

P-05-876: Protection of Red & Amber listed species in Wales

Y Pwyllgor Deisebau | 21 Mai 2019

Petitions Committee | 21 May 2019

Research Briefing:

Petition number: [P-05-876](#)

Petition title: Protection of Red & Amber listed species in Wales

Text of petition: It has recently come to light that Natural Resources Wales have been issuing licences to allow the killing of species that appear on the RSPB's Red and Amber lists in Wales for sometimes rather spurious reasons such as "protecting cattle feed" and "air safety".

Other methods are available to disperse birds that do not involve killing. All Red listed species are under severe threat of extinction in Wales and thus the level of protection needs to improve to prevent further loss to our natural biodiversity.

The management of Natural Resources Wales have an anthropocentric viewpoint of the natural environment and thus are simply not fit for purpose when it comes to environmental and biodiversity protection.

We, the undersigned, contend that Natural Resources Wales is failing to protect the natural environment and biodiversity in Wales.

We demand that the ability of Natural Resources Wales (or any other body) to issue licences to kill any Red or Amber listed species should be removed with immediate effect and a less anthropocentric viewpoint be taken by management in all issues relating to the environment and biodiversity.

Principal Petitioner: Chris Evans

Background

Birds of Conservation Concern

The [Birds of Conservation Concern 4 \(BoCC4\)](#) is the fourth review of the conservation status of birds in the UK. It includes lists which categorise the 244 UK bird species as 'Red', 'Amber'

and 'Green' status depending on their conservation importance. The [associated report](#) includes the species lists. Red species are those of highest conservation priority (67 species), Amber species are of moderate concern (96 species) and Green species are of least concern (81 species).

BoCC is a collaboration between the UK's Statutory Nature Conservation Bodies (SNCBs), the Royal Society for the Protection of Birds (RSPB), the British Trust for Ornithology (BTO), the Wildfowl and Wetlands Trust (WWT) and several other organisations. Data used for the birds' categorisation come from monitoring schemes such as the [Breeding Bird Survey](#) and the [Wetland Bird Survey](#).

Red in the context of BoCC is not to be confused with the [International Union for Conservation of Nature's \(IUCN\) Red List](#), though IUCN status is one of the criteria used in the BoCC assessment.

The changes in the numbers and proportions of species on the Red, Amber or Green lists [are said to](#) provide an indication of the status of UK birds and the efficacy of conservation measures taken. The BoCC4 lists are [used by conservation organisations such as the RSPB](#) to prioritise action.

Natural Resources Wales bird licensing

All wild birds, their nests and their eggs are protected under the Section 1 of the *Wildlife and Countryside Act 1981* (as amended) ('the 1981 Act'). It is an offence to intentionally kill, injure or take any wild bird. Under section 16 of the 1981 Act, appropriate authorities may grant general or specific licences to permit acts which would otherwise contravene the provisions of the 1981 Act concerning the protection of wild birds, if done for certain specified purposes.

The specified purposes for which licences may be issued under section 16 include:

- the preservation of public health and air safety;
- preventing the spread of disease; and
- preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or fisheries.

The licences have certain conditions and failure to comply with the conditions can lead to an offence being committed. For example it is a standard condition of licences issued under the 1981 Act that:

This licence can only be relied on in such circumstances where the licensee is satisfied that the appropriate non-lethal methods of control such as scaring are either ineffective or impracticable.

[Natural Resources Wales \(NRW\) issues general and specific bird licenses](#) in Wales. [NRW's website states:](#)

...we carefully balance the needs of conservation with other public interests such as protecting human health, public safety, minimising damage to crops and livestock and protecting fisheries.

For example, we might issue a licence where birds have entered a food processing plant, creating a public health issue. Airports also apply for licences to shoot birds to reduce the risk of air strikes.

There are several '[General Licences](#)' for birds which are issued for a particular purpose and are valid for a year. There are no restrictions on how many birds can be killed. Some are limited to certain species only.

[NRW states that](#) it only issues a licence 'as a last resort' and that it is 'confident that all activities carried out under these licences do not affect the conservation status of any of our native species'.

A list of the licences issued, as well as records of birds killed, can be found on [NRW's website](#). This includes species found on the BoCC Red list (such as herring gulls) and Amber list (such as lesser black backed gulls).

Natural England revoke general licences

Natural England (NE) is the equivalent licensing body in England. [Wild Justice](#) (a newly established not-for-profit company set up to take court action to protect wildlife) recently won a legal challenge against NE on the basis that the **general licensing** approach was not legal. It argued that NE was not 'taking enough care to judge individual cases, or indeed any case at all.' It objected to the 'unlimited slaughter of certain wild birds all year round'. Wild Justice stated (emphasis added):

After nearly four decades of unlawful, casual killing of millions, tens of millions of birds, sanctioned by a succession of government statutory conservation agencies over the years, the current system has been shown to be unlawful...

