



Service Procedure

ANIMAL/WILDLIFE OFFENCES/WELFARE

SP Identification Number	6/2012
Protective Marking	Not Protectively Marked
Policy Ownership:	
Department	Operational Support Department
Branch	Operational Policy and Support
Author	
Procedure Approved By:	Superintendent ,Operational Policy and Support
Service Executive	
Department or Branch Head	N/A
Date Of Approval	12 May 2008
Date First Issued:	2 May 2012
Version Number	3
This Version Issued:	20 February 2015
Review Date:	2 Years from issue date
Governing Policy Directive:	Investigating Crime (Not published yet)

Abstract:

The purpose of this Service Procedure is to provide guidance when police are dealing with animal/wildlife offences /welfare issues under the Welfare of Animals Act (Northern Ireland) 2011, Animals (Northern Ireland) Order 1976, Wildlife (Northern Ireland) Order 1985, Dangerous Wild Animals (Northern Ireland) Order 2004 and the Convention on International Trade in Endangered Species of Flora and Fauna (CITES)

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2. AIM OF SERVICE PROCEDURE

The aim of this Service Procedure is to:

- (1) Identify the main legislation police use to deal with animal/wildlife offences/welfare;
- (2) Highlight the agreement which exists between the Police Service of Northern Ireland (the Police Service) and the Service Provider for caring for animals seized by police;
- (3) Assist District Commanders in managing the administrative and financial elements;
- (4) To ensure police and police staff have a clear understanding of the statutory bodies involved in animal/wildlife offences/welfare.

3. INTRODUCTION

(1) Executive Summary

This Service Procedure provides guidance to police officers/staff in relation to animal/wildlife offences/welfare.

(2) Partnerships

Police, the Department of Agriculture and Rural Development Northern Ireland (DARDNI), the Health and Safety Executive for Northern Ireland (HSENI), District Councils and the Department of the Environment Northern Ireland (DOENI) have specific responsibilities for the investigation of offences involving animals/wildlife.

(3) Application

This Service Procedure applies to all police officers and police staff.

4. LEGAL BASIS

(1) Welfare of Animals Act (Northern Ireland) 2011

The Act provides statutory powers to DARDNI, District Councils and the Police. In summary, DARDNI investigate offences relating to farmed animals, District Councils investigate offences relating to domestic animals and police investigate offences linked to more serious crime and wild animals. Powers are provided for all the above statutory agencies to take such steps as appear immediately necessary to alleviate the suffering of any *protected animal regardless of which statutory agency has responsibility for the subsequent investigation. A power of entry is also available to all the above statutory agencies to deal with other relevant offences. Additional specific police powers are provided to deal with offences relating to fighting animals.

*Protected animal - commonly domesticated in Northern Ireland, under the control of man whether on a permanent or temporary basis or it is not living in a wild state.

(2) Wildlife (Northern Ireland) Order 1985

Article 25 of this Order provides police with powers to enter, seize and detain evidence of the commission of an offence, which might be a tool used in connection with the offence, a wild animal, or a domestic animal used to commit the offence eg dogs used in badger baiting.

(3) **Animals (Northern Ireland) Order 1976**

Article 10 of this Order provides police with powers to seize an animal found wandering on any public road and (if its owner is not known) impound it with some suitable person. Police may also agree to pay this person any reasonable costs incurred in caring for the animal. The seizure must be publicised and, if no owner is forthcoming after 14 days, police may arrange for the animal to be sold at a market or by public auction. The proceeds of the sale may then be used to pay the costs incurred in caring for the animal and any expenses associated with the sale.

(4) **The Dangerous Wild Animals (Northern Ireland) Order 2004**

The Order regulates the keeping of such animals in order to ensure public safety and the welfare of animals. The legislation creates a licensing, inspection and enforcement scheme that will be administered by the DOENI. The role of the police is outlined at paragraph 8(6)

(5) **Convention on International Trade in Endangered Species of Flora and Fauna (CITES)**

CITES is an international agreement to regulate trade in endangered species. This is enforced through European Union law and our domestic Control of Trade in Endangered Species (Enforcement) Regulations 1997 (COTES) making it illegal to trade in, possess for sale, sell, purchase etc specimens of protected species unless appropriately licensed. These regulations are also enforceable by police. Contact should be made with the PSNI WLO for assistance. (See Appendix 'B' for contact details).

5. POLICY LINKS

- (1) Manual of Policy, Procedure and Guidance on Conflict Management;
- (2) PSNI Search Manual.

