

## Sentencing Guidelines for Wildlife Crime

Wildlife crime can be defined as:

*“Any action, which contravenes current legislation governing the protection of the UK’s wild animals and plants”<sup>1</sup>*

It is widely accepted that many wildlife crimes amount to serious crime<sup>2</sup>, with offenders often being involved in other types of crime, especially those where a substantial financial benefit can be gained - organised crime groups have been identified as having particular involvement in the illegal trade in endangered species<sup>3</sup>. Other wildlife crimes can involve barbarous cruelty and have a significant effect on the conservation status of protected species.

The governments of the UK have international obligations to address wildlife crime<sup>4</sup>. The general principal of domestic legislation - i.e. that sentencing should be dissuasive and that crime should not pay - reinforces those obligations. Sadly, that sometimes appears not to be the case.

Set in the context of the total number of cases heard by the courts, there are few prosecutions for wildlife crime. A magistrate may hear a wildlife crime case perhaps once a decade. Wildlife and Countryside Link members have spoken with magistrates that often feel unable to make informed decisions on sentencing when hearing wildlife crime cases<sup>5</sup>. Additionally, many stakeholders, including Defra (pers.comm.), think a formal sentencing guideline is urgently needed.

Furthermore, many argue that wildlife offences, including those resulting in conservation impact, should be capable of being heard by the upper courts. Such a recommendation was also noted in the Law Commission’s recent review of wildlife law, suggesting that all wildlife crime should be heard in the upper courts<sup>6</sup>.

When individuals are convicted of crime against wildlife, it is very rare that they receive custodial sentences. A recent report by WWF found that 74% of wildlife trafficking cases resulted in non-custodial sentences<sup>7</sup>. Whilst the lower courts now have authority to impose unlimited fines, fines for wildlife crimes seldom approach the previously allowed maximum. WWF’s report found that fines for wildlife trafficking offences were low, with 88% less than £2,500 and 70% less than the wildlife product value<sup>8</sup>.

All too often, sanctions imposed by magistrates are simply inadequate, and cannot be regarded as being dissuasive.

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<sup>1</sup> National Wildlife Crime Unit “What is wildlife crime” <http://www.nwcu.police.uk/what-is-wildlife-crime/>

<sup>2</sup> New Scientist (2015) “UN puts wildlife crime on a par with drug and people trafficking” [www.newscientist.com/article/dn27995-un-puts-wildlife-crime-on-a-par-with-drug-and-people-trafficking/](http://www.newscientist.com/article/dn27995-un-puts-wildlife-crime-on-a-par-with-drug-and-people-trafficking/)

<sup>3</sup> Telegraph (2016) “Traveller gang jailed over £57 million rhino horn thefts” [www.telegraph.co.uk/news/2016/04/04/traveller-gang-jailed-over-57-million-rhino-horn-thefts/](http://www.telegraph.co.uk/news/2016/04/04/traveller-gang-jailed-over-57-million-rhino-horn-thefts/)

<sup>4</sup> For example the Convention on International Trade in Endangered Species of Fauna and Flora. EU Birds Directive 79/409/EEC & EU Habitats Directive 92/43/EEC.

<sup>5</sup> WWF (2017) Sentencing wildlife trade offences in England and Wales: consistency, appropriateness and the role of sentencing guidelines

<sup>6</sup> Law Commission Wildlife Law Volume 2 Draft legislation (Law Com 362) [http://www.lawcom.gov.uk/wp-content/uploads/2015/11/lc362\\_wildlife\\_vol-2.pdf](http://www.lawcom.gov.uk/wp-content/uploads/2015/11/lc362_wildlife_vol-2.pdf)

<sup>7</sup> WWF (2017) Sentencing wildlife trade offences in England and Wales: consistency, appropriateness and the role of sentencing guidelines

<sup>8</sup> WWF (2017) Sentencing wildlife trade offences in England and Wales: consistency, appropriateness and the role of sentencing guidelines

Examples of such inadequate penalties include:

- In April 2010, one of the most serious cases of wildlife poisoning ever heard in the UK noted that numerous poisoned baits were placed in the open air, some near rights of way. A number of dead birds, thought to have been poisoned, were also found. A professional gamekeeper was fined just £1,000. The sentencing for this case does not reflect the seriousness of the crime, not only because of the intention to gruesomely kill random wildlife, but also because of the obvious threat to public and domestic animal health posed by the possession and use of an illegal poison.
- In March 2015, a woman was found guilty of selling and exporting tiger parts, a species at real risk of extinction largely due to illegal killing and trafficking. However, she only received a 12 month community order to undertake 120 hours of unpaid work, and was ordered to pay costs.
- In December 2016, a number of men were convicted of 22 charges of using dogs to kill wild deer, and were given suspended custodial sentences. Further charges were brought relating to dogs being severely injured during prolonged fights with a badger. These offences clearly involved appalling cruelty.
- In April 2017, a house owner and a developer were fined just £83 and £127, respectively, after unlawfully destroying a bat roost. The owner had previously indicated a willingness to accept a fine rather than to delay work. The work was undertaken at a time when breeding bats may have been present and an alternative roost that had been provided was not fit for purpose. The owner, by undertaking the work without a licence, saved several thousands of pounds.

In September 2016 the Scottish Government made a commitment to tackle wildlife crime within their Programme for Government, saying:

*"We must protect the environment from those who seek to damage it for personal gain. We will increase the penalties for wildlife crime and consider the creation of new sentencing guidelines in line with recommendations from the Wildlife Crimes Penalties Review Group."*

The Scottish Sentencing Council has since announced their intention to produce a Scottish wildlife crime guideline by 2018. Wildlife in England and Wales deserves no less<sup>9</sup>.

The UK will host the next Illegal Wildlife Trade Conference in London in 2018. England and Wales must show leadership on this issue both nationally and internationally. Now is the time for the Sentencing Council to recognise the urgent need for wildlife crime sentencing guidance.

This briefing is supported by the following Link member organisations:

- Bat Conservation Trust
- Born Free Foundation
- Environmental Investigations Agency
- International Fund for Animal Welfare
- Whale and Dolphin Conservation
- WWF-UK

<sup>9</sup> Scottish Sentencing Council Business Plan 2015-2018 <https://www.scottishsentencingcouncil.org.uk/news-and-media/news/first-sentencing-guidelines-announced/>

