

# Business Guides



## Livestock Worrying Business Guide Ref: 086

The NFU produces more than 150 business guides exclusively for members to lead you through the rules and regulations affecting agriculture, horticulture and rural affairs. For information on the whole business guide library telephone NFU CallFirst on 0370 845 8458 or log onto [www.nfuonline.com](http://www.nfuonline.com).

Growing for another century

NFU supported by  
 NFU Mutual

 **NFU**

# Livestock Worrying

## INTRODUCTION

Livestock worrying is a serious problem for livestock farmers, and has attracted a considerable amount of attention in recent times. Many farmers are concerned and frustrated by the difficulties they face in trying to get the police to take action in relation to these issues, and the consequences of livestock worrying incidents can be devastating for farmers.

The NFU has produced some signs, in association with the Kennel Club, which aim to encourage dog walkers to keep their dogs on a lead around livestock. An image of these signs can be found at the end of this document and copies of the sign can also be ordered, free of charge, from NFU CallFirst on 0370 845 8458. The NFU is continuing to work with the Kennel Club to ensure that these issues are communicated to the public, and that dog walkers are familiar with, and recognise, our signs. We will also continue to seek out other opportunities to promote our messages about safe enjoyment of the countryside and the importance of following the countryside code, particularly in terms of the messages around livestock.

This NFU business guide looks at what farmers can do when dogs are worrying their livestock. The information in this document cannot take account of the facts and circumstances of every situation, and is not intended to be a substitute for independent legal advice. It is important to consider the facts of any particular situation in order to determine which provisions apply and it is important to note that not all of the provisions discussed below will be appropriate in every situation.

This document does not deal with legislation relating to the keeping/licensing of guns, and individuals should always ensure that they comply fully with any relevant provisions relating to this and also with the conditions of their licence(s).

**NFU members can obtain free initial legal and professional advice from NFU CallFirst on 0370 845 8458. Individuals affected by these issues should also consider taking independent legal advice; the NFU's panel firms of solicitors offer a discount on their hourly rate to NFU members in connection with disputes affecting their farming business, NFU CallFirst can also provide details of your local panel firm, and arrange a referral.**

## DOGS INVOLVED IN LIVESTOCK WORRYING – GENERAL

Livestock worrying is one of the most sensitive problems that farmers have to deal with and passions often run high. Farmers should continue to exercise extreme caution when shooting dogs as the law is complicated and members of the public are likely to be very upset and angry if their dog is injured or killed.

*© NFU whilst every reasonable effort has been made to ensure the accuracy at the date of publication of the information and content provided in this document, no representation is made as to its correctness or completeness. NFU does not accept liability arising from any inaccuracies, be they errors or omissions, contained within this document and further advice can be sought via NFU CallFirst on 0370 845 8458. This document is intended for general information only and does not constitute legal or professional advice.*

Ref: BG086  
Last reviewed: December 2020

NFU supported by  
 NFU Mutual



Previous version: August 2018

## Business Guides

Shooting a dog should always be a last resort, if there is no other option for preventing the dog from worrying the livestock. However, there will be situations in which this is the only option available to the farmer, and if this is the case, it is important that you comply with the relevant legal provisions applicable in these situations.

### HOW THE LAW DEFINES LIVESTOCK WORRYING

"Worrying livestock" can involve a dog or dogs attacking or chasing livestock. A dog (other than a working dog) can even be regarded as worrying livestock simply by not being on a lead or otherwise kept under close control in a field or enclosure in which there are sheep. "Close control" has not been defined in law. It is likely that many individuals, particularly those who do not have a farming background, do not realise that this is the case, and may not appreciate the extent of the problems that their dog can cause. The NFU has worked with the Kennel Club to raise awareness of these issues with dog owners, the launch of the NFU's yellow dog signs was covered on national TV, and in several dog related publications.

If a dog is worrying livestock on agricultural land, the owner (and the person in charge of the dog if not the owner) is guilty of a criminal offence under section 1 of the Dogs (Protection of Livestock) Act 1953. For the purpose of this Act, livestock is defined as "*cattle, sheep, goats, swine, horses (including asses and mules), or poultry*" (for the purposes of this definition "*cattle*" means bulls, cows, oxen, heifers or calves and "*poultry*" means domestic fowls, turkeys, geese or ducks).

