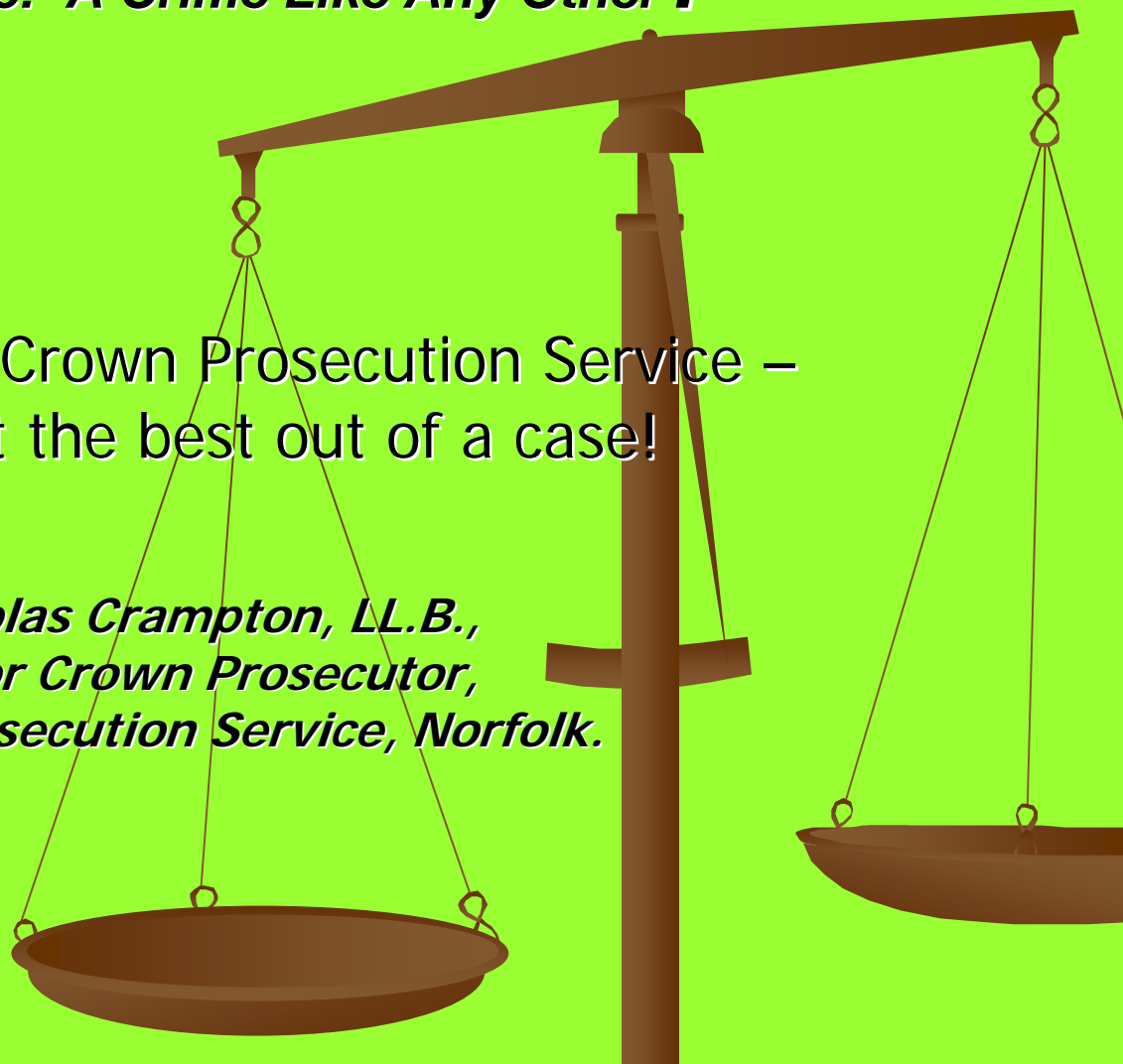


INSTITUTE of ECOLOGY and ENVIRONMENTAL MANAGEMENT

Wildlife Crime: A Crime Like Any Other?

The Role of the Crown Prosecution Service –
how to get the best out of a case!

*Nicholas Crampton, LL.B.,
Senior Crown Prosecutor,
Crown Prosecution Service, Norfolk.*



The Prosecutor's Role in Court

To explain to the Court the **primary facts** of the offence...

BUT also to assist it to evaluate the **gravity** of the offence.

