Sentencing Council

Hare coursing sentencing guidelines

Consultation

January 2025

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This publication is available at www.sentencingcouncil.org.uk.

Any enquiries regarding this publication should be sent to us at info@sentencingcouncil.gov.uk.

Contents

About this consultation

To:	This consultation is open to everyone including members of the judiciary, legal practitioners and any individuals who work in or have an interest in criminal justice.
Duration:	From 22 January 2025 to 25 April 2025
Enquiries (including requests for the paper in an alternative format) to:	Office of the Sentencing Council Tel: 020 7071 5793 Email: info@sentencingcouncil.gov.uk
How to respond:	Please send your response by 25 April to: Ollie Simpson Email: consultation@sentencingcouncil.gov.uk or by using the online consultation at: https://consult.justice.gov.uk/
Information to help you respond:	This consultation exercise is accompanied by a resource assessment, and a statistical bulletin which can be found at: www.sentencingcouncil.org.uk]
Response paper:	Following the conclusion of this consultation exercise, a response will be published at: www.sentencingcouncil.org.uk
Freedom of information:	We will treat all responses as public documents in accordance with the Freedom of Information Act and we may attribute comments and include a list of all respondents' names in any final report we publish. If you wish to submit a confidential response, you should contact us before sending the response. PLEASE NOTE – We will disregard automatic confidentiality statements generated by an IT system. In addition, responses may be shared with the Justice Committee of the House of Commons. Our privacy notice sets out the standards that you can expect from the Sentencing Council when we request or hold personal information (personal data) about you; how you can get access to a copy of your personal data; and what you can do if you think the standards are not being met. It is published on our website at: www.sentencingcouncil.org.uk/privacy.

Introduction

What is the Sentencing Council?

The Sentencing Council is the independent body responsible for developing sentencing guidelines which courts in England and Wales must follow when passing a sentence. The Council consults on its proposed guidelines before they come into force and on any proposed changes to existing guidelines.

What is this consultation about?

This consultation seeks views on a proposed sentencing guideline for various offences related to hare coursing, namely:

- section 1 of the Night Poaching Act 1828 (Taking or destroying game by night)
- section 30 of the Game Act 1831 (Trespass in the daytime in search of game)
- section 63 of the Police, Crime, Sentencing and Courts Act 2022 (Trespass with intent to search for or to pursue hares with dogs etc)
- section 64 of the Police, Crime, Sentencing and Courts Act 2022 (Being equipped for searching for or pursuing hares with dogs etc)

The proposed guideline does not apply to hare coursing or hunting offences committed under sections 1 or 5 of the Hunting Act 2004.

Why hare coursing offences?

The maximum penalties for offences committed under section 1 of the Night Poaching Act 1828 and section 30 of the Game Act 1831 were increased from a fine to six months' custody under the Police, Crime, Sentencing and Courts Act 2022. The 2022 Act also introduced the latter two offences mentioned above (Trespass with intent to search for or to pursue hares with dogs and Being equipped for searching for or pursuing hares with dogs etc).

Beyond the harm done to animals, hare coursing activities often involve aggressive and threatening behaviour towards local residents, some of whom may live in isolated locations. Criminal damage is also very common. The increase in maximum penalties was a response to a longstanding view that a fine was not a sufficient deterrent to those who committed hare coursing offences. The courts now have a fuller suite of sentencing powers, including new ancillary orders, to deal with hare coursing offences. In recent years, Operation Galileo has seen police forces co-operate across the country to share intelligence and tackle this offending.

As there are no existing sentencing guidelines for these offences, the Council believes it would be helpful to the courts to provide consistency of approach in sentencing them.

