

Written evidence

Written evidence submitted by Sally Hall (the Hall Family, Saron, Llandysul)

On 2 August 2010 we found a juvenile heron (a protected species) dead (still warm) on the mud bank of one of our scrapes on our farm. Good condition but bleeding from mouth and bullet wound in upper breast from shotgun. We reported it the same day to the local police station and the wildlife police officer for our region came to photograph the bird. He said it was unlikely the culprit would be found but he thanked us for reporting the incident as most go unreported. He said he would check local gun license holders and put something in local paper. We believe more should be done regarding wildlife crimes, mainly because so many of our once common species are now in severe decline. We hope the policies and procedures will be tightened so those committing such crimes will be traced and duly punished. In some cases where there is persistent cruelty (eg baiting/fighting using dogs) there has found to be a link with other forms of offences, including those against other humans.

24 January 2012

Written evidence submitted by Trevor Taylor, Ecologist

I am an ecologist with over 22 years experience and currently work as an officer with Derbyshire Wildlife Trust with the primary responsibility of responding to planning applications with potential impact upon nature conservation interest.

1. NESTING BIRDS

During 2010 a “veteran” Ash tree growing at the side of Dale Road in Stanley, Derbyshire was felled by the landowner on alleged “health and safety grounds”. The tree contained an active Great Spotted Woodpecker nest with dependent young. It is understood that although the landowner was informed of the presence of the nest whilst carrying out the operation by a member of the public he continued with the work. The matter was brought to the attention of the Police and, when interviewed, the landowner denied any knowledge of the presence of the nest and the member of the public declined to give any evidence leaving the Police powerless to take any action as it was not possible to prove the “intentional” nature of the act.

We view the current situation to be inadequate and virtually impossible to enforce as the perpetrator will inevitably deny knowledge of the presence of an active bird nest.

We would ask that consideration should be given to bringing English law in line with Scottish law in that it should include “reckless” as well as “intentional” with regard to nesting bird offences. It should be the responsibility of the operator to determine that the action will not impact upon a nesting bird before carrying out the work.

2. BATS AND DEVELOPMENT

(i) As part of a planning application for the conversion of a bungalow at Horsley Carr in Derbyshire a bat survey recorded 15–20 bats emerging from the dwelling. As the proposal did not affect the structure used by bats the report correctly stated that a EPSL would not be required. In the meantime the applicant proceeded to demolish the bungalow in line with a previous consent although the undertaking of a bat survey was a condition of the consent. The case was reported to the police as the building had been demolished in the absence of a EPSL which constitutes an absolute offence. After prolonged deliberation the police issued a caution. We realise that this has meant that the provision of a replacement roost cannot be insisted upon.

We would suggest that the offence should have incurred a penalty *and* the provision of a replacement roost.

(ii) As part of a development proposal in Horsley Woodhouse, Derbyshire a protected species survey identified the presence of at least one bat roosting in an outbuilding proposed for demolition. Despite advice by the consultant ecologist to the contrary we advised the local planning authority that a EPSL licence was required. No licence was obtained and the outbuilding was demolished resulting in the destruction of the bat roost. The Police have been involved in the case and have decided to issue a formal caution. It was initially intended to use restorative justice to replace the bat roost feature within the new development until it was pointed out that the provision of a replacement bat roost was already required by means of a planning condition. We suggest that the offence should have incurred a penalty.

3. DESTRUCTION OF LOCAL WILDLIFE SITES

We are desperately aware that local wildlife sites currently receive no statutory protection and, as such, there is nothing to prevent landowners destroying the nature conservation interest associated with the site prior to a change in land use or being put forward for development.

Similarly, there is no mechanism in place to prevent destruction of species-rich grassland sites under the EIA threshold size of 2ha.

These above issues need to be addressed.

