animal, if known, and invite the owner to pay the surgeon's account.

### FURTHER TREATMENT

- (b) Where the surgeon contemplates keeping the animal for further treatment and no owner can be traced, then he/she will be informed that the police will not pay for any treatment unless:-
- (i) the casualty is a dog, in which case the police will bear the cost of such treatment as the veterinary surgeon considers necessary during the first seven days, or
  - (ii) the casualty is an animal covered by Section 11 of the Protection of Animals Act 1911, in which case the police will bear the costs of such treatment as the veterinary surgeon considers necessary prior to the removal of the animal to a pound or
  - (iii) responsibility is accepted for veterinary accounts for the initial treatment of all types of animal, where the surgeon has been called by the police. The RSPCA will assist with the further treatment of cats.

### CRUELTY CASES

- (c) If after examination of an animal suspected to be cruelly treated or suffering from disease, it is decided not to bring the case before a Court, the surgeon's account will be settled in a like manner to paragraphs (a) and (d).

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### CASES OF DIFFICULTY

- (d) If the owner of an animal refuses to pay the fee of a veterinary surgeon, slaughterer, ambulance or pound, or is not known, the account will be paid out of police funds, provided it was under the circumstances mentioned in (a) and (c) above. In any proceedings such fees will be claimed as costs.

The police cannot accept responsibility where veterinary surgeons who are called out **otherwise than by the police** have difficulty in settling their accounts.

### DOCUMENTATION

**10.** If there is any doubt or difficulty regarding a particular situation, a report should be submitted to Headquarters outlining the circumstances. In any event, where it is necessary for the police to pay an account, it will be passed to Divisional Personnel/Finance for payment with an explanatory report.

### **STRAYING LIVESTOCK**

#### SEIZURE OF ANIMAL AND PROCEEDINGS AGAINST OWNER

**11.** Any horses (including ponies, asses, mules), cattle, sheep, goats or swine, found straying by police are to be returned to the owner or impounded and proceedings may be taken by summons against the owner for allowing them to stray.

### FEEDING

**12** The person who impounds animals (not the keeper of the pound) must provide sufficient wholesome food and water for the animals.

**13.** Nearly all herds of cattle in the County are Brucellosis attested. Care should be taken that non-attested cattle are not placed in a field which contains attested cattle. Such action may result in a claim for compensation.

#### CIRCULATION OF INFORMATION AND DISPOSAL

**14.** If any stray animal is unclaimed, its description should be circulated to all Force Incident Control Rooms. A notice will be placed in the next issue of a local newspaper, giving the description and saying that if not claimed the animal will be sold, not less than 14 days after the date of such notice appearing.

### EXPENSES

**15.** The expenses of impounding, feeding and advertisement should be defrayed from the amount received for the sale of the animal.

#### EXPENSES RE: ANIMAL CLAIMED

**16.** When an animal is subsequently claimed, the expenses incurred by police should be recovered and credited to the statement of receipts.

## **ANIMALS ACT 1971 – SECTION 7**

**17.** This Section sets out the power of occupiers of land upon which livestock is straying, to detain the livestock unless ordered to return it by a court.

**18.** The right to detain livestock ceases:-

- (a) at the end of a period of 48 hours unless within that period notice of detention has been given
  - (i) to the officer in charge of a police station and also
  - (ii) if the person detaining the livestock knows to whom it belongs, to that person; or
- (b) when such amount is tendered to the person detaining the livestock as is sufficient to satisfy any claim he/she may have under the Act in respect of the livestock; or
- (c) if he/she has no such claim, when the livestock is claimed by a person entitled to its possession.

**19.** The detainer of such livestock is authorised to sell the animals after fourteen days, provided that proceedings are not pending for their return or for any claim under the Act. The sale should be at a market or by public auction.

## **PROCEDURE ON RECEIPT OF REPORT FROM DETAINER**

**20.** Notice must be given to the officer in charge of a police station, in writing or orally in person or by telephone, not necessarily by the person who committed the act. The purpose of any notice given under the provisions of section 7 is to secure it as evidence in a civil action and to place the matter on record for the information of the owner or anyone else who wishes to enquire about it.

**21.** The following information should be recorded by the police:-

- (a) by whom reported
- (b) by whom committed
- (c) description of the animal
- (d) whether or not the owner notified
- (e) when and where the animal was detained

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(f) dates and time notice was given.

