

# Code of Practice Scottish Mounted Foxhound Packs



**INDEX**

Photograph courtesy of Lisa Wood Photography

	<b>Page</b>
<b>Introduction</b>	<b>1</b>
<b>Purpose and scope</b>	<b>3</b>
<b>The Code</b>	<b>4</b>
<b>Primary Legislation</b>	<b>10</b>
<b>Other relevant legislation</b>	<b>12</b>
<b>Wild Mammal Welfare</b>	<b>13</b>
<b>Notification and Recording Requirements</b>	<b>14</b>
<b>Other Considerations</b>	<b>15</b>
• <b>Health &amp; Safety</b>	
• <b>Training &amp; Proficiency</b>	
<b>Review of established expressions</b>	<b>17</b>
<b>Summary – Following the Code</b>	<b>19</b>
<b>Appendices</b>	
<b>1. What do you need to do?</b>	<b>(ii)</b>
<b>2. Master’s check list</b>	<b>(iii)</b>
<b>3. Daily Record Sheet</b>	<b>(iv)</b>

## Introduction

Hunting with hounds, as a formalised activity, originated in England in the 16<sup>th</sup> century in a form very similar to that practised in Scotland until 1 August 2002, when The Protection of Wild Mammals (Scotland) Act 2002 (hereafter referred to as “the Act”) came into effect and created the offence of deliberately hunting a wild mammal with a dog. Traditional hunting with hounds involved the use of dogs in the pursuit of quarry species, following them either by scent or sight. The hunt was accompanied by a group of unarmed followers either on foot or on horseback. Therefore, if caught, in nearly all instances the animal was killed by dogs.

The introduction of the Act made that process illegal, particularly eliminating the element of chase and kill by dogs, subject to exceptions in terms of stalking and flushing from cover for particular purposes.

There are currently 10 mounted packs of foxhounds in Scotland that offer a legal fox control service to local farmers and other country enterprises concerned about predation on poultry, game and livestock, particularly lambs.

A mounted hunt typically uses horses so that the huntsmen/staff can move efficiently with hounds over terrain less conducive to other forms of hunting and where foxes are known to hide. Some also conduct their activities using quadbikes, motorcycles or on foot.

Mounted hunts are normally accompanied by followers or the “field” some of whom may be recruited to assist the huntsman in directing foxes towards guns, while others will be there for the riding experience.

By 2015 there was growing unease, in particular from some animal welfare groups that the Act was not having the effect that had been envisaged. In December 2015 The Right Honourable Lord Bonomy was appointed by the Scottish Government to conduct a review into the operation of the Act. His remit was to ascertain whether the Act was providing a sufficient level of protection for wild mammals, while at the same time allowing effective and humane control of wild mammals, such as foxes, where necessary and report.

Lord Bonomy in his subsequent report opined that there was before the review material on the basis of which an impartial observer would be entitled to suspect that there are occasions when the packs of mounted hunts engage in chasing foxes when

on the face of it the huntsman is in control of the pack. He further stated that the evidence was not conclusive, but equally the suspicion it gives rise to could not be dismissed as groundless.

Lord Bonyon made a number of recommendations one of which was the development of a separate Code of Practice for the conduct of hunt activities, including requirements for notification to the police in advance of the hunt. <sup>1</sup>

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<sup>1</sup> Report of the Review of the Protection of Wild Mammals (Scotland) Act 2002, The Right Hon Lord Bonyon, November 2016

## **Purpose and Scope**

In response to this recommendation a Stakeholder Group comprising Police Scotland, the Crown Office and Procurator Fiscal Service, the Scottish Countryside Alliance, the League Against Cruel Sports, the Masters of Foxhounds Association, One Kind, the National Working Terrier Federation, the Wild Animal Welfare Committee, the Scottish Association for Country Sports, the Scottish Gamekeepers Association, Scottish Land and Estates, the British Association for Shooting and Conservation, the Scottish Society for the Prevention of Cruelty to Animals, the Scottish Hill Packs Association, the National Farmers Union (Scotland) and Science and Advice for Scottish Agriculture, met to develop such a Code of Practice.

