

Scottish Natural Heritage

Code of Practice on Deer Management



Wild Deer in Scotland

Their place in nature, economy and culture

Wild deer are important to Scotland's nature, culture and economy. Deer are managed for many reasons including sport, the protection of agricultural or forestry crops, conservation, public safety and for their own welfare. Balancing these different reasons presents a challenge for everyone involved.

Wild deer play a significant role in supporting jobs. They are enjoyed by tourists, the wider public and by those involved in stalking. Venison is highly regarded as a local and healthy food product and the market for venison continues to grow. The income generated from deer management activities is particularly crucial in supporting rural communities where alternative sources of income are often limited.

However, in some places deer can adversely affect the interests of the wider environment and society at large. For example deer can lead to the deterioration of protected habitats and can hamper the establishment of new woodland and crops.

As our countryside and urban areas change, deer have migrated into new areas and are increasingly seen in and around our towns and cities. This spread poses new challenges and opportunities. Deer are the largest animal people are likely to see in their neighbourhood and offer a great opportunity for environmental education and to encourage people to go out to see and enjoy deer. There is, however, growing concern about the potential welfare risk, for example injury, to deer and the impact of deer on road safety, as they are known to be a factor in a growing number of traffic accidents.

Land managers have long recognised the changing nature of deer management. Groups of deer managers and others with an interest in deer have increasingly worked with public agencies to develop both a common vision for deer management and the tools to achieve that vision. We hope that the Code will be welcomed as a natural evolution of this voluntary approach and that it will help ensure that society is able to derive maximum benefit from deer whilst at the same time safeguarding deer welfare.

Contents

	Legal Context of the Code	2
Summary	Following the Code – the Seven Steps	3
Chapter 1	What is the Code?	4
	Who does the Code apply to?	4
	Status of the Code	4
	Why do we have the Code?	5
	Scotland's Wild Deer: A National Approach	6
	Wild Deer Best Practice Guides	6
Chapter 2	Applying the Code	7
	Ways of working	7
	How do I apply the Code?	8
Chapter 3	Sustainable Deer Management	9
	Why do we manage deer?	9
	What do you need to do?	10
Chapter 4	Planning Your Deer Management	16
	When to collaborate	16
	The amount of planning and collaboration	17
	Setting your management objectives	17
	Management plan preparation, implementation and monitoring	18
Chapter 5	Developing the Public Interest in Deer Management: SNH's Role	20
	Involvement, intervention and regulation	20
	Deer impacts and damage to public interest	22
	Assessment of damage	22
	Legislative tools	23
	Appeals against SNH decisions	24
Chapter 6	Following the Code: Public Bodies	25
	Bibliography	26

Legal Context of the Code

The Code was introduced by section 27 of the Wildlife and Natural Environment (Scotland) Act 2011 (WANE Act). The WANE Act inserted a new section, section 5A, into the Deer (Scotland) Act 1996; the following is taken from Section 5A.

"5A Code of practice on deer management

- (1) SNH must draw up a code of practice for the purpose of providing practical guidance in respect of deer management.
- (2) The code of practice may, in particular –
 - (a) Set out recommended practice for sustainable deer management;
 - (b) Make provision about collaboration in deer management;
 - (c) Set out examples of circumstances in which SNH may seek to secure a control agreement or make a control scheme;
 - (d) Make different provisions for different cases and, in particular, for different circumstances, different times of the year or different areas."

It is not an offence to breach the Code. However, whether or not a person complied with this code could be used in determining whether Scottish Natural Heritage¹ (SNH) intervention, as laid out in the Deer (Scotland) Act 1996 (as amended) is required.

Furthermore the WANE Act states that SNH has a duty to monitor compliance with the Code and that SNH may replace or revise the Code but must submit it to Scottish Ministers for approval by the Scottish Parliament.

The Code shall come into effect on 1st January 2012.

¹ Scottish Natural Heritage is a Non Departmental Public Body whose purpose is to "promote care for and improvement of the natural heritage, help people enjoy it responsibly, enable greater understanding and awareness of it and promote its sustainable use now and for future generations". In addition SNH "shall further the conservation of deer native to Scotland, the control and sustainable management of deer in Scotland, and keep under review all matters, including their welfare, relating to deer". (www.snh.gov.uk)

Summary

Following the Code – the Seven Steps

If you own or manage land where wild deer are found, or manage wild deer on someone else's land, the Code of Practice on Deer Management applies to you.

By following this flow chart you will be able to demonstrate that you have thought about and taken account of the effects of your deer management on neighbours and wider public interests. It is this process which is at the heart of sustainable deer management.

Detailed guidance on the actions which result from the sustainable deer management process can be found within the Wild Deer Best Practice Guides.

- What is the Code? Chapter 1
- Step 1 – How does the Code apply to me? Chapter 2

- Step 2 – What do I want to do with my land? Chapter 3

- Step 3 – What are the 'public interests' (e.g. economic or biodiversity benefits) associated with deer on my land/property? Am I clear what I can do to contribute to these interests? Chapter 3

- Step 4 – What are the potential opportunities and problems I may experience with deer on my land/property? Chapter 4

- Step 5 – How might my deer management affect or be affected by others such as (a) the local community or (b) neighbouring landholders? Chapter 4

- Step 6 – How do I plan my deer management and show I have worked through the steps above? Chapter 4

- Step 7 – Am I able to review what I am doing and can I tell whether I am delivering sustainable deer management? Do I know how SNH can help me deliver sustainable deer management and do I understand the consequences if I am not delivering it? Chapter 5

If all land managers adopt this approach deer will continue to be valued as an important part of the nature, economy and culture of Scotland.

Throughout the Code there are references to relevant Wild Deer Best Practice Guides (WDBPG). These guides provide additional information and practical guidance on how to carry out specific deer management activities.

Chapter 1

What is the Code?

Welcome to the Code of Practice on Deer Management. This Code is to help everybody who owns or manages land on which wild deer occur and those who manage wild deer on someone else's land to deliver sustainable deer management.

1.1 Who does the Code apply to?

The Code applies to all land managers who own or manage land where wild deer occur.

Land Manager is anyone who owns or manages land on which wild deer occur. This can include owners, occupiers, tenants, agents and stalkers on land such as traditional upland sporting estates, crofting land, farmland, amenity parks and woodland, whether commercial or not, as well as Local Authorities. It is possible that some house holders are included where they have a garden in which deer occur. The term 'land manager' is therefore applicable to a wider section of society than may be traditionally associated with managing deer.

Wild Deer: Wild deer are defined under section 45 of the Deer (Scotland) Act 1996 (as amended). The Code does not apply to farmed deer i.e. "deer of any species which are on agricultural land enclosed by a deer proof barrier and are kept on that land by any person as livestock".

