

Supplementary Written submission from Scottish Badgers following evidence session at Committee Meeting on 10 January 2017

INTRODUCTION

Following the above meeting, when the Scottish Government Wildlife Crime report 2015 was discussed, and evidence given at that meeting, Scottish Badgers wishes to provide some supplementary comment and further information. This should help to clarify some issues in the minds of Committee members. The column numbers used in the Official Report of the meeting are given for reference.

First Panel of Witnesses; Gary Aitken, Head of Wildlife and Environmental Crime, COPFS, Steve Johnson, Assistant Chief Constable, and Sean Scott, Detective Chief Superintendent, Police Scotland

- 1) ACC Johnson: “not having a crime recording system for the whole of Police Scotland from which we can extrapolate the data” (Col 2).

We hope that the Committee will demand that this is rectified with regard to badger persecution. Without a timescale we are allowing organised criminal activity to flourish unchecked.

- 2) ACC Johnson: “a problem with the statistics on wildlife crime is the low number of such crimes” (Col 2).

This is not borne out by Scottish Badgers’ experience on the ground. Our table below provides evidence that badger crimes are being discovered and reported at a significantly higher rate than the Police figures suggest.

- 3) ACC Johnson: “the ideal ... to allow us to follow that first call about suspicious behaviour” but “the attrition that happens right the way through police and partner systems” (Col 3).

In our extensive experience of discovering badger persecution, badger incident calls commonly fall at the first hurdle because they are not understood to be a crime. Where they do get a first response, it may involve a site visit and report by a helpful officer, but their report appears to be lost thereafter and not passed for action through the system. We have been attempting to improve the recognition and recording of badger crimes over a number of years with little success. Consequently since February 2015 we have directed attention to raising awareness about the much higher levels of badger persecution than are recorded by the authorities. Members of the public want at least a recognition from the Police and prosecuting authorities that that they are aiding the Police in fighting wildlife crime.

- 4) DCS Sean Scott: “a couple of men might be walking a dog into the woods ...” given as an example of a ‘perceived crime’ (Col 5).

We can state categorically that this has never been a report from Scottish Badgers. Our volunteers are aware about what features can signal suspicious activities around badger setts and how to recognise interference with a badger sett. Should a report like this be received from a member of the public, we would hope that they would be assured that it will be taken seriously and not dismissed.

- 5) DCS Sean Scott: “Earlier, I talked about our receiving reports of people walking dogs in woods where there is believed to be a badger sett ... when we investigate we find that no sett has been disturbed” (Col 15).

This is a repeat of a misleading example.

All Scottish Badgers’ ‘disturbed sett reports’ are of identified setts (held on our secure national database) and have been verified by an experienced and trained volunteer or worker.

- 6) Claudia Beamish: “I doubt they (reports) would happen as a result of two people walking their dogs in woods’ (Col 15).

This statement is wholly consistent with our experience. People do not generally take lightly the decision to make a report to the Police. We ask what DCS Scott’s twice-repeated statement is meant to imply.

- 7) DCS Sean Scott (in reply to above): “every one of those cases will have been assessed on their own merits” (Col 15).

This is absolutely not our experience on the ground; most ‘lost cases’ never get near a senior officer or a Fiscal. Incident reports currently disappear at divisional level, and feedback is not supplied to the person reporting the incident from Scottish Badgers.

- 8) Gary Aitken: “difficulties in interpreting the statistics ... our systems were set up as case management systems, not statistical gathering systems ... so a case involving a badger might not be defined as a badger case” (Col 16)

It is a cause for serious concern if the service cannot implement a simple database which could easily and swiftly identify vectors of each case and thereby allow ‘all cases involving badgers’ to be pulled out.

- 9) Convenor: “badgers are regularly subjected to persecution, ... also injuring or deliberate killing of a badger, and damage to badger setts. Scottish Badgers’ submission: “We see little of the former, that is badgers shot, snared or poisoned, but they do occur... the Crown must have evidence of some of these cases?”

Gary Aitken: “but I have to have the cases” (Col 17)

For the past ten years cases involving a wide variety of methods of deliberately injuring or killing badgers have been reported but very few have been taken forward to prosecution. See table below.

- 10) ACC Johnson: “There is some work to do...’

The ACC’s statement is extremely welcome, and bodes well for joint work in the future. However, we envisage that the situation will not improve unless there is a change of culture, in particular the positive acceptance that badger persecution is crime. Without this change in attitude, reported badger persecution will continue not to be taken seriously and links to other serious crime will be missed.

Second Panel of Witnesses; Eddie Palmer, Scottish Badgers; Andy Smith, SGA; Ian Thomson, RSPB Scotland; Peter Charlston, Bat Conservation Trust

- 1) Scottish Badgers evidence in this part of the meeting is Cols 43 to 51.

2)

- 3) Claudia Beamish: “Could you clarify for the record the concerns about what the Scottish Government reported on 18 March 2015 in answer to a written question that I asked, and what is in the Wildlife Report?” (Col. 51).