6. CONSULTATION

- (1) PSNI Wildlife Liaison Officer (WLO);
- (2) PSNI Finance and Support Services;
- (3) Health and Safety Executive for Northern Ireland (HESNI);
- (4) Department of Agriculture and Rural Development for Northern Ireland (DARDNI) (Pesticides Section);
- (5) Agri-Food and Biosciences Institute (AFBI) - Veterinary Services Division;
- (6) Department of the Environment for Northern Ireland (DOENI);
- (7) Royal Society for the Protection of Birds (RSPB).

7. HUMAN RIGHTS/UNCRC/EQUALITY/CODE OF ETHICS/FREEDOM OF INFORMATION

- (1) The requirement for police to inspect animals on welfare grounds will often involve the exercise of a power of entry. The need to seize animals may result in the removal of animals upon which a person depends to earn a living. The exercise of both these powers has the potential to infringe Article 8 of the European Convention on Human Rights (ECHR) (Right to respect for Private and Family Life), and Protocol 1 Article 1 (Right to Peaceful Enjoyment of Property).

- (2) As with the exercise of any power, there must be a legal basis for the activity of the public authority and all action taken must be necessary, proportionate and the least intrusive means by which the objective can be achieved. Furthermore, interference with an individual's rights is only permitted if there is a legitimate aim eg the prevention of crime or public safety. Each case however should be considered on its merits and any action, which has the potential to infringe the rights of an individual, should be proportionate to the offence committed.
- (3) This Service Procedure is deemed to be Human Rights compliant. The United Nations Convention on the Rights of the Child (UNCRC) has been considered. It has been screened for Section 75 considerations and meets integrity standards. It is suitable for public disclosure with the exception of Appendix 'A' and 'B' in accordance with the Freedom of Information Act 2000. The Service Procedure complies with the PSNI Code of Ethics.

8. PROCEDURE AND/OR GUIDANCE

(1) Seizing Animals

- (a) Powers to seize are provided to police in the relevant legislation as outlined at paragraph 4(1) - (5). Where animals are seized by police pending court proceedings, an agreed fee is paid to the Service Provider for caring for the animal. This is based largely upon a daily costing and it allows for veterinary care where the Service Provider deems necessary. The duration of the animals care will therefore directly influence the cost to the Police Service. Investigating officers should therefore make contact with the WLO/Legal Services Branch as soon as possible after seizing an animal to explore the possibility of an application to a court for disposal in a lawful and appropriate manner.
- (b) Where disposal as per 8(1) (a) has not been appropriate Investigating Officers must ensure that documentation is prepared for disposal of the animal in question and is included with the court file. Investigations should therefore begin as soon as possible and proceed expeditiously. The Service Provider shall not dispose of any animal other than at the express direction of the police or a court.
- (c) Where, as a result of court proceedings, it is intended to recover costs from the offender/owner via a court order, a record of all costs relating to the retention and welfare of the animals whilst in the Service Provider's care shall be included in the court file. The Service Provider has agreed to provide invoices which detail the costs associated with each individual case.
- (d) When court proceedings have terminated, it is the duty of the Investigating Officer to inform the Service Provider of any relevant court decision or order. This must be done forthwith.
- (e) It is recommended that Districts implement a system for checking the duration of retention of animals in each case where they are being retained at the cost to the Police Service. This will have the added benefit of checking progress of court files, or the success in tracing the owners of straying or unclaimed animals.
- (f) The investigation may result in the preparation of a prosecution file by police. If a prosecution file is prepared, the PSNI WLO should be informed and will, if applicable, request the Public Prosecution Service (PPS) to proceed with a joint prosecution with any other agency involved.

(2) Service Provider

- (a) The costs for caring for animals have been agreed with the Service Provider;
- (b) See Appendix 'D' for contact details.

(3) Administration

- (a) When an animal is placed into the care of the Service Provider by police, the Service Provider will complete a 'Seizure of Animals Form'. This form bears a unique Service Provider reference number that will be included on all invoices subsequently forwarded to the Police Service regarding the costs of keeping the animal. The form also includes details of the animals seized, the date and location of the seizure, the police officer affecting the seizure and the Service Provider taking the animal into their care. This form must be signed by a member of the Police Service to show that they have authorised the seizure and impoundment of the animal. The Service Provider will sign the form and provide police with a copy.
- (b) The police officer affecting the seizure should make a notebook entry and forward a completed Form W1 (available on PoliceNet) to the email address zWildlife. A photocopy of the Seizure of Animals Form should also be forwarded to the local District Finance Office. The original should be retained for the officer's own records.
- (c) The Service Provider has agreed to provide monthly invoices detailing what expenses have been incurred in respect of each case where animals have been taken into their care at the request of police. It is the responsibility of District Commanders to have each invoice examined for accuracy, and to make payment to the Service Provider for maintenance of animals which have been seized. Any invoices received and found to be incorrect must be returned to the Service Provider, indicating where any discrepancies arise.
- (d) A copy of each invoice shall be forwarded to the Investigating Officer for inclusion in the court file.