Deer Management refers to a range of actions including protecting deer; using them as resource for sport or as meat; culling them to manage their numbers and their effect on habitats or to limit their spread; and safeguarding their health and welfare. It does not always mean lethal intervention or culling and may include the use of fencing to exclude them from specific areas, promoting deer or educating others about them.

Sustainable Deer Management is about managing deer to achieve the best combination of benefits for the economy, environment, people and communities for now and for future generations.

1.2 Status of the Code

This is a statutory Code which has been subject to parliamentary approval. It is not an offence to breach the Code. However, Scottish Natural Heritage (SNH) and other public bodies will consider the extent to which you have followed the Code if a decision needs to be taken to intervene in your deer management.

 Shaded boxes give descriptions of key terms and concepts used in the Code.

1.3 Why do we have the Code?

The Code supports the voluntary approach to the management of Scotland's wild deer and is a requirement of the Wildlife and Natural Environment (Scotland) Act 2011. This Act makes changes to the Deer (Scotland) Act 1996.

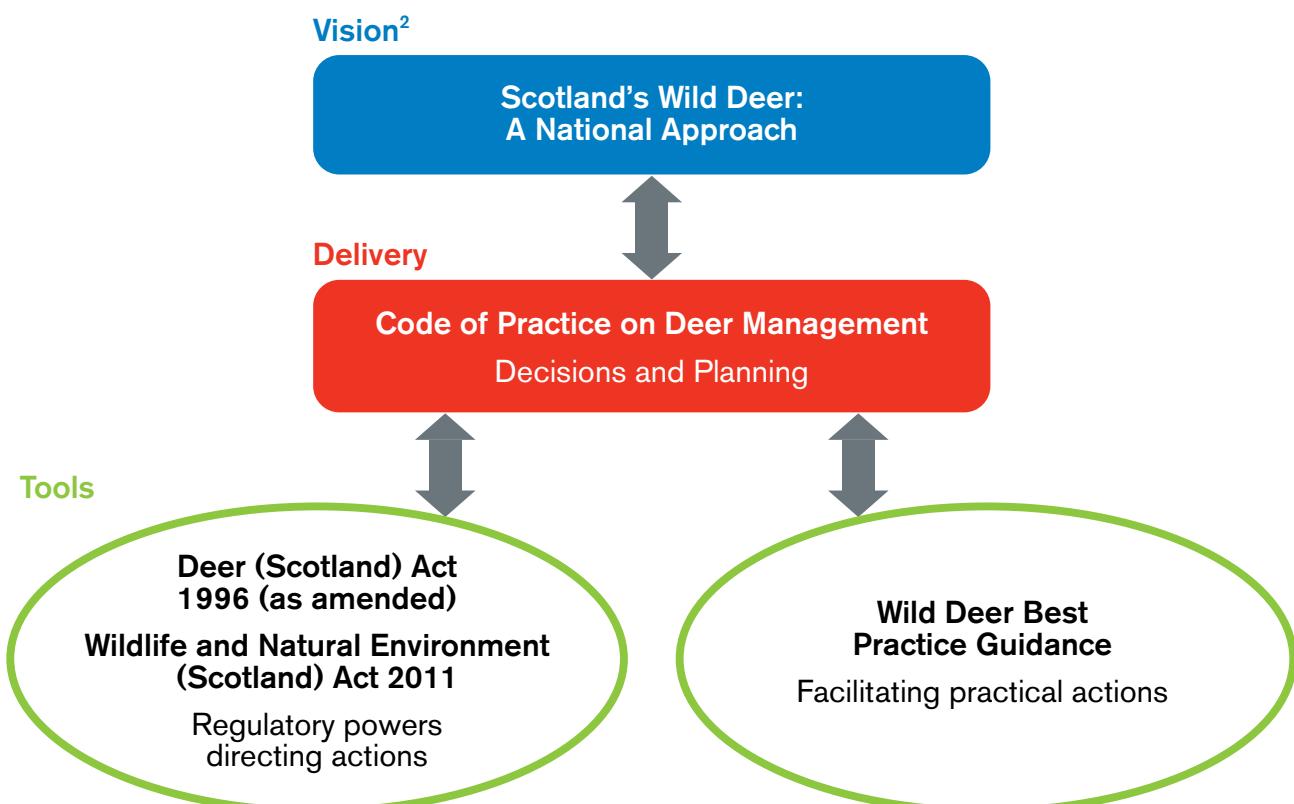
The changes recognise the importance of deer welfare and the significance of deer to the economy and people as well as the environment. They also increase the range of circumstances where SNH can intervene in deer management.

Support from public bodies and private deer managers for the voluntary approach to deer management has evolved over time. This Code builds on this and draws on two of the key products of this partnership working:

- Scotland's Wild Deer: A National Approach;
- Wild Deer Best Practice Guidance.

The relationship between these and the legislation governing the management of deer is illustrated in the diagram below:

Diagram illustrating the relationship between key documents used to inform the Code:



² The objectives within Scotland's Wild Deer: A National Approach are complemented by and expanded on by the Sustainable Deer Management: Case Studies Project – Deer Commission for Scotland, Ronald Rose 2010 <http://www.snh.gov.uk/docs/B660938.pdf>

1.4 Scotland's Wild Deer: A National Approach

Scotland's Wild Deer: A National Approach (WDNA) was developed by deer managers, land managers, government and others and was launched by the Scottish Government in November 2008. It sets out what is meant by sustainable deer management. This is not just the view of SNH but has been developed by the deer sector as well. This Code uses WDNA to identify the main actions that help to deliver sustainable deer management (see Chapter 3).

1.5 Wild Deer Best Practice Guidance

Wild Deer Best Practice Guidance (WDBPG) provides the principal source of practical guidance for deer managers. The practical guides published through WDBPG are developed by public bodies and the deer sector working in partnership. These guides provide specific guidance on a range of deer management situations. This Code highlights where guides add practical information and identifies in which section of the WDBPG the information is found.

Chapter 2

Applying the Code

Responsibility to manage wild deer: We all have a 'responsibility' to look after the natural resources of Scotland. This includes deer. In most circumstances this responsibility is not a legal obligation but is a moral and social one. The concept of responsible deer management focuses on:

- managing deer as a resource sustainably;
- minimising negative deer impacts on public interest;
- safeguarding deer welfare.

Additionally, in Scotland, the right to shoot deer cannot normally be separated from the land. Permission can be given by the landowner to others to shoot or take deer (i.e. sporting tenants, managing agents, employees). In some circumstances the law also allows certain other occupiers of land such as farm tenants the right to take or kill deer for specific reasons (e.g. the protection of crops). This responsibility applies to the land we own and manage but also extends to considering the impacts of deer on neighbouring land holdings.

At the heart of the voluntary approach to deer management is that with this right to shoot or take deer on land goes a responsibility to safeguard their welfare and manage them sustainably.