(Exact times should be noted).

**22.** No further action is to be taken beyond the making of the record but the record should be preserved in case it is called on as evidence in a civil action or to enable the owner to discover what has happened to the animal.

### **WILDLIFE – PROTECTION**

**23.** Virtually all species of British wildlife are protected to a greater or lesser extent by the Wildlife and Countryside Act 1981 with some species having their own specific legislation such as badgers and deer.

### **ANIMALS**

**24.** Subject to the provisions of the Act an offence is committed if any person intentionally:-

- (i) kills, injures or takes any wild animal included in Schedule 5 of the Act; or
- (ii) has in their possession or control any live or dead wild animal included in Schedule 5 or any part thereof; or intentionally or recklessly
- (iii) damages or destroys, or obstructs access to any structure or place which any animal included in Schedule 5 uses for shelter or protection; or
- (iv) disturbs any such animal while it is occupying such a place.

**25.** In addition to the protection afforded by the Wildlife and Countryside Act the Wild Mammals (Protection) Act 1996 makes it an offence to mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering. Where a constable has reasonable grounds for suspecting that a person has committed an offence under this Act and that evidence of the offence may be found on that person or in a vehicle, he may:-

- (i) without warrant, stop and search that person and vehicle
- (ii) arrest that person if Section 24 conditions of PACE apply
- (iii) seize any article which may be evidence of the offence or which may be liable to be confiscated.

## **BIRDS – PROTECTION**

### GENERAL - ENFORCEMENT

26. The Wildlife and Countryside Act 1981 as amended by the Countryside and Rights of Way Act 2000 prohibits the intentional killing or taking of all wild birds, together with the possession of live or dead wild birds and their eggs or parts thereof. It is also an offence to intentionally or recklessly disturb any wild bird included in Schedule 1 of the Act, whilst it is building a nest or is in or near a nest containing eggs or young; or disturbs dependent young of any such bird. These offences are subject to certain exceptions included in the Act for sporting birds and pest species. The Act also prohibits certain methods of killing and taking wild birds.

27. The Royal Society for the Protection of Birds (RSPB) has a team of investigators available to give expert advice with regard to particular offences. The RSPB also maintains an intelligence system and information can be shared with them for the purpose of the prevention or detection of crime, under Section 29 (3) of the Data Protection Act 1998.

### **PLANTS**

28. Plants are also protected by the Wildlife and Countryside Act. A person commits an offence if they:-

- (i) intentionally pick, uproot or destroy any wild plant included in Schedule 8; or
- (ii) not being an authorised person intentionally uproots any wild plant not included in that Schedule; or
- (iii) sell, offer or expose for sale or have in their possession for the purpose of sale any live or dead wild plant included in Schedule 8 or any part thereof or anything derived from such a plant; or
- (iv) publish or cause to be published any advertisement conveying that intent.

### **POWERS OF CONSTABLE – WILDLIFE AND COUNTRYSIDE ACT 1981**

29. Section 24(2) of PACE (arrestable offences) has been amended to make the following **arrestable offences**:-

Offences under Section 1(1) or (2) or (6) of the Act (taking, possessing, selling etc of wild birds) in respect of a bird included in Schedule 1 of the Act or any part of or anything derived from such a bird;

Together with an offence under any of the following provisions of the Act:-

- (i) Section 1(5) (disturbance of Schedule 1 wild birds)
- (ii) Section 9 or 13(1)(a) or (2) (taking, possessing, selling etc of wild animals or

plants),

(iii) Section 14 (introduction of new species, etc).

**30.** A Constable may stop and search any person without warrant, found committing an offence against the Act and any vehicle, boat or animal which that person may then be using, and may:-

- (a) for the purpose of exercising his powers enter any land other than a dwelling-house
- (b) arrest that person for other than the preceding arrestable offences if Section 24 conditions of PACE apply (necessity test).
- (c) seize and detain for the purposes of proceedings under the act any wild bird, whether alive or dead, or any egg or nest of a wild bird, or any weapon or other article capable of being used to kill or take wild birds, which may be in that person's possession
- (d) apply for a search warrant if there are reasonable grounds to suspect that an offence has been committed and that evidence of the offence may be found on any premises
- (e) where it is suspected that a specimen found is one in respect of which an offence is being or has been committed require the taking of a blood or tissue sample in order to determine a bird's identity or ancestry.