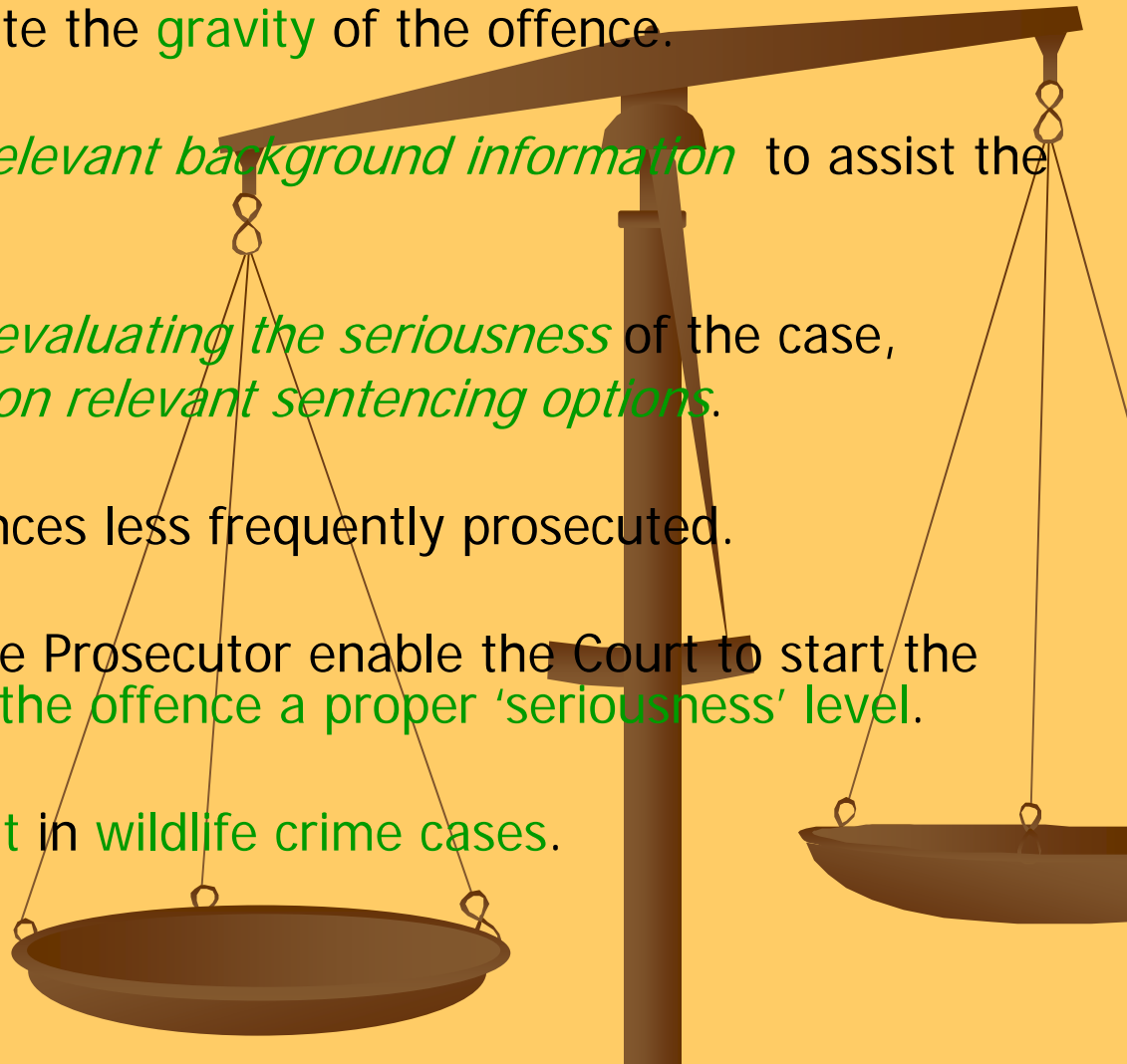
This may involve providing **relevant background information** to assist the court with:

Understanding the facts and **evaluating the seriousness** of the case, and thus providing **guidance on relevant sentencing options**.

These are essential with offences less frequently prosecuted.

Only by providing both will the Prosecutor enable the Court to start the sentencing process by **giving the offence a proper 'seriousness' level**.

These are **particularly relevant** in **wildlife crime cases**.