2.1 Ways of working

The Code is based on the guiding principles identified in Scotland's Wild Deer: A National Approach. These principles promote wild deer management which:

- Integrates deer management and other land-use objectives;
- Uses collaboration to achieve management objectives;
- Uses a geographic scale and timescale best suited to achieving the management objectives;
- Engages and communicates with all relevant interests;
- Uses sound science and the best available evidence;
- Promotes deer welfare.

2.2 How do I apply the Code?

Deer occur in a variety of places and habitats including urban areas, woodlands, moorlands and mountains. This Code applies to all these situations. How you apply the Code is affected by a range of factors, for example the number and species of deer present, whether they are in an urban or rural setting and how they influence your other management activities and those of your neighbours. These will help determine:

- 1) which deer management actions are relevant to you
- 2) the extent to which the Code will influence your management decisions.

In order to be clear about how much the Code should guide your activities you should ask yourself the following sorts of questions:

- What species of wild deer occur on your land?**
- How often are there wild deer present on your land?**
- What is the density and distribution of the wild deer population on your land?**
- What is the health of the wild deer population on your land?**
- How mobile are the wild deer which occur on your land?**
- What effect are the wild deer on your land having on your own land?**
- What effect are the wild deer on your land having on neighbouring land?**
- Can wild deer on your land move onto public roads and into green spaces?**

The answers to these questions will influence what you have to do to contribute towards sustainable deer management. Chapter 3 explores the actions that may be relevant to you.

If you are unsure about the relationship between wild deer and your land you may wish to seek advice from other local deer managers or SNH.

Chapter 3

Sustainable Deer Management

This chapter sets out what makes up sustainable deer management. How this applies to you will depend on your individual circumstances and why and how you are managing deer.

In legal terms, wild deer belong to no-one but they can be taken by the owner of the land on which they are present. In a broader sense deer represent a shared resource for the people of Scotland and sustainable deer management involves balancing a range of interests. With this in mind sustainable deer management should:

- deliver the best combination of benefits for the economy, environment, people and communities on any area of land;
- take other land users into account;
- be able to adapt to changing circumstances;
- safeguard deer welfare and
- ensure future generations will also be able to enjoy the benefits of deer and deer management.

In most circumstances, the best way to achieve the right balance will be by working together.

3.1 Why do we manage deer?

We need to maintain healthy and fully working ecosystems if our activities are to be sustainable. Deer have an effect on our countryside and us in different ways at different times and we should therefore encourage an ecosystem approach to deer management.

Ecosystem: A “dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit”.
(From Applying an Ecosystem Approach in Scotland: A framework for Action, SNH 2010)

Ecosystem approach: This is about using natural resources sustainably and integrating this use with social and economic needs without damaging the health of the ecosystems these needs depend upon.

The different effects deer have are described as impacts. Deer management is about how we deal with these impacts to achieve a benefit, or to reduce a negative impact.

Benefits (e.g. stalking and venison income or improved animal welfare) and negative impacts (e.g. crop or habitat damage or road traffic accidents) fall into three broad categories – economic, environmental or social. Impacts exist at both an individual private level (**private interest**) and at a whole population level (**public interest**).

Deer Impacts refers to the effect deer have on something else e.g. browsing trees. A beneficial impact is where there is a benefit from deer and their management in a particular situation. A negative impact occurs when deer and/or deer management hold back the delivery of a legitimate objective.

An example of a positive impact would be deer grazing heather moorland at a level which keeps it in good condition.

A negative impact would be deer browsing strawberries on a fruit farm.

Public Interest refers to something in which the people of Scotland as a whole have an interest. Parliament and public bodies often produce policy statements or laws that describe the public interest in specific issues such as rural development, increasing biodiversity, protecting animal welfare, supporting public access and safeguarding public safety.

A deer management example is the link between stalking income and the provision of jobs in rural areas. Another example is the protection of nationally and internationally important habitats.

Private and public interests are often interdependent but in some circumstances they can come into conflict. Whilst investment in deer management provides jobs and supports local communities, maintenance of high deer populations to support demand for stalking may lead to negative effects e.g. environmental damage. At the heart of sustainable deer management is **communication, negotiation and compromise**. This helps get the best benefits for individuals, society and for the deer themselves.

The Code aims to describe the 'public interest' in deer management. You should, in your decision making and actions, take into account how your actions affect others – neighbours, local community, visiting public, and public policy. Likewise, when determining how to safeguard the public interest SNH will consider the effect on private objectives.

3.2 What do you need to do?

Listed below are deer management actions that need to happen or need to be considered to help you deliver sustainable deer management.

The actions fall within one of the following three categories:

Actions you MUST do or you risk being prosecuted in court.

Action that you SHOULD do to avoid the risk of REGULATORY ACTION

Actions that you are ENCOURAGED to do because they demonstrate GOOD PRACTICE in deer management

Not all actions will always be relevant to a particular circumstance. In different areas or at different times of the year some actions may apply whilst others may not. You should consider all these actions and be able to say why you have not taken certain ones into account.

If you are unclear about how any of these actions apply to you then seek further advice from SNH. Further details on the different types of SNH involvement and intervention are included in Chapter 5.

The Actions are divided into four themes:

- Ensure that wild deer welfare is safeguarded;
- Protect and enhance the environment;
- Support sustainable economic development;
- Support social well-being.

Must do or risk
PROSECUTION

Should do or risk
REGULATION

Encouraged to do as
GOOD PRACTICE

Actions to ensure that wild deer welfare is safeguarded

The definition of welfare in relation to wild deer is ‘concern for their physical and psychological well being³’. This definition can be applied to both the individual animal and population level. Wild Deer Best Practice Guidance states that with increasing intervention (e.g. fencing, feeding, culling, development) comes increasing responsibility for their welfare.

YOU MUST

- **Comply with all relevant legislation**
The most relevant being:
 - **Deer (Scotland) Act 1996 (as amended)** – includes offences to shoot out of season, the need to seek ‘Authorisations’ to shoot out of season, driving deer, poaching
 - **Firearms Legislation**
 - **Food Hygiene Legislation**
 - **Land Reform (Scotland) Act 2003** – includes legislation on public access to land and water
 - **Wildlife and Natural Environment (Scotland) Act 2011** – includes legislation on Invasive Non-Native species.

Note: The list is indicative and is not comprehensive.

YOU SHOULD

- Take account of the impacts of your management activities on the welfare of deer.
- Tackle any welfare issues as and when they arise for individual deer.
- Adjust management action when the welfare of the local population of deer (rather than the individual animal) is being compromised.
- Take account of the impact on the welfare of deer in planning decisions relating to the layout and management of public places and amenity planting.