The Act allows the use of dogs to stalk or flush a wild mammal from cover in order that it may be shot. The Code is intended to provide a clear framework and guidance to practitioners and others in the planning and conduct of fox control activities by mounted hunts to facilitate compliance with the Act. Evident compliance with the Code should also provide some reassurance to the general public that mounted hunts are operating within the bounds of the law.

## **Legal Context**

This code is advisory and has no statutory basis at this time. It comes into effect on [\[insert date\]](#) and applies only in Scotland and to mounted hunts. Failure to comply with the Code is not in itself an offence. The Code could be referred to in the course of criminal proceedings, as appropriate, but the Code has no formal legal status.

However, the Code has been developed with the participation of the Stakeholders mentioned above with the expectation that it will be robustly adhered to. Participation in the stakeholder group does not, however, imply a member's support for the activities covered by the code.

## **Review**

The code will be reviewed by stakeholders when necessary, in particular where there is any change in legislative provision.

## **The Code**

The Code was developed following due consideration by Stakeholders of the findings of Lord Bonomy's Review, the Act, other relevant legislation, the Scottish Natural Heritage position on wildlife welfare, health & safety matters and training and proficiency.

It comprises a list of statements that describe the standards of conduct and best practice expected of practitioners and others involved in the planning and conduct of fox control activities by mounted hunts.

**The code is based on the main tenet of the Act being the elimination of the element of traditional hunting involving the chase and kill of wild mammals by dogs.**

Activity where mentioned below, is defined as "the planning and conduct of fox control activities by mounted hunts".

### **Master(s)**

**The Master(s) have responsibility for the overall management and conduct of the hunt. As Master you will undertake the following;**

- You must ensure permission, where possible in writing, has been granted by the land owner or lawful occupier of the land on which the activity is to take place. Seeking appropriate permission must be addressed as part of the planning/notification phase, including contact with neighbouring estates, where activity may take place,
- You must take reasonable steps to ensure all personnel deployed have the necessary authorities in place to comply with the appropriate legislation,
- You must ensure an appropriate and justifiable number of guns are reasonably and responsibly deployed in advance so that a flushed fox may be shot safely and as soon as possible in compliance with the Act and its main tenet,
- You must ensure that no searching for foxes takes place unless it is for the purpose of flushing to guns,
- You must in the planning process consider the welfare of all animals involved in the hunt and those which could reasonably be expected to interact with the activity,

- You should develop risk assessments and method statements in terms of Health & Safety considerations,
- You should ensure all participants have been properly briefed and are competent to carry out their intended role in the planned activity,
- You should notify the police at least 24 hrs in advance, or otherwise as soon as reasonably practical, that a mounted hunt activity is to take place and provide details of the Master(s), Huntsman, anticipated time the activity will commence and the general location on which the activity is to take place,
- You should immediately prior to the commencement of the activity record the details of the Master(s), the Huntsman and the Guns,
- You should provide a briefing at the commencement of each event which includes relevant details of the following;
  - The Code of Practice
  - Relevant Legislation
  - Health & Safety
  - Animal Welfare & Humane Treatment
  - You should record the fact that a briefing has taken place,
- You should at the conclusion of the activity inform the Police that the event has concluded, record details of all locations stalked and/or flushed, the number of wild mammals dispatched and by what means, along with a contemporaneous note of any relevant matters that have arisen.

(Daily Record Sheet Appendix 3 page iv)

## **Huntsman**

**The huntsman has responsibility for controlling and directing the pack during the day's activities.**

**As a Huntsman you will undertake the following;**

- You must ensure that no searching for foxes takes place unless it is for the purpose of flushing to guns,
- You must ensure that before any dog is used, an appropriate and justifiable number of guns are reasonably and responsibly deployed in advance so that a flushed fox may be shot safely and as soon as possible in compliance with the Act and its main tenet,
- You must maintain control of the dogs so as not to deliberately allow them to pursue foxes or non-target mammals beyond cover,
  - Any hound which repeatedly does not respond to key commands as expected, should be removed,
- You must immediately act to cease the pursuit of non-target mammals,
- You must ensure any injured wild mammal encountered is dispatched by the most humane method,
- You must cease flushing if any safety concerns are identified,
- You should ensure you are supported by a sufficient number of whippers-in and mounted assistants to allow you to carry out the activities effectively and in compliance with the Act.