(4) Working with other statutory bodies

- (a) The DARDNI, District Councils and the Police Service carry out statutory functions in relation to Northern Ireland legislation governing the welfare of animals.
- (b) If police find any incidents of suffering to animals in the situations described where DARDNI or District Councils have a statutory role, the DARDNI local Divisional Veterinary Officer (DVO) or the District Council Inspector must be contacted. The relevant DVO contact details are listed at Appendix 'A'. For District Council Inspectors contact details see Appendix 'E'. In such circumstances police should take such steps as appear immediately necessary to alleviate the animal's suffering as provided for in the Welfare of Animals Act (NI) 2011.

- (c) This instruction does not preclude use being made of the assistance provided by non statutory agencies in their voluntary role.
- (d) Difficulties should be reported to the PSNI WLO, District Policing Command, Police Headquarters Brooklyn, in order that they can be discussed with the DARDNI/District Council officials. (See Appendix 'B' for contact details of the WLO).

(5) The examination of animals killed by Poisons, Pesticides or other suspected illegal acts

- (a) The use of poisons and pesticides is widespread in the province however, with the exception of laying poisons in controlled conditions for small vermin (eg rats, mice) and invertebrates (eg cockroaches), it is illegal. [Wildlife (NI) Order 1985 and Welfare of Animals Act (NI) 2011]. Using plant protection products (pesticides), which are not approved for use by Government, or failing to use them in line with the conditions of an approval is also illegal.
- (b) Police, DARDNI Inspectors and District Council Inspectors have statutory powers under the Welfare of Animals Act (NI) 2011 for investigating poisoning incidents. Police also have statutory powers under the Wildlife (NI) Order 1985 for investigating poisoning offences involving wild animals. Health and Safety Executive for Northern Ireland and District Council Environmental Health Officers (EHOs) have similar responsibilities for the investigation and prosecution of offences under the Food and Environment Protection Act 1985 (FEPA) and the associated Control of Pesticides Regulations (Northern Ireland) 1987 as amended. The Plant Protection Products Regulations (Northern Ireland) 2011 (as amended) provide for the enforcement of Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market. The Plant Protection Products (Sustainable Use) Regulations 2012 transpose Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides and provide enforcement provisions.
- (c) The Wildlife Incident Investigation Scheme for Northern Ireland lays down basic guidelines on the investigation of reported poisoning incidents. Analysis work undertaken under the scheme is carried out by the Agri-Food and Biosciences Institute. (AFBI) The scheme is funded by a levy from the pesticides industry.
- (d) Reports of poisoning may lead to a joint investigation between the police and the above agencies.
- (e) Most reports of pesticide poisoning can be attributed to one of three categories:
 - (i) Approved Use - the incident is caused by the side effects of the correct application of the agent;
 - (ii) Misuse - the incident is caused by the side effects of the incorrect application of the agent, ie over concentrated, incorrect machinery used;
 - (iii) Abuse - the incident is caused by the deliberate abuse of the agent to poison a particular target, eg poison laid to kill foxes, birds.
- (f) Initial police actions upon the receipt of a report of a poisoning incident requiring police investigation should be as follows: (The below procedures should also be followed where an animal has died as a result of some other suspected breach of legislation referred to in this Service Procedure).
 - (i) Obtain as much background information as possible, such as the symptoms the animal(s) displayed, where it was normally kept, exercised or roamed, specific dates and times abnormal behaviour was noticed, owner's details, veterinary surgeon's details

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etc. This background information may help to identify where, when and what poison might have been ingested.

- (ii) Obtain the carcass of the animal(s) or have a veterinary surgeon obtain samples of blood, faeces, urine, stomach or crop contents if the animal is still alive, along with a detailed veterinary assessment of its symptoms.
 - (aa) The carcass or samples should be taken to the nearest laboratory of the AFBI Veterinary Services Division (see Appendix 'B' for contact details). Where the carcass is too large to be delivered by police transport the laboratory should be contacted to assist. A Wildlife Incident Investigation Form (Appendix 'C') should be completed prior to the delivery of the samples or at the laboratory when delivery takes place. [See paragraph 8(5)(g) for Health and Safety advice].
 - (bb) A post-mortem will be carried out on the carcass and tissue samples may be taken for forensic analysis
- (iii) If there is evidence as to where the poison may have been laid, a search should be carried out in an attempt to locate any uneaten poison or bait. (See PSNI Search Manual.) If the source is discovered, the protective equipment and packaging provided in the poisoning kit [see paragraph g below] should be used to seize the material and forward it to the nearest AFBI Veterinary Services Division laboratory for analysis together with a completed Wildlife Incident Investigation Form.
- (iv) Other offences may have been committed which are required to be investigated by other agencies, contact should be made with either the Health and Safety Executive, (for incidents involving agricultural or industrial property), or the local District Council Environmental Health Officer (for incidents involving retail outlets or domestic property). These agencies should offer their assistance for a joint investigation.
- (v) Early contact should be made with the PSNI WLO/Statutory Agencies. Contact details that may be of assistance to the Investigating Officer are listed at Appendix 'B'.
- (vi) Interview of any suspect(s) should take place in conjunction with whichever of the other agencies is involved. It may be prudent to delay any formal interview until after the results of the post-mortem and forensic analysis have been received.

