



## **Guidelines for Birds of Prey Keepers in the UK Concerning : Inspections, Searches and Home Visits by Law Enforcement Agencies and NGOs.**

With specific regard to captive bred and wild injured birds of prey in captivity there are many differing circumstances when an individual or premises, both residential and commercial, may receive a visit from representatives of various law enforcement agencies such as the Police and DEFRA Wildlife inspectors or officers from animal welfare charitable organisations, (NGOs) such as the RSPCA.

Whatever the circumstances it is appreciated that, for most, any such visit can be very distressing and overwhelming. The average person may have little or no understanding of the relevant Laws involved and what they can or cannot do in such circumstances. These guidelines have been designed to help all keepers prepare for the possibility of such a visit and to give some kind of framework in which they may conduct themselves with a view to protecting the interests of themselves and, most importantly, the welfare of the birds that they are responsible for.

### **IMPORTANT PLEASE NOTE:**

*With regard to the following guidelines please remember that the information and advice contained within are only suggestions for the owner/keeper to **CONSIDER** . They are **NOT** designed to tell you what you must do. It is up to the individual to make sure they understand the requirements of the various*

*laws, and to comply with them. It is their own choice at the time of any such visit or inspection etc., as to what course of action they should take.*

## **POWERS OF ENTRY**

There are various powers of entry onto premises that bird of prey keepers should be aware of. The primary Statutes that are relevant and which permit entry under certain conditions are contained within the following Acts :

- Police and Criminal Evidence Act 1984
- Animal Welfare Act 2006
- Wildlife and Countryside Act 1981
- Performing Animals Act 1925

Keepers should take time to research these Acts and identify relevant laws relating to powers of entry. Keepers should be aware that with certain laws detailing powers of entry there is a clear distinction between powers to enter premises and powers to enter dwelling houses.

Legal jargon, terminology, documents and Acts of Law are not always easy to interpret or fully understand, but the more you read and research then the more you will be aware of your legal rights and what the people who represent the Law of the Land can or cannot do.

### **Keepers should be aware of the following :**

Unless named in a Police search warrant, or at the request of Police exercising their powers under The Animal Welfare Act, the RSPCA do NOT have any powers to enter your premises. The RSPCA like the RSPB is not a crown Agency and their officers are individuals who work for a charitable organisation which is an NGO – a Non-Government Organisation. The fact that they choose to wear a uniform gives them no authority or recognition in Law. Please note that the term `Inspector` used in the Animal Health Act does not refer to an `inspector` from the RSPCA .

It should also be NOTED that Legislation in Scotland can be different from similar laws in England and Wales, even though the relevant legal powers are recorded under the same Statute . An example of this would be where officers from the Scottish SPCA (the equivalent of the RSPCA in England and Wales)

**do** have Powers of entry under the Animal Welfare Act (Scotland 2006). Please be aware that the SSPCA and RSPCA are two independent and separate organisations.

**PAPERWORK**, ring numbers microchips and Human error!

The very first thing that you should do **NOW** is check that all relevant documents and certificates etc., that you hold accurately reflect all the birds in your possession.

You should consider the following:

Are the microchip or ring numbers on your birds the same as recorded on your A10 or bird registration certificate? Is the ring number the full and complete number on the ring, phone numbers included.

Are there any mistakes, errors or omissions that you are not sure about? For example the sex of the bird. If not known, put unknown.

Can you provide a chain of evidence as to where the bird in your possession, and on your premises, originally came from, and if it was captive bred? We would strongly recommend that you have this for all birds including those not covered by existing legislation.

Without doubt people can, and do, make mistakes. A breeder or keeper could unwittingly, without any intention to deceive, record the incorrect number on any relevant application or correspondence. The same could be said for personnel from DEFRA who could possibly record the wrong details on legal documentation, such as Article 10 certificates, then subsequently issue them to a Keeper or Breeder as apparently correct.

The most important and essential point here is to make sure that you have checked all your relevant documentation and established that the details recorded are correct and accurately refer to the bird or birds in your possession. **IF THEY DO NOT THEN DO SOMETHING ABOUT IT NOW.** Remember to keep copies of all correspondence with everyone.

*It is good practice to keep a separate copy of all documents, emails, letters,*

*and certificates, in a different place from the originals .*

## **IDENTIFICATION/AUTHORISATION**

If you receive a visit from a Law enforcement agency always try and establish that the person you speak to is actually who they say they are. Beware of strangers using false identities or just trying their luck. If there are uniformed police officers in attendance with official police vehicles nearby then it is relatively easy to establish the identity and legal standing of the people or person at your door. You can ask for identification and which police station they come from, you can even phone the relevant police station to check up on this information.