Eddie Palmer, Scottish Badgers, referred to some of these concerns within the limited time available at the meeting. Discrepancies between the figures given by the Scottish Government and the numbers recorded by the Police are difficult to attribute to differing definitions alone. Prosecutions drop after 2007-08. Police recorded crimes drop after 2011-12. Work would be needed to understand the discrepancies.

Figures provided to MSP Claudia Beamish in March 2015	Scotland all crimes related to badgers								
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
<i>Proceeded against</i>	<i>none</i>	7	11	1	2	3	2	<i>none</i>	<i>none</i>
<i>Guilty</i>	<i>none</i>	2	7	<i>none</i>	2	3	1	<i>none</i>	<i>none</i>

<i>Badger crimes recorded by Police as reported in the Annual Wildlife Crime report.</i>	<i>Not available</i>	<i>Not available</i>	6	15	11	20	11	1	7
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We were concerned that information in Michael Matheson’s reply to Claudia Beamish on 18 March 2015 was erroneously based. It was stated that there were no prosecutions under The Protection of Animals Act 1911 Section 1(1)(c) during the period referred to. As the Act he mentions applied solely to England & Wales and was in any case repealed some years ago it is not surprising there have been no prosecutions in Scotland under it. The corresponding Scottish Act would be The Protection of Animals (Scotland) Act 1912 which has also been repealed. Both these Acts protected captive or domestic animals and so would have been unlikely to cover offences against badgers.

Current Work of Scottish Badgers' Species Protection Co-ordinator

A re-iteration of role

Emily Platt is our Species Protection Co-ordinator: she takes all of the calls from the public, Police, and other agencies.

As stated in our submission to the Committee meeting on January 10th 2017:

“Scottish Badgers is not an investigation agency. Our SPC will ask an experienced member (volunteer) to respond to calls for information or help – from the general public, the Police, or another agency (e.g. SSPCA, SWT, SNH etc.). If we discover a likely crime, our members will either call the Police (via 101, or 999 if a crime is in progress), or advise the complainant do so. A core of our members has been trained both in badger sett identification, and also Scenes of Crime work. Part of their role is to look for, and protect, evidence on the ground to ascertain if a crime has been committed.

The progress of any investigation is both not our responsibility, and it is extremely difficult to gain any knowledge once cases have been passed to the Police. We do not know how cases are handled once in the hands of the Police. We are fully aware of the need for corroborative evidence for a case to proceed to any prosecution, and also of the role of fiscals after that. However, our ‘crime figures’ will be of disturbed/damaged setts, recognised, and recorded, by skilled people.”

Current Workload

Number of road traffic accidents with badgers reported to our website – 800 to 1,000 per year.

Number of live badger sightings/new setts/ sett re-visits recorded, to website – c. 500 per year.

Other reports by phone or e-mail – concerns, possible crimes, requests for advice e.g. badgers in gardens, houses etc. – c. 400 per year.

Of these 400, about half can be immediately categorised as issues other than crimes.

Of the remaining 200, some are categorised as possible crimes and reported to the Police. These are likely to be recent and requiring current investigation. There are also sett disturbances discovered which have to be categorised as historic crimes; these present challenges to investigation but nevertheless require to be recorded. There are some incidents where it is agreed with a Wildlife Crime Officer that due to various factors it is impossible to identify any perpetrator but the incidents will all be verified as badger related. The incidents fall into two main categories, those associated with baiting/ digging and those associated with development/ forestry/ agriculture/ other human activity being conducted in a recklessly or deliberately illegal way.

For 2016/17, we are running with c. 53 crime reports, of which 11 have been downgraded to ‘no crime’

The Future

- We are commencing in late February with regular meetings in person to examine all of the above, together with Police and NWCU
- We have discussed all of the matters above with the SSPCA SIU, in order to clear lines of communication and will be comparing notes on badger crime frequently in the future.
- As stated briefly within the January 10th Committee session, Scottish Badgers have had a meeting with SNH's Licensing Section, to discuss areas of mutual concern. Licensed operations are a common feature of suspected badger crime.
- We have also consulted with our experienced volunteers since January 10th, and the extremely strong feeling is NOT to ignore historic dug setts, as they provide a clue both as to areas of badger crime in Scotland where perpetrators might live, and also of setts requiring some protection and frequent monitoring. We will include 'crimes' in our figures where a crime has been clearly committed, even though such a report might carry the caveat of 'impossible to trace a perpetrator'. The two Scottish Environment LINK Reports* are still relevant.
- In the future, we will clearly publish an Annual Badger Crime Report, separate to our standard charity Annual Report.
- Scottish Badgers is happy to provide any further information or help to the Committee

*Natural Injustice Paper 1 'A Review of the Enforcement of Wildlife Protection Legislation in Scotland', Feb. 2015, and Natural injustice Paper 2 'Eliminating Wildlife Crime in Scotland', Feb. 2015, published by Scottish Environment LINK

Eddie Palmer

Chairman

February 12th 2017