

Review of the Protection of Wild Mammals (Scotland) ACT 2002 Consultation response

Summary

1. The review considers whether the Act ‘provides the necessary level of protection’ to wild mammals when being hunted with dogs whilst ‘allowing for the effective and humane control’ of mammals such as fox, mink, hare, deer, wild boar, stoats and weasels.
2. We are not aware of any new evidence that the current legislation is not providing a balanced level of protection of welfare for mammals being controlled, whilst allowing necessary livestock protection and wildlife conservation through predator control.
3. We are not aware of any practical refinements or alterations that might be introduced that would permit, at a minimum, the current level of predation management whilst improving wild mammal welfare during control that involves dogs.
4. We are aware that other legislative changes have made the undertaking of predator control more regulated, increasing the burden on land managers and decreasing the incentive to carry out this necessary activity.
5. It would have been helpful to the review process if Scottish Government had:
 - a. shared any purported evidence of poor animal welfare which had stimulated the review of the Protection of Wild Mammals (Scotland) Act 2002 (The Act).
 - b. clearly stated, with supporting evidence, explicit concerns with the existing laws. This would guide but not restrict stakeholders’ contributions to a review process.

Section 2: Stalking and flushing from cover

The Act allows for dogs, under control, to be used to stalk and flush from cover wild mammals for a number of specific purposes, including the protection of livestock and ground nesting birds. Section 2 of the Act requires that once the target mammal is found and flushed by a dog under control, the target species is shot or killed by a bird of prey.

Purpose of taking wild mammals

- The list of specific purposes, as set out in the Act, are still relevant, particularly to protect ground nesting birds, game birds and livestock from attack by wild mammals.

Foxes, stoats and weasels are controlled to reduce instantaneous predation pressure during critical times of the year, notably the spring during lambing and bird nesting.

Since the early 1980s, the GWCT has published over 150 papers considering predation effects. These show with increasing clarity that predation pressure can in some places depress numbers of game and wildlife, particularly of ground-nesting/dwelling species^{2,3}. The reduction in abundance is caused by losses of adults, eggs or young. High predation pressure can halt sustainable driven wild game shooting⁴, and reviews of many research papers indicate that it can prevent the recovery of declining species of wildlife⁵.

Ground-nesting harriers do well on virtually fox-free islands, e.g. the Orkney Islands, Islay, Arran and the Isle of Man, and have been found to decline on a grouse moor when fox control stops⁶. Pine martens may suffer from fox predation⁷ and Capercaillie are negatively associated with crow and fox abundance due to the predation effect these species can have on both chicks and hen birds⁸. Foxes can also limit the breeding success of brown hares and as a result suppress hare density^{9,10}. In agriculture, foxes are known to predate livestock, such as lambs, and our regional studies show that 70-95% of farmers undertake some form of fox control either directly or indirectly¹³.

The management of fox and mustelid populations is a recognised conservation tool and is used on a wide range of designated sites and nature reserves around the country, and in some places is supported by public-sector finance¹¹.

We think the conservation purposes, as stated in the Act, for controlling wild mammals are important and supported by sound scientific evidence.

Flushing from cover

- We see no reason to change or alter Section 2 of the bill. Wild mammals are protected and only allowed to be flushed or stalked by dogs for set purposes. We have seen no evidence that this section of the bill is not working adequately or does not offer the target species sufficient protection during what is an important management activity.

Flushing from cover is only allowed to occur if the target species is then shot or killed by a bird of prey. There is little research into the most humane method for killing animals and there are trade-offs between efficient methods, selectivity and humaneness. RSPCA deem killing an animal humane if it results in unconsciousness followed by rapid death without regaining consciousness¹⁶.

The Act takes into consideration when a dog may, in some circumstances, be involved with the killing of pest species when flushing it from cover. This can occur when, for example, the flushed species is injured or sick with disease. We think section 2 (2) is appropriate.

Section 3: use of a dog in connection with falconry and shooting

Retrieving injured mammals with dogs

- We think the use of dogs to retrieve injured mammals is extremely important as dogs are able to locate and retrieve injured game quickly and efficiently.

The Wild Mammal Act (Scotland) 2002 allows for dogs to be used to flush quarry from cover for sporting purposes. Dogs are also permitted to retrieve injured mammals, such as hares, so that they can then be dispatched as quickly and humanely as possible.

When retrieving injured game, working dogs are trained to retrieve injured species quickly so that they can be dispatched to reduce suffering to the injured animal.

Section 5: Retrieval and location of mammals

- We do not think, nor have we seen any evidence, that the retrieval of hares or injured animals, as permitted, fails to provide adequate protection to the animal retrieved when balanced against the potential for ongoing suffering.

Hares are controlled to protect arable crops and forestry plantations. They are also quarry species not only in the UK but throughout Europe. Hares are protected by a closed season (W&NE (Scotland) Act 2011) which prevents the killing of hares during the breeding season unless a person is licensed to do so by SNH. Under the Wild Mammals Act (2002) dogs are permitted to retrieve hares which have been shot.