However if they are not in uniform it is not always so easy. You should always consider: do they have any form of identification or a telephone number of their relevant department that you can call to clarify that they are who they say they are. All police officers, and other enforcement agencies, carry a warrant card or some form of identification which they should produce when asked. But, it is fair to say that most of us have no idea or knowledge as to what these should and do look like. So, if in any doubt as to the identity of someone trying to gain access to your premises decline permission to enter and politely ask them to wait while you ask for local police to attend, in conjunction with telephoning the individuals departmental office in an attempt to prove identity.

Always try and establish the identity of the person visiting your premises and make a record of their details and who they represent together with date/ time of visit.

You can always take photos with your phone.

## **SEARCH WARRANTS**

The Police could attend your premises with a view to searching your house or garden or land and outbuildings under the authority of a search warrant. There are many different circumstances when this scenario may apply and could be conducted in different ways depending on the suspected offence, the

individual or premises involved and whether evidence could be lost or destroyed.

If a Search Warrant is executed at your premises or address your options may be limited. You will probably be panicked, angry and distressed. Remember that whatever protests you make and whatever you do, if they have a warrant they **WILL** be entering your house or premises. It is important that you try and stay calm, do not be aggressive, be polite and accommodate their entry onto your property. Do not be obstructive and where reasonably possible be of assistance for example supplying keys to locked doors etc., or producing relevant paperwork if required.

It is appreciated that in such circumstances that you as an individual may not be thinking clearly but if possible consider the following:

Have you seen the search warrant? Have you been given a copy? If not ask for one, read and retain it. The people who enter your property should be named on the warrant. If there are additional individuals not named on the warrant but who have also entered the property, who are they? By what authority are they there? Indeed do they need to be there?

If you are suspected of an offence and someone tries to question or interview you they should caution you first. Do **NOT** answer any questions relating to a suspected offence until you have taken legal advice.

What about contacting a friend, relative, neighbour or even a solicitor or vet to immediately attend the address in order to act as a witness to the proceedings? Make a written record of events and conversations, consider using a camera, mobile phone or video to record what happens.

## **WITNESSES**

On any occasion that your premises are visited by the `authorities` always try and get an independent witness to the proceedings. This could be anyone who is willing to observe what happens and give witness as to how the search or visit to premises is conducted.

They may be a neighbour or friend or as mentioned in the Search Warrant

Section, a vet or solicitor. Perhaps they could take photographs for you or even record and video the proceedings and make a record of conversations and any questions and answers that may be appropriate at the time.

Ask whoever is in charge at the time that you be given an opportunity to find an appropriate witness, if this is refused make a note of the fact and ask why not?

If visited by anyone other than a Police officer why not consider calling the local police and asking if they will attend. Apart from establishing the identities of individuals and making sure that legal guidelines are followed, they could act as your witness.

Having an independent witness to events is important and should not be underestimated, especially if criminal or civil proceedings are instigated as a result of the search or visit. Please note that any such witness should take care not to obstruct anyone in a legal capacity at the time. They are there to witness and make a record of events and not to argue with people acting in an official capacity.

NOTE: On any inspection it could be extremely advantageous if you have the opportunity to have your own vet in attendance. This could be very important, especially in cases where the welfare of your birds is questioned, and even more so if the catching up in aviaries is of great concern to you.

## **WILDLIFE INSPECTORS**

Wildlife Inspectors, as designated by the Wildlife and Countryside Act are individuals who work on behalf of DEFRA/AHVLA and operate under the guidance of the Compliance team at their HQ in Bristol. Their role as far as Bird of Prey keepers are concerned is to undertake inspections at premises of keepers of schedule 4 birds and individuals involved commercially with CITES species.

They have legal powers to enter premises. In doing so their main objective will be to ensure that where legally required, birds are properly registered and that appropriate legislation is being followed. Primarily this will involve checking ring and/or microchip numbers on birds and clarifying that they

correspond accurately to the relevant paperwork. ( see paperwork page 2 ) They also have the power to require the taking of a sample from a bird which may be required to prove or disprove origin/ancestry. For this purpose they may on occasion be accompanied by a vet.

Keepers should make themselves aware of which species of birds are listed under schedule 4 of the Wildlife and Countryside Act as well as researching which species are affected by European legislation and CITES regulations. Much of this information is available on DEFRA`s website as is the Wildlife Inspectors Code of Practice.