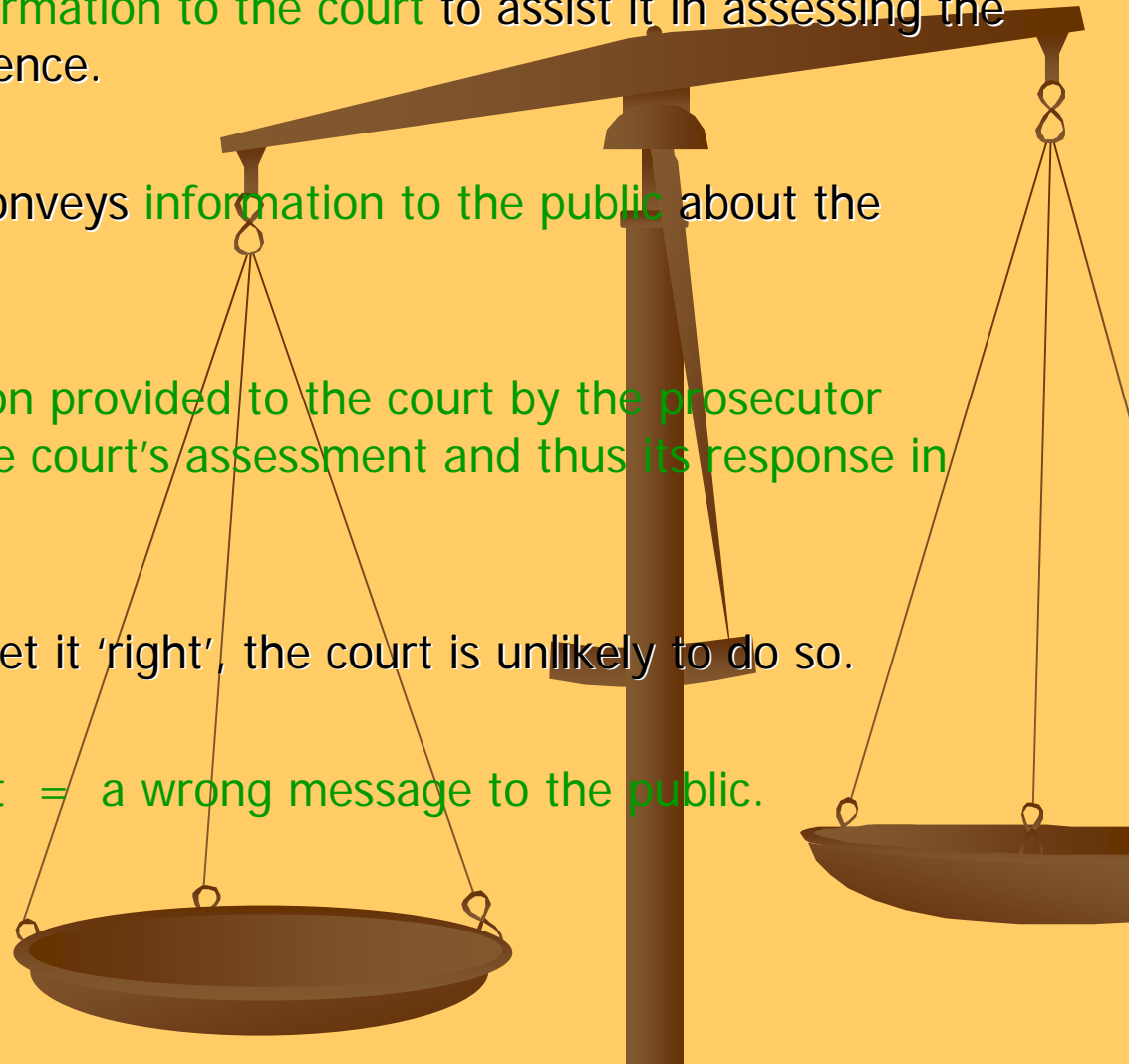
Communication

- ┌ The Prosecutor conveys **information to the court** to assist it in assessing the 'seriousness' level of the offence.
- ┌ The Court by its sentence conveys **information to the public** about the seriousness of the offence.

The quality of the information provided to the court by the prosecutor determines the quality of the court's assessment and thus its response in terms of sentence.

- ┌ If the Prosecutor does not get it 'right', the court is unlikely to do so.

A poor message to the court = a wrong message to the public.

