

**Supplementary Written Submission from Royal Society for the Protection of  
Birds following evidence session 10 January 2017**

Dear Graeme,

Scottish Parliament Environment, Climate Change and Land Reform Committee

I write to you as Convenor of the Scottish Parliament Environment, Climate Change and Land Reform Committee to thank the committee for inviting RSPB Scotland to contribute evidence about the Scottish Government's "Wildlife Crime in Scotland: 2015 Annual Report" at its meeting on 10th January.

We appreciated the opportunity to speak to the meeting. From our perspective, we were pleased that the committee was able consider evidence on wildlife crime from a wider range of stakeholders than has been the case in previous years. While a variety of differing viewpoints on a number of issues were presented by the witnesses present, we hope that members found our answers to be helpful, informative and supported by fact.

Having had the opportunity to read the Official Report of the meeting, we provide, in an Appendix to this letter, some supplementary comment and information that we hope will further inform members of the committee in the light of the evidence heard.

RSPB Scotland looks forward to further aiding the work of the Committee in any way we can in the future.

Yours sincerely

Duncan Orr Ewing

Head of Species and Land Management, RSPB Scotland

**Annexe A**

**The Scottish Government Wildlife Crime Report 2015**

Following the ECCLR committee meeting on 10<sup>th</sup> January 2017, when the committee took evidence from a number of stakeholders on the Scottish Government's "Wildlife Crime in Scotland: 2015 Annual Report", RSPB Scotland wishes to provide some supplementary comment and further information about the evidence given. We have included the Column number used in the Official Report of the meeting for reference.

**First panel of witnesses: Gary Aitken, Head of Wildlife and Environmental Crime, Crown Office and Procurator Fiscal Service; Steve Johnson, Assistant Chief Constable, and Sean Scott, Detective Chief Superintendent, Police Scotland.**

1) We note the comments made by Assistant Chief Constable Johnson in stating that the Annual Report does not record the health of the populations of species that the law is intended to protect, and does not record trends in population (Col. 3)

We agree with him that the report could feature the results of the latest population surveys and identified trends, which would allow the reader to make an assessment of the effectiveness of protective legislation.

2) We perceive some confusion as to what constitutes a confirmed crime, as opposed to a reported incident, as outlined (Col. 5) by Detective Chief Superintendent Scott in relation to potential badger sett disturbance.

We would welcome clarity on this point, and currently work to the understanding that a crime is confirmed in an incident where definite illegal acts were disclosed by post mortem of a victim or substantive corroborated witness testimony is provided.

3) We disagree with DCS Scott's comment (Col. 9) that land management staff "very seldom" fail to cooperate with police investigations into raptor persecution offences.

In RSPB Scotland's experience, working closely with lead investigative police officers on the ground, the "wall of silence" faced by officers in speaking to estate staff is very much more common than not [for reasons Mr Smith mentions later in the following session, e.g. a perceived risk to livelihoods].

As an example, we refer to the case of the felled White-tailed Eagle nest tree in Angus, outlined in our original submission to the committee. We also draw the committee's attention to numerous appeals for information by Police Scotland following cases of the illegal killing of birds of prey, and suggest that none of these has yielded information that enabled a report to be submitted to the Procurator Fiscal for their consideration, let alone a prosecution. There are numerous further examples.

4) We note the comments made by ACC Johnson (Col. 11) in acknowledging that Police Scotland do not have strategies for prevention, intelligence or enforcement of any of the six wildlife crime priority areas.

We are concerned that this is the case, and urge Police Scotland to work with relevant stakeholders to address this.

5) We welcome the comments made by ACC Johnson (Col. 12) in acknowledging the importance of rigorous scientific evidence in providing an intelligence background to drive operational activity.

RSPB Scotland would be pleased to further discuss with Police Scotland the substantial and increasing number of peer-reviewed studies that indicate clear patterns of offending in relation to raptor persecution.

6) We note the comment made by DCS Scott (Col. 14) suggesting that the annually-published bird of prey crime maps highlight "potential" raptor crime hotspots.

We would go further, in suggesting that the cumulative maps clearly indicate areas where there are recurrent offences.

We also suggest that there is now a disconnect between these annually-published raptor persecution maps and the annual report on wildlife crime. We suggest that the maps should now be part of the annual Wildlife Crime report.

7) We welcome the comments made by DCS Scott in acknowledging that reported wildlife crime is a fraction of what is actually occurring.(Col. 24).

8) We wish to clarify the detail over some incidents that were listed in the RSPB Scotland report “The Illegal Killing of Birds of Prey in Scotland 1994-2014: a review”. Mark Ruskell MSP asked a series of questions (Cols. 26 & 55) about the omission of these incidents from the Scottish Government report.

