



Boxing Day and New Year's Day meets:

Advice on the relevant legislation

1. Hunts often gather in public spaces and on public roads on Boxing Day and New Year's Day. Sometimes they will parade through the street and gather at a meeting point, such as a town square or a pub.
2. Some hunts employ marshals who close the roads and direct traffic around or away from the hunt. In some cases, these are untrained individuals who are hunt staff or supporters, rather than experienced traffic marshals.
3. Members of the public often attend to watch the gathering. We refer to these people as "members of the public", who are distinct from hunt supporters who follow the hunt for the day and, in some cases, pay the subscription fee so that they can do so.
4. The hunts are often comprised of:
 - a. Horses and riders;
 - b. Huntsman and hounds;
 - c. Hunt staff, who can be on horseback, on foot, in vehicles or on quadbikes;
 - d. Hunt supporters, who can be on foot, in vehicles or on quadbikes;
 - e. Hunt marshals, who direct traffic and collect money from members of the public.
5. There can be large numbers of people gathering, including up to several dozen horses and 30-40 hounds, who are loose and not on leads.
6. Some hunts are limited companies and others are not. In most cases, they require payment of a subscription fee to attend as a rider or supporter. Payment of a subscription fee is not required for a member of the public to watch the hunt gather at the start of the day.
7. Hunt marshals collect money, sometimes in unsealed bags or buckets. In some cases, they say they are collecting money for the hunt, in other cases they say they are collecting for charity, and in others they do not specify what the collection is for.
8. Some hunts serve and/or sell alcohol to the hunt supporters and members of the public. Some hunt supporters and riders drink alcohol and subsequently ride a horse or drive a quadbike or other vehicle.
9. There have been a number of other concerning reports from members of the public, including:
 - a. Violence and threats of violence, including the use of racist language, by the hunt towards anti-hunt protestors;



- b. Horses are walked very close to members of the public; there is some concern that the horses could spook in such a large crowd and cause injury;
 - c. Allegations of dangerous driving, for example, two 4x4 vehicles reversing side by side along a road towards a hunt monitor's vehicle;
 - d. Hunt vehicles blocking the roads;
 - e. Horses and riders blocking disabled parking bays for up to 40 minutes;
 - f. Horses being ridden the wrong way up one-way streets;
 - g. Children, including toddlers, being placed on horseback with no helmet or other protective equipment.
10. The above circumstances engage a number of pieces of legislation, which we consider in detail in the following.

Road closures

Highways Act 1980

- 11. The starting point is section 137 of the Highways Act 1980 (the "HA"), which states that "If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale".¹ A level 3 fine is currently £1,000.²
- 12. The wording of section 137 permits obstruction of a highway "lawful excuse". In other words, if the obstructor(s) has/have a licence, then no offence will be committed under section 137.
- 13. If the obstructor(s) do not have a licence or other lawful excuse, an offence is committed.

Who is responsible for enforcement?

- 14. Section 130 of the HA provides that it is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority.³

¹ [Section 137, HA](#)

² [Section 122, Sentencing Act 2020](#)

³ [Section 130\(1\), HA](#)



15. In addition, any council may also assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority.⁴
16. However, notwithstanding this power, it is the duty of a council who are also the highway authority to prevent, as far as possible, the stopping up or obstruction of
 - a. the highways for which they are the highway authority and
 - b. any highway for which they are not the highway authority, if, in their opinion, the stopping up or obstruction of that highway would be prejudicial to the interests of their area.⁵
17. If a parish council or other community council (or, if the area does not have a parish or community council, a parish or community meeting) informs the highway authority that there has been an obstruction on a highway on which that highway authority is responsible for preventing obstructions, that highway has a duty to institute legal proceedings.⁶
18. The wording of these rights and obligations of authorities is important. Highway authorities have a duty (i.e. an obligation) to assert and protect the rights of the public to use the highway. Councils who are also highway authorities have a duty to prevent the obstruction of highways for which they are responsible. Councils also have a duty to prevent, as far as possible, the obstruction of highways for which they are not the highway authority if they believe that the obstruction of that highway would be prejudicial to the interests of their area. If a parish council notifies a highway authority that there has been an obstruction, that highway authority has a duty to institute proceedings against the obstructor. Councils also have a general power (i.e. discretion to act) to assert and protect the rights of the public to use the highway.
19. The primary body which is responsible for enforcement is therefore the highway authority. Where the highway authority sits within the local authority in a particular area may vary.