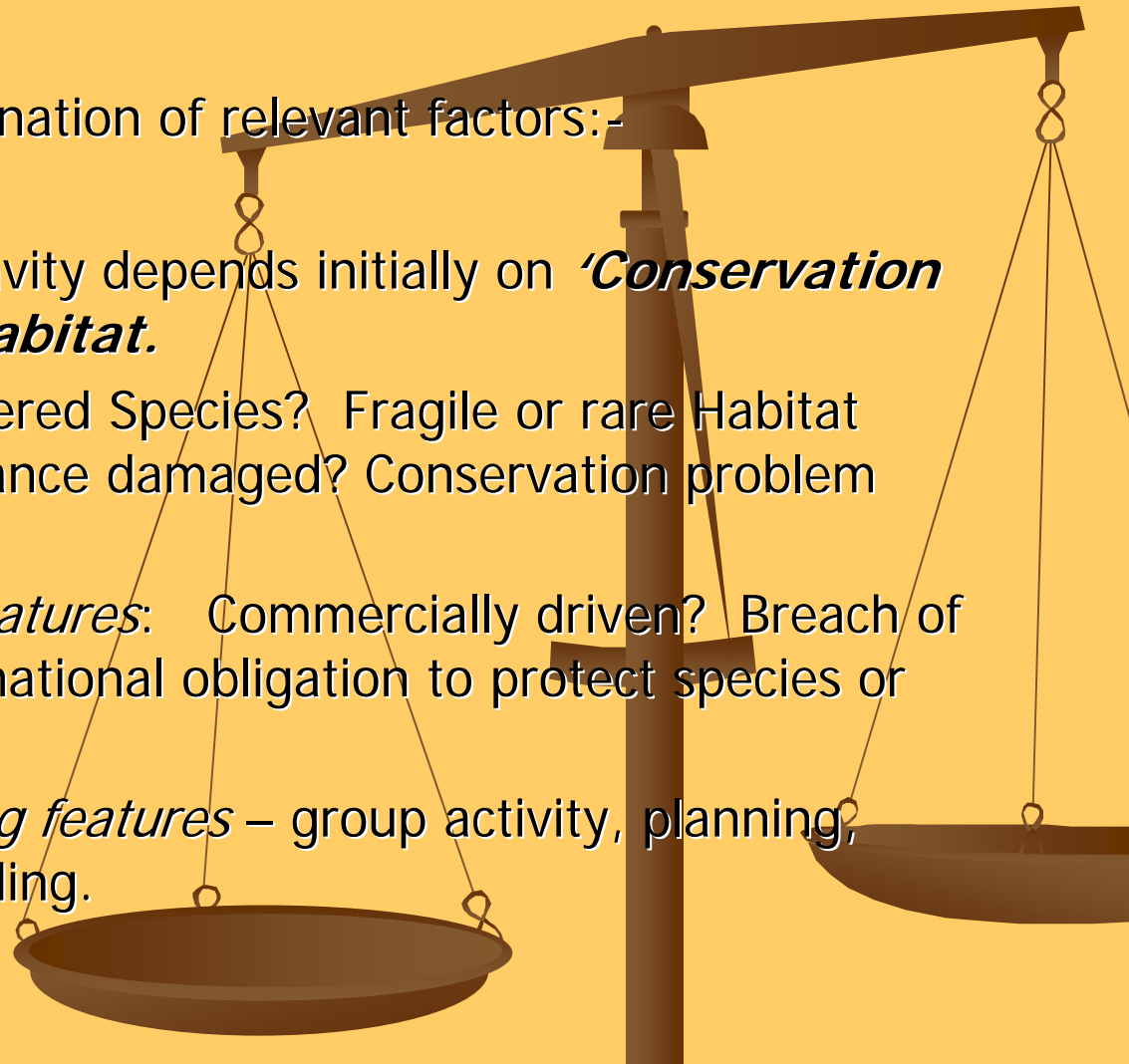


Assessing 'Seriousness' – the Public Interest

Wildlife Crime a separate branch of the Criminal law.

A unique combination of relevant factors:-

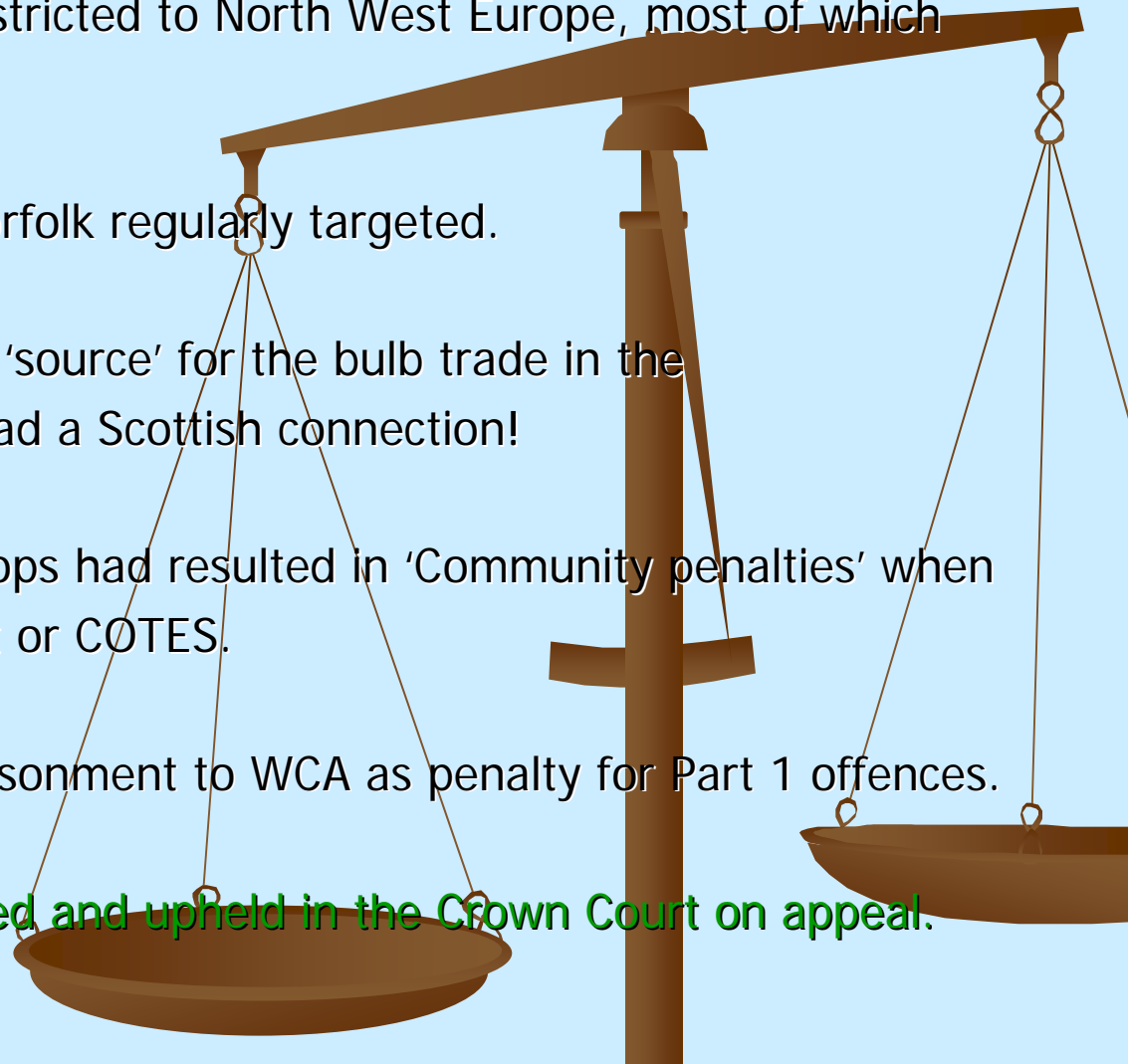
- ┌ *Evaluate the facts* – Gravity depends initially on '**Conservation status**' of species or habitat.
- ┌ *Primary factors*: Endangered Species? Fragile or rare Habitat damaged? Ecological balance damaged? Conservation problem aggravated by crime?
- ┌ *Additional aggravating features*: Commercially driven? Breach of professional duty? International obligation to protect species or deter offending?
- ┌ *Other familiar aggravating features* – group activity, planning, prevalence, repeat offending.





