

REPORT:

The Hunting Act 2004

Ten years on

Working to expose and end the cruelty
inflicted on animals in the name of sport



November 18th 2014 marks the ten year anniversary of the passing of the Hunting Act - a landmark piece of legislation that was hailed by MPs across the political spectrum.



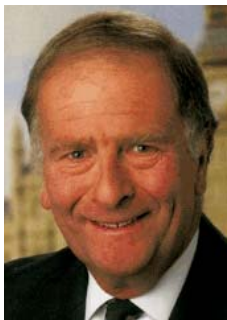
"Over the last 10 years the Hunting Act has proven to be one of the most successful pieces of wild animal welfare legislation in England and Wales. Now it's time to make a good law even better, and strengthen the Act so more animals can be saved from a horrific and cruel fate at the hands of the hunters."

Chris Williamson, MP
Labour



"Aware of the long-standing Parliamentary battle to bring in a law to end this needless cruelty before I was elected in 1997 I was expecting a drawn out process, but even I could not believe how many times I would have to queue up through the division lobbies time and again to ensure the Hunting with Hounds Bill would become an Act of Parliament. It was worth it. Now it's time to strengthen aspects of the legislation to make it even more successful, and prevent exploitation by determined hunters to ensure the spirit of the Act is respected."

Adrian Sanders, MP
Liberal Democrat



"I was proud to be in Parliament to vote for the Hunting Act ten years ago. I believe the anniversary of this legislation is a time to reflect upon, and to build upon its success. The legal hunting of wild animals with dogs has quite properly been, along with cock-fighting and bear-baiting, consigned to the dustbin of history. That is where such practices belong."

Sir Roger Gale, MP
Conservative



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Foreword from the Chair

The ten year anniversary of the Hunting Act and the League Against Cruel Sports' 90th anniversary fall within a week of each other. This seems appropriate as without one - the League - we would not have the other - the most successful wild mammal protection legislation in England and Wales.



The campaign to end hunting with dogs in the name of sport was not easy, nor quick, but it was worthwhile. The eight decade battle fought by dedicated League supporters resulted in a historic Act that enshrines protection for the welfare of wild mammals in law. Since its enactment more than 341 people have been convicted of illegal hunting, while many more have been deterred from chasing and killing foxes, hares, deer and mink with dogs for pleasure. This is something to celebrate.

The League has also played a leading role in enforcement of the Hunting Act, thanks to our team of professional investigators, as well as in defending the Act against our opponents who claim it does not work, and who want to see it repealed. We hope the facts outlined in this report will set the record straight once and for all. The Hunting Act is an effective and extremely popular piece of animal welfare legislation.

Reflecting on the past ten years, we must also acknowledge where and how wild mammals continue to suffer despite the Hunting Act, and recommend how the law could be strengthened to better protect them. This is not a criticism of the Act, but an important and constructive process which ensures the legislation remains effective and that the spirit of the Act is fulfilled.

The statutory aim of the Hunting Act is "to prevent or reduce unnecessary suffering to wild mammals" and that "causing suffering to animals for sport is unethical and should, so far as practicable and proportionate, be stopped." Huge strides have been made towards these aims, now it is time to build on this success and strengthen the Act.

Iain Blake-Lawson
Chair, League Against Cruel Sports

The Hunting Act 2004: a historic achievement

1924

Inaugural meeting of the League for the Prohibition of Cruel Sports, founded by Henry B. Amos and Ernest Bell

1928

National Appeal Against Stag Hunting is launched

1930

Lovat Fraser presents the League's National Appeal Against Stag Hunting, containing over 85,000 signatures, to the Home Secretary

1934

The League organises the first public protest against hare coursing for the Waterloo Cup

1945

First League film, "Dead or Alive" shown in cinemas

1949

Seymour Cocks, MP introduces a Private Members Bill to ban the hunting of deer, otters and badgers, as well as hare and rabbit coursing. A second bill to ban fox hunting is withdrawn in exchange for the Government setting up an inquiry to examine animal cruelty and the law

1959

The League makes its first strategic purchase of land and sporting rights in the West Country

1963

The last carted stag hunt, the Norwich Staghounds, folds

1964

A MORI Poll finds that 77% of nation is against stag hunting, and 73% is against live hare coursing

