

Dogs in badger setts guidance

This document provides advice to Fire Brigades (and others) on what to do in response to situations where dogs have gone down badger setts.

Badgers and the Protection of Badgers Act 1992 (as amended)

Badgers and their setts are given full protection under the Protection of Badgers Act 1992 (as amended).

Fire Fighters may encounter the need to interfere with badger setts for several reasons. The most common reason would be to help locate and retrieve lost dogs that have gone down into setts.

The Act defines a badger sett as “any structure or place displaying signs indicating current use by a badger”. Case law has extended this definition to include the tunnels, chambers, entrances, and areas immediately outside the entrances.

Section 3 of the Protection of Badgers Act makes it a criminal offence to:

Interfere with a badger sett by doing any of the following things –

- (a) damaging a badger sett or any part of it;
- (b) destroying a badger sett;
- (c) obstructing access to, or any entrance of, a badger sett;
- (d) causing a dog to enter a badger sett; or
- (e) disturbing a badger when it is occupying a badger sett,

intending to do any of those things or being reckless as to whether his actions would have any of those consequences.

The current penalty for breaching this Section of the Act is a term of imprisonment not exceeding six months and or a fine up to level five (currently unlimited).

Section 10 of the Act, however, provides for Natural England (NE) (on behalf of the Secretary of State for Environment, Food and Rural Affairs) to be able to issue licences to people to allow them to interfere with setts for certain purposes.

As soon as the Service receives notification of a dog in a hole, or from attendance at the scene, and it is thought that a badger sett is involved, they should contact Natural England for advice.

Call the NE Technical Services Wildlife Licensing Team in Bristol on: 0845 6014523 (office hours only).

Please note that Natural England operates a normal office hours service and although contact can be made in emergencies out-of-hours, it is unlikely that staff who deal with licences will be available to deal with any application until the start of the next working day.

The general enquiries number (which includes out of hours emergencies only) is: 0300 060 6000.

It is normal policy not to issue a licence until 48 hours have expired since the entry of the dog in to the sett. This is because in a number of cases, the dog loses weight and makes its own way out. Exceptions to this policy can be made – for example if the dog can be seen, can be heard and located close to the surface or is known to be in imminent danger.

An application for a licence will need to be made by someone (usually the dog's owner but it could be an RSPCA Inspector or the Officer in Charge). It is usual practice for a Wildlife Management Adviser to visit the site and bring with him/her a licence application form. This can then be filled in and a licence issued. **It is important to note that the permission of the landowner is required in writing before a licence can be issued.** This type of "emergency" licence can also be "issued" over the telephone with the Natural England Wildlife Management Adviser then briefing those involved on its conditions.

Owners are encouraged (with the landowner's permission) to stay at the sett and try to encourage the dog out on its own eg by calling, rattling food bowls, squeaking favourite toys, wafting meaty smells down the entrances etc. If possible, from the time of entry into the sett, somebody should remain at the sett all the time. This is because on occasions, dogs have exited the sett and returned home without anyone knowing.

Natural England will only issue a licence if there is clear evidence that:

- The hole in which the dog is believed to be, is part of a structure or place which in current use by badgers
- The dog is alive in the sett
- The position of the dog in the sett can be located

Natural England needs to balance the recovery of the dog with the welfare of the badgers. A licence will not be issued to allow a whole sett to be dug up to try and find the dog.

In some cases, listening equipment has been used to locate the dog before digging in to the sett commences. A licence is required if listening equipment or endoscopic probes are to be inserted into the sett.

A vet or RSPCA Inspector should be on site or at least "on call" to ensure that veterinary treatment for the dog or badgers can be provided if necessary.

If a licence is issued it will be time limited and have a number of conditions attached to it. It is likely that attendance at the site of a Natural England Wildlife Management Adviser or other suitably experienced person whilst works are taking place will be a condition. The NE Wildlife Management Adviser can require that licensed works are stopped at any time. They will also offer help and advice in relation to the rescue.

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