

**“Closing the Loophole:  
Reforming the Hunting Act (2004)  
in the Age of ‘Trail Hunting’”**

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## Background

In England and Wales, foxhunting with hounds was prohibited under the Hunting Act (2004), which criminalised the hunting of wild mammals with a dog. However, evidence indicates that the Act contains structural loopholes that have significantly undermined its effectiveness. According to campaign groups, such as The League Against Cruel Sports, these loopholes have enabled illegal foxhunting to continue. Following the ban traditional hunts reorganised their activities under the banner of “trail hunting”, which is presented publicly as a lawful alternative involving hounds following an artificially laid scent, usually fox urine. Trail hunting has been strongly defended by hunting organisations as humane and compliant with the law. However, there is extensive evidence that foxhunting has continued under the guise of trail hunting, resulting in ongoing harm to wildlife and rural communities. Prosecutions under the Hunting Act are now at a historic low, raising serious questions about its fitness for purpose and its capacity to deliver its original legislative objectives, highlighting the need for reform to ensure the Act can be applied consistently in practice.

This brief presents a selection of findings from a national PhD research project examining the operation of the Hunting Act (2004) in England and Wales. It explains why illegal foxhunting continues despite statutory prohibition, why enforcement has become ineffective in practice, and how this failure generates harm to wildlife, rural communities, and public confidence in the criminal justice system.

The findings presented draw on original empirical research using a mixed qualitative methodology:

- Freedom of Information requests to all 43 police forces in England and Wales, examining policies, practices, and recorded enforcement data
- 43 qualitative interviews with key stakeholders, including:
  - Rural police officers
  - Anti-hunt activists (hunt saboteurs, monitors, investigators, and campaigners)
  - Members of rural communities
- 18 ethnographic observations of hunts

## Findings

- **Trail hunting functions as a legal fiction rather than a genuine practice:** Field observations and interviews corroborate earlier research (casimitjana, 2015) that trail hunting does not exist in practice. Interview data, from activists, rural residents, and police officers, consistently characterised trail hunting as a “smokescreen” that enables illegal foxhunting to persist. Across all ethnographic observations undertaken for this research no genuine trail hunting was observed. Instead, hunts routinely engaged in practices consistent with illegal foxhunting but adapted to avoid detection. Continued Foxhunting under the guise of trail hunting represents intentional resistance to law, with hunt networks rejecting legislation they view as unjust.
- **The transformation of foxhunting into ‘Contemporary foxhunting’:** The research identifies a marked shift in hunting practices since the introduction of the Hunting Act. Traditional foxhunting, characterised by prolonged chases, public spectacle, and ritualised performance, has largely disappeared. In its place has emerged what this research identifies as “contemporary foxhunting”. Contemporary foxhunting is distinguished by shorter pursuits designed to minimise detection commonly confined to woodland, reduced visibility of hounds and huntsmen with a rapid concealment or removal of evidence following kills. This transition reflects not a retreat from foxhunting but a strategic adaptation to enforcement risks. The priority is no longer a visible sport but the achievement of a kill under conditions of deniability. This demonstrates the adaptability of illegal hunting to regulatory constraints. These developments significantly undermine enforcement approaches which focuses on detecting traditional hunting behaviours.
- **Scientific evidence undermines the trail hunting defense:** A scientific consultation undertaken confirmed that artificial scent trails of fox urine cannot reliably replicate a live fox scent. Foxes do not urinate when running, instead they deposit scent intermittently. Fox scent is chemically complex whereas stored urine degrades rapidly and lacks the volatile compounds of live scent. Evidence indicates that hounds can distinguish between trail scents and live foxes, undermining claims that trail hunting is a viable alternative and that pursuits are accidental or unavoidable.
- **Evidentiary standards render enforcement ineffective:** Current enforcement relies on evidencing traditional forms of foxhunting that are no longer practiced. Judicial interpretation, particularly the Court of Appeal judgment in *DPP v Wright*, has narrowed the offence by:
  1. Defining hunting as limited to the moment of active pursuit
  2. Excluding preparatory actions (such as searching for foxes)
  3. Requiring proof of intent at the point of pursuit
  4. Placing the full burden of proof on the prosecution
- This laid the foundations for the trail hunt defense. In the absence of a recklessness standard, outcomes alone, including the pursuit or killing of a fox, are insufficient to establish an offence, creating evidential thresholds that are unworkable in practice.

- **Organised evasion and tactical adaptation:** Taken together, findings demonstrate that illegal foxhunting persists not through isolated breaches, but through adaptive, organised practices that exploit structural weaknesses.