1970

Hare Coursing Bill introduced

1975

A petition supporting the Bill to abolish live hare coursing reaches over a million signatures in just four months and is presented to the House of Commons

1981

Wildlife & Countryside Bill passed. League condemns it for ignoring plight of hunted animals

The Co-operative Wholesale Society (Britain's largest farmer) bans fox hunting on its 50,000 acres of land

1984

Gallup poll: 70% public opposed to fox hunting

1985

The League wins a High Court case against the Devon and Somerset Hunt, which establishes that Masters of Hunts should be liable for trespass by their hounds

1991

Paul and Linda McCartney purchase St Johns Wood - 80 acres - and its sporting rights, after request from the League



The Hunting Act, which prohibits chasing wild mammals with dogs for sport, received Royal Assent on November 18th 2004. This followed an extensive and often exhausting campaign spanning eight decades, with the League Against Cruel Sports at the forefront since our inception in 1924. It was a long, arduous and often exasperating fight, but the determination of the League and its supporters never waned, not as long as animals were being chased and torn apart purely for pleasure. There were many key moments in this epic battle to protect wild mammals,



1992

MORI poll shows that 78% of the public disapprove of the Royal Family partaking in fox hunting

1996

Campaign to Protect Hunted Animals launched at House of Commons

The Wild Mammals (Protection) Act becomes law and sets the precedent that wild animals are worthy of protection from cruelty

1997

The National Trust bans deer hunting on its land

76% of the new House of Commons is opposed to hunting

Gallup Poll for the Daily Telegraph: 80% of general public oppose hunting foxes with hounds

Wild Animals (Hunting with Dogs) Bill is introduced by Michael Foster MP and supported by 411 MPs, the largest ever vote for a Private Member's Bill



1999

Tony Blair confirms that the Government plans to outlaw the hunting of wild animals with dogs for sport

2000

Burns Inquiry published and officially states that "this experience [i.e. hunting with dogs] seriously compromises the welfare of the fox"

The Government introduces an 'options bill,' giving MPs an opportunity to vote to ban hunting outright; to allow hunting to continue with regulation; or to allow hunting to continue and be self-regulated



2002

Scottish Parliament passes Protection of Wild Animals (Scotland) Act 2002, making Scotland the first part of the UK to ban the deliberate killing of wild animals with dogs

Alun Michael announces a six month consultation process on hunting, concentrating on the principles of cruelty and utility, to be followed by the introduction of a bill to 'deal with this issue effectively once and for all'. Both the League and the Campaign for the Protection of Hunted Animals submit evidence

An attempt to overturn the Protection of Wild Animals (Scotland) Act 2002 on the grounds of 'human rights' is thrown out of court

2004

The Hunting Bill is returned to the House of Commons and is passed by 339-115. However, the Lords amend it to keep hunting legal. The Parliament Act is invoked to push the Act through with original intention to ban hunting with hounds for sport. It is given Royal Assent on November 18th, to come in to effect on February 18th 2005

2014

Attempts to wreck the Hunting Act via an amendment to an existing exemption are exposed and averted by a quick and targeted League campaign



The Hunting Act 2004:

The first ten years

The Hunting Act 2004 has proven to be the most successful wild animal welfare legislation in England and Wales, with an average of one prosecution a week under the Act and two thirds of defendants convicted. Yet, since its introduction, the Hunting Act has been the target of considerable attack from the pro-hunt lobby. In an effort to publicly discredit the legislation and promote their campaign for repeal, the hunting community has waged an ongoing and concerted campaign of disinformation about the Act.

Here we set the record straight.