What happens if the highway authority fails to enforce the HA?

20. The HA imposes a number of duties on councils and highway authorities. In other words, they have a legal obligation to take action.
21. If a local authority fails to act where the law requires it to, that failure to act may be grounds for judicial review.
22. Judicial review is a type of court proceeding in which a judge reviews the lawfulness of a decision (or indecision) or action (or inaction) taken by a public body. The court will not substitute what

⁴ [Section 130\(2\), HA](#)

⁵ [Section 130\(3\), HA](#)

⁶ [Section 130\(6\), HA](#)



it thinks is the “correct” decision, but instead will require the public body to ensure it does not continue the unlawful conduct.

23. There are three main grounds of judicial review: illegality, procedural unfairness, and irrationality.
 - a. A decision can be overturned on the ground of illegality if the decision-maker did not have the legal power to make that decision, or if they failed to exercise a duty which the law requires them to.
 - b. A decision can be overturned on the ground of procedural unfairness if the process leading up to the decision was improper. This might, for instance, be because a decision-maker who is supposed to be impartial was biased or acted outside of legally required time limits or processes.
 - c. A decision can be overturned on the ground of irrationality if it is so unreasonable that no reasonable person, acting reasonably, could have made it. This is a very high bar to get over, and it is rare for the courts to grant judicial review on this basis.
24. The relevant ground for judicial review in this case is likely to be illegality. In other words, the highway authority has failed to act when the law requires it to do so. The ground of procedural unfairness may also be relevant if, for example, it is shown that bias was a factor in the decision-making process. Similarly, the ground of irrationality may also be relevant as it could be argued that there is no rational basis for neglecting to apply the HA to hunts.
25. If successful, the relevant remedies are likely to be:
 - a. An order quashing the decision in question (“quashing order”). In other words, it may be possible to seek a quashing order in relation to the local authorities’ decision not to take action;
 - b. An order requiring the body under review to carry out its legal duties (“mandatory order”). In other words, it may be possible to seek a mandatory order, requiring the local authorities to carry out their legal duties; and/or
 - c. A declaration setting out the rights or legal position of the parties. This could, for example, be a declaration that the local authorities’ failure to act was unlawful.

Licences for road closures: the Town Police Clauses Act 1847 and the Road Traffic Regulation Act 1984

26. The Town Police Clauses Act 1847 (the “TCPA”) is often cited by local authorities as the legislation under which roads may be closed for special events. In other cases, some local authorities apply the Road Traffic Regulation Act 1984 (“the RTRA”), which creates the licensing regime for Temporary Traffic Regulation Orders (“TTROs”).



27. Both the TPCA and the RTRA allow local authorities to close roads, and there is some overlap as to when they might apply. We consider them both in more detail here.

The TPCA

28. The TPCA is an old piece of legislation and as such it uses archaic language which makes interpretation difficult. In some places, it may also appear to conflict with more recent legislation.
29. The relevant section of the TPCA is section 21, the wording of which is as follows:

The commissioners may from time to time make orders for the route to be observed by all carts, carriages, horses, and persons, and for preventing obstruction of streets, within the limits of the special Act, in all times of public processions, rejoicings, or illuminations, and in any case when the streets are thronged or liable to be obstructed, and may also give directions to the constables for keeping order and preventing any obstruction of the streets in the neighbourhood of theatres and other places of public resort; and every wilful breach of any such order shall be deemed a separate offence against this Act, and every person committing any such offence shall be liable to a penalty not exceeding level 3 on the standard scale.⁷

30. In order to better understand this provision, we would break it down as follows:

a. *"The commissioners..."*

The body responsible for enforcing this provision is "the commissioners". This is somewhat opaquely defined as "the commissioners, trustees, or other persons or body corporate intrusted by the special Act with powers for executing the purposes thereof".⁸ "The special Act" is defined as "any Act which shall be hereafter passed for the improvement or regulation of any town or district defined or comprised therein and with which this Act shall be incorporated".⁹

Our interpretation of this wording is that the powers are granted to the local authority and/or the local police commissioner. In some areas the power may have been delegated from one to the other. This may need considering on a case-by-case basis and may vary between counties and districts.

b. *"...may from time to time make orders..."*

This wording means that the local authority or police commissioner may (in other words, they have discretion, and are not obliged to) make relevant orders under the TPCA. Public

⁷ [Section 21, TPCA](#)

⁸ [Section 2, TPCA](#)

⁹ [Section 2, TPCA](#)



bodies have wide discretion to make decisions, and decision or indecision is difficult to challenge where they have discretion. There are, however, general requirements for local authorities to carry out their functions effectively,¹⁰ and in a way which is transparent, accountable, proportionate and consistent.¹¹ In relation to the use of land in their area, there is also a requirement for local authorities to make decisions which are for “the benefit, improvement or development of their area”.¹² If a local authority is failing to meet those general requirements then it may be possible to challenge them on that basis.

