



LEAGUE
AGAINST CRUEL SPORTS



FOX BAITING

An information leaflet on fox baiting and digging out foxes.

WHY IS THE LEAGUE AGAINST CRUEL SPORTS INTERESTED IN THIS?

The League Against Cruel Sports campaigns to end cruelty to animals in the name of 'sport'. This includes the widespread practice of digging out foxes and the use of dogs to bait and kill foxes.

Using our confidential Animal Crimewatch reporting service, you can report information that can help us to end this type of cruelty.

This leaflet has been produced to provide some useful information and guidance in relation to these activities.



**ANIMAL
CRIMEWATCH**



WHAT IS FOX BAITING?

This cruel sport is the practice of locating a fox, usually underground, and sending dogs down to locate the fox. Once located, using a radio signal from the dog's collar, digging down to the fox. During this process the dog will fight, and kill the fox, usually sustaining injuries to its face.

Fox baiting can also involve the removal of a fox from an earth or badger sett. They are placed in a bag (bagged fox) or storage container and taken to another location for other people to watch the fox be put against a dog/s to fight until its death. There is often considerable noise associated with this activity including dogs barking and fox 'screams'.

In some cases the terrier man will remove the fox and throw it to the terrier(s) to attack and kill



WHAT IS DIGGING OUT A FOX?

Before the Hunting Act 2004 it was common practice that when a fox went to ground (hiding underground), the hunt terrier men would use terrier dogs to enter the hole and flush out the fox, causing it to bolt and for the hunt to continue.

This practice is now illegal, unless it's in relation to game keeping only and they use no more than one dog to flush out the fox which is shot immediately as it emerges. They are not permitted to block entrances to keep the fox underground, it has to be able to be flushed out by the dog.



During a fox hunt it is not uncommon for a fox to 'run to ground' by seeking refuge in a badger sett. In preparation for a days hunting, the terrier men from a hunt will sometimes go out early morning and fill in (also called stopping a sett) the entrance to badger setts to prevent any foxes going to ground. If the badger sett is an active sett (it has to be proved to be an active sett) and it is in any way interfered with there are offences under the Protection of Badgers Act 1992.

Sometimes the sett may be on a Site of Special Scientific Interest (SSSI) which may also attract further offences if disturbed.

You can check locations for SSSI by using the website Magic Map Application (<https://magic.defra.gov.uk/magicmap.aspx>) You need to use the key on the right side and choose Designations followed by Land Based Designations and finally Statutory.

WHERE IS THIS LIKELY TO TAKE PLACE?

Wherever a hunt is out with terrier men, usually on quad bikes with large terrier boxes on the quad, there is a likelihood the digging out of a fox may occur.

Fox baiting can be undertaken by one or more (usually men) in any location where foxes are located.

LOCATION, LOCATION, LOCATION

Often describing where the incident took place can be difficult. We would ask you to download and use the free app called **what3words** which can easily pinpoint your location. This app is also used by some police forces and will help them as well if you report the incident.



WHAT3WORDS



WHAT'S THE LAW?

Hunting Act 2004

Section 1. A person commits an offence if he hunts a wild mammal with a dog, unless his hunting is exempt.

The Hunting Act has 9 exemptions detailed in **Schedule 1**.

One of the exemptions is - Use of dogs below ground to protect birds for shooting (**Gamekeeper exemption**)

Schedule 1 Paragraph 2(1) - The use of a dog below ground in the course of stalking or flushing out is in accordance with this paragraph if the conditions in this paragraph are satisfied.

(2) The first condition is that the stalking or flushing out is undertaken for the purpose of preventing or reducing serious damage to game birds or wild birds (within the meaning of section 27 of the Wildlife and Countryside Act 1981 (c. 69)) which a person is keeping or preserving for the purpose of their being shot.

(3) The second condition is that the person doing the stalking or flushing out—

(a) has with him written evidence—

- (i) that the land on which the stalking or flushing out takes place belongs to him, or
- (ii) that he has been given permission to use that land for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs, and

(b) makes the evidence immediately available for inspection by a constable who asks to see it.



(4) The third condition is that the stalking or flushing out does not involve the use of more than one dog below ground at any one time.

(5) In so far as stalking or flushing out is undertaken with the use of a dog below ground in accordance with this paragraph, paragraph 1 shall have effect as if for the condition in paragraph 1(7) there were substituted the condition that—

(a) reasonable steps are taken for the purpose of ensuring that as soon as possible after being found the wild mammal is flushed out from below ground,

(b) reasonable steps are taken for the purpose of ensuring that as soon as possible after being flushed out from below ground the wild mammal is shot dead by a competent person,

(c) in particular, the dog is brought under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (b),

(d) reasonable steps are taken for the purpose of preventing injury to the dog, and

(e) the manner in which the dog is used complies with any code of practice which is issued or approved for the purpose of this paragraph by the Secretary of State.



WHAT IS LEGAL AND ILLEGAL?



Use of a dog below ground to protect birds for shooting (Gamekeeper exemption)

Condition 1: Undertaken for the purpose of preventing or reducing serious damage to game birds or wild birds which a person is keeping or preserving for the purpose of them being shot

Condition 2: Has written permission to show land belongs to him or has permission to be there (and on request shows it to a police officer)

Condition 3: Flushing out does not involve the use of more than one dog below ground at any one time.