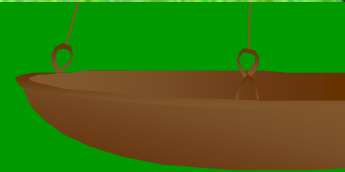
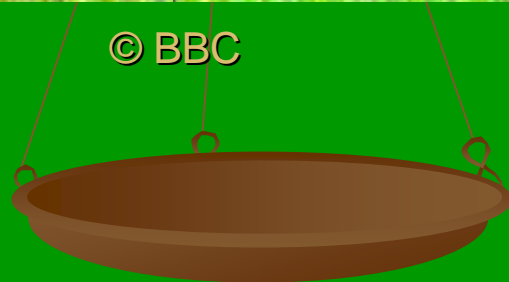
Bluebells – Uprooting and possession for sale

- A globally rare habitat largely restricted to North West Europe, most of which is in the UK.
- Offence prevalent – woods in Norfolk regularly targeted.
- Offence commercially driven – a 'source' for the bulb trade in the Cambridgeshire Fens, which had a Scottish connection!
- Previous cases involving snowdrops had resulted in 'Community penalties' when prosecuted under the Theft Act or COTES.
- CRoW Act 2000 had added imprisonment to WCA as penalty for Part 1 offences.
- **Custodial sentences were imposed and upheld in the Crown Court on appeal.**





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East Anglian Hare Poaching – Illegal Coursing

■ The old approach, pre 2003:

Minor Property Crime – what is the value of one hare to a landowner?

Fine of £50 - £200 imposed.

No concerted police enforcement action.

Very few prosecutions.

Very many incidents reported to police – offence prevalent.

■ The new approach:

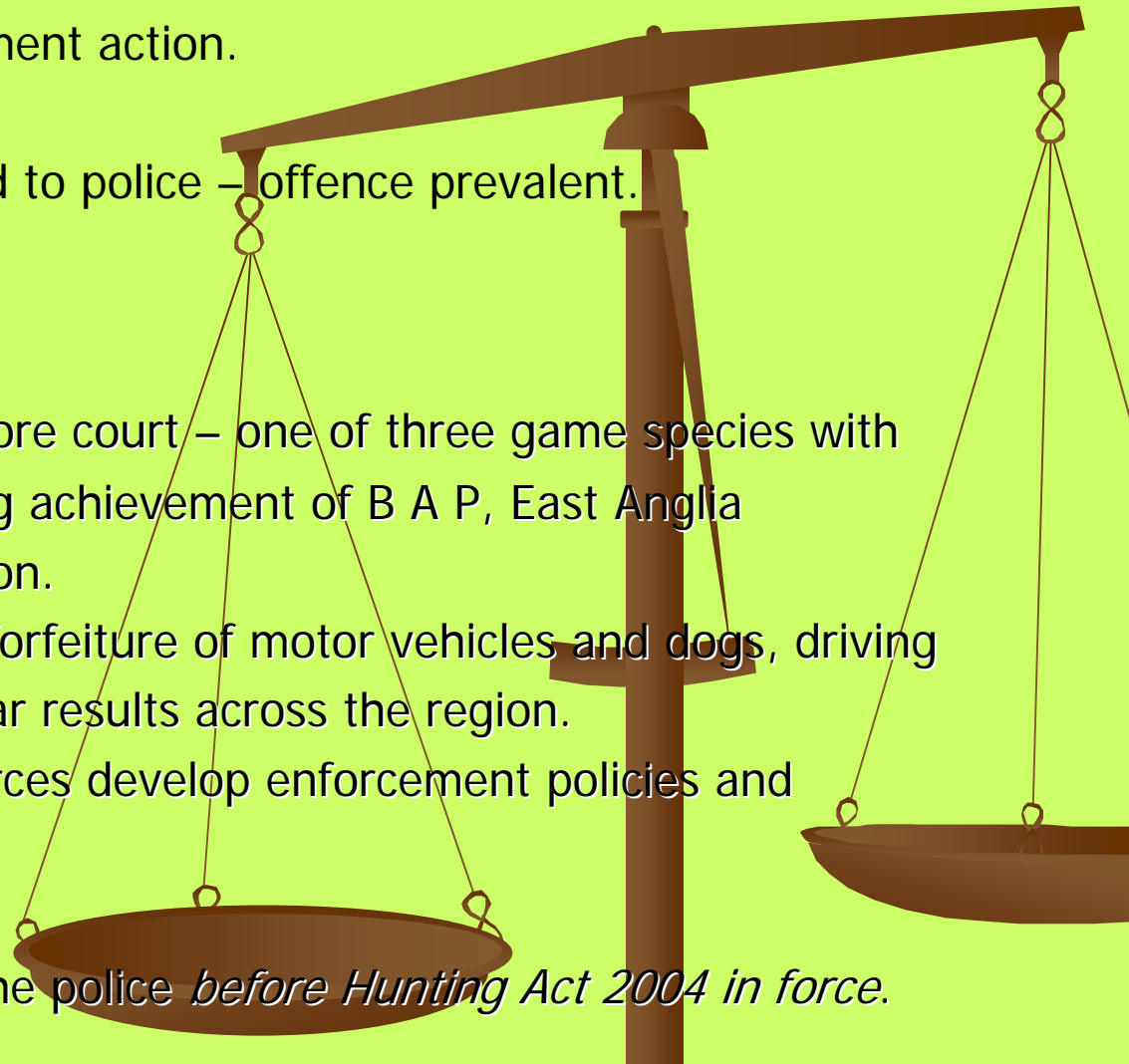
Conservation aspects put before court – one of three game species with B A P status, crime affecting achievement of B A P, East Anglia important for hare population.