- c. *“...make orders for the route to be observed by all carts, carriages, horses, and persons...”*

This could include making orders for temporary traffic diversions where there is a need to do so. It could also include specifying the area in which the hunt must gather or parade.

Note that the power to make orders is limited to ordering “the route to be observed”. We will return to this point later.

- d. *“...in all times of public processions, rejoicings, or illuminations, and in any case when the streets are thronged or liable to be obstructed...”*

This is odd wording, but it is very wide and could be said to include a gathering (or “thronging”) in the street for a Boxing Day meet.

- e. *“...and may also give directions to the constables for keeping order and preventing any obstruction of the streets in the neighbourhood of theatres and other places of public resort...”*

This wording gives discretion to the local authority as to whether it directs the police to attend to help keep order.

- f. *“...every wilful breach of any such order shall be deemed a separate offence against this Act, and every person committing any such offence shall be liable to a penalty not exceeding level 3 on the standard scale.”*

¹⁰ [Section 5\(1\)\(a\), Regulatory Enforcement and Sanctions Act 2008](#)

¹¹ [Section 5\(1\)\(c\) and 5\(2\)\(a\), Regulatory Enforcement and Sanctions Act 2008](#)

¹² Section 120(1)(b) Local Government Act 1972. It should be noted that this provision applies specifically to decision-making in relation to the acquisition of land, as opposed to the use of land after acquisition. However, this provision was considered in the case of *R v Somerset County Council* 1995 ex parte Fewings, in which the Supreme Court confirmed that it was applicable to decisions about the use of land after acquisition (even, in that case, 70 years after acquisition). This case (which, fortuitously, related to stag hunting) confirmed that the test to be applied is not a moral one, and if councils make decisions on personal morals alone they will not be acting lawfully. The general requirement is to consider the “benefit, improvement or development of their area” as a whole when making decisions about land use. Morals may be a factor, but they cannot be the only factor.



Any wilful breach of an order is a criminal offence punishable by a fine of up to £1000.

31. The requirements for applying for an order under the TPCA vary between local authorities. For completeness, we set out a few examples as follows:

a. Three Rivers District Council

Their website states that “Applications for regular events typically take 4 weeks to process but if you have not held your event in the same location before, any application must be submitted at least six months before the date of the event to allow adequate time for the authorisation process”.¹³ Applications are made by completing a form.¹⁴ It says that the applications are suitable for processions and parades which require short-term road closures, “which affect only a few roads while the procession or parade is passing through”. Arguably this would not apply to hunt meets.

No further information is provided in relation to the fee payable or the process by which the Council makes its decision.

b. New Forest District Council

Applications are made by completing a form,¹⁵ which states that it must be submitted at least two months before the proposed closure. The fee appears to be £160.¹⁶ The application form contains a number of conditions for the road closure which the applicant must adhere to.

c. East Hampshire District Council

Applications are made by completing a form,¹⁷ which states that it must be submitted at least two months before the proposed closure. There is a fee of £123 with additional work charged at an hourly rate of £28.80 plus VAT. As with the New Forest, the application form contains a number of conditions for the road closure which the applicant must adhere to.

The RTRA

32. Section 16A of the RTRA (as amended by the Road Traffic Regulation (Special Events) Act 1994) gives local authorities powers to make orders (including TTROs) to close or restrict access to roads in order to facilitate, to allow members of the public to attend, or to reduce traffic

¹³ <https://www.threerivers.gov.uk/egcl-page/road-closures-for-community-events>

¹⁴ <https://www.threerivers.gov.uk/download?id=41076>

¹⁵ <https://www.newforest.gov.uk/media/643/road-closure-order-application-form/pdf/road-closure-order-application-form.pdf?m=637273002688830000>