Further practical information on how to safeguard welfare can be found in the Best Practice Guides Section on: *Health & Welfare*

Must do or risk PROSECUTION

Should do or risk REGULATION

Encouraged to do as GOOD PRACTICE

Actions to protect and enhance the environment

Wild deer are an integral part of Scotland's biodiversity. However deer can damage natural processes such as woodland regeneration and too few deer can have adverse affects on the environment e.g. undergrazing. It is up to us to get this balance right. Below are sets of actions which you should consider to help achieve this balance:

YOU MUST:

- **Comply with all relevant legislation**

The most relevant being:

- **Deer (Scotland) Act 1996 (as amended)** – includes offences to shoot out of season, the need to seek 'Authorisations' to shoot out of season, driving deer, poaching
- **Nature Conservation (Scotland) Act 2004 (as amended)** – includes legislation on designated sites
- **The Conservation of Natural Habitats &c. Regulations 1994**
- **Wildlife and Natural Environment (Scotland) Act 2011** – includes legislation on Invasive Non-Native species.

Note: The list is indicative and is not comprehensive.

YOU SHOULD:

- Manage levels of grazing, trampling and browsing to deliver the favourable condition of natural features within designated sites.
- Manage grazing levels designed to prevent loss or damage to Scotland's biodiversity, especially those key species and habitats identified in the Scottish Biodiversity List.
- Prevent damage from deer to wider ecosystems e.g. water quality and carbon stores in peatland.
- Follow the Invasive Non-native Species Code to prevent further establishment of non-native species.
- Protect designated historic features from being damaged by deer e.g. by trampling.

YOU ARE ENCOURAGED TO:

- Minimise the natural spread of Sika where there is a local agreement to do so.
- Support ecosystem services such as forest habitat networks, riverbank restoration or flood risk reduction schemes.
- Contribute to reducing climate change and improving resilience to its effects by encouraging woodland regeneration, maintaining tree and vegetation cover, particularly close to water courses.
- Provide replacement habitat to compensate for loss or damage elsewhere e.g. new woodland to replace other woods being sacrificed.
- Contribute to conserving and enhancing the cultural and historic landscape e.g. ensure that trampling of sites is avoided.

Further practical information on how to protect and enhance the environment can be found in the Best Practice Guides Sections on: *Deer Ecology, Crop & Habitat Protection, SNH Guides*

Must do or risk
PROSECUTION

Should do or risk
REGULATION

Encouraged to do as
GOOD PRACTICE

Actions to support sustainable economic development

Wild deer can play an important role in promoting and sustaining economic activity, especially in rural areas where they can contribute to businesses, particularly tourism and food production. However they can also create costs to other land-use objectives and have a negative impact on other economic activities including agriculture and forestry.

YOU MUST:

- Comply with all relevant legislation

The most relevant being:

- **Deer (Scotland) Act 1996 (as amended)** – includes offences to shoot out of season, the need to seek 'Authorisations' to shoot out of season, driving deer, poaching
- **Firearms Legislation**
- **Food Hygiene Legislation**
- **Land Reform (Scotland) Act 2003** – includes legislation on public access to land and water
- **Wildlife and Natural Environment (Scotland) Act 2011** – includes legislation on Invasive Non-Native species.

Note: The list is indicative and is not comprehensive.

YOU SHOULD:

- Take account of other economic activities when managing wild deer and minimise negative impacts on them (e.g. food production, forestry, tourism and other rural businesses).

YOU ARE ENCOURAGED TO:

- Understand and attempt to quantify the local economic impact of your deer management.
- Increase the value of deer management activities e.g. deer watching, other forms of tourism and venison production.
- Identify new markets and supply chains for deer-related products and activities.
- Provide job security for those involved in deer management and consider how to develop employment opportunities associated with wild deer.
- Provide opportunities for local communities to become involved in deer management planning.
- Promote training and on-going professional development of those involved in deer management.

Further practical information on how to support sustainable economic development can be found in the Best Practice Guides Section on: *People & Resources, Health & Welfare, Carcase Preparation, SNH Guides*

**Must do or risk
PROSECUTION**

**Should do or risk
REGULATION**

**Encouraged to do as
GOOD PRACTICE**

Actions to support social well-being

Deer are one of the reasons that people enjoy the outdoors. Deer can be seen in a country park, on the fringes of a city or on the high tops of a remote mountain. Venison is also a healthy meat enjoyed by many. Deer can also lead to health and safety risks e.g. road traffic accidents and deer related disease e.g. blue tongue, Lyme disease, Johnes disease, TB and Foot and Mouth. We need to work together to minimise these risks and increase the opportunities for people to enjoy and benefit from deer.

YOU MUST:

- Comply with all relevant legislation
 - The most relevant being:
 - **Deer (Scotland) Act 1996 (as amended)** – includes offences to shoot out of season, the need to seek 'Authorisations' to shoot out of season, driving deer, poaching
 - **Nature Conservation (Scotland) Act 2004 (as amended)** – includes legislation on designated sites
 - **The Conservation of Natural Habitats &c. Regulations 1994**
 - **Firearms Legislation**
 - **Food Hygiene Legislation**
 - **Land Reform (Scotland) Act 2003** – includes legislation on public access to land and water
 - **Wildlife and Natural Environment (Scotland) Act 2011** – includes legislation on Invasive Non-Native species.

Note: The list is indicative and is not comprehensive.

YOU SHOULD:

- Contribute to co-ordinated action to reduce road safety risks.
- Be appropriately trained, equipped and aware of health and safety risks associated with your deer management.
- Contribute to action to reduce negative impacts of deer on green spaces, public areas and gardens.
- Follow the Scottish Outdoor Access Code.

Must do or risk
PROSECUTION

Should do or risk
REGULATION

Encouraged to do as
GOOD PRACTICE

YOU ARE ENCOURAGED TO:

- Promote responsible outdoor access through provision of accurate and up to date information on stalking activity.
- Provide information, such as where wild deer are likely to be seen, and encourage people to understand more about wild deer and their management.
- Liaise with local communities e.g. through community councils to keep them informed of local deer management activities.
- Help raise awareness of the need for and the issues associated with deer management.
- Promote venison as a healthy food and/ or contribute to the supply of venison at a local or national level including through Quality Assurance Schemes.
- Report any suspected incidences of wildlife crime and help contribute to initiatives to tackle wildlife crime.

Further practical information on how to support social wellbeing can be found in the Best Practice Guides Section:
People & Resources, Planning, Health & Welfare, Deer Ecology, SNH Guides



Chapter 4

Planning Your Deer Management

In most cases sustainable deer management cannot be achieved in isolation. Deer management planning does not need to be complicated but it does require your active involvement. It may just involve a simple explanation of what you want to do and agreement with your neighbours that this will not have wider negative impacts. However, the planning process normally involves bringing together all those in your area involved with deer, working out what they each want to achieve, recognising where the different constraints and opportunities lie and agreeing a set of actions. This information is then put together to form your deer management plan.