Broader wildlife offences

The Council is aware of various calls for sentencing guidelines on wildlife offences in general, and has considered carefully whether to draft such guidelines. The Council notes the Law Commission's view, set out in its 2015 report on wildlife offences (Law Com 362) that "the current legislation governing the control, exploitation, welfare and conservation of wild animals and plants in England and Wales has become unnecessarily complex and inconsistent…The natural environment is a complex system and the law concerning it needs to apply in a range of different situations and reflect a range of (potentially competing) interests. In many cases, however, there appears to be little obvious rationale for the existing complexity".

The Law Commission's recommendation to consolidate this body of criminal law has not been taken up. Indeed, further standalone pieces of legislation have been added in recent years, such as the Ivory Act 2018, the Glue Traps (Offences) Act 2022, and the Shark Fins Act 2023. Meanwhile, whilst the maximum penalty for cruelty towards domestic animals has been increased to five years, the maximum penalty for cruelty towards wild animals under the Wild Mammals (Protection) Act 1996 remains at six months.

The Council has concluded that this is not a promising landscape for the production of sentencing guidelines. Wildlife offences are too disparate, with a fine being the maximum penalty available in many cases, and very low volumes seen by the courts. The Court of Appeal has provided clear guidance over the years on the sorts of sentence levels appropriate in cases of import and export of animals and animal products, and the Council believes this is sufficient to assist the courts when they do sentence offenders in such cases.

Responding to the consultation

Through this consultation process, the Council is seeking views on:

- the principal factors that make any of the offences included within the draft guidelines more or less serious
- the additional factors that should influence the sentence
- the types and lengths of sentence that should be passed, and
- whether there are any issues relating to disparity of sentencing and/or broader matters relating to equality and diversity that the guidelines could and should address.

We would like to hear from anyone who uses sentencing guidelines in their work or who has an interest in sentencing. We would also like to hear from individuals and organisations representing anyone who could be affected by the proposals including:

- victims and their families
- defendants and their families
- those under probation supervision or youth offending teams/supervision
- those with protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In the following sections the proposals are outlined in detail and you will be asked to give your views. You can give your views by answering some or all of the questions below either by email to consultation@sentencingcouncil.gov.uk or by using the online consultation at https://consult.justice.gov.uk/. A summary of the consultation questions can be found at **Annex A**.

What else is happening as part of the consultation process?

This is a 12 week public consultation. The Council has already drawn on the expertise of the Police, rural magistrates and others involved in investigating, prosecuting and sentencing hare coursing cases in preparing the draft guidelines. As part of the consultation process, the Council is now planning on engaging further with magistrates and others with an interest to explore some of the issues raised in this paper in more depth. Once the results of the consultation have been considered, the updated guidelines will be published and used by all courts.

Applicability of guidelines

When issued as definitive guidelines following consultation the guideline will apply only to offenders aged 18 and older. General principles to be considered in the sentencing of children and young people are set out in the Sentencing Council's definitive guideline, Sentencing children and young people.

Question 1: What is your name?

Question 2: What is your email address?

Question 3: Are you answering as an individual? If so, are you happy for your name to be included in the consultation response document?

Question 4: If you are answering on behalf of an organisation, group or bench, please provide the name of the organisation, group or bench.

Equality and diversity

The Sentencing Council considers matters relating to equality and diversity to be important in its work. The Council is always concerned if it appears that the guidelines have different outcomes for different groups. The Council published the report 'Equality and diversity in the work of the Sentencing Council' in January 2023, designed to identify and analyse any potential for the Council's work to cause disparity in sentencing outcomes across demographic groups.

In addition, the available demographic data, (sex, age group and ethnicity of offenders) is examined as part of the work on each guideline, to see if there are any concerns around potential disparities within sentencing. For some offences it may not be possible to draw any conclusions on whether there are any issues of disparity of sentence outcomes between different groups caused by the guidelines, for example because of a lack of available data or because volumes of data are too low. However, the Council takes care to ensure that the guidelines operate fairly and includes reference to the Equal Treatment Bench Book in all guidelines:

> Guideline users should be aware that the Equal Treatment Bench Book covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

The Council has had regard to its duty under the Equality Act 2010 in drafting these proposals, specifically with respect to any potential effect of the proposals on victims and offenders with protected characteristics.