¹⁶ This may not be up to date but the link on the form has expired

¹⁷ <https://cdn.easthants.gov.uk/public/documents/Application%20Form.pdf>



disruption as a result of a “relevant event”. A relevant event is defined as *“any sporting event, social event or entertainment which is held on a road”*.¹⁸

33. The order may *“restrict or prohibit temporarily the use of that road, or any part of it, by vehicles or vehicles of any class or by pedestrians, to such extent and subject to such conditions or exceptions as they may consider necessary or expedient”*.¹⁹
34. Section 16A specifies the type of traffic control requirements that can be contained within an order under this section. They include:²⁰
 - a. a requirement for vehicular traffic, or vehicular traffic of any class specified in the order, to proceed in a specified direction or prohibiting its so proceeding;²¹
 - b. specifying that the part of the carriageway to be used by such traffic proceeding in a specified direction;²²
 - c. a prohibition or restriction on the waiting of vehicles or the loading and unloading of vehicles;²³
 - d. a restriction on the speed of vehicles;²⁴
 - e. a prohibition or restriction on the use of a road by pedestrians;²⁵
 - f. a power to place relevant signage on the road for directing traffic.²⁶
35. A person who contravenes an order made under section 16A (including a TTRO) commits a criminal offence.
36. The procedure for applying for a TTRO is set out in the RTRA and in local and central government guidance. The majority is set out in local government guidance so, again, it will vary between areas. Some examples are as follows:
 - a. Suffolk County Council

¹⁸ [Section 16A, RTRA](#)

¹⁹ [Section 16A\(2\), RTRA](#)

²⁰ [Section 16A\(9\), RTRA](#)

²¹ [Section 2\(2\)\(a\), RTRA](#)

²² [Section 2\(2\)\(b\), RTRA](#)

²³ [Section 2\(2\)\(c\), RTRA](#)

²⁴ [Section 16A\(9\)\(b\), RTRA](#)

²⁵ [Section 2\(3\), RTRA](#)

²⁶ Section 4(1), RTRA



They require an application 3 months prior to the event and fee of £1,560 is payable. Applications are made by completing a form.²⁷

b. Dorset Council

Dorset Council requires applications at least 6 months in advance.²⁸ The fee payable varies from £25 to £460 depending on the number of people attending and whether it is a non-profit or for-profit event.²⁹

c. Devon County Council

Devon County Council requires at least 3 months' notice to consider applications,³⁰ and the fee payable varies from £0 to £216 depending on the size and type of event.

Should local authorities be applying the TPCA or the RTRA?

37. This is not a straightforward question. The relevant wording is as follows:

- a. The TPCA applies where there are “public processions, rejoicings, or illuminations, and in any case when the streets are thronged or liable to be obstructed.”
- b. The RTRA applies where there is “a sporting event, social event or entertainment which is held on a road.”

38. There is some clear overlap here, and it could be argued both that the Boxing Day and New Year's Day meets are “rejoicings” or “throngings” (to which the TPCA applies) and also that they are “social events” or “entertainment” (to which the RTRA applies).³¹ This may explain why there is some confusion, and disparity between local authorities, as to which is the relevant legislation to apply to Boxing Day and New Year's Day meets.

39. Where there is confusion like this it makes any challenge difficult, as local authorities have wide discretion to exercise their powers as they see fit (within limits). As explained above, there are requirements for local authorities to carry out their functions transparently and consistently, and to make decisions about the use of land based on “the benefit, improvement or development of their area”, so if a local authority tends to require comparable event organisers to apply for a TTRO but makes an exception for hunts and allows them to apply for an order under the TPCA, this may provide grounds for challenge. If, on the other hand, a local authority

²⁷<https://www.suffolk.gov.uk/roads-and-transport/roadworks/apply-for-a-temporary-road-closure-or-restriction/#tab2>

²⁸<https://www.dorsetcouncil.gov.uk/roads-highways-maintenance/highway-licences-and-services/events-on-the-highway-licences/guidance-for-those-organising-an-event-on-or-affecting-the-public-highway-in-dorset>

²⁹<https://www.dorsetcouncil.gov.uk/roads-highways-maintenance/highway-licences-and-services/events-on-the-highway-licences/special-events-on-the-highway>

³⁰ Devon County Council TTRO Applicant Guidance Notes

³¹ NB we would not consider them “sporting events” as the hunts gather, rather than hunt, in the street.



has a policy of requiring all comparable events to apply for an order under the TPCA, this may be difficult to challenge.