We haven't changed the law, we have merely shown that the current system of licensing of killing of certain species of birds, developed and administered by a statutory wildlife agency, is unlawful now and presumably has been for decades.

Our successful legal challenge may well have implications for what happens in **Wales, Scotland and Northern Ireland and we will be bringing this to the attention of the other statutory agencies.**

On 25 April 2019 [NE revoked](#) three general bird kill licences. The licences permit the killing of 16 species of birds, including crows, parakeets, Canada geese, some gulls and wood pigeons.

Wild Justice agree that some birds need controlling; its objection was that the general licences enabled people to kill birds 'arbitrarily'.

The revocations have been met with significant criticism from landowning, farming and shooting communities, who say they need the licences to protect crops and animals from some bird species. For example, [the Country Land and Business Association \(CLA\)](#) said it was 'hugely disappointing' that NE is reviewing the licences for 'no practical benefit'. [A letter](#) signed by

eight countryside groups was sent to UK Secretary of State for Environment, Food and Rural Affairs, Michael Gove, on 29 April 2019 calling for a ‘full investigation’ into NE’s decision.

NE has been working on alternative measures to allow lawful control of these bird species to continue in defined situations. On 26 April 2019 NE published the first of the new general licences for controlling birds. [The interim chief executive Marian Spain](#), said the new licences will be ‘in place in the coming days that cover the vast majority of circumstances covered by the current licences. This will ensure landowners can continue to take necessary action, whilst also taking into account the needs of wildlife’.

Michael Gove, has [ordered officials](#) to ‘urgently investigate’ options for controlling wild birds. [A statement from NE](#) says it ‘will consult with stakeholders in advance of the wider review of general licensing that will take place later this year’.

Welsh Government action

Under section 7 of the *Environment (Wales) Act 2016* (‘the Environment Act’), the Welsh Government must publish lists of [priority habitats and species](#) that it considers are ‘of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales’. Public authorities are then expected to take steps to maintain and enhance these species and habitats. These lists are currently transposed from the *Natural Environment and Rural Communities Act 2006 Act* (NERC Act) (section 42) as an interim measure, but are being revised by the Welsh Government in consultation with NRW. The [current NERC Act priority species list for Wales](#) includes bird species found on the Red and Amber BoCC4 lists.

In addition, more broadly, under the Environment Act, Welsh public authorities (as defined in [Sections 6\(9\) and 6\(10\)](#)), including Welsh Ministers, are expected to ‘promote the resilience of ecosystems’ and ‘maintain and enhance biodiversity’. This is known as the ‘biodiversity and resilience of ecosystems duty’. Public authorities are required to publish a plan setting out their proposed actions to enhance biodiversity and ecosystem resilience and report on progress. [Welsh Government guidance](#) recommends that the biodiversity and resilience plans should be published within a year of the Environment Act receiving Royal Assent (though this is non-statutory), to allow time before reporting on progress before the end of 2019.

The Welsh Government’s letter to the Committee on this petition highlights the Welsh Government’s [Nature Recovery Plan for Wales](#) which is currently being refreshed. The Plan sets out how Wales will deliver the commitments of the [UN Convention on Biological Diversity](#) and the [EU Biodiversity Strategy](#) to halt the decline in biodiversity by 2020 and then reverse that decline. The Welsh Government’s letter also highlights NRW’s strategic steer for biodiversity in [Vital Nature – making the connections between biodiversity and the people and places of Wales](#). Vital Nature establishes a high-level framework for actions for biodiversity in line with the Nature Recovery Action Plan for Wales. Both address how the Welsh Government and NRW aim to deliver the biodiversity and ecosystem resilience duty.

National Assembly for Wales action

The Petitions Committee is currently considering a petition (P-05-852) to [introduce a licence to manage land for game bird shooting in an attempt to end raptor persecution](#). The then Minister for Environment, Hannah Blythyn, wrote to the Committee on [23 November](#) stating that in 2017 the Welsh Government funded 'A Review of the Prevention and Investigation of Wildlife Crime in Wales' undertaken by the National Wildlife Crime Unit. The report was shared with the Committee. The Welsh Government highlighted the success of both the secondment of police officers to NRW and the setting up of dedicated rural crime teams within the Welsh forces. Hannah Blythyn said in her letter to the Committee that she will continue to support NRW in their commitment to work collaboratively with Welsh Police Forces to encourage compliance with, and enforce, wildlife and environmental legislation in Wales.

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, [provided further information](#) highlighting that the Code of Practice for the Welfare of Gamebirds Reared for Sporting Purposes is being updated. She also highlighted officials' work with the Raptor Persecution Priority Delivery Group.

The Climate Change, Environment and Rural Affairs Committee has recently carried out a piece of work on [biodiversity](#) which looks at how the Welsh Government's proposed Public Goods Scheme, set out in the [Brexit and Our Land Green Paper](#), could be applied to restore biodiversity. RSPB highlighted the long term downward trend in bird species. The Committee is due to write to Lesley Griffiths.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.