## **Guns**

**The guns must be in communication with the huntsman in order that they can position themselves to ensure, as far as possible, they are able to safely shoot a flushed wild mammal. As a gun you will undertake the following;**

- You must have the appropriate licence/certificates or lawful authority in compliance with the Act and the Firearms Act 1968,
- You must shoot a wild mammal 'once it is safe to do so' and 'as soon as possible after it is flushed';
- You must use appropriate firearms and ammunition,
- You must unload the firearm and inform the huntsman if safety concerns are identified,
- You should have in place 3<sup>rd</sup> party liability insurance.

## **Terrier Men**

**As Terrier Men you have responsibility for dealing with wild mammals that have gone to ground and;**

- You should comply with the National Working Terrier Federation Code of practice and must have a firearm or humane killer readily available,
- You must ensure that foxes are only flushed from below ground (or secure cover above ground) in order to be shot once safe to do so and as soon as possible after they are flushed,
- You must ensure that foxes are flushed as soon as possible after they are located,
- You must take all reasonable steps to avoid injury to a terrier,
- You must ensure that when supporting mounted packs, foxes are only moved to be shot in exceptional and justifiable circumstances.

## **Whippers-in**

### **As a whipper-in;**

- You will assist the huntsman during the day's activities,
- You will help to keep the pack together and assist the huntsman in controlling the hounds,
- You must assist the Huntsman in compliance with the law, particularly in relation to the immediate cessation of any pursuit.

### **Hunt Followers (The Field)**

- You should attend and adhere to the requirements of the briefing which will be provided prior to any activity taking place,
- You should at all times be aware of Health & Safety considerations,
- You must ensure that while in the field, you follow any instructions given and you must not interfere with the work of others.

## Legislation

### The Primary Legislation: The Protection of Wild Mammals (Scotland) Act 2002 (“the ACT”)

The Protection of Wild Mammals (Scotland) Act 2002, came into effect on 1 August 2002 and created the offence of deliberately hunting a wild mammal with a dog. Exceptions including stalking and flushing from cover were created for particular specified purposes, namely;

- a) Protecting livestock, ground nesting birds, timber, fowl (including wild fowl), game birds or crops from attack by wild mammals;
- b) Providing food for consumption by a living creature, including a person;
- c) Protecting human health;
- d) Preventing the spread of disease;
- e) Controlling the number of a pest species;
- f) Controlling the number of a particular species to safeguard the welfare of that species;

**provided that once the target wild mammal is found or emerges from cover, it is shot, or killed by a bird of prey, once it is safe to do so.**

### Exception for foxes

In addition, a person does not commit an offence by using a dog under control to flush a fox or mink from below ground or by using a dog under control to flush a fox from an enclosed space within rocks or other secure cover above ground, but only if that person—

- a) does so for one or more of the purposes specified in paragraphs (a) to (f) as listed above,
- b) takes reasonable steps to ensure that the fox or mink is flushed as soon as reasonably possible after it is located and shot as soon as possible after it is flushed,
- c) takes all reasonable steps to prevent injury to the dog including steps to prevent the dog becoming trapped underground and, if it does become

trapped underground, steps to ensure it is rescued as soon as is practicable;

d) is in possession of a firearm for which the person holds a valid firearms or shotgun certificate; and

e) either—

(i) is the owner or lawful occupier of the land on which the activity takes place; or

(ii) has the permission of the owner or lawful occupier of that land to undertake that activity.