Please Note: There may be circumstances where an inspection takes place and uniformed police officers are also in attendance. This in most cases will be quite intimidating. Try not to panic and remember that wildlife inspectors are governed by Health and Safety regulations just like most of us. Police are normally only there to ensure that there is no breach of the peace and that the inspectors welfare is not threatened.

In our experience and on information received it appears that it is general practice that Wildlife Inspectors will not catch up birds for examination in aviaries. In most cases they will ask the keeper to do so or in certain circumstances they may bring with them someone who has the apparent ability and experience to do so. Issues involving injury to birds during the process of catching them up for examination, and subsequent liability is discussed in the next section.

#### *Please note*

Keepers should be aware that under the Wildlife and Countryside Act the following applies:

Under Section 18a Wildlife inspector may require any person who has the relevant specimen (i.e. bird) in his possession or control to make it available for examination by the inspector or veterinary surgeon.

That they can require the taking of a sample which could be a blood sample or a swab for DNA analysis.

In addition to the above under this Act a person who has the bird in his possession or control must give assistance as is reasonably required for that purpose.

What, in Law is an exact definition of `assistance` as opposed to `obstruction` is unclear and may be for a subsequent court to determine as individual cases vary.

There can be many situations where a keeper is reluctant to catch up a bird or birds that are loose in an aviary. If this is the case they should be clear in explaining the reasons why. They should detail clearly their concerns and not be afraid to stand up for the welfare of the birds in their possession or health and safety issues concerning people entering an aviary.

NOTE: The Wildlife Inspectors Code of Practice are detailed on the AHVLA website. All keepers should have read and understood the information contained within. Reference is made to letters of authority and photo identity cards. Keepers will be invited to inspect this ID and to read and sign copies of this letter, one of which should be retained. Please make sure you read carefully any documentation, and make sure you understand it before you sign it.

## **CATCHING UP BIRDS**

This particular subject where a request has been made to examine a bird is for most keepers one of the most worrying aspects of any visit to their premises. If the bird or birds in question are tethered or at a point where they are responsive to their handler then the process of examining close rings or gaining a microchip reading is pretty straight forward. But if the birds are free lofted and cannot be easily handled in an aviary then the whole procedure of catching them up can be a time of great stress to both keeper and bird.

There may be any number of reasons why a keeper is unwilling and refuses to catch up birds in aviaries. For example :

- It could be that the birds are breeding and have or are about to lay eggs
- They may have babies or youngsters that could be injured

- The birds have just come into breeding condition. Could the process of catching the birds up affect the possibility of breeding
- They could be heavily in moult and have numerous feathers 'in the blood` which could be damaged
- The birds may be ill or have recently received treatment for an illness or injury and the process may be too stressful for them, this would need to be provable
- As could catching them up again if they had recently been caught up to clean an aviary for example
- The age of the birds may be relevant as could the time of year and time of day, e.g. if it is a hot summers afternoon

Whatever the reason, a keeper should ask themselves if chasing a bird around an aviary trying to catch it is going to be detrimental to the birds health and welfare, at that time. As far as breeding is concerned, is it going to affect the bird or birds in a negative way and will it subsequently be the cause of breeding failure?

In addition to this, one should always consider the dangers of catching up birds, could someone be injured in the process. Health and safety issues need to be considered for all parties concerned.

It is **IMPORTANT** that you express your concerns to the individual in charge. Be prepared to refuse to catch up birds if you feel that it is reasonable to do so. Remember that you are legally responsible for the welfare of the birds in your possession, be prepared to protect their interests and explain your objections in a reasonable and calm manner.

Do not obstruct people on your premises in these circumstances and offer to unlock doors etc., but give the 'officer` or 'inspector` concerned the responsibility of catching up the birds. Where possible make a record of the conversation or record it and always ask who is responsible should any birds be injured in the process.

In cases when a visit to premises occurs, the keeper is going to be the person likely to be asked to catch up birds for examination if required. But there may also be times when visits to premises are made and the relevant Law enforcement agency involved brings with them an individual who is an

apparent expert in handling birds of prey. If this is the case, ask who they are, what experience they have, have they handled this type of bird before and how do they plan to catch up the birds in question. Ask if they have brought the relevant equipment to do so. Additionally, you should ask as to how will they stop birds escaping from the aviary once the door has been opened . Not every keeper has a double door system to their aviaries. With only a single door straight into an aviary and no safety or access corridor birds can easily escape when persons enter.

## **LIABILITY**

The next issue regarding examination of birds is Liability. It needs considering as it is an important aspect of the process that a keeper should attempt to clarify before any birds are handled or caught up.

