

SPSO decision report

Case: 201103288, Forestry Commission Scotland
Sector: Scottish Government and devolved administration
Subject: policy/administration
Outcome: some upheld, recommendations

Summary

Mr C is a recreational deer stalker using land owned by Forestry Commission Scotland (FCS). He complained that the FCS refused him permission to use a pistol for the humane dispatch of wounded deer, despite this being a recognised method of humane dispatch. Mr C considered that the FCS's refusal to allow the use of pistols placed him, and others, at risk. He raised his concerns with the FCS, then complained to us that they refused to answer relevant questions or to produce documentation that they referred to in defence of their position on pistols.

The FCS's policy was that the use of a rifle was the only acceptable means for recreational stalkers to cull deer. However, when explaining their policy to him, they referred him to guidance that was relevant to FCS staff and advocated the use of pistols and knives. That said, the FCS advised that their staff were not permitted to use pistols. They also referred Mr C to their firearms policy, which applies UK-wide and advocates the use of pistols to dispatch wounded deer under certain specific circumstances.

We found nothing in any of the legislation or guidance that we reviewed that required the FCS to permit the use of pistols for the humane dispatch of deer. As such, we considered that the FCS had the discretion to decide not to allow the use of pistols on their land. We were satisfied that their policy in this regard was not unreasonable and that they had given due consideration to Mr C's request that he be allowed to use a pistol. That said, we found that the information provided by the FCS when communicating their policy was confusing, not relevant to recreational stalkers, and not specific to Scotland. We made similar findings in relation to their risk assessment for the humane dispatch of deer.

We were critical of the FCS's handling of Mr C's enquiries and complaint. We found that the information provided to him was confusing and that his specific questions were not answered directly. We acknowledged that the FCS had already accepted and apologised for this. Mr C's complaint escalated to the appeal stage. However, we found that there was no scope for the original decision to be challenged at that stage.

Recommendations

We recommended that FCS:

- create guidance for the humane dispatch of wounded deer that is relevant to recreational stalkers in Scotland and sets out FCS policy on the firearms that may be used;
- create a generic risk assessment for the humane dispatch of wounded deer that is relevant to recreational stalkers in Scotland and is consistent with the FCS policy of not permitting the use of pistols;
- arrange for Mr C and his syndicate members to attend a practical demonstration and discussion on the dispatch of wounded deer in line with FCS policy;
- apologise to Mr C for failing to properly consider his complaint appeal; and
- consider reviewing their complaints handling procedure to ensure that it allows for decisions to be properly reviewed upon appeal.