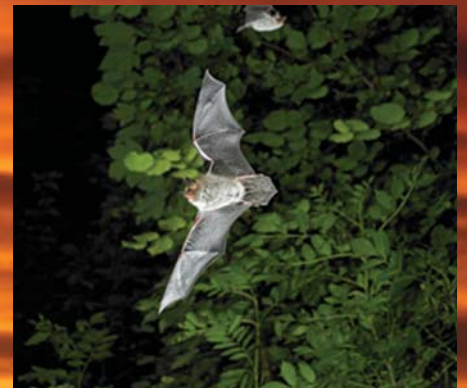




Bat Crime Review

2003-2010



Bat Crime Review

2003 - 2010

Summary

The Bat Conservation Trust (BCT) has been running the Investigations Project working to prevent bat crimes since 2001. The Bat Crime Review 2010 aims to outline the work that has been undertaken since the inception of the project and the future direction of work in this area. It follows the Bat Related Crime Report published by BCT in 2009, which provided an overview of that year. It is intended that Annual Bat Crime Reports will continue to be produced in the future.

The past year has seen a great deal of work being undertaken in relation to the UK bat crime wildlife crime priority. Julia Hanmer, BCT Chief Executive has taken on the role of Plan Owner to catalyse progress. A priority delivery group has been established and an overall objective agreed. BCT has also strengthened links with enforcement bodies and welcomed the introduction of revised legislation to protect bats.

The number of incidents reported annually has increased considerably from an average of six a month in 2003 to 10 a month in 2009 to 25 a month in 2010. In 2010 BCT referred 117 incidents to the Police for investigation and 40 forces have carried out further investigations. As in previous years the vast majority of incidents relate to the damage or destruction of roosts. Previous reports proved that the majority of incidents could be linked to development and maintenance issues; in 2010 this percentage has risen still further.

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1 Introduction: Why are bats in need of protection?

There are currently 18 species of bat present in the UK (17 of which are breeding) following the discovery of the presence of Alcathoe bat (*Myotis alcathoe*) in 2010.

Bats are highly dependent on man-made structures, such as houses, churches and barns; for roosting and the surrounding habitats for foraging. This reliance makes them particularly vulnerable to building works, conversions, demolitions, timber treatment and maintenance activities in buildings. Maternity roosts, often found in buildings, are particularly vulnerable as they have very specific requirements and, as mothers and young may be present, loss of a maternity roost can have a significant impact on the local bat population with potential loss of the whole of a breeding population.

Historical studies have shown that bat populations declined considerably between the 1950s and 1980s across Europe including the UK. It is for this reason that all 18 native bat species in the UK and their roosts are protected by European and National law making it an offence to:

- Deliberately capture, injure or kill a bat;
- Intentionally or recklessly disturb a bat in its roost or deliberately disturb a group of bats;
- Damage or destroy a bat roosting place (even if bats are not occupying the roost at the time);
- Possess or advertise/sell/exchange a bat (dead or alive) or any part of a bat;
- Intentionally or recklessly obstruct access to a bat roost.

Bat related crime has been occurring at a worrying level. In 2010, BCT logged 301 incidents of bat crime. Of those incidents 117 were reported to statutory organisations for investigation.

Anecdotal evidence from bat workers, the general public, building and forestry professionals indicate that these figures represent only a drop in the ocean. The building development and maintenance sector accounted for 93% (all but 8) of the incidents – a proportion that has risen year on year.

2 Background to the Bat Conservation Trust's Investigations Project

BCT's Investigations Project started in April 2001, as a two-year collaborative project between the Bat Conservation Trust (BCT) and the Royal Society for the Protection of Birds (RSPB). Joan Childs, RSPB Investigations Officer, was seconded to BCT for two days per week to record bat related crime. During those two years, 144 offences against bats or their roosts were recorded, but were thought to be the tip of the iceberg because most incidents occur on private land and remain undetected. It was also considered that there was reluctance amongst bat workers, SNCOs and the public to report incidents to the police. Two thirds of those incidents were attributable to the building and construction industry.

In 2004, the Project was re-launched, funded by BCT and since then the role of Investigations Officer has been held by Steve Kourik, Alison Rasey and Kate Barlow. In March 2010, the role

was taken on by Pete Charleston a retired Police Sergeant from North Wales and previously a full time wildlife crime officer.