40. Given the apparent confusion and overlap between the two regimes, we have done some further research to try and find any arguments that could be made in support of the assertion that hunts should apply for TTROs. The wording of the legislation is unhelpful, and we have not been able to find any applicable caselaw, but that does not mean that there are no other routes to challenge.
41. It may help to first set out the background to the RTRA. The RTRA came into force in 1994, when the UK was due to host a leg of the Tour de France. From your instructions, we know that you are aware that it was considered that the existing legislation (the TPCA) was “inadequate for administering road closures to stage the event”. Where legislation is opaque or its interpretation unclear, the courts will sometimes try to understand parliament’s intention when making the legislation, in order to reach a decision on its application.
42. In this case, as is clear from the records of the parliamentary debates at the time, parliament was concerned that the TPCA contained loopholes that could result in event organisers being sued by people who were aggrieved by the road closures, and that it did not grant sufficient powers to close all parts of the highway and redirect traffic as necessary. In particular, the police “can close roads but they cannot close the parking bays, remove left and right turns, reverse somebody down a one-way street, or put an event through a town centre's pedestrian-only area”. In other words, the powers under the TPCA are limited to the ability to “make orders for the route to be observed” by traffic, but they can do no more than direct traffic along a route where traffic is already permitted.
43. This may be of limited assistance in relation to the Boxing Day meets. However, arguments could be made that a TTRO must be applied for where the meet or the parade requires any of the following:
 - a. Traffic to be directed the wrong way along a one-way street;
 - b. Traffic to use a different lane than would usually be permitted;
 - c. The closure of parking bays;
 - d. Traffic to be directed through a pedestrian-only street;
 - e. A restriction on the speed of vehicles;
 - f. A requirement for traffic to turn left or right where such a turn is not usually permitted;
 - g. A prohibition on pedestrian access along a street.



44. This is a non-exhaustive list, and there may be other relevant circumstances where we could argue that a TTRO must be applied for.

Health and safety

Health and Safety at Work etc. Act 1974

45. The Health and Safety at Work etc. Act 1972 (the “HSWA”) imposes general duties on “employers” to their employees and to persons other than their employees.
46. Section 3 of the HSWA provides that *“it shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety”*.³²
47. The HSWA does not define “employer”, and there are some nuances to the definition which may be relevant depending on the circumstances; however, in general terms, the HSWA will apply to any hunt which employs staff. A hunt does not need to be a limited company in order to employ people, but this will be something to consider on a case-by-case basis depending on the make-up of the hunt. We anticipate that most hunts would fall under the requirements of the HSWA unless there are comprised entirely of volunteers.
48. A person (or employer) who fails to discharge their duty under section 3 commits an offence.³³

The Management of Health and Safety at Work Regulations 1999

49. The Management of Health and Safety at Work Regulations 1999 (the “MHSW Regulations”) create further requirements for employers, including:
- a. The requirement to assess risks to members of the public arising out of or in connection with the conduct of the organisation (i.e. a requirement to do risk assessments)³⁴
 - b. The requirement to make and give effect to appropriate measures for the effective planning, organisation, control, monitoring and review of preventive and protective measures.³⁵
 - c. The requirement to appoint at least one competent person to undertake the necessary health and safety measures.³⁶

³² [Section 3, HSWA](#)

³³ [Section 33, HSWA](#)

³⁴ [Regulation 3, MHSW Regulations](#)

³⁵ [Regulation 5, MHSW Regulations](#)

³⁶ [Regulation 7, MHSW Regulations](#)



50. Failure to comply with the MHSW Regulations is a criminal offence under the HSWA.³⁷

Street collections

Police, Factories, & c. (Miscellaneous Provisions) Act 1916

51. Despite ambitious and wide-ranging reforms in, first, the Charities Act 1993 and, more recently, the Charities Act 2006, the law relating to public charitable collections (i.e. the collection of money from members of the public for charitable or similar purposes) is still governed by legislation dating back to 1916.
52. The Police, Factories, & c. (Miscellaneous Provisions) Act 1916 (the “PFMPA”) gives district councils the power to make regulations with respect to the places where and the conditions under which persons may be permitted in any street or public place, within their area, to collect money or sell articles for the benefit of charitable or other purposes.³⁸
53. Breach of those regulations is a criminal offence, and a person found guilty is liable to a fine not exceeding level 1 on the standard scale,³⁹ which is currently £200.⁴⁰
54. Many councils have made regulations, which will vary between districts. For example:
 - a. Cornwall Council’s website states that it “is in the process of making one unified set of regulations to cover street collections across the county”.⁴¹
 - b. Regulations made by North Devon District Council provide that:⁴²
 - (i) No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within the North Devon District unless a promoter shall have obtained from the North Devon Council a permit.
 - (ii) Application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection. Provided that the North Devon District may reduce the period of one month if satisfied that there are special reasons for doing so.
 - (iii) While collecting, a collector shall remain stationary.