On summary conviction (i.e. in the Magistrates' Court), the owner and/or the person in charge of the dog could receive a fine of up to £1,000.

Unfortunately you cannot insist that the dog owner is prosecuted, and you may find that the police/CPS are reluctant to prosecute an owner if the dog has been shot. However, the police may be willing to trace, and speak to, the owner of a dog that has been worrying livestock as an animal that has done so once is likely to do it again. Unfortunately, sometimes the police can be reluctant to get involved at all, or it can be impossible to identify the dog involved, meaning that the police are not able to intervene. The National Police Chiefs Council has published a report on livestock worrying<sup>1</sup>, demonstrating that the importance of this issue is getting increased recognition.

Under the Dogs Act 1906, a dog that has been shown to have worried livestock can be treated as a dangerous dog for the purposes of section 2 of the Dogs Act 1871, which means that a Magistrates' Court could order that the dog be destroyed. However, this route may not always be appropriate and you may wish to consider the likely implications locally if you do go down this route.

**All incidents of livestock worrying should be reported to the police, even if you consider it to be unlikely that they will take any action. Reporting incidents will ensure that the police are aware of all incidents within their area and give them an appreciation of the scale of the problem.**

<sup>1</sup> <http://www.npcc.police.uk/Publication/livestock%20worrying.pdf>

## Business Guides

**If there is a pattern to the incidents the police may also be able to use this to target their investigations.**

It is unfortunate that in many cases the police appear reluctant to get involved or take any action relating to livestock worrying. One of the biggest difficulties faced by the police is gathering the evidence that would be required to take action. For example, it would be necessary for the police to identify the dogs involved in any incident and their owner; if there are no known witnesses to the incident and the dog has left the scene the police will have very limited information available to start an investigation. However, the National Police Chiefs Council's report into livestock worrying also considers what could be done to improve the ability of the police to act in these cases. This shows that livestock worrying is regarded as a serious issue, which the police are keen to address.

If livestock worrying is a significant issue in your area, you could consider what you can do to assist the police with their inquiries. For example, if you have had a number of incidents at a particular location, is it possible to set up CCTV cameras to catch any future incidents? If you see an incident, can you get someone to film it or take photographs of what is happening whilst you try to deal with the incident (in particular, getting some images of the dog and its owner). If you witness an incident and see the person responsible getting into a vehicle, make a note of the vehicle details, as the police may then be able to approach the owner of the vehicle about the incident. You could also talk to the local police to ascertain whether there is any other evidence (e.g. pictures and measurements of bite wounds) which could be gathered after an incident and may assist with their inquiries. Many police forces have a rural crime officer, who is likely to be the best point of contact in relation to these issues.

## SHOOTING A DOG WHICH IS WORRYING LIVESTOCK

### Can I be prosecuted for shooting a dog which is worrying my livestock?

You could be prosecuted under the Criminal Damage Act 1971 for damaging or destroying the property of another (i.e. the dog) without lawful excuse. However, section 5(2)(b) of the Criminal Damage Act 1971 states that an individual has a lawful excuse for damaging or destroying property belonging to someone else if:

- The aim of destroying or damaging the property is to protect property belonging to himself or another which is in immediate need of protection; and
- The means of protection adopted is reasonable in all the circumstances.

To be able to rely on this defence the animals at risk of harm would have to be "property". Wild animals, such as pheasants or rabbits, are not property for these purposes, but domesticated animals such as cattle, sheep and horses are property.

It is also necessary that the animals are in immediate need of protection. This means that you cannot rely on this defence if you shoot a dog that is leaving the vicinity, having already worried the livestock, or where the dog has been caught by its owner. Similarly, if a dog is in the field but is not paying any

© NFU whilst every reasonable effort has been made to ensure the accuracy at the date of publication of the information and content provided in this document, no representation is made as to its correctness or completeness. NFU does not accept liability arising from any inaccuracies, be they errors or omissions, contained within this document and further advice can be sought via NFU CallFirst on 0370 845 8458. This document is intended for general information only and does not constitute legal or professional advice.