The purpose of BCT's Investigations Project has developed since 2001 and involves:

- Recording of bat related crime;
- Providing support training and advice for the police, SNCOs and bat workers to ensure incidents are reported, investigated, and the law enforced i.e. prosecutions are taken forward where appropriate;
- Targeting the groups and sectors that perpetrate bat related crime for education and awareness raising initiatives, such as the production of best practice guidelines to improve work practices;
- Improve areas of UK policy in particular those that relate to planning and species licensing to reduce opportunities for ignoring the legislative protection given to bats.

3 Bat crime – the UK wildlife crime priorities and the National Wildlife Crime Unit

In 2004, the statutory conservation agencies were asked by the police to identify wildlife crime priorities for the police service. Persecution of bats was identified as a wildlife crime priority of equal standing to the other priorities including birds of prey persecution and the illegal trade in endangered species.



These priorities are reviewed regularly. Originally, the wildlife crime priorities were decided purely on the conservation threat. Recently the criteria have been extended to include volume wildlife crime (the most common types of wildlife crime dealt with by police officers) and annual reviews have continued to confirm that bat persecution should remain a priority.

Throughout this time, reasoned arguments and evidence has been requested to justify the ongoing classification of bat persecution as a wildlife crime priority on the definition of a wildlife crime priority and what work has been done to address bat persecution at both strategic and tactical levels. Owing to the difficulty in quantifying certain aspects of bat populations, there have clearly identifying the advantages that are gained through bat crime being a priority have been challenging. However, in 2010 that situation has been turned around and the evidence is in place to show that having bats as a wildlife crime priority is helping to protect bat populations.

Bat crime is primarily the responsibility of the police. Policing strategies require not only the appointment of a plan owner, but also leads for prevention, intelligence and enforcement (PIE leads). The plan owner will consult with stakeholders and produces an overall objective with actions allocated to the PIE leads. The bat priority has not had a strategic lead until 2010. BCT therefore decided that it was necessary for Julia Hamner BCT's Chief Executive to take on the role and catalyse progress. A priority delivery group having been established that includes representatives of BCT, the police service, Natural

England, Countryside Council for Wales and Scottish Natural Heritage. An overall objective has been agreed. This is:

To reduce bat crime by, working with key stakeholders to raise awareness of responsibilities and criminal offences against bats, by promoting a preventative enforcement approach and by improving the submission of intelligence and standards of investigation relating to bats across the UK.

To strengthen implementation a number of actions have been identified which have resulted in the production of the Bat Crime 2009 Report and the revision of the “Operation Bat” Standard Operating Procedures for both England and Wales and Scotland. Further work is being carried out to identify the motives that drive bat crime and the formulation of minimum standards of investigation.

BCT intends to continue to engage with the National Wildlife Crime Unit (NWCU). The NWCU is a police lead agency with both an intelligence and operational capacity. They prioritise work and mainly concentrate on serious and organised criminal activity. In the past year, BCT has strengthened the organisational relationships with the unit and provide them with monthly returns outlining the incidents BCT have referred for investigation. The NWCU is bound by legislation that prevents them providing BCT with details of intelligence and incidents relating to bat crime, but they do provide an overview of the incidents reported to them. The exchange of information in particular from BCT to the NWCU serves as an indication of the extent of bat crime.

It has been suggested that bat crime does not involve serious, organised criminal activity. BCT would dispute this suggesting that some who commit offences against bats are from companies or employed by companies with national or regional interests. It is quite possible that a developer who is advised by one police force about bat offences, might go on to a development project in another part of the country policed by another force. If they then committed further offences against bats their behaviour would fall within the definition of serious organised criminality.

Whilst BCT has good channels of communication with NWCU, the need to raise the profile of bat crime remains. It has been suggested that the number of incidents referred to the police for investigation does not serve to demonstrate the extent of the problem and are only the tip of an iceberg. Other conservation interests suggest the same, whether the subject is badgers, great crested newts, birds of prey or other protected species. However, the police rely on evidence and the extent of bat crime is therefore considered to be the number of incidents that are reported to them. The same can be said of intelligence relating to bat crime. The NWCU needs to be made aware of suspicious activity around bat roosts, in particular, by those who operate on a national or regional basis.

On February 17th 2011, a meeting of the UK wildlife crime enforcement group was held where the priorities for 2011/2013 were decided. BCT was very pleased that bat crime was once again identified as one of those priorities. It was also agreed that the NWCU would prioritise and intelligence relating to bat crime.