(g) Health and Safety Issues

- (i) Many of the substances involved in poison incidents are very dangerous and can be absorbed directly through the skin - it is not necessary for them to be ingested to have harmful effects. (See PSNI Search Manual Section 1.9)
- (ii) A poison kit is issued to every District. This kit contains protective equipment for handling suspect animals, baits and poisons. The kit also contains a number of containers and heavy gauge polythene bags for sealing samples within. Labels and indelible markers are also provided to label the containers and bags in accordance with current Police Service guidance on exhibit handling. Guidance on the use of personal protective equipment can be found here - PPE Removal and Decontamination Safety Procedures.
- (iii) When all carcasses, baits, poisons and other samples have been recovered they should all be placed in the box. Used protective equipment should also be bagged and labelled as contaminated and placed in the box. The box can then be sealed with the cable ties provided.
- (iv) The whole box should then be transported to the nearest AFBI Veterinary Service Division laboratory where the samples/carcass will be analysed. The contaminated

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material will be incinerated and the large outer box will be washed and returned to the Police Service for re-use.

(6) Dangerous Wild Animals

- (a) A number of dangerous wild animals are kept in captivity in Northern Ireland. The Dangerous Wild Animals (Northern Ireland) Order 2004 regulates the keeping of such animals in order to ensure public safety and the welfare of the animals. The legislation creates a licensing, inspection and enforcement scheme that will be administered by the DOENI.
- (b) The Police Service will not become involved in licensing, inspection or enforcement of this legislation. Where it is considered that police assistance is required either in the interests of public safety or to prevent a breach of the peace then the DOENI Inspectors will contact with the PSNI WLO who will liaise with the relevant District.
- (c) Powers of entry exist to investigate suspected animal/wildlife offences/welfare. The relevant legislation is outlined at paragraph 4 (1) – (5). Where it is suspected that a dangerous wild animal is involved the PSNI WLO should be contacted for further advice before any action is taken.
- (d) Police attending with DOENI Inspectors are there to deal with any breach of the peace that may occur or in the interests of public safety where it is suspected that the owner of a dangerous wild animal may release it. The DOENI will provide the resources required for handling, transporting and will also provide suitable premises for housing the dangerous wild animal.
- (e) Where any such dangerous wild animals escape or are released from captivity, the following should be considered:
 - (i) Is the animal in question a real or perceived threat to humans or livestock?
 - (ii) Is the animal's physical condition known and could it affect its behaviour?
 - (iii) Does the owner have equipment which may secure the animal's recapture?
 - (iv) Are there any experts with knowledge of the species in question who can assist?
 - (v) Are there any special transport arrangements required if the animal is recaptured?
 - (vi) Can any other agency assist by providing resources, equipment, specialist knowledge etc?
 - (vii) The PSNI WLO may be able to provide specialist advice and assistance from other agencies. (See Appendix 'B' for contact details).
- (f) The term dangerous wild animal indicates a threat either directly to mankind or his property (including livestock). Police have a common law duty to protect same. This may extend to a right to destroy any such animal but each case must be taken on the facts presented at the time. This would also apply to animals not normally considered a danger (eg dog with rabies).

9. MONITORING AND REVIEW

The Chief Inspector, Operational Policy and Support, is responsible for reviewing the contents of this Service Procedure. Feedback on this Service Procedure should be sent, via line management, to the Chief Inspector Ops Policy and Support.

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WILDLIFE INCIDENT INVESTIGATION SCHEME SUBMISSION PROFORMA

1. Name of veterinary surgeon/organisation making submission

 2. Name, address and telephone number of contact person

 3. Nature of submission (carcass, tissue sample, blood sample etc)

 4. Species involved

 5. Name/address of owner/other persons involved

 6. Details of incident

 7. Nature of clinical signs observed

 8. Name/nature of pesticide suspected to be involved

 9. Test(s) required

 10. In your view is a field investigation likely to be required?
YES/NO
- If the answer is YES a copy of this proforma should be forwarded to the Health and Safety Executive,
Ladas Drive, Belfast.
11. Submitted by _____ (signature) on _____ (date)