Ref: BG086  
Last reviewed: December 2020

NFU supported by  
 NFU Mutual



Previous version: August 2018



## Business Guides

attention to the livestock, is not near the livestock, and is not chasing the livestock then it may be difficult to say that the livestock were in danger at that moment in time; in this situation it may be more appropriate to attempt to catch the dog.

If someone is attempting to catch the dog, you should consider whether you could do anything to assist the owner in catching the dog before resorting to shooting the animal otherwise the action may not be regarded as reasonable in the circumstances. You should also take care not to endanger the owner of the dog or any other person.

Before shooting a dog you should consider whether there are any other options reasonably available to you – for example does firing a warning shot scare the dog away? Can you get near enough to the dog to catch it without putting yourself in danger? Shooting the dog should always be the last resort.

If you do shoot a dog that has been worrying your livestock you should take care to ensure that you do not cause unnecessary suffering to the dog. This is particularly important if the animal has not been killed immediately by the shot. This may mean trying to catch the animal and contacting the owner of a shot animal and/or taking an injured animal to a veterinary surgeon. If you allow the dog to suffer unnecessarily you could be guilty of an offence under animal welfare legislation, even though it is not your dog.

### Can the owner of a dog bring a civil claim against me if I shoot their dog?

Section 9 of the Animals Act 1971 provides a defence to any civil claims against a person who shoots a dog to protect livestock (if the owner of the injured or killed dog attempts to bring civil proceedings for the loss of the dog or the vets fees incurred in treating the dog). This defence only applies to the owner of the livestock or land, or a person acting under their express or implied authority.

The Animals Act 1971 defines livestock as “*cattle, horses, asses, mules, hinnies, sheep, pigs, goats and poultry, and also deer not in the wild state and, in sections 3 and 9, also, while in captivity, pheasants, partridges and grouse*” (poultry is defined as the domestic varieties of fowls, turkeys, geese, ducks, guinea-fowls, pigeons, peacocks and quails). These are the only animals covered by the defence under section 9 of the Animals Act 1971.

If the livestock have strayed onto land belonging to another person and the dog either belongs to the owner of the land, or is there with the permission of the owner of the land, the above defence does not apply. This means that you should think very carefully before shooting a dog that is not on your land.

The defence under section 9 of the Animals Act 1971 only applies if:

- The dog is worrying livestock, or is about to worry livestock and there are no other reasonably practical means of ending or preventing the worrying; or
- The dog has been worrying livestock, has not left the vicinity and is not under the control of any person and there are no practical means of ascertaining to whom it belongs.

© NFU whilst every reasonable effort has been made to ensure the accuracy at the date of publication of the information and content provided in this document, no representation is made as to its correctness or completeness. NFU does not accept liability arising from any inaccuracies, be they errors or omissions, contained within this document and further advice can be sought via NFU CallFirst on 0370 845 8458. This document is intended for general information only and does not constitute legal or professional advice.

Ref: BG086  
Last reviewed: December 2020

NFU supported by  
 NFU Mutual



Previous version: August 2018

## Business Guides

If you do shoot a dog, you **must** inform the police within 48 hours if you may want to rely on this defence. Failure to do so could prevent you relying on the defence contained in section 9 of the Animals Act 1971.

To ensure that you are able to use this defence you should consider whether you could reasonably do anything else to stop or prevent the dog worrying your livestock. Will the dog come to you so you can catch it and secure it somewhere until you can contact the owner? Does a warning shot scare the dog away? Can you see someone who may be the owner in the vicinity? Are there any other steps you can take before resorting to shooting the dog?

### Can the farmer obtain compensation for any damage to his livestock?

Magistrates do not normally award compensation when there has been a successful criminal prosecution, although they do have the power to do so. So, the fact that the owner of the dog has been found guilty of the offence will not necessarily result in compensation being paid for the harm caused.

You will normally have to pursue a civil claim through the County Court in order to obtain compensation for any injured stock; you can do this regardless of whether there has been a criminal prosecution or not. Obviously you will need to identify the owner/person in control of the dog to be able to bring a claim.