The demographic data on sex, age and ethnicity have been presented for the period 2019 to 2023 for the offences of taking or destroying game by night (section 1 of the Night Poaching Act 1828) and trespassing in the daytime in search of game (section 30 of the Game Act 1831). For the newer offences of trespassing with intent to search for or to pursue hares with dogs etc (section 63 of the Police, Crime, Sentencing and Courts Act 2022), and being equipped for searching for or pursuing hares with dogs etc (section 64 of the same act) data for 2023 are presented. The statistics discussed below can be found within the data tables published on the Council's website.

Sex

Across the offences covered by this guideline, the majority of offenders were male, and remaining offenders had a sex not recorded or not known.

All offenders sentenced between 2019 and 2023 for taking or destroying game by night (section 1 of the Night Poaching Act 1828) were male, and almost all offenders (93 per cent) over the same period sentenced for trespassing in the daytime in search of game (section 30 of the Game Act 1831) were male; the sex of the remaining 7 per cent was not recorded or not known.

For the newer offences of trespassing with intent to search for or to pursue hares with dogs etc and being equipped for searching for or pursuing hares with dogs etc (sections 63 and 64 of the Police, Crime, Sentencing and Courts Act 2022 respectively) offenders were only sentenced for the first time in 2023. Almost all offenders sentenced for the section 63 offence were male (93 per cent), with the sex of the remaining 7 per cent not recorded or known. All offenders sentenced for the section 64 offence were male.

Age group

The data from 2019 to 2023 (for the section 1 and 30 offences) and 2023 (for the section 63 and 64 offences), indicate the majority of offenders are under 40 (ranging from 79 to 89 per cent of offenders across each offence).

For the section 1 and section 30 offences, the vast majority of offenders between 2019 and 2023 received a fine, and there were no observable differences in sentence outcomes for different age groups.

Due to the low volume of offenders sentenced for the section 63 and 64 offences, it is not possible to make a robust comparison of sentence outcomes received by different age groups.

Ethnicity

The ethnicity was not recorded or not known for a substantial proportion of offenders sentenced for these offences. Between 2019 and 2023, around 46 per cent of offenders who were sentenced for taking or destroying game by night (section 1) had an ethnicity not recorded or not known; this was 42 per cent for the same period for offenders sentenced for trespassing in the daytime in search of game. This was nearly 80 per cent of offenders sentenced in 2023 for trespassing with intent to search for or to pursue hares (section 63), and 71 per cent of offenders sentenced for being equipped for searching for or pursuing hares with dogs etc (section 64). Where ethnicity was known, nearly all offenders across these offences were white.

In combination with either no or a very low volume of Asian, black, mixed or other ethnicity offenders sentenced, and the high percentage of not recorded or not known ethnicities reported across these offences, no robust comparisons between groups was possible.

The guideline and its factors are intended to apply equally to all offenders aged 18 or over. Throughout this document your views will be sought on whether there are any disparity issues with proposals, such as whether there are any factors or aspects of the guideline which may disadvantage one group over another.

Culpability

The first step of the guideline requires the sentencer to assess the culpability of the offender and the harm caused by the offence. These factors establish the overall seriousness of the offence and will help provide the starting point sentence, before aggravating and mitigating factors are taken into account at Step Two.

The proposed culpability factors largely focus on the scale of the operation and its sophistication. The Council understands that it can be difficult to gather robust evidence about the role of individual offenders within a group, so this is not a determinant of culpability unless it is clear that someone has been coerced, intimidated or exploited into offending. The Council has also heard that children can often be involved in the offending, including holding large sums of money, and believes that this behaviour merits being considered as high culpability.

Culpability

Where there are factors present from more than one category of culpability, the court should weigh those factors in order to decide which category most resembles the offender's case.