In order to ensure that a more comprehensive assessment of bat crimes can be made, BCT will be requesting bat groups and other interested groups to provide BCT with information about any offences or other suspicious behaviour that they become aware of. BCT will if necessary, commit to confidentiality and will not undertake further action without the consent of those who submit the information.

4 Legislation

BCT welcomes the introduction of the Conservation of Habitats and Species Regulations 2010. In the past, BCT has frequently found a lack of knowledge on the legal protection offered to bats within both the police and solicitors with many continuing to refer solely to the Wildlife and Countryside Act.

The legislation protecting bats was complicated by the introduction of the Conservation (Natural Habitats & c) Regulations 1994 with further complexity resulting with each amendment to those regulations in 2007. In many cases, police officers can serve for many years without ever being called upon to investigate bat crime. It is therefore not surprising that the legal situation is poorly understood by the majority.

BCT considers that the introduction of the 2010 regulations provides much needed clarification. However, further work is needed to combine both the Wildlife and Countryside Act and the 2010 regulations into one piece of comprehensive conservation law. In addition, measures designed to prevent offences should also be introduced alongside a more robust licensing system that is linked to professional standards and monitoring.

BCT is committed to raising levels of knowledge amongst those charged with delivering the legal protection offered to bats. During 2010 BCT delivered training to the police service at both the national wildlife crime foundation course and at the UK wildlife crime enforcer’s conference. Regional training has also been provided to groups of and individual police forces. BCT have revised our literature and website to reflect the changes and have ensured that legal databases used by the police are also up to date. Most recently BCT took the opportunity to speak to a meeting of specialist wildlife crime prosecutors from the Crown Prosecution Service.

For some years investigations into bat crime have been complicated by the fact that planning permissions have been granted without bat surveys having been considered, but with a condition that they should be conducted during the course of development. A court judgement in 2009 reinforced the fact that planning permissions likely to have an impact on bats should not be considered without surveys being available. Should planning permissions be granted without such surveys, there is a real risk that the permissions might later be deemed invalid.

BCT consider that this judgement has contributed to a reduction in 2010 of cases where planning permissions have been granted without surveys having taken place. This is a very welcome situation that BCT will continue to monitor.

5 Analysis of Incidents notified to BCT 2003–2010

In 2010, 301 bat related crime incidents were recorded by BCT; an average of 25 per month. This compares with an average of 5.2 per month in 2007, 6 per month in 2003 and 10.5 per month in 2009. Of the 301 incidents recorded by BCT 117 were passed to statutory agencies (the police and Natural England) for investigation. BCT also works with the RSPCA who investigate welfare based offences. The number of times BCT requested enforcement authorities to investigate incidents has therefore increased by 45% since 2009.

Until 2010, all criminal offences relating to bats were investigated by the police and prosecuted by the Crown Prosecution Service. Natural England has now decided to utilise powers granted to them by the Natural Environment and Rural Communities Act 2006 to investigate and, where necessary, to prosecute offences relating to breaches of bat licence conditions. In the remainder of the UK these matters are still referred to the police for investigation.

Reporting of Incidents

Despite receiving a far greater number of reports each month, it is believed that this still represents only a fraction of the number of incidents that involve bats. Evidence to support this assertion can be found by comparing bat related incident figures held by the NWCUC and BCT. All police forces in the UK are asked to make monthly wildlife crime returns to NWCUC. Most do so. In the period January to August 2010, police forces reported 131 incidents of bat crime to the NWCUC, whereas BCT, who also make such returns, reported 86. The NWCUC ensures that their incident records do not contain duplicate returns (i.e. the same incident reported by the police and BCT). This indicates that during the first eight months of 2010, a minimum of 45 bat crimes were recorded by the police that BCT had no knowledge of. It is also likely that there are numerous incidents of disturbance and damage that take place at unmonitored sites that will go undetected and therefore unrecorded. Another contributing factor is that not all bat groups make BCT aware of bat crimes that come to their notice, whether reported to the Police or not. BCT is working towards a bat crime database containing details of as many incidents as possible and would therefore encourage bat groups to make our investigations officer aware of all incidents.

The question remains whether the increase in the number of recorded incidents per year indicates that levels of bat crime are also increasing? It is impossible to form judgements about this, as other factors such as BCT and local bat groups becoming more recognised and the ever improving links with enforcement agencies might also explain the increase.