## **WILD BIRDS FOUND BEARING IDENTIFICATION RINGS**

### ACTION TO BE TAKEN WHEN FOUND

**31.** Ornithological organisations in several European countries study the migration of birds by marking large numbers of individual birds. Nestlings or specially trapped adult birds are each identified with a serial number and the name of the observatory concerned.

**32.** Birds of a wide range of species bear such identity numbers and when bird rings or the marked bird itself are found and brought in to police, the finder should be directed to send the rings or the marked bird to the Director, British Museum (Natural History), Cromwell Road, London, SW7. This information relates only to wild birds and does not affect pigeons.

In addition, a "Euring Web Recovery Form" should be completed online, accessed at [www.euring.ac](http://www.euring.ac) .

## **PIGEONS**

### LOCAL PIGEON FANCIERS

**33.** The co-operation of local pigeon fanciers should be sought where finders are unwilling or unable to keep stray pigeons pending identification and return to owners. The Royal Pigeon Racing Association will provide advice and assistance in matters concerning racing pigeons. Officers should contact 01452 857119.

## **WILDLIFE LIAISON OFFICERS**

### FORCE WILDLIFE LIAISON OFFICERS

**34.** The Force Wildlife Crime Officer has Force-wide responsibility to develop policy and liaise with organisations at county and national level.

### DIVISIONAL WILDLIFE CRIME OFFICERS

**35.** Nominated officers in each territorial division have received specialist training and reference material covering many aspects of wildlife and countryside law. They are able to advise fellow officers on the law and procedures relating to countryside and wildlife issues and assist in, or undertake, investigations.

**36.** Names and contact numbers of Wildlife Liaison Officers are held on the NSPIS system, and on the Force Wildlife and Countryside Intranet site. (Under "W" alphabet express)

## **SAFE HANDLING OF PESTICIDES AND POISONS**

**37.** The abuse of pesticides represents a considerable risk to the public, police officers, wildlife and the environment. In one example, enough poison was found in one carcass to kill 11,000 people. Such poisons can penetrate the human body through the respiratory tract and by contact with the skin.

**Avoid contact and treat as lethal.**

**38.** Powders which give off cyanide gas on contact with moisture are used underground for rat control but they are also being used illegally to kill badgers.

**No attempt should be made to unblock a badger sett by the police, public or badger group members.**

**39.** The most common form of abuse is to use a pesticide in a rabbit carcass, eggs or foodstuff such as grain, to attract and kill birds of prey, crows, magpies and foxes. In urban areas poisons may be used against dogs and cats. There are lawful products and uses, for example, rat poison and gas which must be used in the approved manner.

**40.** Any pesticide should only be used for approved uses which are normally declared on the container. In most abuse cases, the product is used for unapproved, illegal purposes and may be stored in unidentified containers. Disposal may require specialist treatment.

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**41.** A Health and Safety Risk Assessment has developed a [safe handling strategy](#):-

- equipment and guidelines are being issued to Divisions
- the strategy is in booklet form and on the Intranet
- Divisional Wildlife Crime Officers will be providing awareness training
- personnel dealing with public enquiries need to be aware of the policy and advise that contact must be avoided
- the scene must be assessed and secured to prevent access
- seek advice from your Divisional Wildlife Crime Officers
- notify the Department of Environment, Food and Rural Affairs (Wildlife Incident Investigation Scheme) on 0800 321600 who will attend and investigate. If there is a delay in attendance, it may be necessary to remove and store the suspect item in the equipment provided.

### **CERTIFICATE OF COMPLIANCE**

**42.** This document was reviewed in March 2008 by Paul Bellwood, Operations Division in accordance with the principles of the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 and within the guidelines of the Human Rights Act 1998. The audit was carried out on the assumption that the guiding legislation is itself compliant with the Human Rights Act 1998.

**43.** Where there are areas of potential interference with individual's rights under the Act due regard has been given to the issues of legality legitimate aim, proportionality and fairness.

**44.** Subject to any new legislation or changes in case law which require immediate amendment this document next requires reviewing in March 2008.