Section 3 of the Animals Act 1971 states where a dog kills or injures livestock the keeper of the dog is liable for the damage. This can include any deaths or injury caused as a result of livestock panicking or bolting. Proving a reduction in lambing percentages as the result of an incident many weeks previously can be difficult and expert evidence is likely to be necessary. However, miscarriages or immediate re-absorption of fetuses might be easier to link to the incident if these occurred within days of the incident occurring, although it may still be necessary to have expert evidence (e.g. veterinary reports) to support this element of a claim. Unfortunately, it will be necessary to identify the owner and/or person in control of the dog in order to be able to bring any such claim; whilst this may be possible if the dog is caught, it may be more difficult if the dog has left the scene.

Anyone considering bringing a claim against the owner/person in control of a dog following an incident of livestock worrying should consider taking independent advice in relation to their own circumstances. NFU members can obtain free initial legal and professional advice from NFU CallFirst on 0370 845 8458.

You may wish to investigate the availability of insurance cover for sheep killed by dogs or wild animals as an additional measure of protection.

*© NFU whilst every reasonable effort has been made to ensure the accuracy at the date of publication of the information and content provided in this document, no representation is made as to its correctness or completeness. NFU does not accept liability arising from any inaccuracies, be they errors or omissions, contained within this document and further advice can be sought via NFU CallFirst on 0370 845 8458. This document is intended for general information only and does not constitute legal or professional advice.*

Ref: BG086  
Last reviewed: December 2020

NFU supported by  
 NFU Mutual



Previous version: August 2018

## Business Guides



### OTHER RELEVANT LEGAL PROVISIONS

#### Dogs which are dangerously out of control

Under Section 3 of the Dangerous Dogs Act 1991, it is an offence to allow any dog to be "dangerously out of control" at any place in England and Wales if it gives grounds for reasonable apprehension that the dog will injure someone. The dog does not actually have to injure someone for the offence to occur. It is important to note that these provisions have been extended to cover private land, subject to certain exemptions.

Also, the dog does not have to actually be nasty, it just has to cause "reasonable apprehension" that it will injure someone; the owner may know that the dog in question is really friendly but a stranger will not be aware of this.

The police or local authority officers may seize any dog which appears to be dangerously out of control, and the Court may order destruction of that dog.

#### The Anti-social Behaviour, Crime and Policing Act 2014

From 20 October 2014, local authorities have the power to make Public Spaces Protection Orders ("PSPOs") which enable them to restrict certain activities in public places where those activities have had, or are likely to have, a detrimental effect on the quality of life of those in the locality. This can include orders relating to the control of dogs in public places.

Previously this was done by way of 'Dog Control Orders' under the Clean Neighbourhoods and Environment Act 2005. Dog Control Orders could address one or more of five "anti-social" dog related issues, namely;

- failing to remove dog faeces;
- not keeping a dog on a lead;
- not putting and keeping a dog on a lead when directed to do so;
- permitting a dog to enter land from which dogs are excluded; and/or
- taking more than a specified number of dogs onto land.

It is likely that local authorities will cover similar issues in PSPOs in relation to dogs. Any Dog Control Orders that are currently in place will remain in force until 20 October 2017, when they will become PSPOs. Failure to comply with a Dog Control Order or PSPO is a criminal offence.

Many such orders are in force throughout the country, details can usually be found on the website for the relevant local authority.

*© NFU whilst every reasonable effort has been made to ensure the accuracy at the date of publication of the information and content provided in this document, no representation is made as to its correctness or completeness. NFU does not accept liability arising from any inaccuracies, be they errors or omissions, contained within this document and further advice can be sought via NFU CallFirst on 0370 845 8458. This document is intended for general information only and does not constitute legal or professional advice.*

Ref: BG086  
Last reviewed: December 2020

NFU supported by  
 NFU Mutual



Previous version: August 2018

## Business Guides

### The Countryside and Rights of Way Act 2002 (CROW)

If dogs are being taken onto access land (as defined under the Countryside and Rights of Way Act 2000 (CROW)) the CROW stipulates that dogs must be kept on a short lead between 1st March and the 31st July and at all times when in the vicinity of livestock.

In some cases, this date may be extended in certain areas and local signs should alert visitors to this fact.