A – Higher culpability

- Large group activity
- Significant planning
- Activity involved intimidation or the use or threat of force
- Expectation of significant financial gain
- Children involved in activity

B – Lesser culpability

- Lone, or small group activity
- Involved through coercion, intimidation or exploitation
- Little or no planning

The Council has taken the views of the Police, magistrates and others involved in the investigation and prosecution of hare coursing offences. However, it was not entirely clear how scale would best be described in considering culpability. Some suggested that by their very nature, hare coursing cases that came before the courts were organised and large-scale. Other suggested that a useful distinction could be drawn between large groups who often travel long distances to participate in organised hare coursing events, and small, informal gatherings of (for example) local youths who were curious about the

activity. Others said that it was highly unlikely that a lone hare courser would be detected, prosecuted and sentenced.

Without becoming too prescriptive on the sorts of numbers of offenders involved, the Council is tentatively proposing distinguishing scale with the descriptors “Large group activity” and “Lone, or small group activity” but would particularly welcome views on whether this is a sensible and workable split.

Question 5: Do you have any comments on the proposed culpability factors?

Question 6: Do you have any comments on how best to describe the scale of different hare coursing activity in culpability?

Question 7: Are there any culpability factors you consider could unfairly impact certain groups in respect of (for example) sex, age or ethnicity?

Harm

The second aspect that sentencers should consider in determining seriousness at step one is the harm caused by the offence.

The Council believes that the principal harm caused by hare coursing is to the rural communities who find themselves the victims of physical and verbal abuse, as well as damage to their property. This can have a particularly acute impact on those who are isolated. In some cases, these may be the subject of separate criminal charges but the Council still believes the harm caused should be captured in determining the seriousness of hare coursing offending.

The harm model proposed places particularly harmful cases involving injury, fear or distress, extensive damage and serious disruption or inconvenience in a higher category of harm, with all other cases in a lower category.

The Council believes that the harm to hares themselves, whilst important to note, is a secondary factor and may be difficult to evidence. It is therefore reflected at step two of the draft guideline in the aggravating factor ‘Significant number of hares killed or injured’.

Harm
Category 1 • Conduct causes injury, fear or distress to others • Extensive damage caused to property, land, or livestock • Serious disruption/inconvenience caused to others
Category 2 • All other cases

Question 8: Do you have any comments on the proposed harm factors?

Question 9: Are there any harm factors you consider could unfairly impact certain groups in respect of (for example) sex, age or ethnicity?

Sentence levels

At step two of the guideline, the assessment made of harm and culpability results in sentencers selecting a starting point in a sentence table.

The Police, Crime, Sentencing and Courts Act 2022 increased the maximum penalty available for the offences used to prosecute hare coursing under the Night Poaching Act 1828 the Game Act 1831 from a fine to six months' imprisonment. The maximum penalties for the new offences of trespass and being equipped created by that Act were also set at six months.

The change in the law followed a longstanding concern that those convicted of hare coursing were subject only to a fine, which might well be low as offenders could claim limited means. This was not viewed as a sufficient deterrent. It was argued the previous penalties did not reflect the full harms of hare coursing (as set out above). The increase in the maximum penalty to a custodial sentence means that community orders are also now available for these offences.

The Council proposes sentencing levels that will make full use of the range of disposals now available to the courts, with custody available in the top three categories, and community orders available in all categories.

	Culpability	
Harm	**A**	**B**
Category 1	**Starting point** 3 months' custody	**Starting point** High level community order
	Category range High level community order – 6 months' custody	**Category range** Low level community order – 3 months' custody
Category 2	**Starting point** High level community order	**Starting point** Band C fine
	Category range Low level community order – 3 months' custody	**Category range** Band A fine – Medium level community order

Alongside the increase in maximum penalties, the 2022 Act provided for recovery orders in hare coursing, requiring an offender to pay the costs of seizure and detention of dogs involved in the offence. Under section 66, offenders may also be subject to orders disqualifying them from owning and/or keeping dogs, breach of which is an offence, with a maximum penalty of a level 3 fine.