The Act can be viewed in full at [www.legislation.gov.uk/asp/2002/6/contents](http://www.legislation.gov.uk/asp/2002/6/contents).<sup>2</sup>

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<sup>2</sup> Protection of Wild Mammals (Scotland) Act 2002

## **Other relevant legislation**

The Code reflects the legal requirements set out in the Act. However, the activities that fall within the ambit of the Code potentially engage other legal responsibilities contained in other enactments. Those to whom the Code applies should be aware of, and may wish to take legal advice, on other relevant applicable legislation for instance;

The Firearms Act 1968

Wildlife and Natural Environment (Scotland) Act 2011

Animal Health and Welfare (Scotland) Act 2006

Protection of Badgers Act 2002

Wild Mammals (Protection) Act 1996

Wildlife and Countryside Act 1981

Dogs (Protection of Livestock) Act 1953

Land Reform (Scotland) Act 2003

## **Wild Mammal Welfare**

The Act is silent on specific wild mammal welfare provision, other than requiring that target species are shot as soon as possible. However mounted hunts must consider animal welfare as a key best practice principle of any fox control activity undertaken.

### **Welfare considerations**

The death of an animal, at an individual level, is not a welfare issue per se, but the manner in which an animal dies is. There may be wider welfare implications (e.g. if dependent young are involved). Welfare should therefore be explicitly considered in all activities and in the planning processes for all events.

Both the severity and duration of any physical and mental welfare compromise are important. In terms of the Act, mitigation of welfare impacts on the fox can be achieved through reducing the likelihood of injury and/or the duration of exposure to dogs.

This will include considerations in terms of:

- ensuring an appropriate and justifiable number of guns are reasonably and responsibly deployed in advance so that a flushed fox may be shot safely and as soon as possible in compliance with the Act and its main tenet,
- retrieval and location as stipulated within the Act.

### **Humane Treatment**

The Code requires that the killing of a wild mammal will be undertaken in a competent, effective and speedy manner and, will utilise only those methods allowed by the Act. Since mammals are sentient beings, the priority for intentional dispatch must be to ensure that there is immediate death or immediate loss of consciousness lasting until death. If loss of consciousness is not immediate, dispatch should be carried out in a manner which will minimise anxiety, pain, distress or suffering.

## **Notification and Recording Requirements**

As part of his review, Lord Bonomy recommended that in any Code of Practice developed, there should be a requirement for notification of certain details to the police in advance of the hunt.<sup>3</sup> After careful consideration the group considered that the following notification and recording actions should be undertaken.

### **In advance of the activity**

The nominated person should open an incident with Police Scotland and provide the details of the general location of the event together with details and contact numbers for the participating Master(s) and the Huntsman, at least 24 hrs in advance, or otherwise as soon as reasonably practical.

An Incident will be created, and an incident number provided which will be recorded.

### **Immediately prior to the commencement of the activity**

The names and details of all 'active' hunt participants will be recorded at the commencement of the day's event and will be made available to the police when required.

### **At the conclusion of the activity**

At the conclusion of the activity details of locations flushed, numbers of wild mammals dispatched and by what means, along with a contemporaneous note of any matters which have arisen should be made. The Police should also be notified of the conclusion of the activity.

### **Record maintenance**

A full record of each day's activities must be maintained in a standardised format and in such a manner that they can be readily interpreted and referenced for at least 1 year after the activity has taken place.

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<sup>3</sup> Report of the Review of the Protection of Wild Mammals (Scotland) Act 2002, The Right Hon Lord Bonomy, November 2016

## **Other Considerations**

## **Health & Safety**

### **Health and Safety and the Law**

The Health and Safety at Work Act 1974 (HSW Act) and Regulations made under it apply if any organisation (including a voluntary organisation) has at least one employee.

The HSW Act sets out the general duties that employers have towards employees. It also requires employers and the self-employed to protect people other than those at work (e.g. volunteers and spectators) from risks to their health and safety in connection with their work activities.

Whether an employer or not, volunteer-involving organisations have a separate legal obligation to consider the 'duty of care' that they have to their volunteers. Duty of care is a common (civil) law duty developed through the courts, which applies to all individuals and organisations to avoid carelessly causing injury to persons.

Regardless of the size of an organisation, its nature or whether it employs paid staff, the notion of duty of care needs to be considered in all aspects of the organisation's work and activities. Reasonable steps should be taken by organisers to minimise and manage foreseeable health and safety risks.

## **Training & Proficiency**

### **Firearm training & proficiency**

In the context of mounted hunt fox control, shotguns are used to dispatch foxes flushed from cover when it is safe and proper to do so.