³⁷ [Section 33\(1\)\(c\), HSWA](#)

³⁸ [Section 5\(1\), PFMPA](#)

³⁹ [Section 5\(1\), PFMPA](#)

⁴⁰ [Section 122, Sentencing Act 2020](#)

⁴¹ <https://www.cornwall.gov.uk/business-trading-and-licences/licences-and-street-trading/street-collections-licence/>

⁴² [Regulations made by the North Devon Council with regard to Street Collections and approved by the Home Office on the 2nd February 1977](#)



- (iv) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.
 - c. Regulations made by South Somerset District Council contain the same provisions as those in the North Devon Regulations.⁴³
 - d. North Somerset Council does not appear to have made regulations, but there is some guidance available on its website.⁴⁴
55. We would advise reviewing all relevant council websites to understand their position on street collections. In particular, some may specify that the regulations only apply to collections for a charitable purpose. If this is the case, collections for the hunts (to the extent that they are not charities) will not be caught by the regulations. In the case of North Devon and South Somerset, both specify that the regulations apply to collections “for the benefit of charitable or other purpose”, so they would cover collections for the hunts.
56. Where local authorities have made regulations that require a street collector to have a licence, collection without a licence is a criminal offence.

Loose hounds

Road Traffic Act 1988

57. You correctly point out that section 27 of the Road Traffic Act 1988 (the “RTA”) provides that *“a person who causes or permits a dog to be on a designated road without the dog being held on a lead is guilty of an offence”*.⁴⁵
58. However, this is not a blanket requirement to keep dogs on leads; rather, it provides that dogs must be kept on leads on “designated roads”. Designated roads are defined as *“a length of road specified by an order in that behalf of the local authority in whose area the length of road is situated”*. This wording is slightly convoluted, but, in short, it means that local authorities can designate certain areas as “dog control areas” where dogs must be kept on leads.
59. Section 27 further provides that the orders made by local authorities can exempt dogs who were *“at the material time in use under proper control for sporting purposes”*.⁴⁶ The hunts may try to rely on this exemption; however, a strong argument could be made that the hounds are not being used for a “sporting purpose” while at the meet (which would be the “material time”), so they should not benefit from this exemption.

⁴³ [Regulations made by South Somerset District Council with regard to street collections.](#)

⁴⁴ <https://www.n-somerset.gov.uk/business/licences-permits/street-collections-trading/street-collections>

⁴⁵ [Section 27\(1\), RTA](#)

⁴⁶ [Section 27\(4\)\(b\), RTA](#)



60. As with the street collection regulations, every area may have different orders in place, with different stipulations. A search would need to be conducted for relevant orders covering every meet.
61. Some examples include:
- a. The Mid Devon (Public Spaces Protection) (Dog Control) Order 2021,⁴⁷ which provides that dogs must be kept on leads in certain specified cemeteries and parks. There is an exemption for dogs used for exempt hunting under Schedule 1 of the Hunting Act 2004.⁴⁸ Trail hunting is not a Schedule 1 exemption so many hunts will not be able to benefit from this.
 - b. Cornwall Council Public Space Protection (Dogs on Leads) Order 2020.⁴⁹ The wording of this order is odd as it does not appear to prohibit anything. It provides that non-compliance with the order is an offence but does not specify what provisions a person should comply with. However, there are a list of public spaces at Schedules 1, 2 and 3, and presumably these are intended to be areas on which dogs must be kept on leads. This order may not be enforceable.
 - c. The Dogs on Leads by Direction (West Somerset) Order 2010,⁵⁰ which provides that a person is guilty of an offence if he does not comply with a direction given to him by an authorised council officer to put and keep a dog on a lead in the areas specified in Schedule 1, unless he has reasonable excuse or consent from the landowner. There is no exemption for sporting activities.

