

DEFRA WILDLIFE INSPECTORATE

CODE OF PRACTICE

Commencement:

This Code of Practice came into force at midnight on 30 January 2001 when Schedule 12 of the Countryside and Rights of Way Act 2000 came into force.

Scope:

It applies to all inspections commissioned by a letter of authority issued by the Department for the Environment, Food and Rural Affairs (Defra) Wildlife Inspectorate, on behalf of the Secretary of State for the Environment, Food and Rural Affairs.

Legislative framework:

This Code of Practice covers all inspections carried out by persons authorised under the following legislation:

- Section 19ZA or 19ZB of the Wildlife and Countryside Act 1981 in England and Wales;¹ and,
- Regulations 9(4) and 9(5) of the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (Statutory Instrument 1997 No. 1372) in the United Kingdom.

Definitions:

'Wildlife Inspector' refers to any person authorised in writing under any of the relevant provisions of the legislation detailed above.

'Defra photo-identity card' refers to a small laminated personal identity card issued by Defra, on behalf of the Secretary of State for the Environment, Food and Rural Affairs, to any person on their appointment to the panel of Wildlife Inspectors.

'Defra letter of authority' is a written authorisation issued by Defra to a Wildlife Inspector requesting him to visit specified premises for a particular purpose(s).

'Keeper/trader' refers to any person who keeps or has in his possession or control any controlled wildlife specimen, or who trades in such specimens.

The term 'wildlife specimen' means any (alive or dead) bird, other animal or plant or any part of, or anything derived from, a bird, other animal or plant.

The term 'premises' includes a dwelling house, except where otherwise stated.

¹ [As amended by Schedule 12 of the Countryside and Rights of Way Act 2000]

For clarity, the terms 'he', 'him' and 'his' are used throughout the text of this document when referring to Wildlife Inspectors. The feminine equivalents are equally applicable in all cases.

General:

This Code of Practice is issued to each person who is appointed to serve on the panel of part-time Wildlife Inspectors administered by Defra. Free copies are also available, on request, to members of the public.

A summarised version of this Code has been published as part of the Wildlife Inspectorate's 'Statement of Service'. Copies of the Statement will be circulated by Defra to current and future keepers/traders of wildlife specimens.

Authorisation procedures:

Defra issues a photo-identity card to each person who is appointed to serve on the panel of part-time Wildlife Inspectors. The card includes the following:

- a recent and recognisable photographic image of the face of the person appointed;
- specific details of the relevant sections of legislation under which the authority for inspections is provided;
- the signature of a Senior Civil Servant (Grade 5 or above) on behalf of the Secretary of State for the Environment, Food and Rural Affairs; and,
- the signature of the person appointed confirming their acceptance of Defra's terms and conditions for Wildlife Inspectors.

For each and every visit to the premises of keepers/traders of wildlife specimens, Defra will issue a letter of authority in advance, signed by the Chief Wildlife Inspector or his Line Management, which specifies the following:

- the name(s) of the keeper/trader;
- the address of the premises to be inspected;
- the purpose(s) of the inspection;
- the section of the legislation under which the inspection is being authorised;
- instructions as to whether the visit is to be undertaken by appointment or be unannounced; and,
- any other relevant details, eg. species, total numbers, identifying mark(s) of particular wildlife specimens, etc.

Timing of visits:

Inspections will always be undertaken at a reasonable time. The majority of visits will be carried out during daylight, between the hours of 0830 hours and 2030 hours on weekdays and on Saturdays, and between 0900 hours and 2030 hours on Sundays.

There may occasionally be sensible and justifiable reasons for carrying out inspections outside these times (eg. at the request of a keeper/trader). However, if an Inspector intends to undertake an inspection outside of the hours stated above, without the advance agreement of the keeper/trader, prior approval will always be sought from Defra at Bristol.

In situations where a Wildlife Inspector finds no one at the specified premises, or where the person present is someone other than the keeper/trader and whom in the Inspector's opinion is unsuitable to act on behalf of the keeper/trader (eg. a child, infirm relative, etc.), he will not enter the premises and will abandon the inspection.

Under no circumstances are Inspectors authorised to enter any premises unaccompanied by the keeper/trader (or someone, in the Inspector's opinion, who is capable of acting on their behalf), including those premises specified in the Defra letter of authority.

In the case of unannounced visits, Inspectors will make a maximum of two unsuccessful attempts to gain access to any specified premises (eg. no one answers the door), before reporting the situation to Defra to seek further instructions.

Health and safety issues:

Wildlife Inspectors will be fully familiar with the guidance on Health and Safety issued to them by Defra. Whilst carrying out any task in their capacity as a Wildlife Inspector, Inspectors will have regard to their responsibilities under current Health and Safety legislation, including consistently operating within sound risk assessment and risk management principles, to eliminate or at least minimise risks to themselves, keepers/traders and any third parties.