Fines of £500 - £1,000, with forfeiture of motor vehicles and dogs, driving disqualifications. Similar results across the region.

Three East Anglian Police Forces develop enforcement policies and allocate resources.

More prosecutions.

Fewer incidents reported to the police *before Hunting Act 2004 in force.*



What do I want to achieve with this case?

┌ Is it permissible for the Prosecutor to bring a case and seek to achieve more than just a conviction?

┌ The fact of a prosecution being attempted can 'educate'. A successful result can educate even better!

A prosecution with an 'aim' can 'focus' the enquiry better to serve the public interest by high-lighting a particular issue of importance.

┌ The evidence MUST satisfy the evidential test for prosecution.

A focused enquiry and prosecution are better uses of limited public funds.

┌ Make sure the Media get the 'right' message from you before they send any message to the public.

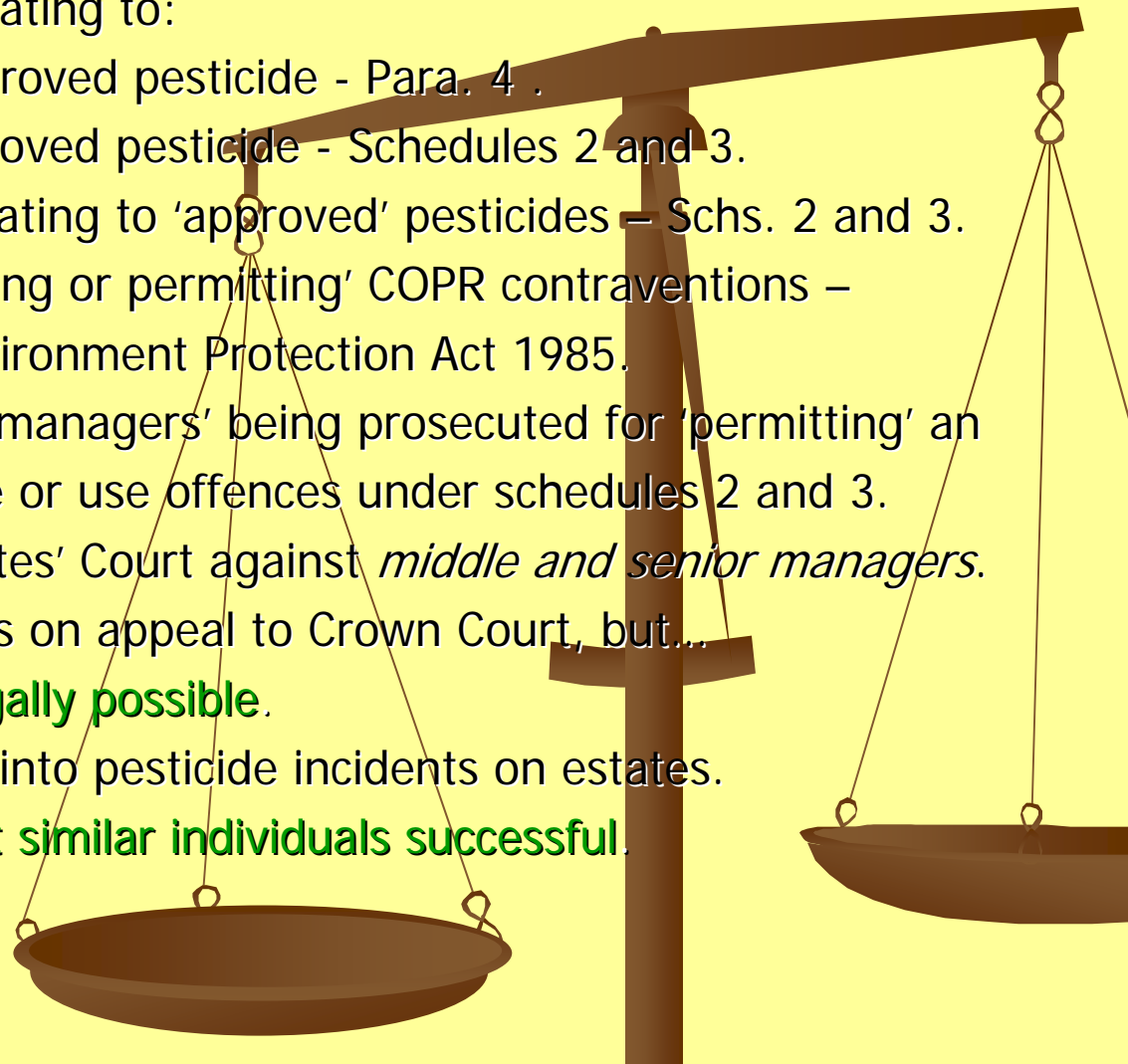
'PROSECUTE for a PURPOSE!'