The Control of Dogs Order 1992

62. Article 2(1) of the Control of Dogs Order 1992 provides that *“every dog while in a highway or in a place of public resort shall wear a collar with the name and address of the owner inscribed on the collar or on a plate or badge attached to it”*.⁵¹
63. However, article 2(2) exempts packs of hounds from this requirement.

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 and the Anti-Social Behaviour, Crime and Policing Act 2014

64. The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 and the Anti-Social Behaviour, Crime and Policing Act 2014 operate similarly to the RTA above, in that they

⁴⁷ [The Mid Devon \(Public Spaces Protection\) \(Dog Control\) Order 2021](#)

⁴⁸ [Article 10.2.4](#)

⁴⁹ [Cornwall Council Public Space Protection \(Dogs on Leads\) Order 2020](#)

⁵⁰ [The Dogs on Leads by Direction \(West Somerset\) Order 2010](#)

⁵¹ [Article 2\(1\), Control of Dogs Order 1992](#)



grant powers to local authorities to make dog control orders creating offences of failing to remove dog faeces.⁵²

65. For example:

- a. The Borough Council of Calderdale Dogs Fouling on Land Public Spaces Protection Order 2020⁵³ provides that a person who is in charge of a dog and fails to remove faeces from the land forthwith shall be guilty of an offence unless he has reasonable excuse or consent from the landowner. There is no exemption for hunting hounds or sporting dogs.
- b. The North West Leicestershire Public Spaces Protection Order 2021 (Dog Related Anti-Social Behaviour)⁵⁴ provides contains similar provisions to the Calderdale Council order above.

Sale of alcohol

Licensing Act 2003

66. A Temporary Event Notice (“TEN”) is required to carry out a “licensable activity”, which includes selling alcohol or serving alcohol to members of a private club, for a period not exceeding 168 hours (7 days).⁵⁵
67. Carrying out a licensable activity without a licence, or otherwise selling alcohol by retail without authorisation, is a criminal offence. A person found guilty is liable on summary conviction to imprisonment for a term not exceeding 6 months or an unlimited fine or both.⁵⁶
68. A TEN may be obtained by application to the local authority no later than 5 working days before the event begins.⁵⁷
69. The council cannot refuse a notice unless the police or local authority object to it.⁵⁸ They must do this within 3 working days of receiving it. They can object on the grounds that they believe the event could:
 - a. lead to crime and disorder
 - b. cause a public nuisance

⁵² [Regulation 3, Dog Control Orders \(Prescribed Offences and Penalties, etc.\) Regulations 2006](#) and [section 59, Anti-Social Behaviour, Crime and Policing Act 2014](#)

⁵³ [Borough Council of Calderdale Dogs Fouling on Land Public Spaces Protection Order 2020](#)

⁵⁴ [North West Leicestershire Public Spaces Protection Order 2021 \(Dog Related Anti-Social Behaviour\)](#)

⁵⁵ [Section 1\(1\), and section 100, Licensing Act 2003](#)

⁵⁶ [Section 137, Licensing Act 2003](#)

⁵⁷ [Section 100A\(3\), Licensing Act 2003](#)

⁵⁸ [Section 99A and 104, Licensing Act](#)



- c. be a threat to public safety
- d. put children at risk of harm.

70. Members of the public are not entitled to object to TEN applications, but it may be that pressure could be exerted on local police or local authorities if they are known to be sympathetic.

Other potential offences

The Highways Act 1980

71. The HA creates some offences in addition to the offence of obstructing a highway, which may also be committed by hunts when they gather on roads:
- a. Depositing dung on a “made-up carriageway”.⁵⁹ This is archaic terminology, but essentially it means any road which has been made suitable for use by vehicles.⁶⁰ A person found guilty of an offence is liable to a fine not exceeding level 3 on the standard scale.
 - b. Allowing dogs to stray on or at the side of a highway. If found guilty, the keeper (being the person in whose possession the dogs are) is liable to a fine not exceeding level 3 on the standard scale.⁶¹
 - c. Without lawful excuse, depositing anything whatsoever on a highway in consequence of which a user of the highway is injured or endangered. A person found guilty of an offence is liable to a fine not exceeding level 3 on the standard scale. The fairly wide wording of this provision means that it could be argued that a horse ridden on a public highway is a relevant “thing” for the purposes of this section, and an offence will be committed if a person using the highway is injured or endangered by that horse.⁶²
72. The offences of depositing dung and allowing dogs to stray on the road do not have the same qualification. In other words, they are not permissible “with lawful excuse” or under a licence. Unlike the offence of obstructing a highway, they are absolute offences.
73. The offence of depositing a “thing” on a highway that injures or endangers a road user is qualified, so an offence may not be committed if a horse is on the road under a licence. However, if a person is injured it may be that other offences are committed. There are

⁵⁹ [Section 148, HA](#)

⁶⁰ [section 329, HA](#)

⁶¹ [Section 155, HA](#)

⁶² [Section 161, HA](#)



additional provisions under the Animals Act 1971 and elsewhere (considered below) which would also be relevant in these circumstances.