These include:

1. Open hunting where enforcement presence was deemed unlikely
  2. Filmed “token” trail laying to generate post-hoc evidence
  3. Laying minimal or decoy trails in areas with established fox populations
  4. Claiming ignorance of trail location when foxes were found yet asserting that hounds deviated accidentally from these unspecified trails
- A particularly significant finding was the continued presence of terrier men at all observed hunts. Terrier men play no legitimate role in trail hunting, they are not present at drag hunting, or clean boot hunting. Their routine presence, with equipment and terriers, demonstrates anticipation of fox encounters. This strongly indicates intent inconsistent with lawful trail hunting.
  - **Evidential thresholds and the practical impossibility of prosecution:** Building on the structural enforcement barriers identified above, the evidence, submitted by monitors, is impossible to meet in practice. Participants referred to the necessity of capturing a “golden shot” on video, involving multiple elements occurring simultaneously:
    1. The presence of a fox
    2. Hounds in pursuit of that fox
    3. A clearly identifiable pursuit
    4. Huntsman awareness of the pursuit
    5. Failure by the huntsman to intervene

The ability to capture this, in continuous footage, is exceptionally rare. The combined effect of judicial interpretation, evidential standards, and adaptive hunting practices has rendered the Hunting Act largely unenforceable in practice.

- **Policing Knowledge, Capacity, and Discretion:** Evidential constraints shape police decision-making and enforcement priorities. Interviews with police officers revealed widespread uncertainty regarding the Hunting Act. Respondents reported limited training, inconsistent guidance, and a lack of confidence in distinguishing lawful from unlawful activity. Enforcement decisions were heavily influenced by:
  1. Resource constraints
  2. Competing priorities
  3. Anticipated evidential failure
- **Illegal foxhunting is a summary-only, non-notifiable offence:** Discretionary enforcement decisions are therefore shaped by its classification, as incidents do not routinely appear in recorded crime statistics. This makes it difficult to justify the allocation of resources to investigations that are unlikely to meet prosecution thresholds. The classification also shapes organisational culture: foxhunting does not register as a serious crime and is frequently framed as a nuisance issue rather than a wildlife crime. As a result, enforcement is often focused on managing public order and protest activity rather than preventing illegal hunting or associated violence. This classification further limits the operational powers available to police to intervene when illegal activity is suspected.

- **Violence, intimidation, and the policing of protest:** Accounts of violence and intimidation by hunts towards activists were strikingly consistent across regions. Participants reported assaults, threats, intimidation, and coordinated harassment. In several cases, serious injuries were reported. Police responses were frequently described as inadequate or absent. Victims reported feeling blamed, discouraged from reporting, or advised to avoid the hunt. These practices contribute to perceptions that hunt-related violence is tolerated, reinforcing mistrust of policing and deterring reporting.
- **Impact on rural residents and community Cohesion:** While much attention focuses on activists, rural residents unaffiliated with protest activity also experience significant harm linked to hunting activity. The research thereby challenges claims that foxhunting is a rural tradition supported by local communities. Many rural residents described hunts as a source of chronic distress, disruption, and fear. Residents reported intimidation for speaking out, reluctance to report incidents, and anxiety associated with hunting activity occurring near homes. These experiences frequently generate feelings of isolation, hopelessness, and anxiety. The cumulative impact extends beyond wildlife crime to broader harms to wellbeing and community cohesion.
- **Landownership:** Private land ownership emerged as a central factor facilitating illegal foxhunting. Despite this centrality, no landowners have been prosecuted under the Hunting Act. This absence of accountability reinforces the structural conditions under which illegal foxhunting persists
- **Intergenerational reproduction and safeguarding concerns:** Interview data indicates that hunts and hunt-affiliated pony clubs function as informal training school, gradually socialising children into hunting norms, desensitising them to violence. Participants described a process of incremental exposure to hunting activity. Children were present at every observation in which illegal foxhunting occurred. This raises safeguarding concerns extending beyond animal welfare. These practices risk undermining the long-term effectiveness of wildlife legislation and reinforce illegal hunting across generations.

