

Minister for Environment, Climate Change and Land Reform

Aileen McLeod MSP

F/T: 0300 244 4000

E: scottish.ministers@scotland.gsi.gov.uk



In 2014 Scotland Welcomes the World

Rob Gibson, Convenor
Rural Affairs, Environment
and Climate Change
Committee
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The Scottish Parliament
Edinburgh
EH99 1SP



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Dear Rob,

Thank you for your letter of 5 December 2014 in relation to the two evidence sessions in front of the Committee, on the second wildlife crime annual report. I thank you for the opportunity to follow up further points from the Committee and will answer these points in turn.

Wildlife crime data and trends

“We welcome the commitment of the Scottish Government, the COPFS and Police Scotland to work together to improve the data and ensure it is easier to understand. The Committee expects to see all data in future presented consistently, in a calendar year format, to enable future Reports to be directly compared year for year.”

I accept that the data in both the first and second reports has been difficult to interpret because of the way data is recorded across departments. Officials from Scottish Government, the Crown Office and Procurator Fiscal Service (COPFS) and Police Scotland are working together to take these issues forward.

Data on recorded crimes and court proceedings for all types of crime has been published by financial year since 1994, and so it would be inconsistent for wildlife crime data to be treated differently. Additionally, the data on court proceedings for all types of crime is not finalised and published until December following the relevant financial year, so the wildlife crime data covering the last eight months (April-December) of the preceding calendar year would not be available in time for inclusion in each annual report. While it may be possible to break down the recorded crime data by calendar year for 2014 onwards, it is unlikely this could be back-dated to show a 5-year time series. Therefore valuable trend data would be lost if this information was switched to calendar year in next year's report.

There are no straightforward solutions for these issues, however every effort will be made to improve the consistency and overall presentation of the data in the next annual report. One option may be to switch other sources of data in the report to financial year instead, to match the main data on court proceedings and recorded crimes.

“The Committee urges you to consider what further disaggregation is possible to ensure that the Report is as useful as possible.”

I agree that this is important and we will continue to work to achieve this. We will be looking first at improving the data on recorded crimes which relate specifically to the six wildlife crime priority areas.

Detection and prosecution of wildlife crime

Levels of reported crime

“The Committee is convinced that we cannot afford to become complacent in our efforts and we would welcome your view on what more could be done to improve the levels of reported crime.”

In order to improve the levels of reported crime, we require the public to play their part. The Partnership for Action Against Wildlife Crime (PAW) Scotland launched a free smart phone app on 5 November 2013, which allows a suspected crime to be recorded at source with a photo and a grid reference, and it also prompts the user to provide supplementary information. The information is sent directly to Police Scotland. Further development work on the app will be taken forward by Police Scotland

The PAW Scotland Media sub group chaired by former BBC journalist Louise Batchelor, works with stakeholders to raise awareness of wildlife crime. The group aims to get regular articles in the press highlighting wildlife crimes, particularly those which occur on a seasonal basis.

Reported crime numbers also reflect not only public awareness of wildlife crime, but also confidence that there will be an appropriate response from the authorities. Police Scotland has worked hard to ensure that consistent structures and resources are in place throughout Scotland and we expect this to produce improved results in wildlife crime reporting.

“The Committee welcomes the fact that PAW Scotland has recently established a science group and suggests that *[absence of species potentially indicating criminal activity]* may be a matter it could take forward.”

We know that there may also be other non-criminal explanations for the absence of species. Nevertheless I agree that this would be useful work for the PAW Scotland Science sub-group to take forward. I will ensure that is raised with the chair of the sub-group, Dr Lucy Webster of Science and Advice for Scottish Agriculture (SASA).

Investigations

“The Committee understands there can be difficulties in relation to evidence in investigations, particularly the admissibility of video evidence. The Committee notes the difficulties faced by Police Scotland in using video evidence and the stringent tests that must be met before this approach to evidence-gathering can be used. The Committee also shares the view of the COPFS that there should be no endorsement of

any conduct which attempts to circumvent the provisions of the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA)."