BCT choose not to refer to the statutory agencies the majority of reports that disclose the possibility of criminal activity. The reasoning behind this is that the conservation interest of bats outweighs any benefit that might be gained from a criminal investigation. Many of these calls are from builders and householders who have come across bats whilst carrying out work on their property and in so doing have disturbed bats or caused minor damage to roosts. These people call BCT in order to seek advice as to what they then need to do and most are receptive to the advice that is provided. If BCT referred these calls to the police it could discourage these calls of advice. The conservation interest therefore dictates that BCT do not refer them. Every call BCT receive that identifies the possibility of an

offence is screened to ensure that BCT do refer appropriate cases for investigation. Even though BCT may not refer some incidents for investigation, no suggestion of criminal offences is allowed to pass without being commented upon. Bat Helpline staff act on behalf of Natural England to provide both oral and written advice and it is often the case that BCT will invite local bat groups and volunteer bat workers to become further involved. It is considered likely that because of the present economic situation, the support BCT provide to Natural England in this area will become ever more relied upon.

Incidents by police area

The number of reported incidents varied throughout the UK. Of the 81 incidents referred to the police, 93 were referred to English police forces, 5 to Scottish forces 16 to Welsh forces and one to the police service of Northern Ireland. For the first time ever, BCT also made attempts to initiate action internationally. Monitoring of an internet auction site revealed bat taxidermy being advertised globally by a trader in Asia. BCT were able to take action that resulted in the enforcement authorities in the country concerned being made aware of the situation.

The geographic spread of reported cases was wide, with incidents referred to 40 of the 52 police forces in the United Kingdom, which means that on average, police forces in the UK are being asked by BCT to investigate less than 3 bat crimes annually. This serves to explain why investigative experience in this area is scarce and underlines the value of our investigations project in being able to offer advice and guidance to forces without such experience.

The highest numbers of referrals were to Devon and Cornwall Police (11) followed by Dyfed Powys, Hampshire and Kent (6 each), a further 5 forces all had 5 referrals each. The variation in numbers of referrals can often be explained by factors such as the density of bat populations, the extent of development in those areas, the strength of the relationship between BCT, the local bat group and the force and even the confidence of the public in reporting such matters to the police and a greater awareness amongst police officers of the issues.

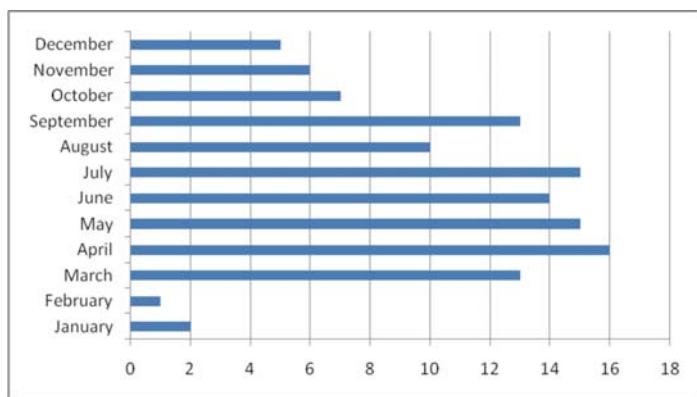
International incidents

On occasion BCT is made aware of matters which indicate the possibility of criminal offences, but are difficult to refer to the police for investigation because they are of an international nature and cannot be linked to an area covered by a specific force. In the past 12 months there have been a number of such issues, which because of the difficulties outlined, have been dealt with by BCT's Investigations Officer. One incident related to the international trade in dead bats already referred to, whilst others include websites hosted in North America. For example, the advertisement of sonic deterrents to be used to clear houses of bats and advice on the exclusion of bats. In these cases contact was made with the companies involved resulting in statements being placed on both sites pointing out the protected status of bats in the UK.

Incidents by month

Incidents were reported throughout 2010, however, Figure 1 below shows that there are peaks months for numbers of incidents being reported. Bats are most active between the months of March and October, which coincides with peak construction times. It is, therefore, of little surprise that most incidents of bat crime reported to BCT take place during peak times of bat activity.