Criminal liability of Managers under Control of Pesticide Regulations 1986 (COPR)

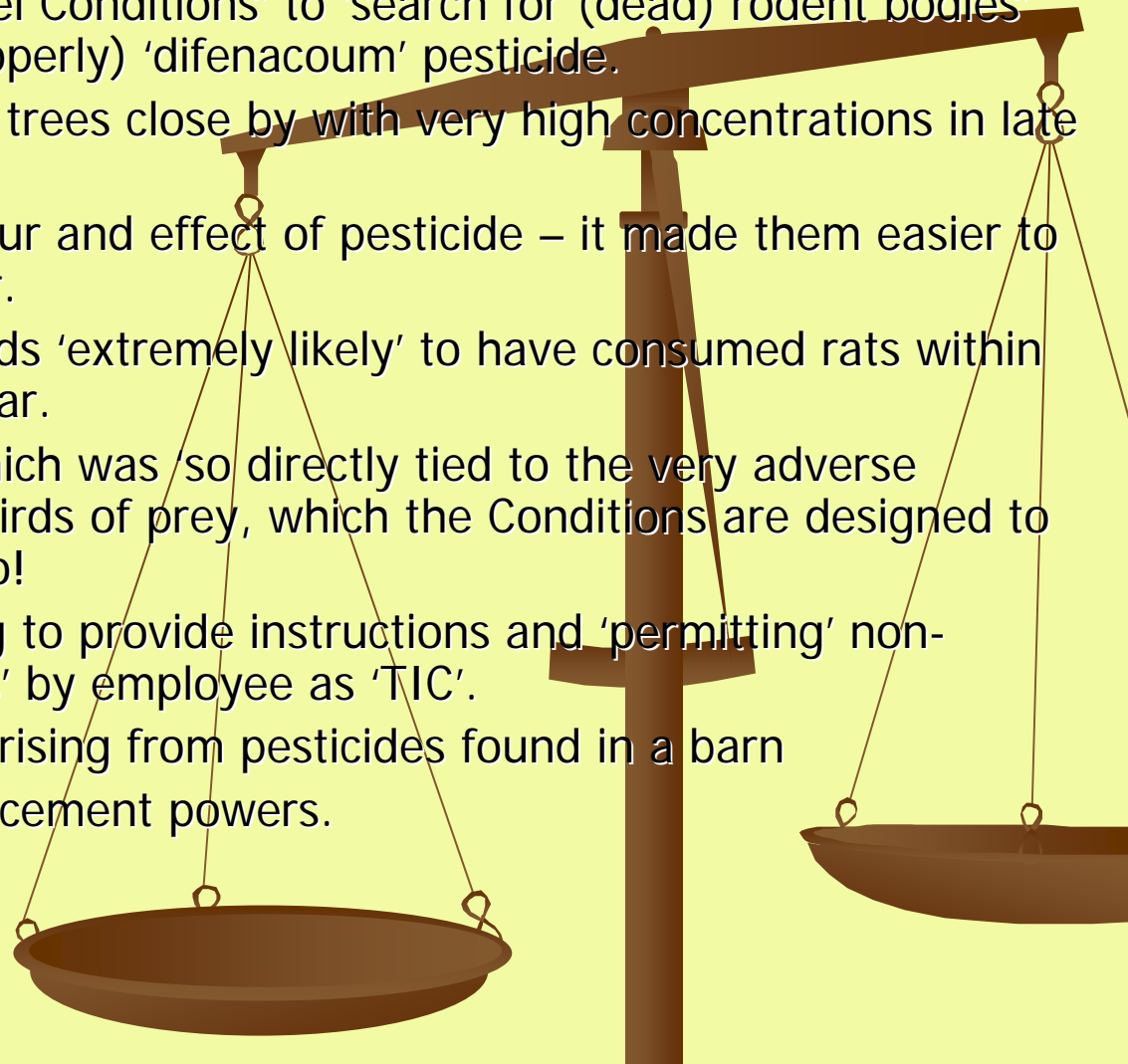
- Specific offences under COPR relating to:
 - ‘storage’ or ‘use’ of an unapproved pesticide - Para. 4 .
 - ‘storage’ and ‘use’ of an approved pesticide - Schedules 2 and 3.
 - ‘Employer’ responsibilities relating to ‘approved’ pesticides – Schs. 2 and 3.
- AND additional offences of ‘causing or permitting’ COPR contraventions – Section 16(12) Food and Environment Protection Act 1985.
- Prior to 2000 no known case of ‘managers’ being prosecuted for ‘permitting’ an employee to commit storage or use offences under schedules 2 and 3.
- Convictions obtained in Magistrates’ Court against *middle and senior managers*.
- Convictions set aside on the facts on appeal to Crown Court, but...
- **Court accepts convictions are legally possible.**
- Many more police investigations into pesticide incidents on estates.
- **Subsequent prosecutions against similar individuals successful.**





Employer/Manager criminal liability for employee's failures leading to secondary poisoning?