It is critical that shotguns are used safely and responsibly and, to that end, designated guns within mounted hunts should be acceptably proficient and mindful of safety considerations.

Proficiency can be achieved by a combination of coaching/mentoring, practical experience and completion of relevant shotgun training courses or assessments.

## **Review of established expressions**

The stakeholder group gave due consideration to a number of expressions used in relation to hunt activities, in particular those that have stimulated significant debate.

This review is not intended to provide a definition for each of the expressions. It tries to ensure participants are aware of the key issues and are in a position to make justifiable decisions when engaging in the activity referred to, bearing in mind that the ultimate test for these decisions may be in a court of law.

### **Cover**

Cover can be interpreted as any natural or man-made environments including woods, thickets, areas of gorse, bracken, heather, reeds or other vegetation above ground which can conceal a wild mammal, and from which it may be flushed by dogs up to the point that it is safe to shoot by waiting guns.

### **Flushing to Guns**

In Lord Bonomy's Review he provided the following narrative in relation to flushing to guns;

'Hunting takes place over variable terrain. Searching and flushing above ground in relation to foxes occur in areas of cover. Once a fox breaks from cover and is out in the open, the flushing is over. There may be circumstances where there is a short break between areas of cover and it may be said that the fox moving from one area to the next one has not been flushed out into the open.

Determining when flushing is complete and the fox is out in the open will in many cases be dependent on the whole circumstances. The flushing to guns exemption in section 2(1) requires the huntsman to "act(s) to ensure" that once the wild mammal is found or emerges from cover it is shot "once it is safe to do so".<sup>4</sup>

Whilst Lord Bonomy provides some guidance it must be understood that conflicting views on when flushing is complete will be dependent on the whole circumstances but may ultimately be determined on a case by case basis in some instances within individual Sheriff's Courts.

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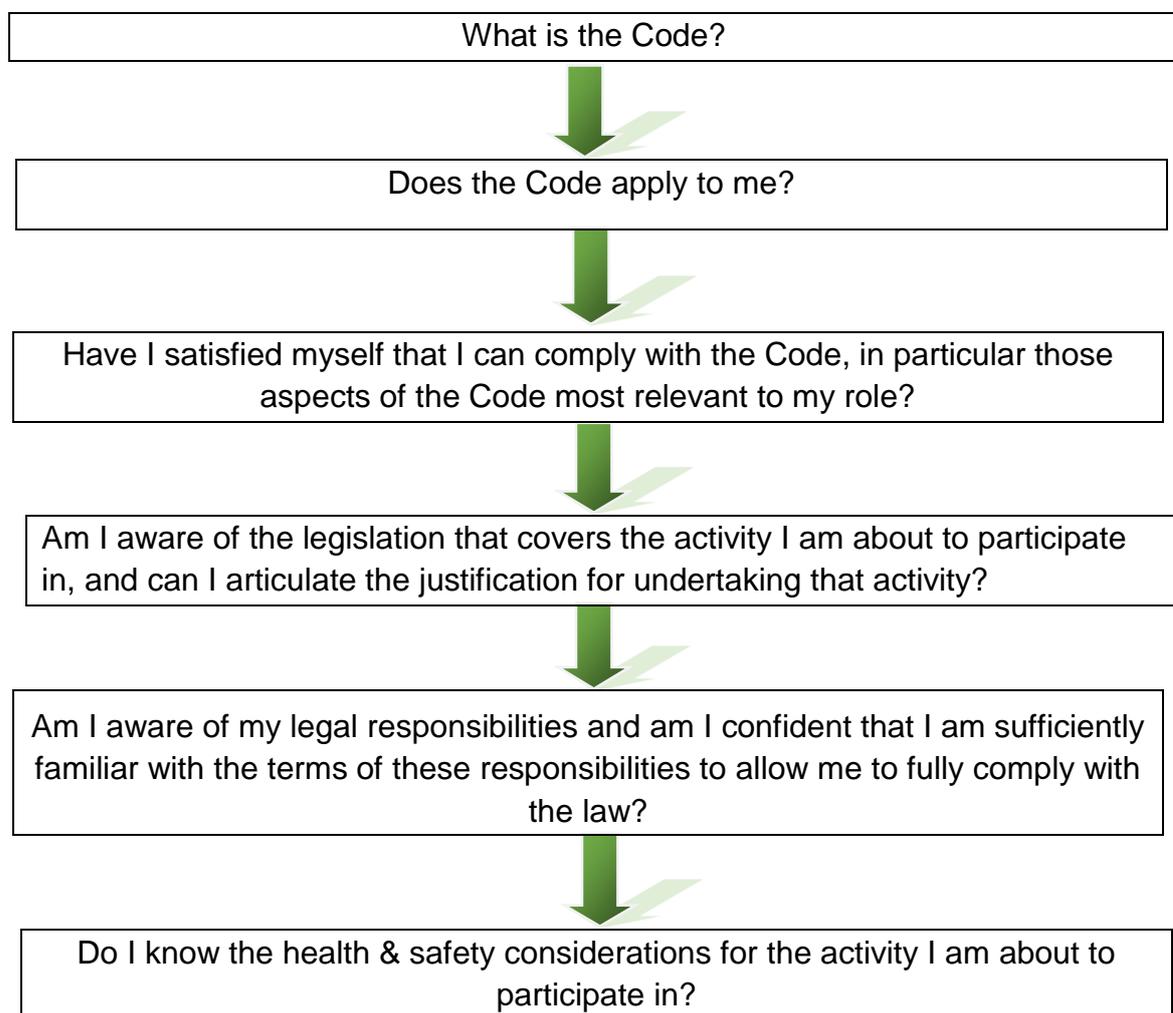
<sup>4</sup>Report of the Review of the Protection of Wild Mammals (Scotland) Act 2002, The Right Hon Lord Bonomy, November 2016

