



The Scottish Parliament
Pàrlamaid na h-Alba

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

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Dear Aileen

Wildlife Crime in Scotland – 2013 Annual Report

1. The Committee recently took evidence on the Wildlife Crime in Scotland 2013 Annual Report from Police Scotland and the Crown Office and Procurator Fiscal Service (COPFS) before hearing from your predecessor, the former Minister for Environment and Climate Change, Paul Wheelhouse and his officials. The Committee found these sessions helpful in assisting its consideration of the Report and the Committee agreed to write to you setting out its views on the issues discussed.

Wildlife crime data and trends

2. The Committee expressed concerns last year about the clarity of the data provided in the 2012 Report and anticipated significant improvement in the 2013 Report. Unfortunately we remain concerned about the clarity of data, the mixture of calendar year and financial year information, and the lack of availability of data for 2013-14. **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.**

3. The Committee is also concerned that the data in the Report is insufficiently disaggregated to enable different offences to be seen separately, and to assist in effectively identifying trends in different forms of wildlife crime. We understand that, in some cases, this can be difficult as the wildlife crime may be a secondary offence and therefore difficult to isolate. However, **the Committee urges you to consider what further disaggregation is possible to ensure that the Report is as useful as possible.**

Detection and prosecution of wildlife crime

Levels of reported crime

4. The Committee is concerned that the numbers of reported wildlife crimes may be the 'tip of the iceberg' and you confirmed that you believe that more crimes are being committed than are recorded. However, this concern did not appear to be shared by Police Scotland. **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.** The Committee also understands that there are areas in Scotland where species that would be expected to be present are not present. **The Committee welcomes the fact that PAW Scotland has recently established a science group and suggests that this may be a matter it could take forward.**

Investigations

5. The Committee was pleased to hear of the improvements that have been made in techniques used to gather evidence of wildlife crime, and we welcome the good working practice of the COPFS in having a dedicated team of prosecutors who provide advice and support to Police Scotland.

6. **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 (RISPA).**

Police resources

7. The Committee understands that the 14 Police Scotland divisions have either a full-time or part-time Wildlife Crime Liaison Officer and Police Scotland believes this gives the best coverage and local focus to tackle wildlife crime. The Committee sought clarification from Police Scotland as to what proportion of the part-time Wildlife Crime Liaison Officer's time is spent on wildlife crime and we await this information with interest. **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.**

Criminal proceedings

8. The Committee is concerned that criminal proceedings only appear to be taken in around one fifth of the instances reported to the police and of these 20.7% are then marked for 'No Action' by COPFS (compared to 9.5% of other crimes) and the message that this sends to perpetrators that the chance of proceedings being taken against them are low. The Committee heard that the COPFS consider wildlife crime to be a priority, however, given the rate of prosecution we remain concerned that this form of crime may, in practice, be insufficiently prioritised. **The Committee would hope to see an improvement in the detection and prosecution rates for wildlife crime in future years.**

Vicarious liability

9. The Committee is interested to understand how the provision on vicarious liability, introduced in section 24 of the Wildlife and Natural Environment (Scotland) Act 2011, is operating in practice in terms of enforcement and prosecution. The Committee was encouraged to hear of the feedback you have received from stakeholders that responsible employers are concerned about the implications this may have for them. We understand that many are taking proactive steps to ensure they are not affected by this, and the threat of reputational impact has resulted in many landowners ensuring their staff are appropriately trained to understand their legal responsibilities. However, we are aware that it may be too early to fully judge the impact of this provision as a case has not, as yet, gone through the courts. **The Committee looks forward to receiving an update on this as soon as it is possible for you to do so.**

Raptor crimes

Restriction of General Licences

10. Scottish Natural Heritage (SNH) provided an update to the Committee on the restriction of General Licences to trap and shoot wild birds on land where there is good reason to believe that crimes against wild birds have taken place. The Committee understands that the implementation of this restriction has not been straightforward, which has been reflected in the time taken to finalise the scheme. The Committee is concerned to ensure that this will be an effective sanction which will not inadvertently leave land managers without a route to control species, such as corvids, resulting in a detrimental impact on other species of wild birds, crops and livestock. The Committee is also aware that the potential impact of a licence restriction, on the reputation of the land manager or owner may, in itself, be a deterrent. **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.**

Recent raptor crimes in Ross-shire

11. The Committee is aware there has been a great deal of interest in the investigation into the deaths of 22 birds of prey in Ross-shire earlier this year. The Committee is also aware that some stakeholders have expressed concern over the length of time taken by the police to secure warrants to look for evidence. Concerns were also expressed in relation to the release of information about the investigation.