The Council understands that the possibility of losing their dogs, which may represent a considerable investment of time and money, is a real punishment and deterrent for offenders alongside any principal disposal they may receive. The draft guideline therefore signposts at step two the possibility of these ancillary orders, as well as others that may be relevant in hare coursing cases:

- a deprivation order under section 152 of the Sentencing Code (in relation both to dogs and any vehicles used in the commission of the offence)
- a recovery order under section 65 of the Police, Crime Sentencing and Courts Act 2022, requiring the offender to pay the expenses incurred by a dog's seizure and detention
- a disqualification order under section 66 of the Police, Crime Sentencing and Courts Act 2022 preventing the offender from owning and/or keeping dogs; and, in appropriate cases,
- a driving disqualification order under section 163 of the Sentencing Code

As in other offence-specific guidelines, step six of the guideline directs the court to consider what ancillary orders may be relevant and appropriate.

The Council recently consulted on standardised guidance on ancillary orders which, subject to the consultation responses received, will be published in definitive form in the coming months. In relation to hare coursing offences, two new pieces of guidance are proposed for recovery orders and dog disqualification orders. These contain factual information about matters like the availability of orders, their duration and the consequences of breach. Views are sought on these.

Question 10: Do you have any comments on the proposed sentence levels?

Question 11: Do you have any comments on the signposting to certain ancillary orders?

Question 12: Do you have any comments on the guidance for recovery orders and dog disqualification orders?

Aggravating and mitigating factors

Having established a starting point, sentencers are asked to consider whether there are any aggravating factors present which may increase the seriousness of the offence, or any mitigating factors relating to the offence or the offender which would reduce the sentence within the range set out in the grid.

Of particular note for this guideline, failure to comply with a community protection notice reflects the fact that the authorities have already placed requirements or restrictions on an offender which have been breached. Community protection notices are measures which the Police can apply for under section 43 of the Anti-Social Behaviour, Crime and Policing Act 2014. A community protection notice imposes requirements on the individual requiring them to do or stop doing specified things. For example it might, prohibit an individual from entering specified areas. These are increasingly used as a way of disrupting hare coursing activity.

As mentioned above, the harm to hares is captured here with “Significant number of hares killed or injured”. “Use of technology, including circulating details/photographs/videos etc of the offence on social media, to record, publicise or promote activity” is included as this is an aspect of the offending which is common, and reflects similar wording in the revised animal cruelty guideline produced by the Council in 2023. Most offending carried out in front of children will be aggravated, but a caveat is added here not to double-count where children were involved in the offending (a higher culpability factor at step one).

The mitigating factors proposed are standard personal mitigating factors as set out in most sentencing guidelines.

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Commission of offence whilst under the influence of alcohol or drugs
- Offence committed on licence or post sentence supervision or while subject to court order(s)
- Breach of a community protection notice
- Significant number of hares killed or injured

- Use of technology, including circulating details/photographs/videos etc of the offence on social media, to record, publicise or promote activity
- Offence committed in the presence of children (where not already taken into account at step 1)
- Attempts to conceal/dispose of evidence
- Established evidence of community/wider impact (where not already taken into account at step 1)
- Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder, learning disability
- Age and/or lack of maturity
- Sole or primary carer for dependent relatives
- Pregnancy, childbirth and post-natal care
- Difficult and/or deprived background or personal circumstances
- Prospects of or in work, training or education

Question 13: Do you have any comments on the proposed aggravating and mitigating factors?

Question 14: Are there any aggravating or mitigating factors that you consider could unfairly impact certain groups in respect of (for example) sex, age or ethnicity?

The remaining steps set out in the proposed guideline are the same as those in all offence-specific guidelines. As at step 2, certain relevant ancillary orders are signposted at step 6.

Question 15: Do you have any further comments on the draft guideline?

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