Producing the deer management plan will help you decide what you want to do and how to fit this with the land and land managers round about you. Producing the plan will need you to discuss your ideas with your neighbours and to find out their expectations. Looking around, talking and thinking through your deer management will also allow you to better understand how your own private interests fit with the delivery of public interests.

The relationship between deer and their habitat is in a state of continual flux. Similarly, aspirations and objectives change and so your deer management plan will continually evolve.

This section outlines the different stages of the planning process.

Further information on the management planning process can be found in the Best Practice Guides Section: *Planning, People & Resources, SNH Guides*

4.1 When to collaborate

Deer are a common resource and do not respect ownership boundaries. If they need to be managed, then this is best done in collaboration with others.

Deer management on one landholding is likely to affect neighbouring land. Therefore, it is always beneficial to discuss your management proposals with your neighbours. You should also be prepared to respond to requests from your neighbours to input to their thinking on deer management. In some cases this can be done through Deer Management Groups, but it does not have to be.

Deer Management Group: Voluntary groups of land-owners and/or land managers which cover discrete populations or herds of deer being managed as a common resource. Groups cover most of the area of red deer range in the uplands but are limited in the low ground where roe deer predominate.

It is worth noting that there is a difference between collaboration in the deer management planning process and co-operation in sharing practical deer management tasks. In some cases there may be little need for you to be involved in day to day management activities but you should be able to contribute to the management planning process.

Further information on the ways of group working can be found in the Best Practice Guides. Section: *Planning, People & Resources*

4.2 The amount of planning and collaboration

Your management plan should fit with your circumstances e.g. if you are surrounded by many neighbours or neighbours with very different objectives your plan is likely to be more complex. If your land sits in isolation your plan may be very simple. How complex your plan needs to be will also be influenced by the deer and their movements.

4.3 Setting your management objectives

Being clear as to what should be achieved is often the most difficult stage as your objectives need to be balanced with the needs of others. Through collaboration you will, hopefully, be able to agree objectives to suit everyone involved. Where agreement cannot be met then SNH staff may be able to provide advice. See Chapter 5 for information on the role of SNH.

Only when you are clear what you want and can do will you be able to decide the best way of doing it.

The following questions can help when discussing your objectives:

- **What do you want the deer management on your land to deliver for you?**
 - Be open and realistic.
- **What is the appropriate scale at which to consider your deer management planning?**
- **What do your neighbours want deer management to deliver?**
- **What wider effects are the deer having on your own and neighbouring private interests?**
- **What is the public interest in the management of the deer?**
 - Chapter 3 outlines what the public interests are and where priorities lie.
 - Identify which public interests are applicable to your area and rank in importance.
- **What effect are the deer having on these public interests?**
 - Habitat impact assessment and designated site condition reports may be available or can be commissioned.
 - Information on road traffic accidents may be available.
- **What information on employment and the local economy is available?**
 - What are the wider objectives for the land and deer?
 - Identify wider landscape scale objectives (e.g. forestry, agriculture, sporting) that you need to take account of.
- **Is collaboration needed to manage the deer?**
 - Depending on the species of deer, the size of land holding etc assess to what extent the deer need to be managed collaboratively.
- **What form of collaboration would work?**
 - Consider different collaborative forms and processes. Independent facilitation for collaboration may be helpful in complex or contentious situations. Support for this work may include:
 - Traditional deer management groups;
 - Alternative local grouping;
 - Deer panel under section 4 of the Deer Act;
 - Independent conflict resolution assistance;
 - SNH staff.

4.4 Management plan preparation, implementation and monitoring

Preparing your management plan in collaboration with others will help you deliver sustainable deer management. Creating a plan together helps develop openness in resolving issues that may occur as you attempt to balance different public and private interests. Plans with wider community involvement will generally lead to greater support for the deer management actions proposed. This is especially important in built-up areas, where the communities may be less familiar with deer management practices, and indeed with deer.

Further information on the conflict resolution can be found in the Best Practice Guides Section: *Planning*

Where consensus may be difficult to achieve in the first instance you should look to apply some basic principles of conflict management. This should include:

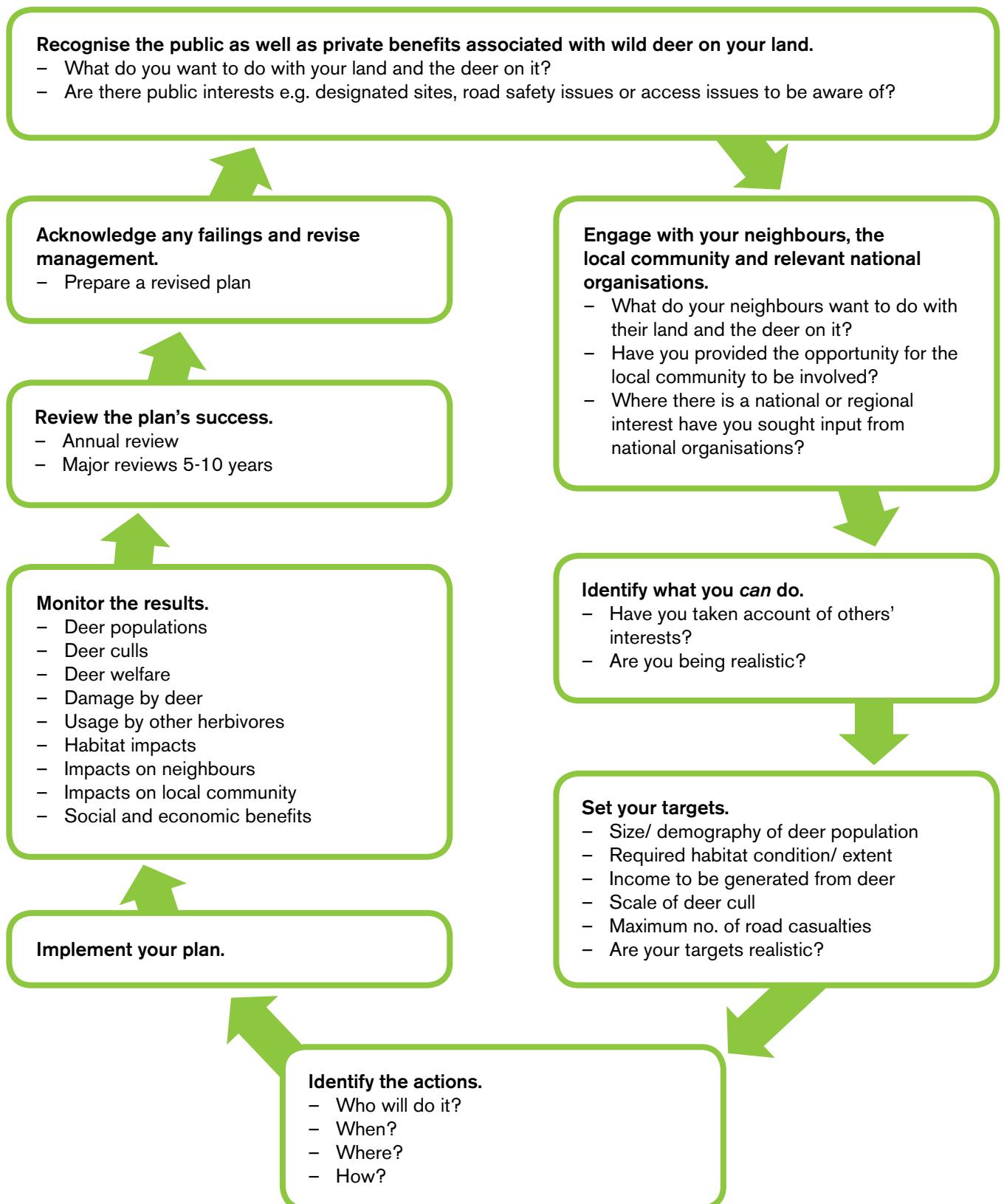
- Identify the correct people;
- Acknowledge the issues;
- Create a willingness to solve problems together;
- Facilitate a way to encourage open negotiation.

