

The Impact of Legislation on Collaborative Management: the case of wild deer

The collaborative management of natural resources is a key governmental strategy for addressing a number of complex sustainability issues. However, its effectiveness is impacted upon by a number of factors.

The legal, political and social analysis undertaken in this research project sought to establish whether formal governance structures act as barriers to or drivers of collaborative approaches.



"That's what joint working is about. Finding ways of bringing it together without needing to legislate." (Scottish deer manager)

Background

Landscape-scale collaboration is the primary mechanism by which government bodies seek to achieve the sustainable management of various natural resources in Britain - including wild deer. Considerable resources have been invested in trying to establish, develop and build-on various approaches, however substantial obstacles remain to effective collaborative management. Wild deer present a complex management problem. They are highly mobile animals moving widely across landscapes, have various impacts on and values for stakeholders, and as their management commonly involves the use of lethal methods it can be sensitive and controversial. This research set out to consider whether the formal governance structure (in particular, legislation) is an obstacle to collaborative deer management.

Objectives

This research aimed to:

- Describe the structure and historical development of legislation affecting deer management.
- Establish how this legislation impacts on current collaborative management efforts.

Method

- We adopted a formal legal methodology to identify relevant statutes and legal principles pertinent to deer management, and literature review to analyse the social, political and economic contexts in which they emerged and developed.

Findings

An enormous range of legislation influences deer management in Britain, including public health & safety, animal welfare, natural heritage and biodiversity, and land access. Associated rules and

customs have roots reaching as far back as the Palaeolithic age. Key principles emerged as follows:

- **Early Britain** (Pre 1066): notions of *res nullius* and trespass, and the creation of areas where only the social elite could hunt, all first formalised - particularly during Roman occupation.
- **Medieval period** (1066-1650): further restrictions put in place to protect deer and the right to hunt them with, for example, the introduction of legal seasons and the stringent implementation of the system of 'Forest Laws'.
- **Pre-industrial period** (1651-1800): 'Forest Laws' replaced by the broader 'Game Laws' removing the Crown's exclusive claim to all game in England and extending these rights to other landowners. Legislation strengthened to deter poaching, and extension of private property rights under the parliamentary Enclosure Acts (c.1750—1860).
- **The industrial period** (1801- 1945): strengthened controls over the legal market for venison through licensing to support the commercial sporting value of deer and the introduction of legal powers to protect tenant farmers from the impacts of deer.
- **'Modern' period** (1945-present): legislation consolidates landowner rights and extends the notion of responsibility for deer impacts – e.g. the requirement to cull deer to protect natural heritage in Scotland. Establishment of the Deer Commission for Scotland.

For the majority of its history deer management has been an *exclusive* practice under the control of landowners through a combination of tradition, culture, social networks, and economic wealth. Legislation has reinforced this exclusivity by limiting access to technology to kill deer, access to land (e.g. trespass), economic opportunities (e.g. licensed venison sales) and time available for hunting (e.g. seasons). Legislation has created rights for those with the opportunity to kill deer, but at the same time given them few responsibilities to address the impacts created, in part, by their management choices. Collaboration often demands an approach that is *inclusive* of a range of stakeholders, and within which some responsibility for taking management action is required.

Recommendations

- Significant innovation is likely to be necessary if legislation is to encourage collaboration. This should focus on formalising responsibilities for sustainable deer management.
- Collaborative approaches should focus directly on creating opportunities to redress the exclusivity surrounding deer management through cultural exchange and partnership working that enables formal entitlements to be set aside.

Partners

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Reports and Publications

Phillip, S., N. Dandy, R. Gill and D.C. MacMillan (2009) 'Is legislation a barrier to the sustainable management of game species? A case study of wild deer in Britain.' *Journal of Environmental Planning and Management*, 52, 993 – 1012.