Dogs can also be used to retrieve or locate a wild mammal which is injured or orphaned, for example, a deer which has been injured in a road traffic accident can be located by trained dogs and then humanely dispatched. Dependent young, such as fox cubs, can also be located by dogs and then humanely dispatched. We think that this section of the bill is still necessary and allows land managers to limit the welfare cost of pest control for dependent young.

Animal Welfare and the Management of Mammals

The review of the Wild Mammal Act (Scotland) 2002 should encompass all mammals covered by the Act (fox, mink, hares, stoats, weasels, deer and wild boar). We note that most of the discussion will be had around the control of foxes and the use of mounted fox packs to flush foxes from cover towards waiting guns.

In order to add context to this debate we have provided additional information on fox populations and their management in Appendix I below.

Of the three fox management methods (trapping, snaring and flushing) flushing foxes from cover with dogs, either on foot or by mounted pack, seems to generate considerable discussion.

Fox-hunts co-ordinate fox management over large regions and are self-financing. As highlighted during the enquiry into Hunting with Dogs in England and Wales, there is little research or evidence of the animal welfare implications of hunting with dogs¹⁸. The Protection of Wild Mammals Act (2002) sets out restrictions on hunting mammals with dogs, such as foxes, to improve the welfare of the target species. Dogs are no longer used to hunt, capture and kill mammals (except where injured) but to flush from cover towards waiting guns.

We think that current legislation provides adequate protection for foxes by placing restrictions on the method and operation of taking foxes. We have not seen any evidence that the current methods for taking fox, including the number of dogs used to flush from cover, results in poor welfare as compared to snaring or shooting.

Conclusions

Extensive research into the management of foxes, by GWCT, indicates that there are large regional differences in land use, terrain, vegetation and prey availability. These lead to variability in fox density and culling methods used. Due to these differences across Scotland, GWCT believes it is important that the current legal tools for controlling foxes remain available.

Restricting control methods further would seem likely to lead to further restrictions on fox and pest control generally, leading to increased predator numbers and/or fox predation pressure in some areas. We note for instance the regular use of footpacks for fox control in both the Cairngorms and Loch Lomond and Trossachs National Parks. Such is the awareness of the need for fox control by these agencies and SNH that they have endorsed fox control methods within parks and on critical SPA's and SSSI's. The negative impacts on farming, game management, and conservation would increase if restrictions further curtailed fox and pest control in the wider landscape, where the majority of sheep rearing, black grouse conservation and wading birds breed.

We have found no new scientific evidence of poor welfare related to the legal control of mammals, such as foxes, in Scotland. Using dogs to flush mammals from cover, either on horseback or on foot, is a control option, as is snaring, trapping and shooting. No single one of these options provides a universal approach for fox and other mammal control. We recommend Scottish Government recognise that biodiversity for many natural areas in Scotland is likely to depend on the current and/or previous levels of mammal control, and that there could be a loss of species diversity if fox, mink, hare, stoat, weasel and deer numbers are allowed to increase due to limited cost-effective control methods for land owners and conservationists.

Appendix I

The Scottish Fox Population

GWCT research has demonstrated that fox populations are not self-regulating^{12, 13, 14} and the management of foxes reduces their impact on ground-nesting birds and brown hares. Of the predator species controlled, the fox is particularly important because of its population status and impact on conservation and game management. The Game & Wildlife Conservation Trust (GWCT) has undertaken a number of studies determining fox populations and the effects of varying methods of control in regions around the UK.

The fox has no specific habitat requirements¹⁵ and the UK population is estimated to be 240,000 adults in spring, to which a production of 425,000 cubs is added annually. For the population to remain stable, 425,000 foxes must therefore die each year. The Scottish fox population is estimated at 23,000 adults in spring with 40,000 cubs born each year¹.

Analysis of shoot records held by GWCT suggests a marked growth in Scotland's fox population in the last 50 years with an increase of 173%. The bag index more than doubled between 1961 and 1994, then declined from 1999 to 2015 by 10%.

Fox density may have been depressed following the disappearance of rabbits, their principle prey, due to myxomatosis in the 1950s. Part of the increase in bag numbers from 1961 may reflect growth in the fox population overall due to:

- rabbit population recovery
- expansion of vole-rich grassland and forestry, especially on moorland¹⁷
- local releasing of gamebirds

The reason for the recent reported decline in foxes taken (via bag returns) is unknown but may be a combination of factors, including:

- local declines in rabbit numbers with the advent of Rabbit Haemorrhagic Disease
- declines in hill sheep stock
- a decrease in effort by land managers to control local fox populations as
 - badgers take over fox dens making legal fox control difficult
 - the use of rifle for shooting becoming more difficult with increased land access
 - legislative restrictions having been placed on the use of snares and dogs.

These declines may be balanced in the future by the further expansion of woodland.

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