Town Police Clauses Act 1847

74. The TPCA creates a number of offences, in addition to the licensing regime for street gatherings. This includes the offences of doing any of the following to the obstruction, annoyance, or danger of the residents or passengers on the road:⁶³
- a. suffering to be at large any unmuzzled ferocious dog, or sets on or urges any dog or other animal to attack, worry, or put in fear any person or animal;
 - b. riding furiously any horse;
 - c. leading, riding or fastening any horse so that s/he stands across or upon any footway.
75. This is a very old piece of legislation which also outlaws, for example, *“wilfully and wantonly [disturbing] any inhabitant, by pulling or ringing any door bell, or knocking at any door, or... wilfully and unlawfully [extinguishing] the light of any lamp”*. However, it is still in force and provides that a person found guilty of the above offences shall be liable to a penalty not exceeding level 3 on the standard scale (currently £1,000).⁶⁴

Animals Act 1971

76. Under the Animals Act 1972 (the “AA”), a keeper of an animal which causes damage is liable for that damage if:
- a. The damage was of a kind that was likely to be severe (this requirement is likely to be met due to the large size of a horse); and
 - b. The horse displayed behaviour that is not normally found in horses, except at particular times and in particular places (horses are normally docile animals, but they may become more aggressive or defensive in certain circumstances); and
 - c. The keeper of the horse was aware of those behaviours or characteristics (in other words, the rider knew that the horse might behave aggressively or defensively in those circumstances).⁶⁵

⁶³ [Section 28, TPCA](#)

⁶⁴ [Section 122, Sentencing Act 2020](#)

⁶⁵ [Section 2, AA](#)



77. Some riders tie a red ribbon around their horse's tail to indicate that he or she may be liable to kick. This could be sufficient to meet the knowledge requirement under (c). The requirement may also be met in other circumstances.
78. If a horse causes damage to a person or property and the conditions above are met, the keeper of the horse may be liable under civil law for any damage caused. This would be enforced by the person who has been injured or whose property has been damaged bringing a claim against the keeper of the horse in the civil courts.
79. If the above conditions are not met, it may alternatively be possible to bring a civil claim against the rider in negligence. For a claim to succeed, it is necessary to establish that the rider was negligent and that the negligence caused the accident which led to injury.

Licensing Act 1872

80. Riding a horse while under the influence of alcohol is a criminal offence.
81. The prohibition is contained in another old piece of legislation: the Licensing Act 1872. This provides that *"Every person . . . who is drunk while in charge on any highway or other public place of any carriage, horse, cattle, or steam engine, or who is drunk when in possession of any loaded firearms, ... shall be liable to a penalty not exceeding [level 1 on the standard scale], or in the discretion of the court to imprisonment ... for any term not exceeding [51 weeks]."*

Next steps

82. In many cases, it appears that the rules will be highly localised, whether that be in relation to the applicability of TTROs, street collections or dog control orders. It may be that some localities have more favourable regulations than others. We have not conducted a detailed review of every council in preparing this advice. In the interests of costs, you may wish to begin this exercise yourselves, but we would be happy to advise you further as required.
83. It is unfortunate that, in our view, persuading councils to use TTROs will not be straightforward; however, there are certainly arguments that could be made. In any event, the legislation is clear that a licence (whether that be a TTRO or a TPCA) is required in order to obstruct a highway. At a minimum, it may be possible to challenge local authorities that are failing to enforce the basic provisions of the Highways Act.
84. In terms of your campaign to encourage Local authorities to require hunts to apply for TTROs, we would suggest focusing your efforts on meets which require road closures and diversion involving the redirection of traffic along routes that it would not normally use (such as going the wrong way up one-way streets, or taking right or left turns that would not usually be permitted).
85. Please do let me know if you have any further questions.



Solicitor
Advocates for Animals
20 May 2022