- Wild animal must be flushed out as soon as possible
- Wild animal must be shot dead (by a competent person) as soon as flushed out
- Reasonable steps are taken for the purpose of preventing injury to the dog.



Illegal - Not complying with the conditions required for the Gamekeepers Exemption.

- Not done to protect game birds
- No written permission
- No competent person available to shoot the fox



Active Badger sett.
Illegal - Must be proved the sett was active at the time of the allegation.



Illegal - Two or more dogs below ground.

Protection of Badgers Act 1992

Section 3

Interfering with badger setts.

A person is guilty of an offence if, except as permitted by or under this Act, he interferes with a badger sett by doing any of the following things—

- (a) damaging a badger sett or any part of it;
- (b) destroying a badger sett;
- (c) obstructing access to, or any entrance of, a badger sett;
- (d) causing a dog to enter a badger sett; or
- (e) disturbing a badger when it is occupying a badger sett intending to do any of those things or being reckless as to whether his actions would have any of those consequences.



The Animal Welfare Act 2006

Section 2(b) defines a 'protected animal' as- under the control of man whether on a permanent or temporary basis

So, if the fox is underground and being prevented from escaping then this element of the Act applies and although a wild animal it becomes a protected animal.

Section 4(1)

Unnecessary suffering

(1) A person commits an offence if—

- (a) an act of his, or a failure of his to act, causes an animal to suffer,
- (b) he knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or be likely to do so,
- (c) the animal is a protected animal, and
- (d) the suffering is unnecessary.

Section 8(1) & 8(2)

Fighting etc.

(1) A person commits an offence if he—

- (a) causes an animal fight to take place, or attempts to do so;
- (b) knowingly receives money for admission to an animal fight;
- (c) knowingly publicises a proposed animal fight;
- (d) provides information about an animal fight to another with the intention of enabling or encouraging attendance at the fight;
- (e) makes or accepts a bet on the outcome of an animal fight or on the likelihood of anything occurring or not occurring in the course of an animal fight;
- (f) takes part in an animal fight;
- (g) has in his possession anything designed or adapted for use in connection with an animal fight with the intention of its being so used;
- (h) keeps or trains an animal for use for in connection with an animal fight;
- (i) keeps any premises for use for an animal fight.

(2) A person commits an offence if, without lawful authority or reasonable excuse, he is present at an animal fight.

Wild Mammals (Protection) Act 1996

Section 1. If, save as permitted by this Act, any person mutilates, kicks, beats, nails or otherwise impales, stabs, burns, stones, crushes, drowns, drags or asphyxiates any wild mammal with intent to inflict unnecessary suffering he shall be guilty of an offence.

Section 2. are the exemptions



BRITISH ASSOCIATION FOR SHOOTING AND CONSERVATION (BASC)

The BASC 'Code of Practice' which has the force of law Section 2(5)(e) Hunting Act 2004 is supplemented by the 'BASC's Good Practice Guide' which does not, but in court would be used as an indicator of a desire to be responsible and stay within the law.

BASC has taken legal opinion and found that digging down to kill a fox as has traditionally occurred, is now illegal. This is because the use of spades and digging would prevent the fox from bolting, which is the central demand of the code.

BASC's Code of Practice has the force of law and comes under paragraph 2 of Schedule 1 to the Hunting Act 2004.

BASC Code 6

The following principles must always be observed when a terrier is used below ground to stalk or flush out a wild mammal:

- Only terriers that are 'soft' (those that habitually stand off and bark at the wild mammal) must be used
 - Terriers that are 'hard' (those that habitually fight) must not be used
 - Care must always be taken to ensure the safety of those involved and to minimise the risk of injury to either the wild mammal or terrier during the bolting process
 - The terrier's time underground should be kept as short as possible so as to minimise any potential distress to the wild mammal
 - The terrier being used must always be fitted with an electronic locator so that its exact position underground can be tracked
 - Once it is determined that a terrier has become trapped assistance must be given to release it
- The terrier's role must be to locate the wild mammal underground and cause it to 'bolt' (leave the earth or den) as soon as possible so that it can be shot by a competent person and humanely dispatched. It should not be intended that a terrier will fight the wild mammal

WHAT SHOULD I BE AWARE OF?

Most reports we receive result from people finding graphic images on social media of people typically stood in a hole and in a trophy like pose holding the dead fox by the scruff of its neck. These images are indicative of potential breaches of the legislation, **but cannot on their own be conclusive.**



Typically the owner of dogs used in this cruel sport will proudly post on social media pictures of their dogs with fresh injuries or healed multiple scars (white fur) around the dogs muzzle, as an ego statement of how 'hard' their dog is.

If out walking in the countryside, you may see one or more men digging a deep hole and have with them one or more terrier dogs.

WHAT CAN I DO?

- If you find anyone on social media posting the indicative images described in this leaflet, please take a screen shot of the profile page and relevant images. If possible also copy the url of the social media page and report this to our Animal Crimewatch Team.
- If you see someone who you think is involved in this activity, (at all times keeping yourself safe) try to take a video/photos of the activity, and identify the exact location (using what3words or an OS Map) and pass this to our Animal Crimewatch Team

Contact Animal Crimewatch to report your concerns. Please call **0300 444 1234**

<https://www.league.org.uk/forms/animal-crimewatch-report>



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League Against Cruel Sports is a registered charity in England and Wales (no.1095234) and Scotland (no.SC045533)

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