Police Scotland issued a press release¹ on the progress of the investigation and told the Committee this was done as a means to “put some more information into the public domain to clarify our best assessment of the intent that lay behind the acts that we are investigating”.² The Committee acknowledges the difficulties faced by Police Scotland issuing press releases relating to live investigations, in particular balancing the public demand for more information and ensuring that the information provided does not prejudice any future proceedings. **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.**

12. The Committee was reassured to hear from the COPFS that despite the press release stating that the dead raptors were most likely not targeted deliberately but instead were the victims of pest control measures that “there is no question of the criminality of the incident being reduced or affected by the nature of the release that has been put out”.³ We understand from our evidence session with your predecessor that neither he nor his officials had sight of the press release prior to its issue. **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.**

13. The Committee understands that Police Scotland has undertaken a full review of the Black Isle inquiry, including the investigative approach, the media strategy and the forensic investigation, and this process has involved partners including RSPB Scotland and the SSPCA. **The Committee supports the suggestion that, once the case has concluded, Police Scotland and PAW Scotland are asked to consider what lessons there are to be learned for the future.**

14. The Committee is aware that it has so-far been confirmed that 16 of the 22 birds found dead in Ross-shire were killed by banned poisons. We understand that informal discussions with stakeholders and the COPFS on a pesticides disposal scheme have taken place. **The Committee welcomes this measure and recommends that the success of the uptake of the scheme is reported in subsequent Annual Report(s).**

Future measures to tackle wildlife crime

Review of penalties

15. The Committee understands that Professor Mark Poustie is midway through a review of the existing wildlife crime penalties and his initial report to you will be made early in the New Year. Following that the Professor will carry out a review of licensing regimes and game-bird legislation in other countries. **The Committee**

¹ <http://www.scotland.police.uk/whats-happening/news/2014/october/appeal-for-information-in-relation-to-death-of-raptors>

² Scottish Parliament, Rural Affairs, Climate Change and Environment Committee, *Official Report* 29 October 2014, Column 25. Available at: <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=9597&mode=pdf>

³ Scottish Parliament, Rural Affairs, Climate Change and Environment Committee, *Official Report* 29 October 2014, Column 30. Available at: <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=9597&mode=pdf>

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.

Mapping of wildlife crime

16. The Committee is concerned that wildlife crimes are not being effectively or consistently mapped. We are aware that PAW Scotland is developing a mapping approach and while we understand that it can be difficult to map all incidents the Committee believes that this is a vital part of the process of identifying and tackling 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.**

Water bailiffs

17. The Committee is aware of the recommendation in the Wild Fisheries Review which suggests that there is potential to integrate water bailiffs with Police Scotland and other wildlife crime functions. The Committee notes the response of Police Scotland whose experience is that water bailiffs no longer use some of the powers that they have e.g. the power of arrest, and that they are now much more likely to engage with the police at an early stage. **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.**

Firearms

18. The Annual Report states that in 2014 PAW Scotland will be considering, amongst other things, wider penalties for wildlife crime convictions such as the revocation of firearms licensing. The Committee understands that PAW Scotland is examining the circumstances in which wildlife crime offences are taken into account and what procedure is followed when the police are considering a new firearms application, an application for renewal of an existing licence, or considering whether to remove a firearms licence. **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.**

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

19. The Committee notes that Police Scotland, in response to a consultation paper seeking views on giving the SSPCA additional powers, expressed reservations as it is concerned that the SSPCA is insufficiently equipped to take on powers of the nature and strength suggested in the consultation. In particular, Police Scotland has concerns in relation to the independent scrutiny of the use of powers, such as RIPSA, and believes that the additional resource of approximately 60 SSPCA

officers would not outweigh or counterbalance the concerns around the proposed powers.

20. **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.**

PAW Scotland

21. Finally, the Committee is aware of the work of PAW Scotland, which is made up of stakeholders, including representatives from Police Scotland, COPFS, SNH, conservation groups and land managers. **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.**

22. We look forward to receiving your response on the issues raised in this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Gibson', with a stylized flourish at the end.

Rob Gibson MSP
Convener