## Policy recommendations

### Legislative Recommendations

1. **Introduce a statutory ban on trail hunting**, defined not only using artificial scent but by criminalising associated practices, including drawing coverts, flushing wildlife, or deliberately sending hounds into areas where wild mammals are likely to be present.
2. **Strengthen the Hunting Act (2004) by removing all existing exemptions** that allow hunting activity to continue under alternative labels.
3. **Redefine “hunting”** to include preparatory and facilitative activities, such as searching, drawing coverts, and flushing wildlife, rather than limiting the offence to the moment of pursuit.
4. **Replace the intent-based legal threshold with an outcome-based offence**, such that the pursuit or killing of a fox by hounds constitutes *prima facie* evidence of illegal hunting. Legislation should focus on the core tactics and behaviours of foxhunting, ensuring restrictions apply to all hunt-related activity capable of circumventing the law.
5. **Make Hunting Act offences notifiable** and subject to mandatory police recording.
6. **Reclassify Hunting Act offences from summary-only to indictable offences**, accompanied by sentencing guidelines, specific to Hunting Act offences, reflecting harm to wildlife, communities, and that include the option of custodial sentences in the most serious cases.
7. **Outlaw terrier work**, which remains one of the most widely exploited loopholes. Introduce a new offence of “*Going Equipped to Hunt Illegally*”, criminalising possession of terriers and hunting equipment where there are reasonable grounds to suspect the preparation of illegal hunting, thereby enabling early police intervention.
8. **Expand liability beyond the huntsman** by introducing vicarious or joint liability, ensuring accountability extends to those directing, organising, or benefiting from hunting activity, including hunt masters and hunt committees.
9. **Introduce compulsory licensing for all drag and clean boot hunts** where former fox or trail hunts are involved, to prevent drag hunting becoming a future loophole. Licensing conditions should include strict regulatory oversight, mandatory documentation, and publication of routes. Hunts found engaging in illegal foxhunting should be permanently barred from further hunting activity and subject to criminal penalties.
10. **Introduce a recklessness or strict liability clause** where hounds kill a fox during organised hunting activity. Given the professional expertise and responsibilities of hunt staff, any pursuit occurring under their supervision should be classified as intentional or reckless rather than accidental.
11. **Introduce a landowner and occupier liability provision** imposing strict liability where illegal hunting occurs on their land, with the sole defence being evidence that all reasonable steps were taken to prevent such activity.
12. **Include a Henry VIII clause** to enable rapid amendment of legislation should further loopholes emerge.
13. **Introduce statutory guidance and specialist training for police forces** on contemporary foxhunting practices, enabling officers to identify illegal activity and apply the law consistently.

## Recommendations for operational policing

For police enforcement to operate as an effective deterrent policing powers must be clear and operationally effective. Where powers are restricted or unclear then the deterrent effect of legislation is reduced. Consideration should therefore be given to introducing or clarifying the following powers, framed within existing UK policing legislation:

1. **Power of arrest where an officer has reasonable grounds to suspect an offence** has been, is being, or is about to be committed during hunt-related activity.
2. **Power to direct the suspension of a meet or require the immediate cessation of hunt-related activity** where an officer reasonably believes unlawful hunting activity is occurring or imminent.
3. **Hunt dispersal powers**, modelled on existing dispersal authorities, to direct individuals or groups to leave an area to prevent the continuation, escalation, or recurrence of suspected illegal hunting activity.
4. **Fixed penalty notices for minor or procedural breaches**, including failures relating to documentation, registration, control of hounds, or failure to comply with lawful directions or dispersal requirements.
5. **Land banning orders**, comparable to Criminal Behaviour Orders, for individuals or hunts responsible for persistent breaches or repeated trespass linked to illegal hunting activity.
6. **Power of entry onto land without warrant where an officer has reasonable grounds to suspect illegal hunting activity**, subject to necessity and proportionality, and consistent with existing warrantless entry provisions.
7. **Power for police or local authorities to suspend or prohibit hunt activity** in cases of repeated, serious, or persistent breaches, comparable to closure powers used to prevent ongoing harm or disorder.
8. **Hunt Activity Prohibition Orders** modelled on existing restraining order and injunction frameworks, enabling courts to prohibit individuals from:
  - a) Participating in, organising, supporting, or facilitating hunt-related activity; and/or
  - b) Being present within a specified distance of any hunt meet, hunt activity, or hunt-related location, where there is evidence of involvement in illegal hunting, associated violence, intimidation, or repeated breaches.

Given the evidence that illegal foxhunting is widespread, highly organised, and routinely resistant to enforcement, it should be designated as a national wildlife crime policing priority. This designation would support targeted resource allocation, coordinated intelligence-led enforcement, and consistent prioritisation across forces, particularly during the post-reform implementation and transition period. The first two years following reform should be treated as a high-risk transitional phase, requiring consistent and proportionate enforcement to prevent the re-emergence of illegal behaviour and the development of further loopholes.

Without reform, illegal foxhunting will remain formally prohibited but practically tolerated, continuing to harm wildlife, rural communities, and public confidence in legal enforcement.

### Further engagement/more information

For more information on the project please see:

Graham, L., Stephens-Griffin, N., & Wyatt, T. (2022). "It's just totally lawless out here": A rural green criminological exploration of foxhunting, policing and 'regulatory capture'. *Criminological Encounters*, 5(1), 52-69. <https://doi.org/10.26395/CE22050105>

Graham, L. (2024). No justice, just us: "A qualitative mixed methods ethnographic study of organised foxhunting and anti-hunt activism in England and Wales." [Doctoral thesis, University of Northumbria]

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Lynne Graham completed her PhD in Criminology at the University of Northumbria. Her research interests are domestic Wildlife Criminology, specialising in foxhunting with hounds. She has over ten years' experience observing foxhunting practices. Focusing on the Hunting Act (2004), Lynne's doctoral research project examines the policing of organised fox hunting and anti-hunt activism in England and Wales.

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