## Summary

### Following the Code

If you intend to take part in activity which involves mounted packs and to which The Protection of Wild Mammals (Scotland) Act 2002 applies, then the Code of Practice applies to you.

By following this flow chart, you should be able to satisfy yourself that you have considered the various pertinent aspects of the activity you are taking part in and confirmed that you are aware of your legal responsibilities and health & safety requirements.



## **APPENDICES**

## What do you need to do?

### YOU MUST

- Comply with all relevant legislation; the most relevant being;
  - The Protection of Wild Mammals Act 2002
  - Wildlife and Natural Environment (Scotland) Act 2011
  - Animal Health and Welfare (Scotland) Act 2006
  - Firearms Legislation
  - Protection of Badgers Act 2002
  - Wild Mammals (Protection) Act 1996
  - Wildlife and Countryside Act 1981
  - Land Reform (Scotland) Act 2003
  - Dogs (Protection of Livestock) Act 1973

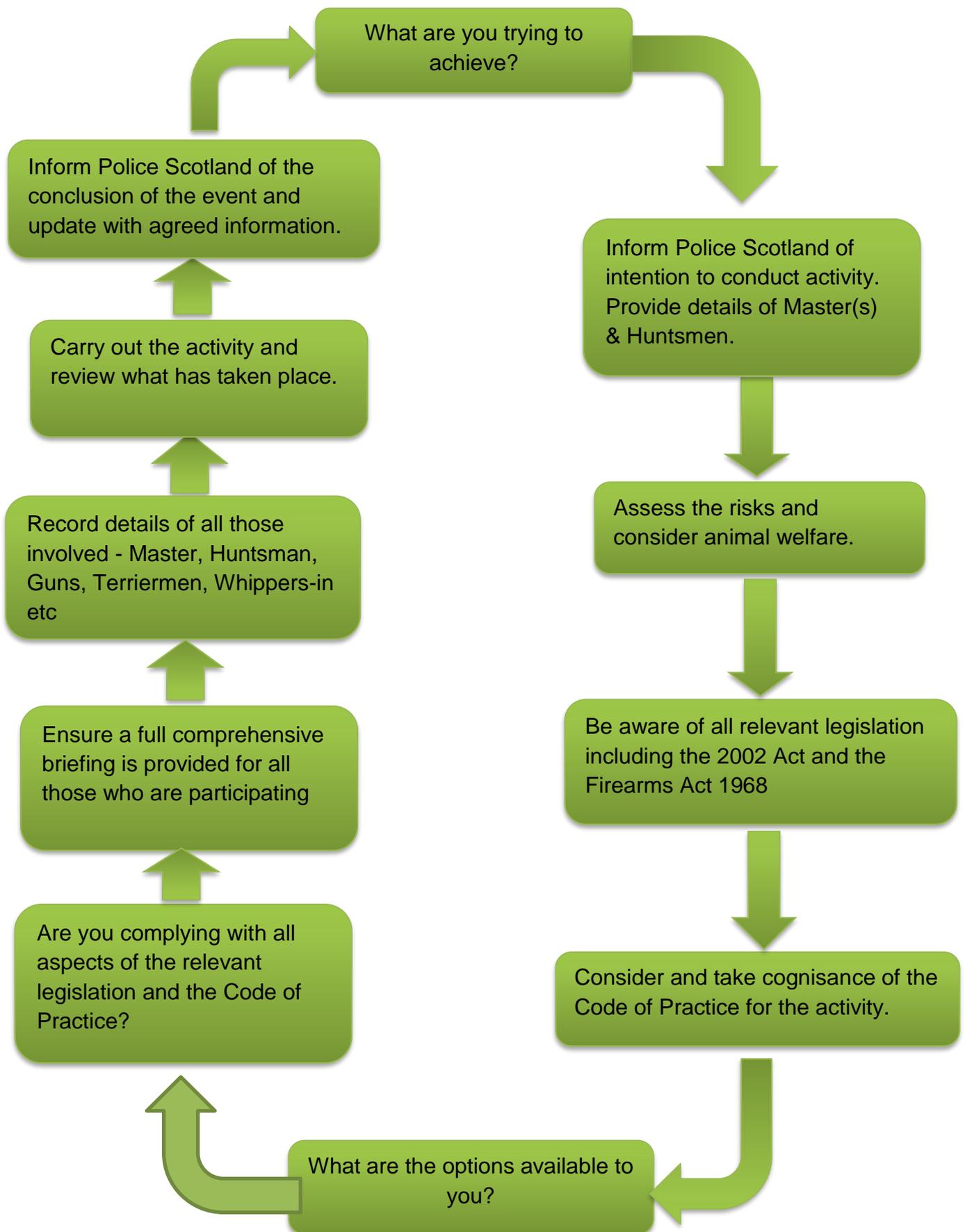
### YOU SHOULD

- Robustly adhere to the terms of the Code of Practice
- Inform the Police of the intention to carry out the activity
- Make available to the Police the details of all active participants in the activity