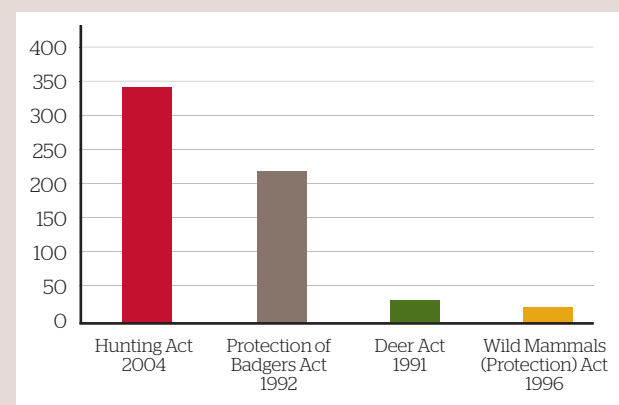
The Hunting Act is effective

The most common criticism levied against the Hunting Act is that the legislation is unworkable or unenforceable. This raises the question of what criteria need to be met to satisfactorily conclude any legislation works or is a demonstrable success. A decisive indicator of enforceability is surely a law's conviction rate, and in terms of convictions the Hunting Act has been a marked success.

In fact, Ministry of Justice figures reveal that the Hunting Act out-performs all other wild mammal legislation on the statute books in England and Wales, having both the highest number of convictions since 2005 when it was introduced (341 from 2005 to 2013, Fig. 1) and conviction rate (65% of charges laid under the Act have resulted in convictions). These figures not only put the lie to various misleading prosecution and conviction rates put out by the hunting lobby, but also contribute to an overall picture of legislation that is both workable and demonstrably successful.

Figure 1. Ministry of Justice figures for the Hunting Act and similar wildlife legislation. Bars represent the total number of convictions under each Act for the nine year period since the Hunting Act was introduced (2005 to 2013).

Total convictions (2005-2013)





A League Investigator covertly filming a hunt.

The League has led the way in prosecuting illegal hunters

The League invested £1million in a team of professional investigators who have actively monitored registered fox, deer, hare and mink hunts since the Act was passed to collect evidence of illegal hunting. At first there was little appetite for prosecution of registered hunts (as opposed to more informal types of hunting) among the Police and Crown Prosecution Service (CPS). To help prove that the Act worked and could be used to prosecute registered hunts, the League decided to take private prosecutions where we had strong evidence of illegal hunting. These included:

Quantock Staghounds

In February 2006, League Investigators filmed two hounds chasing a herd of deer over the open hills in Somerset. The two hunt staff responsible for the hounds at the time were Richard Down, huntsman, and Adrian Pillivant, whipper-in. They were summonsed to court for committing an offence under the Hunting Act 2004 based on evidence collected by our monitors.

The defendants claimed to be using an exemption in the Hunting Act which permits the use of two dogs to flush animals out from cover to be shot. The court believed that their primary purpose was sport and recreation. The court also stated that reasonable steps had not been taken to ensure the deer were shot as soon as possible after emerging from cover.

The pair were convicted in June 2007, with Down becoming the first huntsman convicted under the Act. Both men were fined £500 and ordered to pay costs of £1000 each.

Richard Down went on to be convicted of illegal hunting again in 2010 on the basis on League evidence.

Minehead Harriers

League Investigators filmed this hunt chasing foxes on two separate days in early 2007. Based on this evidence, summons were issued against Sid Westcott 'joint master', Will Goffe 'huntsman' and Gary Bradley 'whipper-in' under the Hunting Act 2004.

In January 2008 two of the three defendants entered guilty pleas. Will Goffe and Gary Bradley admitted to hunting a fox. Bradley also admitted to a Public Order Act offence against a League monitor. Each was fined £300 for the Hunting Act offence and



Goffe and Bradley leaving court after the guilty verdict.

ordered to pay costs of £500 each. Bradley was also fined £100 for the Public Order Act Offence.

These convictions demonstrated that registered hunts could be successfully prosecuted under the Act and paved the way for future prosecutions by the CPS.

Since 2007, we have presented evidence of illegal hunting to the police on 53 separate occasions. This does not represent the total number of illegal hunting incidents our investigators have witnessed, rather only the incidents that our legal team considered met the CPS evidential test. On League evidence alone, the CPS has secured convictions against 18 people associated with registered hunts, with more cases still proceeding through the courts. Many more convictions have been obtained as a result of evidence from the public and other welfare groups. A few examples of convictions secured with League evidence include:

Hare coursing in Norfolk

A Norfolk landowner was convicted under the Hunting Act for allowing her property to be used for hare coursing during two organised events, following a prosecution brought by the RSPCA. The evidence for the case was obtained by Investigators from both the League and the International Fund for Animal Welfare (IFAW) in a joint operation.

