

Foraging – the law on picking wild flowers ©

OK – first things first – let’s start this legal overview with a question and a cautionary tale or two. **Are you allowed to pick wild flowers growing at the side of the road?**

The answer is **yes**, provided that you are keeping them for your own personal use, ie not selling them for profit. Of course, if you destroy or uproot the whole plant, that is classed **as theft**. Also, check that the side of the road does not actually belong to somebody’s land or the local council – see also the separate articles on **Foraging** in the *Waverley Healing Wheel* Files.

1. In March 2011, Jane Errington and her daughters went for a walk in their local park in Poole, Dorset. The police were called by another walker after the two girls were seen picking daffodils. Jane Errington was informed that she could be arrested for criminal damage.
2. In March 2017, David Taylor allowed his daughters to pick some daffodils from a roadside verge in Mansfield, to give their mother on Mother’s Day. Unfortunately, the verge was owned by the council and the police were duly called to confiscate the flowers.

Thus, the law is clear on this point - flowers growing on council-owned land are not there for the public to pick. Also, the flowers must be genuinely wild, ie this list shows sites that are not wild or are protected.

- i. Council-maintained displays on roundabouts.
- ii. Flowers planted in public parks.
- iii. Commemorative displays.
- iv. Gardens planted for the community by an organisation.
- v. National nature reserves.
- vi. Sites of Special Scientific Interest.
- vii. Protected land, eg National Trust property.
- viii. Ministry of Defence property.
- ix. Private gardens.

The law on picking wild plants

Many rare or endangered plants, eg orchids, are protected under s.13, Parts 1-2 and schedule 8 of the **Wildlife and Countryside Act 1981** for most of Great Britain and the **Wildlife (Northern Ireland) Order 1985** for Northern Ireland. Picking or selling any such plant is a criminal offence and you could be arrested. It is worth noting that there is a code of conduct for the conservation and enjoyment of wild plants, which has been adopted by both the Wild Flower Society and the plant charity, Plantlife. Here are some key points from the law.

1. It is illegal to uproot any wild plant without permission from the landowner or occupier. "Uproot" is defined as "to dig up or otherwise remove the plant from the land on which it is growing, whether or not it actually has roots".
2. The term, "plant" includes algae, lichens, fungi, mosses and liverworts.
3. Many plants growing wild are the legal property of someone and, under the **Theft Act 1968**, it is an offence to uproot plants for commercial purposes without authorisation.
4. It is a defence to show that either you obtained a licence from the relevant authority or the damage is a result of a lawful activity and could not reasonably have been avoided.
5. Some plants, eg bluebells (Great Britain) and primroses (Northern Ireland) are only protected against picking for sale.
6. Sch. 8 of the **Wildlife and Countryside Act 1981** is revised every five years.
7. Owners and occupiers may be prosecuted if they destroy plants in protected sites or remove plant material, unless they have first consulted the statutory conservation agencies.

To clarify the law a little, the **Theft Act 1968** states that in the case of plants growing wild on any land, you may take away foliage, fruit or parts of the plant without committing an offence, if you are not taking them for profit. If you do intend to profit from them, you will need the landowner's permission to do so.

Another piece of law is the **Countryside and Rights of Way Act 2000** in regard of access to land. Some of the countryside now has unrestricted access for ramblers, but the act also blocked people removing any parts of plants. There is still a danger of trespass, if you go onto private land without permission from the owner, but trespass is a civil offence rather than a criminal one. If you go on to land using a public right of way or if it's, say, National Trust land – this is known as *implicit permission* by the landowner.

However, even if you're not trespassing, you still may not be allowed to forage or collect plants or flowers. The 2000 Act says that a person is **not entitled** to be on the land if he "*intentionally removes, damages or destroys any plant, shrub, tree or root or any part of a plant, shrub, tree or root*". So, you can have access to the land, but not be able to forage. It's also worth checking in advance for any specific byelaws that may prohibit foraging.

With the ongoing negotiations for **Brexit**, it's not yet clear whether the following rare wild plants in the United Kingdom will continue to have legal protection under the *EU Habitats Directive* (92/43/EEC) and the *EC Bern Convention on the Conservation of European Wildlife and Natural Habitats* – such protection stops the intentional picking, collecting, cutting, uprooting, destruction and sale of the plants, seeds and spores.

- i. Lady's slipper orchid.
- ii. Creeping marshwort.
- iii. Marsh saxifrage.
- iv. Fen orchid.
- v. Early gentian.
- vi. Shore dock.
- vii. Killarney fern.
- viii. Floating water-plantain.
- ix. Slender naiad.
- x. Petalwort.
- xi. Western rustwort.
- xii. Green shield-moss.
- xiii. Slender green feather-moss.