I absolutely agree that all investigations must be fully compliant with the law. Where it is possible to take forward video surveillance in wildlife crime investigations, I hope the law enforcement authorities will give this full consideration as it clearly has the potential to make a significant contribution to detecting and deterring certain types of wildlife crime.

Police resources

"The Committee agrees with Police Scotland that every front-line officer needs to be aware of, and able to investigate, reports of wildlife crime thoroughly and recommends funding for training is made available. The Committee would welcome your view as to the adequacy of police resources to effectively tackle wildlife crime, particularly as there are concerns that the numbers of reported crimes may be the tip of the iceberg, and in the context of the current consultation exploring the option to make greater use of SSPCA staff."

Police Scotland resourcing is a matter for the Chief Constable and it would be inappropriate for me to comment on that. However, Police Scotland recently confirmed in their evidence session to this Committee on 29 October that they have 110 officers who have received training on wildlife crime in some format. They are developing a training course on wildlife crime which will be delivered to those officers with the aim of raising the standards of investigations. I also understand that further training with a view to specialised accreditation is under discussion. I welcome that Police Scotland is taking this forward and look forward to receiving further details on when such training will be commenced.

As regards the decision on whether or not to extend the powers of the SSPCA to investigate certain wildlife crimes, I can confirm that the extra resources that they could bring to tackling wildlife crime will be *inter alia* one of the factors I will be taking into account.

Criminal proceedings

"The Committee would hope to see an improvement in the detection and prosecution rates for wildlife crime in future years."

I also am looking to see an improvement in the detection and prosecution rates for wildlife crime. Clearly these are matters for the law enforcement authorities in the first instance, but I believe that both the police and the COPFS have made significant progress in recent years in this area with dedicated resources and training. It remains the case however that some wildlife crimes can be difficult to detect, especially those which take place in remote areas and where we do not seem to get the co-operation we might expect from some businesses and their employees.

We therefore have a job in government to work to change attitudes, to support those who do work within the law and to use whatever tools there are at our disposal, such as the General Licences or other regulatory mechanisms, to improve compliance with the law.

Vicarious liability

“The Committee looks forward to receiving an update on this as soon as it is possible for you to do so.”

I will ensure that the Committee is made aware of any outcomes in these cases as there will no doubt be a great deal of public interest in the outcomes.

Raptor crimes

Restriction of general licences

“The Committee welcomes confirmation that steps have already been taken to set up an information sharing protocol between SNH and Police Scotland and it looks forward to an update on the progress of this scheme in the next Annual Report.”

I can confirm that Scottish Natural Heritage (SNH) and Police Scotland signed an information sharing protocol in August 2014. My officials will liaise with SNH to get feedback on the implementation of this scheme, its initial success and any issues which have arisen for the third annual report. As a new tool to stop wildlife crime, it will have its own section in the annual report going forward.

Recent raptor crimes in Ross-shire

“The Committee agrees with Police Scotland that failing to provide information may lead to increased tension and speculation, particularly through social media. However, unfortunately in this case, the Committee believes that the wording of the press release made it more difficult to understand what was happening.”

“The Committee welcomes the confirmation that the Scottish Government, in partnership with the police, is trying to achieve a degree of consistency in how such information on such incidents is released to the media.”

Police Scotland’s press release on 24 October was designed to bring about a reduction in speculation that was widespread across social media on this high profile case. I am confident that lessons will have been learned on the need to be very careful with wording of such communications.

With all such communications, there is a clear imperative to ensure that the desire to be open and transparent does not conflict with the need to safeguard operational details of the police investigation or compromise any prosecution that might follow.

“The Committee supports the suggestion that, once the [Ross-shire] case has concluded, Police Scotland and PAW Scotland are asked to consider what lessons there are to be learned for the future.”