Mary Birbeck was found guilty of permitting her land to be used for hare coursing in November 2007 and January 2008. Les Anderson was also convicted of two charges of attending a hare coursing event and three charges of knowingly facilitating such an event.

Birbeck and Anderson were each given a two year conditional discharge and ordered to pay £1000 each in costs.

Fernie Foxhounds

In January 2010 a team of League Investigators filmed this hunt chasing foxes with hounds. One fox ran underground into an active badger sett and was kept there by hounds circling around the entrance to the sett.

Terriermen employed by the hunt arrived and blocked all of the entrances to the sett except one. They put a terrier into the sett to chase the fox out. When the fox bolted out of the hole, the huntsman brought the hounds back to the sett and they continued chasing the fox.

All of this illegal activity was filmed by League Investigators. When the hunting day finished, the investigators also surveyed the badger sett for signs

of badger activity (interfering with an active badger sett is a separate criminal offence).

Huntsman Derek Hopkins and terrierman Kevin Allen were charged with offences under both the Hunting Act and Protection of Badgers Act. They were convicted of both charges in December 2010. Hopkins received a £850 fine and was ordered to pay £1265 in costs; Allen received a £650 fine and was ordered to pay £915 in costs.

Both men appealed their convictions, but lost and were ordered to pay additional costs: Hopkins £3630, Allen £2730.

The appeal court stated that the hunt's claim to be trail hunting was cynical subterfuge.

Middleton Foxhounds

In December 2012, a team of League Investigators filmed this hunt and their hounds as they surrounded a large stack of hay bales where a fox was seeking refuge. Terriermen employed by the hunt put a terrier into the stack to flush the fox out as the rest of the hunt stood in wait. The fox bolted out and was killed by the hounds after a short chase. The huntsman was filmed holding the dead fox and encouraging the hounds to tear it apart.

Tom Holt, huntsman and joint master; Shaun Marles, whipper-in; Lee Martin, terrierman and Brian Cuthbertson, amateur terrierman were all charged with two offences under the Hunting Act: Hunting a Wild Mammal with a Dog - S.1 Hunting Act 2004 and S.3(2) of the Hunting Act Permitting a Dog to be used in the course of a S.1 offence.

All four men pled guilty to the S.1 Hunting Act offence. Holt, the huntsman, was fined £200, Marles and Martin were each fined £100 and Cuthbertson received a conditional discharge. All four were ordered to pay £85 costs and a £20 surcharge.



College Valley Foxhounds

In February 2014, League investigators filmed three members of this hunt illegally hunting a fox. Based on this evidence Timothy Wyndham Basil Smalley, joint master, Ian Robert McKie, huntsman, and Andrew John Proe, kennel huntsman, were all charged with two offences under the Hunting Act.

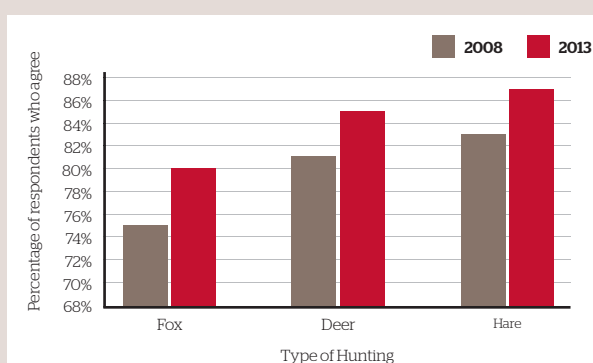
In October 2014 all three men were found guilty of one offence under the Act and ordered to pay fines ranging from £480 to £2,075 as well as £385 in costs each and victim surcharges ranging from £48 to £120.

The Hunting Act is popular

The Hunting Act is not only an effective piece of legislation, it is also an extremely popular piece of legislation. While public support for the prohibition of hunting has always been high, it has increased substantially during the ten years that the Act has been in place (Fig 3). The latest polling from Ipsos MORI, conducted in 2013 on behalf of the League, shows that 8 out of 10 people in Britain (80%) think that fox hunting should remain illegal, 85% think deer hunting should remain illegal and 87% think hare hunting and coursing should remain illegal.