Note: in the United Kingdom, the snowdrop is also protected by the *Convention on International Trade in Endangered Species*.

Practical guidance on picking wild flowers

On the other hand, there's all sorts of reasons that may cause damage to wild flowers.

- i. For cooking or eating.
- ii. Botanical collection.
- iii. Educational purposes.
- iv. For photography.
- v. For model making, eg plants for war games.
- vi. For magickal uses.

A good general rule is that if you are not sure about the plants or flowers you see, do not pick or gather them. Data on rare plants can be found in the county rare plant registers. Pick only those plants that you recognise and which you know are widespread or common to that area. Lists of rare species can be obtained from the Joint Nature Conservation Committee (JNCC) website.

Let's look at some of these categories in a little more detail. [Private research](#) that involves collecting a small amount of plant material is usually OK, unless we're talking about rare species. Quite a few people do pick little pieces of lots of plants for their own collections – so that they can become more knowledgeable for the future. The caveat is what was mentioned earlier, ie if you're not sure about a plant (whether it's protected or not), then leave it alone.

It's possible to obtain licences for collecting small pieces from rare plants, but the general rule is to go foraging, armed with a handy field guide to the plants. Perhaps these guidelines might help:

- i. A small piece tends to mean a single leaf or flower, some mossy stems or a bit of lichen.
- ii. Take flowers and foliage only from large patches of the plant.
- iii. Only pick in moderation so that plenty is left for others.
- iv. Do not pick flowers that will wilt before you get them home, eg poppies.
- v. Try not damage other surrounding vegetation when picking flowers.
- vi. If you have obtained permission from the landowner, only gather a minimum of mosses, liverworts, lichens or algae.

With [educational trips](#) (eg schools or cub scouts), the leaders or teachers should remember their responsibility to obtain the requisite permission from landowners. A large group of people can cause a lot of damage to wild plants from camping, playing games or just idle picking of flowers. Thus, supervisors of such groups should know the rules about picking wild flowers or damaging plants in advance.

[Plant photography](#) is very popular, but still needs some care. If taking a photo, try not to damage surrounding plants, such as moss or lichens by treading on them. Another hazard is that a picture of a rare plant may give away its location to potential collectors. If you do find a rare species, the best thing to do is take a picture and inform the local wildlife trust or conservation body.

Picking flowers for [magick or for kitchen witchery](#) is subject to all the restrictions and guidelines described earlier, but with some caveats over the amounts needed and the timing of your collection. Of course, some plants are not exactly exempt from the law, but will never come under the heading of rare species, eg [nettles](#), which are brilliant for healthy drinks against colds or flu and are found everywhere – such as this one: **nettle soup**.

What you will need:

16-20 tablespoons chopped nettles

2lbs cubed/diced and cooked beef

1½ pints chicken stock

8 tablespoons barley

Salt and pepper to season

Mix all the ingredients in a pot or saucepan and simmer until the barley is completely cooked.

Here's another common wild flower that lends itself to all sorts of uses – [meadowsweet](#). As a medicinal plant, dried meadowsweet leaves can be used as an infusion with honey to help against headaches or to relieve wind/ gastritis. As a wild flower, it can normally be found close to rivers or in damp hedgerows and the following recipe for **meadowsweet ice cream** shows that it is a common alternative to using elderflower.

What you will need:

About 4 handfuls of meadowsweet flowers

225g of caster sugar (brown, if possible)

Juice of 3 lemons + 1 grated lemon rind

600ml water

Put the sugar and water in a saucepan - stir and boil for about 10 minutes until it becomes syrupy – then remove from the heat.

Add the lemon juice, the grated rind and the meadowsweet flowers.

Stir the mixture and allow the flavour to infuse until the syrup is cool.

Strain the syrup through a muslin bag and freeze overnight in a plastic container.

Take the ice cream out of the freezer, blend the mixture and put back in the freezer for another 24 hours.

Repeat this step and then freeze for 48 hours before eating.

Conclusion – is there anywhere safe to pick wild flowers?

Good question, but yes (actually) there are a few good places to look for wildflowers and plants, particularly around the edges of urban areas. If you can't always reach open countryside, you could try waste areas or around allotments or even disused railways – not near main roads, but if you're in doubt – ask your local wildlife trust for advice.

It's safe to assume that such areas may contain plants that just seed themselves and grow unchallenged. Typical examples might include nettles, dandelions, buddleia, Michaelmas daisies, rosebay willowherb, thistles, whitlow-grass and brambles. Research by the Field Studies Council has shown that a wide range of mosses and algae also grow well here. None of these are rare, although it's best to avoid uprooting or destroying plants so that a small ecosystem is encouraged to develop for more sophisticated plants and animals.