I agree that it will be important that lessons are learned from all wildlife crime investigations, especially such important and high-profile cases as the appalling events in Ross-shire. I am confident that there are already in place arrangements for such reviews, although I will ensure that we seek confirmation that they have taken place.

"The Committee welcomes this measure (*the pesticides disposal scheme*) and recommends that the success of the uptake of the scheme is reported in subsequent Annual Report(s)."

I can confirm that the third Annual Report will include a section on the operation of the pesticides disposal scheme.

Future measures to tackle wildlife crime

Review of penalties

"The Committee welcomes the confirmation that, if the review of penalties determines that a case can be made for increasing the existing penalties to make them more of a deterrent for those who continue to ignore the law, then it will be given serious consideration. The Committee looks forward to hearing from you following the conclusion of the review and hearing your response to its recommendations. The Committee is pleased to note that, following the review, the Professor will undertake a desk review of licensing regimes in relation to game-bird shooting elsewhere."

I also look forward to receiving the report from Professor Poustie's Review Group, and I will of course let the Committee know how we propose to take forward the recommendations from the Review.

Mapping of wildlife crime

"The Committee encourages you to support the work of PAW Scotland in relation to mapping the locations of wildlife crime including where carcasses of raptors and other wild birds are discovered. The Committee suggests that consideration is given to also mapping the locations of any illegally placed poisons and traps that are discovered, irrespective of whether any wildlife deaths have resulted from their presence."

I too am keen to extend the value of the mapping exercise and will certainly look into mapping the locations of illegally placed poisons and traps. We will also give consideration to mapping the discovery of raptor carcasses, although of course most dead birds that are discovered will have died from natural causes. We need to ensure that we are only showing those where there is good reason to believe that criminality is involved.

Water bailiffs

"The Committee looks forward to hearing from you further on the issue of water bailiffs, when you respond to the recommendations made in the Wild Fisheries Review."

I will respond to the Committee on the usage of water bailiffs for wildlife crime once the Wild Fisheries Review has made its recommendations.

Firearms

"The Committee is encouraged that the matter of firearms licensing is being looked at and we look forward to receiving an update on progress in due course."

The PAW Scotland Legislation, Regulation and Guidance has recently had discussions with Police Scotland on this issue and is considering whether to seek any changes to current

practice. The operation of the licensing regime is a matter for Police Scotland, and the law in this area is reserved to Westminster. I will report on progress with this matter in due course as you suggest.

Extension of the powers of the Scottish Society for the Prevention of Cruelty to Animals

“The Committee agrees that the SSPCA may bring expertise and resources to wildlife crime investigations but shares the concerns of Police Scotland around accountability should the SSPCA be given additional powers. The Committee welcomes the acknowledgment by the former Minister for Environment and Climate Change that if additional powers are given then stakeholders and the wider public must be confident that the measures are proportionate and that the SSPCA is properly accountable for its actions and staff. The Committee looks forward to the Scottish Government’s forthcoming decision regarding additional powers for the SSPCA.”

As previously mentioned, I am also aware of the need to carefully balance a number of factors such as resources, accountability and proportionality in coming to a decision on whether to extend further powers to the SSPCA as regards wildlife crime. I will ensure that the Committee is kept informed of developments.

PAW Scotland

“The Committee understands that the National Farmers Union of Scotland (NFUS) is not currently represented on the main PAW Scotland Group but we are pleased to hear that discussions are currently underway regarding NFUS’s involvement and we look forward to receiving an update from you on the outcome of these discussions.”

I am pleased to confirm that the NFUS are now a full member of PAW Scotland and I look forward to working with them to deliver the wildlife crime message to the farming community in Scotland.

I hope that this somewhat lengthy, response helps to answer the Committee’s further questions on PAW Scotland activities and the wildlife crime annual report. Tackling wildlife crime is a key priority for the Scottish Government and one that I am keen to take forward robustly in my new role.

Kindest regards

Aileen

AILEEN MCLEOD