In addition, Wildlife Inspectors should always aim to eliminate or at least minimise any negative impacts upon the welfare and/or condition of any wildlife specimens, which might be the subject of or affected by their inspection activities.

Conduct during inspections:

Wildlife Inspectors will carry their Defra photo-identity card at all times during inspections, and will also be in possession of a Defra letter of authority, specific to the visit being undertaken.

On arrival at the specified premises, Wildlife Inspectors will always introduce themselves, explain the purpose of their visit, and offer the keeper/trader (or his representative) an opportunity to inspect both his Defra photo-identity card and the Defra letter of authority.

Wildlife Inspectors will confine their inspection activities to the specified premises. However, in circumstances where wildlife specimens subject to the inspection are found to be being kept elsewhere, Inspectors will normally be expected to travel to these separate premises (if practicable), to require the keeper/trader or other person occupying those premises to make the specimen(s) available for examination.

Wildlife Inspectors will rely on the co-operation of the keeper/trader at all times. Inspectors have no powers of search or seizure. Nor will they use or attempt to use any force to carry out inspections.

If an Inspector encounters a keeper/trader who intentionally obstructs him in the exercise of his statutory duties, he will record full details of the circumstances at the time (or as soon as reasonably practicable thereafter).

Inspectors will attempt to ascertain from the keeper/trader the reasons for the obstruction and then leave the premises. The Inspector will use his professional judgement to decide

whether to report the incident to Defra in the first instance, or if he should seek immediate assistance from the local Police.

Reporting arrangements:

Wildlife Inspectors will make written records in their Notebooks of each and every inspection they carry out on behalf of Defra, either during the visit itself, or immediately thereafter.

An Inspection Report Form is issued by Defra with each inspection request. This form must be completed and returned to Defra at Bristol as soon as possible after the inspection has been completed. All reports should be returned within five days of the day on which the visit took place.

Advice and support:

Staff at Defra's offices in Bristol are available during normal office hours to answer questions and provide specific advice, guidance and support to Wildlife Inspectors and keepers/traders via telephone, facsimile transmission or e-mail.

A weekend emergency 'helpline' is available to Wildlife Inspectors via a 24-hour BT radio paging service.

Security and confidentiality:

In the absence of specific authority from Defra, Wildlife Inspectors will not divulge any sensitive personal information to third parties.

Conflicts of interests:

Persons who are offered a position on the panel of Wildlife Inspectors, and those serving on it, must notify Defra immediately if any situation arises which might reasonably be perceived as a conflict of interests. Such conflicts, including if an Inspector has any doubts as to whether or not an issue would be perceived in this manner, will be brought to the attention of Defra immediately.

Complaints procedures:

Inspectors will submit a written report to Defra detailing any incidents which occur during the course of an inspection, that they consider may lead to a complaint by the keeper/trader. All relevant information about the incident should be passed to the Chief Wildlife Inspector, in writing, as soon as possible after the conclusion of the inspection.

Keeper/traders are encouraged to contact Defra if they have comments or concerns about any aspect of the inspection process, or if the conduct of the Inspector is considered to fall short of the high professional standards expected.

In the first instance, the Chief Wildlife Inspector will investigate all complaints involving the conduct of Wildlife Inspectors and/or the activities of the Wildlife Inspectorate in general.

Witnesses will be invited to submit written statements. The outcome of any such enquiry will be reported in writing to the keeper/trader, and, if appropriate, to the Wildlife Inspector(s), normally within 28 days of the final submission being received by Defra.

In the event of a Wildlife Inspector being found to be at fault, appropriate disciplinary action will be taken by, and at the sole discretion of, Defra. This could include his removal from the panel of Wildlife Inspectors. In all cases where the conduct of a Wildlife Inspector is found to be lacking, the Chief Wildlife Inspector (or his Line Management) will send a letter of apology to the keeper/trader. In exceptional circumstances, a payment for compensation may be made to the keeper/trader by, and at the sole discretion of, Defra.

However, in the event of a dispute between a keeper/trader and the Wildlife Inspectorate failing to be resolved to the satisfaction of the keeper/trader or the Wildlife Inspector, either party may request that the case be passed to the Divisional Complaints Officer of the Global Wildlife Division (GWD) for adjudication.

The Head of GWD nominates a Divisional Complaints Officer on a case-by-case basis to ensure impartiality. The decision of the Divisional Complaints Officer will normally be communicated in writing to all parties within 28 days of receipt of a full set of case papers.

Amendments to the Code:

It is open to Defra to amend the provisions contained within this Code of Practice, which will be notified to all serving inspectors.



NICK P.WILLAMS
Chief Wildlife Inspector
11 March 2004