Figure 1: Incidents referred for investigation by month



Primary offences

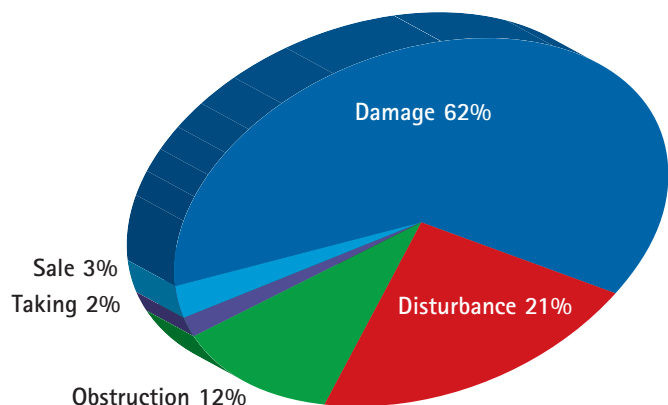
The identification of primary offences is often a subjective process: instances of roost damage and obstructing access can also reveal offences of disturbance, whereas a killing offence will almost undoubtedly have arisen from an instance of roost destruction. Figure 2 details the types of offences referred to the police during 2010 and categorises them into primary offence type. The largest proportion of incidents reported related to damage or disturbance. The percentage of sales incidents is not considered to be a true reflection of the actual amount of trade being undertaken on the internet, in particular, internet auction sites. Table 1 compares the breakdown of offences in 2003, 2007, 2009 and 2010.

Table 1. Comparison of incidents categorised by primary offence

Primary offence	2003%	2007%	2009%	2010%
Damage/ destruction of roost	80	74	53	62
Disturbance	10	18	31	21
Obstruction/Exclusion	7	*	10	12
Disturbance away from roost	1	4	**	**
Possession	1	0	1	2
Killing	0	0	1	0
Sale	1	5	4	3

*In 2007 obstruction/exclusion offences were recorded as damage/destruction offences.
 ** figures do not differentiate between disturbance at or away from a roost.

Figure 2. Type of bat related incidents referred to the police in 2010



Similarly, comparisons made between the activities taking place in reported incidents have shown that development remains the primary activity resulting in offences. These are detailed in Table 2. Further analysis of the activities relating to development has identified four main areas of activity: Development, Maintenance, Roofing and Land clearance. Percentages for these categories are detailed in Figure 3.

Table 2. Comparison of incidents categorised by activity

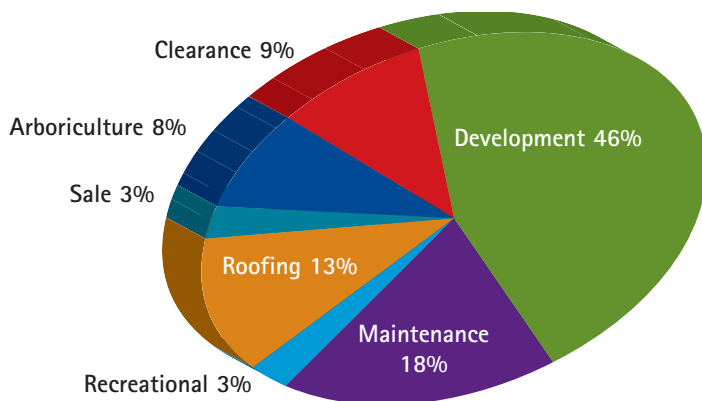
Activity	2003%*	2007%*	2009%	2010%
Development	67	66	41	46
Maintenance			26	18
Roofing			10	13
Clearance of land			8	9
Arboriculture	9	6	6	8
Recreational	0	4	5	3
Sale	0	4	4	3

* 2003 and 2007 figures do not amount to 100% as some categories have been discontinued.

When these four categories are combined they account 86% of all incidents referred to the police for investigation in 2010 almost the same as in 2009. The remaining 15% include incidents relating to activities such as arboriculture, sales and recreational activities.

The term ‘recreational activity’ is intended to cover a wide range of incidents which will include vandalism but is also intended to cover previously unheard of “urban explorers”. Such individuals are known to explore disused mines and other underground facilities sometimes with little or no regard for bats that are known to be present. This has however been less of an issue in 2010 than it was in 2009.

Figure 3. Incidents reported to the police in 2010 categorised by activity



Pest control was an activity identified as an area of concern in earlier years. In both 2009 and 2010 no incidents of this nature were referred by us to the police. This must be an indicates that the pest control industry is now acting more responsibly to bats than previously and they should be applauded for their work in this area. The work of colleagues both within BCT and outside in raising awareness within the industry must also be acknowledged.

6 How the police dealt with incidents

All instances reported to the police should be dealt with in a broadly similar manner. Decisions as to what action is taken will be made having regard to a number of factors and this can result in offenders or suspects being dealt with in a number of ways. Police officers have discretion as to how to deal with individual cases but BCT strives to ensure that investigating officers are able to make informed decisions on the best way to deal with bat crime.