To help facilitate discussions you could bring in someone from outside. Assistance may be available from other Deer Management Groups and/or SNH.

Your plan will be as detailed or as simple as the complexity of the deer management issues e.g. managing deer when other herbivores are present or when multiple land holdings are involved. No matter how straightforward the plan it should be regularly reviewed and a frank assessment made of whether the actions you and/or your neighbours put in place are delivering the type of deer management that all expected. It will be highly unusual if some adjustment of the plan is not required.

The diagram summarises the evolving nature of the management planning process and highlights what should be included in a good management plan.

The deer management planning process



Chapter 5

Developing the Public Interest in Deer Management: SNH's Role

5.1 Involvement, intervention and regulation

To secure and develop the public interest in deer management SNH has various functions:

- SNH is a landowner and in some places has actively managed the deer present on its land and follow the Code of Practice;
- SNH is involved in providing advice and guidance to others on their deer management activities;
- If required, SNH can also directly intervene in deer management issues and has the statutory power to take direct regulatory action to address problems.

SNH's approach starts from general involvement moving to more direct intervention and finally to regulation. Depending on the situation and whether there is a need to take quick action SNH may move straight to regulation.

Even in these rare occasions there would have been some discussion with the relevant people beforehand.

Involvement: SNH is a firm supporter of the voluntary approach to deer management and regularly provides advice and assistance to those with an interest in deer. SNH may also become aware of issues and opportunities and will proactively seek to discuss these informally with the relevant people. Involvement can range from SNH staff (such as SNH's Deer Management Officers) talking through an issue, to provision of specific advice and support.

SNH may also provide further direct support such as deer counting and habitat assessment. Much of the work undertaken by SNH staff in support of Deer Management Groups falls into this category. Through this type of involvement SNH would hope to avoid the need for intervention.

Intervention: Where it appears that local approaches to deer management will not address the risk that some public interest may be damaged, SNH may start to take a more proactive role. This may include the calling together of relevant land managers to encourage them to develop a management plan and seek agreement on the actions that are needed to be implemented. It may be appropriate that this management plan and agreed actions are formalised through a Section 7 Control Agreement.

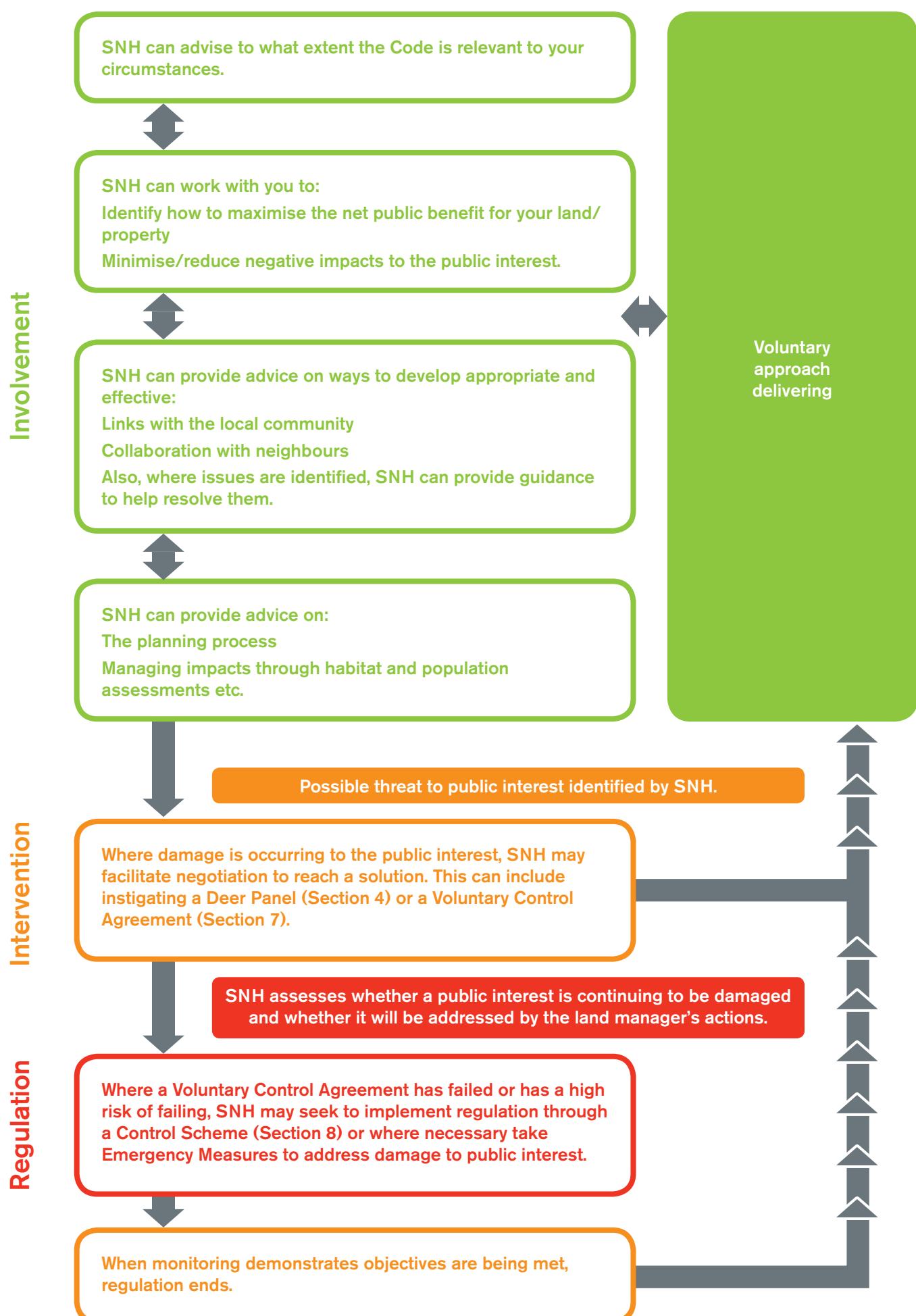
SNH may also formally set up Deer Panels to assist in collaborative planning where no other grouping exists that could take on the task.