Figure 2. Figures from Ipsos Mori polls commissioned by the League in 2008 and 2013. Unweighted sample sizes: 2008 = 2,032; 2013 = 1,983.

Hunting with dogs should remain illegal



Ipsos MORI's 2013 polling also demonstrated that people of all political persuasions support the Hunting Act. Respondents were asked how they had voted at the 2010 general election and this was cross-referenced against their current support for the Act. The results show overwhelming support for the Hunting Act amongst Labour, Lib Dem and Conservative voters (Fig. 4). The results were also analysed according to whether respondents lived in an urban or rural area. Again, there was little difference

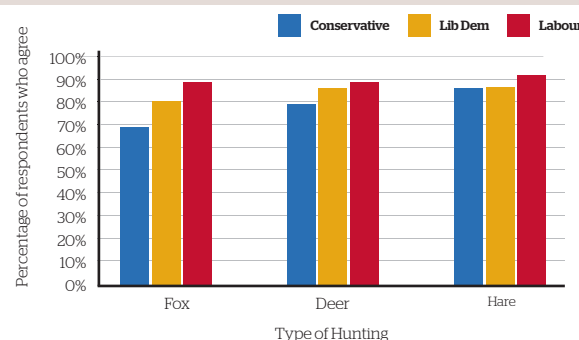
The League's legal and investigations staff are widely recognised as experts on the Hunting Act, including how to gather and present evidence for successful prosecution. They have been invited to provide training on these issues for multiple police forces and RSPCA inspectors and prosecutors.

in opinion, with more than 80% of residents in both urban and rural areas agreeing that hunting with dogs should remain illegal. These uniform results across the social spectrum prove that killing animals in the name of sport is universally abhorred in Britain.

This overwhelming public support for the Hunting Act, coupled with its success, makes any proposed repeal of the law indefensible by any reasonable standards.

Figure 3. Figures from a 2013 Ipsos Mori poll commissioned by the League. Unweighted sample size = 1,983.

Hunting with dogs should remain illegal (by voting pattern)



The Hunting Act 2004: The next ten years

The last ten years have shown that the Hunting Act is enforceable and has widespread public support; however, it has also shown just how determined some hunters are to continue persecuting wild animals in the name of sport. That some people continue to partake in this cruel and illegal pastime does not mean the Act is a bad piece of legislation, rather that hunters have little respect for the law, the will of Parliament and the wishes of the British public. Nonetheless, ten years on, we believe there is room for improvement in the Hunting Act.

It is important to remember that Parliament's intention was to end hunting with dogs for sport due to the profound suffering caused by the prolonged chase and violent death. Provisions were put into the Act which would still allow hunting with dogs in limited circumstances, generally to address perceived conflicts between wildlife and farming or shooting interests; however, hunters have adapted the way they behave to exploit these exemptions. As so many hunters are wilfully disobeying the law, changes are needed to stop the exploitation of provisions put into the legislation for other purposes.

It is common practice to review legislation after it has been in force for a while and for the Government to block loopholes which have arisen out of new and unforeseen behaviour; this is an important and constructive process which ensures legislation remains effective. Suggesting ways to strengthen the Hunting Act is therefore not a criticism of the Act, but a valid and necessary part of this process.

Based on the experience of our Investigators who have been in the field monitoring hunts over the past nine years, we have identified three key areas where the Act should be strengthened to prevent exploitation by determined hunters and ensure the spirit of the Act is respected.

We are recommending the following changes:

1. The use of dogs below ground should be prohibited.

This is arguably where the worst cruelty occurs in hunting, not only to wild mammals pursued underground with limited opportunity to escape (usually foxes and badgers), but also to the dogs sent below ground to find these animals and either flush them out or hold them at bay. Furthermore, without the ability to flush or dig out foxes who have taken refuge below ground, the continuation of illegal hunting (above ground) would be greatly curtailed.

Parliament envisaged that the exemption permitting the use of dogs below ground would be used solely by gamekeepers on land used for rearing gamebirds for shooting, not by hunts. However, virtually all fox hunts observed by League Investigators since the Act has come into force have been accompanied by terriermen – hunt employees or supporters whose role is to put terriers below ground at the request of the hunt master. League investigators have filmed multiple fox 'dig outs' subsequent to the Act, some lasting for several hours and causing horrific suffering to all of the animals involved.