On 8<sup>th</sup> May 2014, RSPB Scotland Investigations staff and Scottish SPCA Inspectors assisted Wildlife Crime Officers from J Division of Police Scotland, in carrying out a search of land following the earlier finding of a poisoned buzzard. In the course of that search was found: a crow trap baited with two live pigeon decoys (use of pigeon decoys is illegal); four illegally-set spring traps hidden in the vegetation surrounding a small circular cage containing a live pigeon decoy; and, the decomposed remains of at least four buzzards hidden under a tree adjacent to the crow trap. All of these findings had multiple witnesses and were documented by the lead police officer present.

9) We welcome the comment by Mr Aitken (Col. 31) that disposal of evidence could be viewed as attempting to pervert the course of justice or to defeat the ends of justice, and hope that charges to this effect will be libelled in any relevant prosecution where the evidence suggests that this is indeed the case.

10) With regard to the issue of increasing the powers of Scottish SPCA inspectors to investigate wildlife crimes (Cols. 32 & 58), we suggest that such inspectors already have such powers *if an animal is suffering* in cases of offences under the Animal Health and Welfare (Scotland) Act 2006.

The very limited extension of powers being sought, outlined in the Scottish Government’s consultation on this issue, can be summarised as a power to enter and search land and seize any evidence related to offences in part 1 of the Wildlife and Countryside Act 1981 (as amended) when there is reasonable cause to suspect that evidence of the commission of the offence may be found. This would allow the retrieval of evidence when animal or bird has been illegally killed, or to recover illegal traps or poison baits prior to an animal or bird becoming a victim.

11) We welcome and agree with the comments made by both Mr Aitken and DCS Scott that a register of land ownership that provides clarity on ownership and on who could be held as vicariously liable for any offences occurring on that land would be of benefit. (Cols. 38 & 39)

**Second panel of witnesses: Eddie Palmer, Scottish Badgers; Andy Smith, Scottish Gamekeepers Association; Ian Thomson, RSPB Scotland; and Peter Charleston, Bat Conservation Trust.**

12) Mr Smith suggested (Col. 46) that the RSPB reserve at Abernethy Forest does not have any breeding raptors – this is incorrect. Not only does the reserve host the world-famous breeding Ospreys at Loch Garten, but it also regularly hosts breeding attempts by up to nine other species of bird of prey.

13) With regard to cases where satellite tagged golden eagles had been persecuted in the Angus Glens (Col. 49) – “Alma” was confirmed as having been poisoned with Carbofuran in August 2009, a second bird was found dead on Deeside in 2012, having previously been illegally trapped (confirmed by post mortem report) on an Angus grouse moor, and “Fearnan” was found poisoned with Carbofuran in November 2013.

14) Mr Smith stated that the Cairngorms National Park holds the “highest density of eagles in the world” (Col. 56).

This is incorrect. The Golden Eagle Framework<sup>1</sup>, published by SNH in 2008, noted that in all three natural heritage zones that include parts of the Cairngorms National Park, the golden eagle was not in favourable conservation status, largely due to a significant number of unoccupied territories. Persecution was identified by the authors of this study to be the main constraint on the golden eagle population in all three areas.

The latest national survey of the golden eagle population, carried out in 2015, indicated that despite a 15% increase in the Scottish population, this was far from uniform, and in the Eastern Highlands, less than one third of the traditional ‘home ranges’ were occupied by a pair of eagles and no eagles were recorded at all in over 30% of them.

Rather than thriving, the population of golden eagles in the CNP, along with those of hen harriers and peregrines, is still significantly constrained by persecution, occurring both within and out-with the park.

The densest population of golden eagles in the UK is on the Western Isles.

15) Mr Dey asked a number of questions (Col. 63) about the use of satellite tags and their potential impact on the “host” bird.

We understand that an analysis of this issue may be included in the satellite-tagging review. We do however repeat our assertion that satellite tags can only be fitted by trained individuals who have a specific accreditation on their ringing licence issued by the British Trust for Ornithology. Any visits to raptor nests are carried out in accordance with the methodology laid down in *Raptors: A Field Guide for Surveys and Monitoring*,<sup>2</sup> and licenced individuals have to submit an annual return outlining work carried out.

RSPB Scotland is happy to provide the Committee with further information on the above points if requested.

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<sup>1</sup> [http://www.snh.org.uk/pdfs/publications/commissioned\\_reports/193.pdf](http://www.snh.org.uk/pdfs/publications/commissioned_reports/193.pdf)

<sup>2</sup> Hardey, J., Crick, H., Wernham, C., Riley, H., Etheridge, B. & Thompson, D. (2013). *Raptors: a field guide to survey and monitoring* (3rd Edition). The Stationery Office, Edinburgh.