If a police officer feels that there is sufficient evidence to bring a prosecution papers will be sent to the Crown Prosecution Service (CPS) for a decision as to whether to bring such a prosecution. CPS prosecutors will initially consider if there is a reasonable prospect of conviction and if there is they will then decide on whether it is in the public interest to bring a prosecution. The public interest may lead to offenders being formally cautioned or warned rather than prosecuted.

This section will outline the outcome of cases reported to the police in 2010, also known as case disposal. Where BCT refer an incident to the Police our investigations officer has personal contact with the investigating officer offering an appropriate amount of advice and assistance. Contact is maintained with those officers until such time that BCT are advised of the result.

No further action

BCT is satisfied with the direction that statutory agencies are taking relating to dealing with incidents. Police forces demonstrate a professional and effective response to bat crimes in the majority of cases and this deserves to be recognised. In a few cases where issues have arisen these have been raised and resolved effectively. Our greatest concern is when police investigating officers did not provide sufficient evidence to allow the CPS to make informed decisions as to whether a prosecution should be undertaken.

The fact that an incident is closed with no further action being required often hides the fact that valuable crime prevention work has been undertaken aiming at longer term protection of bats and their roosts. BCT anticipates that all of those involved in an incident would be contacted by the investigating officer to ensure knowledge of and future compliance with the law. The fact that such advice has been given would be taken into account should further offences be committed.

In many cases the intervention of the police prevents offences. In 2010, over 80 of the total 118 incidents resulted in no further formal action being taken. Given that in the majority of cases advice will have been provided by the police, BCT can justifiably claim that many offences will have been prevented. Some who are considering the commission of offences will have second thoughts once they realise that the police have an interest in the matter. For this reason it is very important that contact with the police is initiated as soon as there are suspicions that an offence has been committed or may be committed. Regular contact has to be continued until the incident has been closed.

Case study

Because the following matter was not dealt with by the courts, no details that might lead to the identification of the offender are included.

In April 2010, a volunteer bat worker reported to BCT that a householder who had recently acquired the property had sealed the entrance to a known bat roost with concrete. The matter was reported to the police who appointed an investigating officer who had had no previous experience of dealing with wildlife crime. As such he was provided with legislative and investigative guidance by BCT investigations officer.

When interviewed the householder denied previous knowledge of the roost but expressed remorse for his actions and a willingness to put matters right. Consultation with the bat worker confirmed that because of the time in which the work took place no harm to bats had resulted from the work carried out.

In view of the circumstances, a decision was made that the matter need not proceed to court and could be dealt with through a system known as restorative justice. As a consequence, the householder removed the obstruction, agreed to contact the bat worker should any work be considered that would impact on the bats in his house and to allow future surveys.

This case demonstrates how conservation benefit can be gained without recourse to the courts. The police investigating officer was praised for dealing with the matter in a very effective and innovative manner.

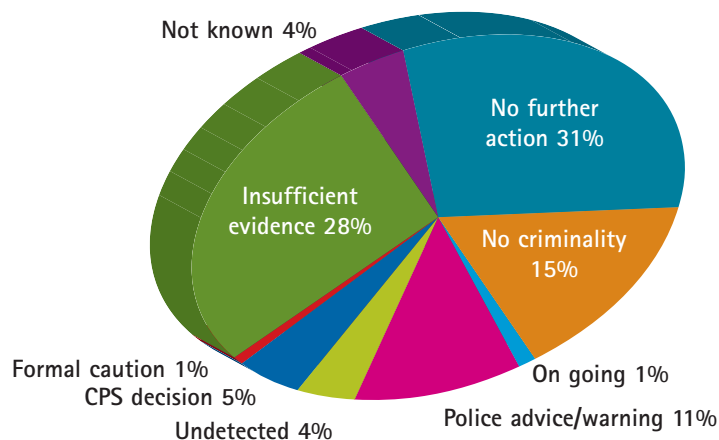
Insufficient evidence

A total of 14 incidents were investigated in 2010 but insufficient evidence was found to warrant further action. Most commonly this was as a result of allegations of a roost being damaged or destroyed having been made but subsequent evidence was not located to support the allegation. Regrettably in 2010, BCT received a small number of allegations where it was suggested that development work was being undertaken that would impact on bat populations. Basic enquiries revealed either that bat roosts were present but were being properly considered or that there was simply no evidence to support the allegations being made. In order for BCT to remain credible with developers, BCT does need to ensure that it does not become involved with people motivated to oppose development seeking to raise unjustified concerns relating to bats.