**Information on access land can be obtained from Natural England or Countryside Council for Wales.**

### The costal path

There are special provisions relating to the control of dogs on the English costal path. Dogs on the coastal path and associated coastal margin need to be kept under “effective control” at all times, and need to be on a short lead in the vicinity of livestock at all times. For these purposes, dogs are likely to be regarded as being under effective control if they are:-

- on a lead; or
- kept in sight, and the owner has reason to be confident that the dog will return reliably and promptly on command.

### The Dangerous Dogs Act 1991 4 special breeds

Since August 1991, Pit Bull Terriers, Dogo Argentinos, Japanese Tosas and Fila Brazilieros must be:

- muzzled, kept on a lead, and be in the charge of a person over 16 years of age when in a public place, and
- either hold an exemption certificate as prescribed by the Dangerous Dogs Act 1991 (the 1991 Act) **or** be the subject to such an exemption as ordered by a Court. Following an amendment to the legislation in 1997, exemption certificates cannot be applied for; they must be ordered by the Courts.

## CONCLUSIONS

People are often very attached to their dogs, so situations can easily become emotional if there is the prospect of their dog being injured or killed. For this reason it is essential that you consider all of your options carefully before deciding to shoot a dog. However, dogs can pose a risk to livestock, and the law does impose requirements regarding the control of dogs on dog owners, and others who are responsible for dogs.

If you are in a position where you have to shoot a dog it is essential that you ensure that the dog is not caused any unnecessary suffering (particularly if it is not killed by the shot), which may mean taking it to a veterinary surgeon.

*© NFU whilst every reasonable effort has been made to ensure the accuracy at the date of publication of the information and content provided in this document, no representation is made as to its correctness or completeness. NFU does not accept liability arising from any inaccuracies, be they errors or omissions, contained within this document and further advice can be sought via NFU CallFirst on 0370 845 8458. This document is intended for general information only and does not constitute legal or professional advice.*

Ref: BG086  
Last reviewed: December 2020

NFU supported by  
 NFU Mutual



Previous version: August 2018



## Business Guides

---

You should also ensure that you take all necessary steps, such as informing the police. You may also want to make a note of exactly what happened for your records while events are fresh in your mind.

**NFU members can obtain free initial legal or professional advice from NFU Call First on 0370 854 8458.**

**The NFU can take no responsibility for any consequences arising from individual circumstances which cannot be fully accounted for in this document. It is advisable to seek professional advice based on the precise circumstances involved.**

**For free initial Legal & Professional advice NFU CallFirst 0370 845 8458**

*© NFU whilst every reasonable effort has been made to ensure the accuracy at the date of publication of the information and content provided in this document, no representation is made as to its correctness or completeness. NFU does not accept liability arising from any inaccuracies, be they errors or omissions, contained within this document and further advice can be sought via NFU CallFirst on 0370 845 8458. This document is intended for general information only and does not constitute legal or professional advice.*

Ref: BG086  
Last reviewed: December 2020

NFU supported by  
 **NFU Mutual**



Previous version: August 2018

**YOUR DOG  
CAN SCARE  
OR HARM  
FARM ANIMALS**

**STAY SAFE - USE A LEAD  
AROUND LIVESTOCK**

**BUT RELEASE  
YOUR DOG IF  
CHASED BY CATTLE**

**WHEREVER YOU ARE  
CLEAN UP AFTER YOUR DOG  
BAG IT AND BIN IT**

*Love Your Countryside and  
follow the Countryside Code*

THE KENNEL CLUB  
*Making a difference for dogs*

**NFU**  
www.nfuonline.com

NFU supported by  
NFU Mutual

© NFU whilst every reasonable effort has been made to ensure the accuracy at the date of publication of the information and content provided in this document, no representation is made as to its correctness or completeness. NFU does not accept liability arising from any inaccuracies, be they errors or omissions, contained within this document and further advice can be sought via NFU CallFirst on 0370 845 8458. This document is intended for general information only and does not constitute legal or professional advice.

Ref: BG086  
Last reviewed: December 2020

NFU supported by  
 **NFU Mutual**

 **NFU**

Previous version: August 2018