- Inform the Police when the event concludes
- Maintain a record of those involved together with the details of the outcomes of the activity.
- Be aware of relevant health & safety considerations
- Have in place Insurance to cover relevant aspects of the activity you are taking part in.

### You are encouraged to

- Discuss relevant aspects of the Act and Code with your Association
- Participate in training and development of your skills on a regular basis.

Master's check list



**DAILY RECORD SHEET**

(to be filed and retained for one year)

NAME OF HUNT :		DATE:	
MEET :			
LEGAL ACTIVITIES UNDERTAKEN: (tick relevant boxes)	Flushing to gun		
	Terrierwork		
	Hound Exercise		
How were followers informed of intentions for the day?			
Did you take any video/photographic evidence of the day?			
Flushing to gun			
Terrierwork			
Hound Exercise			
BRIEFLY RECORD AREAS COVERED BY HOUNDS DURING THE DAY:			

GUNS (names):	DAY'S RESULT AND HOW ACHIEVED
DETAILS OF ANY INCIDENTS OR COMPLAINTS: (if applicable)	
DETAILS OF ANTI-HUNT MONITORS OR SABOTEURS PRESENT: (if applicable) Names, where known, and vehicle registration numbers:	
POLICE INVOLVEMENT: (record incident number)	
REPORT COMPLETED BY:	POSITION IN HUNT: Master