No criminality

Investigations into 8 incidents referred to the police revealed that the activity was in fact lawful. Examples would include police investigating officers being shown evidence that no bat roosts were present or that the work was being undertaken under an appropriate licence.

Figure 4. Incidents reported to the police



Ongoing

Bat Crime 2009 revealed that one incident was still being investigated 12 months after it had been reported. This matter has since been concluded with the offender having been formally cautioned by the police.

At present there are just seven incidents from 2010 that are still being investigated. The eldest dates from May 2010 but most came to notice in the last three months of the year. Generally, police investigations into bat crime should be completed within six months. However, legislation states that prosecutions must be taken up within two years of the date the offence was committed. In such circumstances it would be expected that any delay in concluding an investigation would be attributable to the offender rather than the Police.

Criminal Prosecution Service (CPS) decision

Only one incident in 2010 resulted in papers being submitted to prosecutors for a decision as to whether to take a case further. In that case CPS directed against further action on the basis that there was insufficient evidence to secure a conviction.

Formal caution

In 2010, three incidents resulted in formal police cautions being administered. Once again because the cautioning process lies outside the Criminal Justice System details cannot be made public, although two related to builders carrying out relatively minor work that affected roosts.

A formal caution is not a criminal conviction but it is noted on formal records and can be referred to should further offences be committed. The cautioned person is required to accept that if the matter had proceeded to court they would have been found guilty. Details of offences dealt with by way of formal cautions are not placed in the public domain.

Case study

In November 2010 BCT was contacted by a member of the public to say that a dead bat was being auctioned on an internet auction site. The police were informed and the police investigating officer was able to take action prior to the bat being posted to the purchaser. When interviewed the seller said she had acquired the bat in a mummified condition some years previously and had not been aware that the law prohibited the sale of bats. A check on the seller's electronic history showed that this was the only occasion where the seller had offered any illegal items for sale and there was no previous criminal history. In the circumstances, the matter was dealt with by way of a formal caution from the police

Although a relatively simple case that did not involve any serious criminality, it is important that such issues are properly handled. In the past extensive serious and organised criminal activity has been uncovered as a result of enquiries into apparently minor offences.

Many major and smaller internet auction sites do take steps to prevent illegal items being offered on their sites. It does, however, have to be accepted that their screening processes are not sufficiently sophisticated to identify all illegal trade. It is accepted in law that internet auction sites do not have a legal liability if items are offered for auction illegally.

Undetected

Three incidents from 2010 were undetected. One case relates to the vandalism of a building containing bat roosts. The other two both involved bats being left abandoned; one on a roadside and the other outside an RSPCA office.

Prosecutions

Despite over 200 incidents having been referred to the police in 2009 and 2010 there have been no prosecutions arising from them. BCT believes that a handful of cases from 2009 should have been progressed to court but were not pursued perhaps surprisingly in some cases because of an incorrect understanding of the legislation. On occasion those misunderstandings persisted despite the advice given by BCT. Of the cases referred to the police in 2010, BCT on the basis of the evidence available do not suggest that any should necessarily have resulted in prosecution. It, therefore, seems that the number of prosecutions undertaken each year is not a useful indication as to how successfully bat crime is being dealt with.

Ultimately, a far better measure of success from a bat conservation perspective would be to assess how well the legislation is being complied with and how many bat crimes

have been prevented. If this were to be the case then 2010 must be considered to have been one of the most successful years with evidence to suggest that at least 80 offences have been prevented and many potential offenders instead choosing to comply with the law.

Despite the effort directed into preventing offences an occasional incident will occur where it seems that a serious offence has taken place and the only recourse is for the offenders to be sanctioned by a court. When such incidents are investigated there are a number of issues that should be borne in mind.

Burden of proof

Bat crimes are criminal offences and in order for a conviction to be gained the case must be proven beyond all reasonable doubt. Any question of doubt will normally result in acquittal. The CPS will not prosecute a case unless they are satisfied that there is a reasonable prospect of conviction. Prosecutions will not be taken unless this evidential test is passed and it is also considered to be in the public interest to proceed.