SNH may sometimes be able to help with conflict resolution.

Regulation: Where the voluntary approach has failed to address the damage to public interests then SNH can take direct action and use its regulatory powers under the Deer (Scotland) Act 1996 (as amended) to bring about changes in deer management. There is a right of appeal described in the Deer (Scotland) Act 1996 as amended. (See Chapter 5.5)

SNH supporting the voluntary approach

Involvement, intervention and regulation



5.2 Deer impacts and damage to public interest

Deer management is often about managing impacts; these can be positive or negative. Negative impacts do not necessarily equate to damage. There is generally a tipping point where a negative impact is of a scale and significance that it amounts to damage.

Damage: is when negative impacts become detrimental to the legitimate objectives for a site.

Legitimate objectives: When considering the public interest these can include:

- Protecting habitats and species of local, national or international importance from deterioration;
- Public policy aims as outlined in Scotland's Wild Deer: A National Approach which may include contributions to climate change mitigation, the economic benefits derived from wild deer or safeguarding the welfare of wild deer and public health and safety.

The Deer (Scotland) Act 1996 (as amended) states that SNH can intervene to address damage to the different public interests identified in the following areas:

- Damage to woodland;
- Damage to agricultural production;
- Damage to welfare of deer;
- Damage to the natural heritage;
- Damage to public interests:
 - Social;
 - Economic;
 - Environmental.
- Injury to livestock by overgrazing or competition for feeding;
- Danger to public safety.

5.3 Assessment of damage

The assessment of damage involves 'a judgement, based on clear evidence that the impacts are deleterious in a particular location at a particular time'.⁴

When determining whether or not damage is occurring, SNH will take account of all relevant factors. This will include the nature and cause of the impact, the level of legal protection afforded, government policy and the wider interests of society. Priority will be given to legally protected sites and those in need of quick action. Actions that have already been taken to try and deal with impacts will be taken into account when deciding what the best thing to do is.

Where deer may be damaging public interests, SNH may assist landowners and occupiers to collect detailed information on the nature and scale of this damage. This information can be used to help find the right balance between support, incentives and regulation.

Further practical information on how damage may be assessed can be found in the Best Practice Guides section:
SNH Guides

5.4 Legislative tools

There are a number of legislative tools which government can use to change deer management practices. These are provided by the Deer (Scotland) Act 1996 (as amended).

Further practical information on legislation can be found in the Best Practice Guides section: *SNH Guides*.

At Involvement stage:

- **Assistance from SNH:** SNH has the power to assist any person or organisation in reaching agreements with third parties. This can take the form of a conflict resolution role and at varying levels is carried out on a day to day basis by SNH where there is a risk of damage to a public interest.

At Intervention stage:

- **Control Agreement:** A Section 7 Control Agreement, as per the Deer (Scotland) Act 1996 (as amended), is a voluntary, formal agreement which sets out specific deer management measures to be carried out to prevent damage to an identified public interest. Entering into these Agreements is triggered when damage is judged to be occurring and previous efforts have not addressed the damage. Access to public funding and support can in some circumstances be drawn down through the agreement.
- **Assistance from SNH:** SNH has the power to assist any person or organisation in reaching agreements with third parties. This can be a conflict resolution role and at varying levels is carried out on a day to day basis by SNH where there is a risk of damage to a public interest.
- **Appointment of Panels:** Under Section 4 of The Deer (Scotland) Act 1996 (as amended) SNH may appoint a local Panel to provide advice on a specific issue or where specific expertise needs to be brought together to assist with resolving an issue or building capacity.

At Regulation stage:

- **Control Scheme:** A Section 8 Control Scheme, as per the Deer (Scotland) Act 1996 (as amended), allows SNH to give formal notification of a requirement for specific deer management measures to be carried out by particular owners or occupiers to prevent damage. If not carried out then SNH will carry out the measures described and can then reclaim costs.
- **Emergency Measures:** A Section 10 Emergency Measures as per the Deer (Scotland) Act 1996 (as amended) enables SNH to authorise the killing or taking of any deer over any land where damage is occurring to a particular set of identified public interests and where none of the other standard powers available to SNH are adequate to deal with the situation.

5.5 Appeals against SNH decisions

SNH always carries out any assessment of habitats and deer populations in an open manner involving local land managers and encourages frank discussion on interpretation of the results. As with any public body a decision made by SNH is open to challenge through judicial review.

For the specific legislative tools under sections 7 and 8 of the Deer (Scotland) Act 1996 (as amended) a statutory right of appeal process is described. This involves an appeal to the Scottish Ministers and subsequently to the Land Court.

Chapter 6

Following the Code: Public Bodies

Public bodies are required to take account of this Code when carrying out any of their functions which could impact on deer⁵.

Public bodies, as with any other land manager/land owner are responsible for the management of deer as described in Chapter 2. The management actions in Chapter 3 are equally relevant to public bodies and they should take the opportunity to carry out actions which demonstrate good practice in deer management. The increasing distribution of deer in and around our towns means that public bodies, such as local authorities, should assess the extent to which they must apply this Code.

Public bodies should also demonstrate good practice in the way they collaborate in deer management planning with neighbours, as described in Chapter 4. Co-operation in sharing practical deer management will strengthen the collaborative approach and should lead to a more efficient use of money and staff.

Specific examples of when public bodies must consider how to apply the Code include taking account of the role and effect of deer in planting woodlands, providing green spaces in towns and cities and supporting jobs in rural areas.

Additionally public bodies, including SNH, must consider the Code when making regulatory decisions that could have an impact on deer. For example in planning green spaces around housing areas thought should go into their potential to provide a habitat for deer and what the consequences (positive and negative) of this might be.

The most effective way for public bodies to follow this code is to develop partnerships with the private and public sectors working together. It is this joint working which will best deliver sustainable deer management.

Further practical information on how public bodies can implement the Code can be found in the Best Practice Guides section: *People & resources*.

⁵ See Section 3(3) of The Deer (Scotland) Act 1996 (as amended) by the Wildlife and Natural Environment (Scotland) Act 2011

Bibliography

The Code of Practice on Deer Management has evolved through reference to projects and reviews and in response to stakeholder engagement. In developing this Code SNH has drawn on these sources of information as well as other related legislation, policies, strategies and guidance in order to ensure that:

- the policy and legal context of the Code is clear;
- the evidence base of the Code is clear;
- the scope of the Code is clear;
- the public interest associated with deer management is clear.