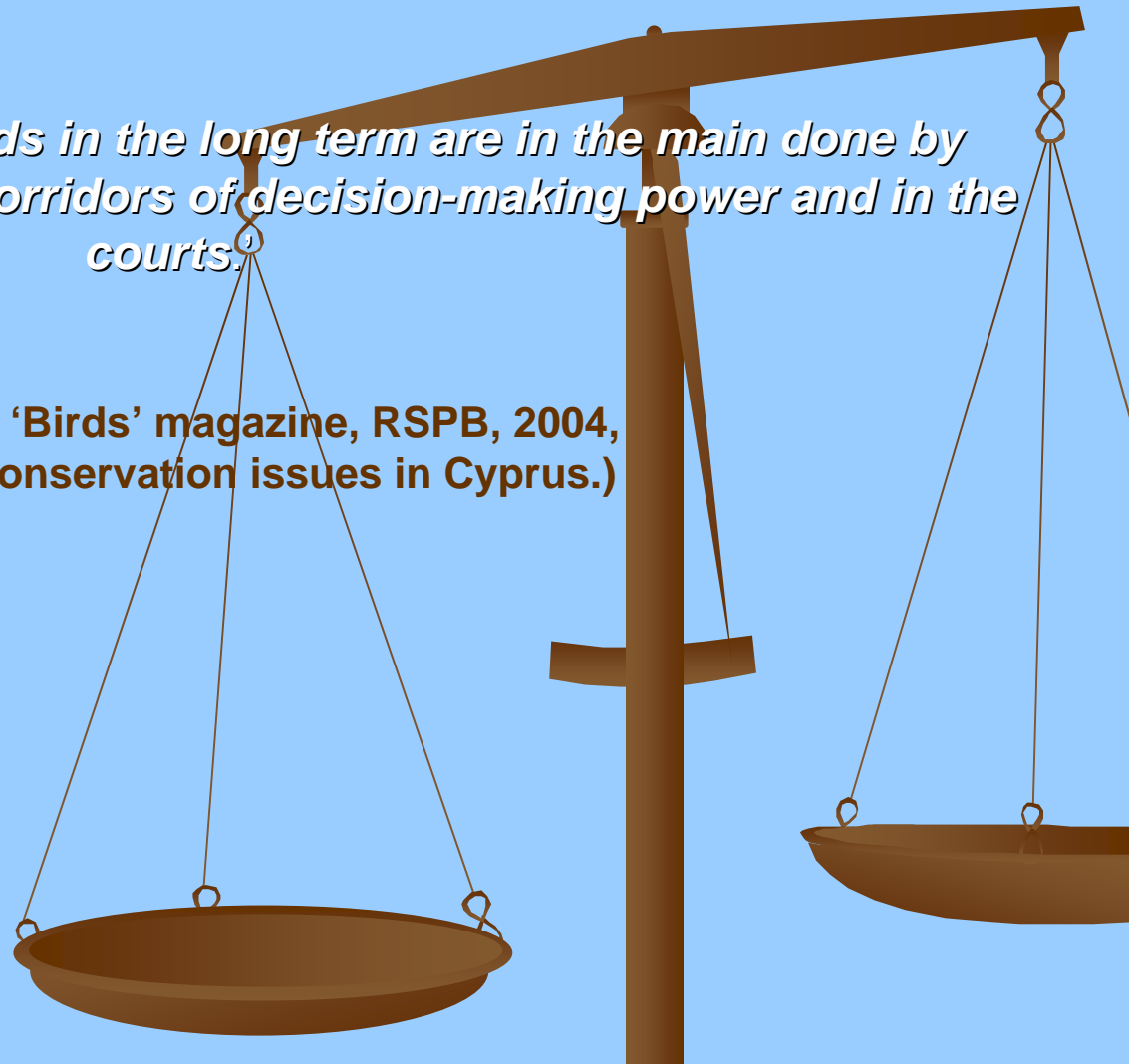
- Gamekeeper failed to follow 'label Conditions' to 'search for (dead) rodent bodies' having used (otherwise quite properly) 'difenacoum' pesticide.
- Two buzzards found dead under trees close by with very high concentrations in late December/early January.
- Rat expert explained rat behaviour and effect of pesticide – it made them easier to catch and less likely to use cover.
- Buzzard expert explained buzzards 'extremely likely' to have consumed rats within the range here at this time of year.
- Was this the first prosecution which was 'so directly tied to the very adverse consequences, ie. the death of birds of prey, which the Conditions are designed to prevent or mitigate'? We think so!
- Guilty plea by employer to failing to provide instructions and 'permitting' non-compliance with 'label conditions' by employee as 'TIC'.
- Other alleged storage offences arising from pesticides found in a barn dealt with by Defra's other enforcement powers.



'Thought for the Day'

'The tasks of protecting birds in the long term are in the main done by people behind desks, in the corridors of decision-making power and in the courts.'

**Conor James, 'Birds' magazine, RSPB, 2004,
(Discussing conservation issues in Cyprus.)**



Thank you.