Evidence of roosts

One of the most common problems faced by investigating officers is that of evidencing the presence of a bat roost. Many allegations suggesting that developers have destroyed roosts are made but often no evidence of a roost is available if a bat survey has not been undertaken as part of the planning process. For this reason, whilst recognising the resource implications BCT would suggest that surveys of vulnerable sites should where ever possible be conducted on an annual basis. A survey carried out more than 12 months previously can be undermined by another more recent survey suggesting that the roost is no longer used.

Offenders acting on advice

There appears to be an increasing number of incidents where potential offenders when interviewed have said that they acted on the advice of others, for example, their ecological consultants. Most commonly, this seems to relate to work that involves damage to a roost where advice has been provided to the effect that the work can be carried out without the need for a licence. Where it can be evidenced that such advice had been provided (even if it was incorrect advice) by a competent person it seems unlikely that a prosecution of the developer could follow. It does, however, seem likely that in some circumstances the liability of the ecologist will come under scrutiny to establish whether the provision of incorrect advice amounts to aiding and abetting or encouraging the offence.

Identification of offenders

Serious bat crimes are often carried out as part of commercial development and in such cases it is important that the investigation properly identifies those responsible. Dependent upon lines of management and instructions provided the correct offender can be anybody from a site labourer who physically commits the offence right through to the managing director or secretary of a company. The situation can become more complicated if sub-contractors are involved. If companies are to be summonsed for offences it is important that investigators identify and interview those who hold the corporate liability.

Time limits

Although legislation has in recent years been changed to allow for the prosecution of offences relating to bats for as much as two years after commission the reality is that such matters are considered by the Criminal Justice System to be minor in nature with investigations being straight forward. Although BCT know that neither statement is true the fact is that these matters are dealt with by the lower courts and prosecutors in England and Wales take the view that in the majority of cases investigations should be completed within six months of the circumstances of the offence becoming known. Any unwarranted delay might lead to cases to being discontinued on the basis that prosecution would be an “abuse of process” interfering with the defendants right to a timely trial. There has been a small number of cases where prosecutions have not been pursued because of the abuse of process argument and it is therefore relevant to consider the most common causes of delay that might lead to cases being discontinued.

- It is sometimes the case that bat workers will delay reporting incidents of bat crime in the hope that alternative options can be worked out with developers or owners. Whilst the need for such deliberation is understandable there is a risk that delays in reporting criminal offences to the police might be seen as unnecessary delay leading to consideration of the abuse of process argument. As such, BCT recommends that incidents should be reported to the police as soon as possible after the circumstances become known.
- Bat crimes that are not investigated in a timely manner are more likely to be discontinued. Timely investigation means that it has been conducted in a manner where there has been no unreasonable delay. For example, if progress on an investigation is halted whilst the investigating officer is tasked to perform other prolonged duties this may be considered an unreasonable delay, as would simply not advancing the investigation because of other workload demands. Delays would not be considered unreasonable where they are attributable to the suspects.

7 Future Actions

Action 1

BCT will work with the National Wildlife Crime Unit, bat groups and bat workers to ensure that the extent of bat crime can be properly assessed. In order to facilitate this BCT will look at the role of BCT as a conduit for the submission of intelligence to NWCU.

Action 2

BCT will argue for an overhaul of conservation legislation that will provide clear guidance as to the legal protection afforded to bats and their roosts, the introduction of measures designed to prevent offences and a more robust licensing system that is linked to professional standards and monitoring.

Action 3

BCT will continue to look for and take up opportunities to provide training on bat crime in particular to enforcers and prosecutors.

Action 4

BCT will continue to work with enforcers, bat groups, bat workers and others to encourage the reporting of incidents to

BCT with the aim of ensuring that a comprehensive view of the extent of bat crime can be gained.

Action 5

BCT will continue to engage with those in the building industry raising the awareness of bat crime and the implications of the legislation protecting bats.

Action 6

BCT will continue to work with enforcers to ensure that where ever possible early action is taken to prevent offences against bats.

Action 7

BCT will continue to monitor the manner in which cases referred to enforcement authorities are investigated with a view to establishing the main factors that prevent the completion of enquiries in a timely manner.

Action 8

BCT will liaise with enforcers to establish the reasons why cases are either not progressed by the Crown Prosecution Service or are not being referred for consideration of prosecution.

Bat Conservation Trust



The Bat Conservation Trust (BCT) is the only national organisation solely devoted to the conservation of bats and their habitats in the UK. BCT's vision is a world where bats and people live in harmony, and it is working to ensure these amazing mammals are around for future generations to enjoy.

Bat Helpline: 0845 1300 228
www.bats.org.uk