Dogs often endure painful injuries when forced below ground to pursue foxes.



A fox being pulled from its underground refuge during a 'dig out'.

Unsurprisingly with the obvious cruelty involved, there is huge public opposition to the practice of putting dogs below ground to pursue wild animals. A 2010 YouGov poll commissioned by the League showed 78% of people believe it should be illegal to set a dog on a fox below ground, and 33% believe it is already illegal. Prohibiting this practice would therefore be a quick and popular way to strengthen the Act and put a stop to such deliberate cruelty.

2. A 'reckless' provision should be inserted to stop hunters using the false alibi of trail hunting.

Many registered fox hunts claim to now be trail hunting – an activity that was not in existence or envisaged when the Hunting Act was drafted. It is an entirely new invention which purports to mimic traditional hunting by following a scent trail (using fox urine from US fur farms according to the hunters) that has been laid in areas where foxes naturally occur. It is not the same as drag hunting, a legitimate sport which existed before the Act and is not intended to mimic animal hunting.

The League believes there is no such sport as trail hunting and it is simply a cover for illegal hunting. When a wild mammal is chased and/or killed during a trail hunt, it is passed off as an accident. This defence is usually successful because the Act requires hunting to be an intentional activity. If a defendant is able to raise the possibility that they did not intend to chase or kill a wild mammal they are not guilty under the Act. Proving intent is very difficult.

The website of the Master of Draghounds and Bloodhounds Association offers this explanation for how their sport differs from what foxhound packs are doing now:

"Foxhound packs are, also, in the main, simulating foxhunting as closely as they can by organising trail hunting."

"So whereas most draghunt lines start in open country at a known spot and follow a pre-determined route. Trail hunting involves simulating the search in cover for a scent to follow. The scent is generally a natural one so the hounds are kept ready to resume foxhunting when the ban is finally repealed."

We believe the best way to deal with the false alibi of trail hunting is to include a reckless provision in the Act, so a person may intend or be reckless as to their actions. Recklessness already exists in other wild animal legislation (S.3 Protection of Badgers Act 1992 and Schedule 5 Wildlife and Countryside Act 1981) so adding it to the Hunting Act would provide consistency with similar legislation.

3. Sentencing powers should be increased.

Like many animal protection laws, the effectiveness of the Hunting Act is limited by the lenient punishments available to the courts. However, penalties under the Hunting Act are not strong even compared with other animal legislation (Table 1). We believe this disparity trivialises Hunting Act offences in the eyes of many offenders and the legal system.

We believe sentencing powers under the Hunting Act should at least be brought in line with the Protection of Badgers Act and Wild Mammals Protection Act, with a maximum penalty of six months imprisonment.

Table 1. Maximum penalties available under different animal protection and wildlife laws in England.

Animal Welfare Act 2006	51 weeks imprisonment
Wildlife & Countryside Act 1981	6 months imprisonment
Protection of Badgers Act 1992	6 months imprisonment
Wild Mammals (Protection) Act 1996	6 months imprisonment
Conservation of Habitats Regs 2010	6 months imprisonment
Deer Act 1991	3 months imprisonment
Salmon & Freshwater Fisheries Act	3 months imprisonment
Night Poaching Act 1828	6 months imprisonment
Game Act 1831	Level 5 fine
Hunting Act 2004	Level 5 fine
Poaching Prevention Act 1862	Level 3 fine



Conclusion



The ten year anniversary of the Hunting Act is a time for celebration and reflection. We should hail the progress that has been made in ending the suffering to wild animals caused by hunting with dogs, and also acknowledge where and how this suffering persists despite the Act. It is time to build on the successes of the first ten years and strengthen the Hunting Act to ensure the spirit of the Act is fulfilled. We believe this can be done with three straightforward amendments to the Act:

1. **Prohibit the use of dogs below ground**
2. **Insert a 'reckless' provision**
3. **Increase sentencing powers**

We urge all political parties to support our call to strengthen the Act and commit to making these changes in their election manifestos.

Working to expose and end the cruelty inflicted on animals in the name of sport



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