This part of the Code is a bibliography of policies and other documents which relate in some way to deer management and which may be of relevance to those involved or interested in the management of deer.

Please note that this list is indicative only.

A Smart, Successful Scotland: Strategic direction to the Enterprise Networks and an enterprise strategy for Scotland.

What it is: An Enterprise strategy and strategic direction to the Enterprise Networks. It sets out a vision of a Scotland where the quality of life of its people is raised through increasing the economic opportunities for all on a socially and environmentally sustainable basis.

Cairngorms Deer Advisory Group (CDAG) Deer Framework

What it is: A local (Cairngorms-wide) interpretation of the WDNA which is intended to work alongside the Code.

Choosing our Future: Scotland's Sustainable Development Strategy

What it is: A document setting out action which we will take in Scotland to turn the shared priorities set out in the UK Framework for sustainable development into action.

Forest Research Report on the Management of Peri-Urban Deer

What it is: A report on people's perceptions of deer in urban settings including implications and recommendations for their management. The report also includes a 'Decision Support Framework' which helps guide those managing deer in an urban context to make informed decisions. The Code links to this decision making framework.

Forward Strategy for Scottish Agriculture: Next Steps

What it is: A strategy for Scottish agriculture.

Framework for Economic Development in Scotland

What it is: A framework for economic development with a vision to raise the quality of life of the Scottish people through increasing the economic opportunities for all on a socially and environmentally sustainable basis.

Improving Health in Scotland: The Challenge (2003)

What it is: A strategic framework to support the processes required to deliver a more rapid rate of health improvement in Scotland. It highlights further actions to improve the health of the people of Scotland.

Invasive Non-Native Species Code

What it is: The Invasive Non-Native Code sets out the statutory responsibilities with regard to invasive non-native species.

National Transport Strategy (2006)

What it is: A strategy with the objective of improving the safety of journeys by reducing accidents and enhancing the personal safety of pedestrians, drivers, passengers and staff.

Natural Heritage Futures

What it is: Scottish Natural Heritage's national and local 25-year rolling vision for the natural heritage. Deer objectives within the Natural Heritage Futures programme are reflected in the Code.

Passed to the Future

What it is: Historic Scotland's Policy for the Sustainable Management of the Historic Environment.

Responsibility of Care Project

What it is: A project which looked at identifying the responsibilities inherent within deer management, particularly with regard to wild deer welfare.

Rural Economy and Land Use (RELU) Programme

What it is: Collaborative Frameworks in Land Management: A Case Study on Integrated Deer Management is a project under the RELU Programme with the aim of producing a framework for the development of effective, informed, inclusive, collaborative and sustainable management of rural resources in Britain, using wild deer as a case study. There may be scope for the Code to link to the Participatory GIS management tool which has been developed through this project.

Rural Scotland – Better Still, Naturally 2007

What it is: A scoping study of the impacts of community-based land reform on rural Scotland.

Scotland Rural Development Programme

What it is: A programme of economic, environmental and social measures, worth £1.5 billion, designed to develop rural Scotland from 2007 to 2013. It aims to deliver a Greener Scotland and to promote a Wealthier and Fairer rural Scotland. It brings together a wide range of formerly separate support schemes including those covering the farming, forestry and primary processing sectors, rural enterprise and business development, diversification and rural tourism.

Scotland's Wild Deer: A National Approach (WDNA)

What it is: Criteria/objectives for Sustainable Deer Management. The WDNA describes the outcome of a collective 20 year vision for sustainable deer management. This Code helps deliver the WDNA and is based around its structure.

Scottish Biodiversity Strategy

What it is: A national strategy and implementation plan setting out how Scotland will meet its Biodiversity obligations. It identifies biodiversity objectives/criteria which are relevant to the Code. Specifically, the Code links with the Upland and Woodland Biodiversity Ecosystem Groups and draws on the ecosystem health targets where relevant.

Scottish Forestry Strategy

What it is: A framework for taking forestry forward into the future. It includes a target for woodland expansion. Deer management must be compatible with the aims of the Scottish Forestry Strategy (SFS) so the Code recognises the SFS's aims and, in particular, acknowledges the desire to extend our woodland coverage.

Scottish Government National Performance Outcomes

What it is: A set of Scottish Government indicators/targets. The WDNA (above) reporting mechanisms use relevant Scottish Government performance indicators to monitor progress.

Scottish Land Use Strategy

What it is: Published by the Scottish Government in March 2011, this is Scotland's first ever Land Use Strategy. It sets out a new Vision to guide thinking about the use of land and Objectives relating to the economy, environment and communities. It also provides a set of Principles for Sustainable Land Use to guide policy and decision making and builds on the Government's current activities and includes further Proposals to help meet the Objectives.

Scottish Outdoor Access Code

What it is: The Scottish Outdoor Access Code sets out what is meant by responsible access as outlined under the Land Reform (Scotland) 2003.

Scottish Tourism: The Next Decade

What it is: A Scottish tourism industry led framework mapping the direction of Scottish tourism for the next decade.

Species Action Framework: Making a difference for Scotland's Species

What it is: A framework which sets out a strategic approach to species management in Scotland. It will help deliver the Scottish Biodiversity Strategy by prioritising the way we manage species, focusing on those where we expect significant gains to overall biodiversity, and thereby benefit the people of Scotland. It identifies a 'Species Action List' of 32 species which are the focus of new, targeted management action for five years from 2007.

Sustainable Deer Management Project (Case Studies)

What it is: The aim of the project was to understand, with the aid of case studies, what constitutes Sustainable Deer Management and to be able to measure aspects that can be quantified.

The Climate Change (Scotland) Act 2009

What it is: An Act which provides a statutory framework for greenhouse gas emissions.

The Land Reform (Scotland) Act 2003

What it is: An Act which establishes statutory public rights of access to land and freshwater for recreational and other purposes.

The Nature Conservation (Scotland) Act 2004

What it is: An Act which makes provision in relation to the conservation of biodiversity and the conservation and enhancement of Scotland's natural features. It represents an approach to managing designated sites and places a general biodiversity duty on all public bodies.

UK Woodland Assurance Standard (UKWAS)

What it is: An independent certification standard for verifying sustainable woodland management in the United Kingdom. The UKWAS provides an agreed set of criteria and principles that define sustainable woodland management and an audit protocol for checking compliance. Wild deer need to be managed sustainably as part of UKWAS and this is consistent with the requirements of the Code.

Notes



Scottish Natural Heritage Dualchas Nàdair na h-Alba

All of nature for all of Scotland
Nàdar air fad airson Alba air fad

www.snh.gov.uk

© Scottish Natural Heritage

Cover photograph: Katy McNeil