The important question is: Who is responsible and therefore liable should any injury to a bird or person occur. In addition who is liable to compensate an owner/keeper if breeding fails as a possible direct result of catching birds up for examination, and equally who will compensate the owner or keeper in the event of birds escaping whilst being caught up or examined.

In any event where a keeper or owner feels that as a direct result of an inspection or search they have cause to seek compensation for an injury or loss suffered they are advised to seek Legal advice with a solicitor as soon as possible. It would also be of assistance if details of such an event and outcome were passed on to members of the Hawk Board for their reference and potentially advising other keepers in the future.

## **VETS/BLOOD CONTAMINATION**

In certain circumstances, a blood sample or swab may be required from a specific bird or birds. This in most cases, will be to establish parentage or if a bird is truly related to another. There are legal powers in place enabling this to be done, but taking blood can only be undertaken by a vet. There may be provisions at the time of an inspection for the keeper to have his or her own vet in attendance in order that they can obtain the sample.

In all cases where blood is taken from a bird, it is recommended that keepers ask for and obtain a sample for themselves in order that, if allegations are

made against them, they have an opportunity to have their own sample independently examined. This sample will have to be kept in the appropriate manner, preferable by your vet.

## **COMPLAINTS**

Every Police Constabulary in the UK, and DEFRA, have procedures in place to record and examine any complaint made regarding the conduct of their officers. If keepers/owners feel that they have been treated unfairly or inappropriately, they are fully entitled to make an official complaint to the relevant authority. They should also consider seeking legal advice on the details of the incident.

## **FREEDOM OF INFORMATION**

Keepers should also consider, after a search or inspection has been made, whether or not they would like to see any information that has been recorded about them or the incident by the relevant authority. Under the Freedom of Information Act 2000 they have an opportunity to do so and can make a request for this information. It is understood that this is referred to as a Data Subject Access Request .Again, if this is something that you wish to do but are unsure of the process then why not seek Legal advice with a solicitor or contact your local Citizens Advice Bureau? In most cases a simple letter to the relevant authority requesting the information will suffice.

## **COMMON SENSE**

Though we have a right to protect our own interests and the welfare of our birds, we also have an obligation to Falconry to promote good practice and to abide by the regulations and respective laws that exist today. The overwhelming majority of people who keep/fly/ breed or use commercially birds of prey do so legally and with good intentions, working within a legal framework that they may not agree with on all counts, but one which they respect.

With this in mind it is important to point out that if you receive a visit from the police or DEFRA or even an officer of the RSPCA, there is nothing to be gained from being rude and obstructive. Be helpful, be polite, be prepared to

question the procedure involved, the legality and the actions of individuals present but do so in a calm and non-aggressive manner. Help them understand your concerns; try and educate rather than give them ammunition to discriminate against us. Effectively, use common sense and if you can resolve a situation by making a bird available for examination, and you feel that you can do this easily without too much trouble then why not do it ?

If you know that you have all relevant documentation etc., then in the vast majority of cases you have no need to worry about any such visit or inspection. But remember, ignorance of the Law is not an excuse and will still get you convicted or cautioned for an offence.

## **SUMMARY OF ADVICE**

1. **LEGISLATION:** Make an effort to research the Legislation that concerns and governs Keeping birds of prey especially; commercial use, registration, welfare issues and powers of entry.
2. **PAPERWORK:** Check that all birds in your possession now have the correct paperwork, that this paperwork/certification etc., accurately relates to the ring and/or microchip numbers on your birds.
3. **IDENTITY:** Confirm the true identity of any individual requesting access to your birds before you grant them entry.
4. **SEARCH WARRANTS:** Read them properly and retain a copy, be polite and do not be obstructive, be careful when answering questions and do not allow yourself to be interviewed without first seeking legal advice.
5. **WITNESS:** On any occasion when your premises are visited whether it be by warrant or wildlife inspector always try and obtain an independent witness to the proceedings. Consider recording or filming events.
6. **WILDLIFE INSPECTORS:** Be polite and helpful, do not obstruct them. Be prepared where appropriate to question a request to catch birds up in aviaries.
7. **LIABILITY:** Where birds are to be caught up always question liability and ask who is responsible should a bird be injured etc.
8. **VETS:** A blood sample, in certain situations, may be required from one or more birds. A vet will be required to do this, consider obtaining an independent sample taken by your own vet.
9. **COMPLAINTS:** Consider an official complaint if you feel you have legal grounds for making one.
10. **INFORMATION:** Consider making an official request for information relating to records held and the search/inspection in question.

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