15 February 2012

Written evidence submitted by the Countryside Alliance

SUMMARY

- The Countryside Alliance condemns all acts of illegal persecution of wildlife.
- The National Wildlife Crime Unit, and the proposed National Crime Agency, must be the recognised authority for all incidents of wildlife crime and their reporting. The Agency must be properly resourced and wildlife crime given equal weight and funding.
- All responsible organisations must work together constructively if we are to see an end to wildlife crime in the UK. If stretched resources are to be directed where they are most needed, then it is essential that all incidents are recorded on the basis of firm evidence and not unsubstantiated allegations as has been the case in recent years, especially targeting the shooting community and gamekeepers in particular.
- The scene-of-the-crime involvement of third party organisations, such as campaigning groups and charities, needs to be addressed, and the situation clarified with clear guidance that all crimes and suspected crimes are reported to the police, or anonymously to Crimestoppers, to ensure a true picture of wildlife crime in the UK.
- The Countryside Alliance supports the enactment of the law whereby it would be illegal for unauthorised people to possess named poisons such as Carbofuran, Alphachloralose and Bendiocarb if they have no legal use for them.

INTRODUCTION

1. The Countryside Alliance welcomes the opportunity to submit comment to the Environmental Audit Committee's Inquiry into Wildlife Crime, the purpose of which is to examine the scale of wildlife crime in the UK, and the role of Government and other bodies in England and Wales in preventing, detecting and prosecuting this type of crime. The Countryside Alliance is a campaigning organisation covering the whole of the United Kingdom, working for everyone who loves the countryside and the rural way of life. With a membership of over 105,000, it reflects the views and concerns of a broad range of rural people and their livelihoods, and is the only organisation working across such a broad range of issues. Over 48% of our members shoot, and many more have a direct interest in associated land management practices.

ILLEGAL PERSECUTION

2. The Countryside Alliance does not condone any act of illegal persecution of wildlife. In order to accurately determine the scale of wildlife crime all incidents that are recorded must be based on firm evidence, as only then will it be possible to accurately set the UK's wildlife crime priorities and ensure that stretched resources are directed to where they are most needed.

3. Unsubstantiated allegations of law breaking, in the absence of the factual evidence with which to support such claims, are unacceptable. There have been a number of recent allegations made against gamekeepers and land managers which are wholly unsubstantiated and would seem to reflect the opposition of those making them to the activity of shooting. These accusations are unhelpful in co-ordinating efforts to tackle wildlife crime or understand changes in bird populations. Debate on the causes of an increase, or decline, of a particular species must be based on the facts and on proper peer reviewed scientific research.

TACKLING WILDLIFE CRIME

4. Tackling wildlife crime is a cross-cutting issue that involves the police, UK Border Agency, Home Office and Defra. It is also vital to have the full involvement of land managers on the ground. The formation of the National Wildlife Crime Unit in 2006 was welcomed by the Countryside Alliance and we welcome the proposed creation of the National Crime Agency. However, it is important that wildlife crime does not get lost among the new agency's wider responsibilities and that existing expertise is utilised and its wildlife crime function is properly resourced and funded. As an organisation it should become the recognised authority for all incidents of wildlife crime, and their reporting.

5. All organisations must work together to put an end to wildlife crime. However, the Countryside Alliance has serious concerns over the scene-of-the-crime involvement of third party campaigning organisations and charities, such as the RSPB and League Against Cruel Sports (LACS), in wildlife investigations. Neither organisation is neutral in its stance, as both are opposed to the general practices of many of those whom they take it upon themselves to investigate. Guidance is urgently needed which clarifies that all crimes and suspected crimes should be reported to the police, or anonymously to Crimestoppers; and not to third parties. It is in

response to exactly these concerns that reporting guidance has recently been published by the Partnership for Action Against Wildlife Crime in Scotland.¹

BIRDS OF PREY

6. The issue of the illegal persecution of birds of prey is an ongoing one, especially with respect to sporting estates. However, the RSPB's claims that sporting estates and their employees are the main perpetrators when it comes to illegally killing birds of prey, and that the failure of certain species to breed is the result of illegal persecution, are unfounded. In March 2010 the RSPB asserted that every year hen harriers are targeted on grouse moors across the UK and placed the blame firmly on gamekeepers for killing them illegally, under pressure from their employers. The claim made was that employers were, in effect, forcing their employees to break the law; a serious accusation given the total absence of any evidence to support it.

7. The recent publication of out of date research into the breeding success of peregrine falcons on grouse moors is a further example of counterproductive allegations against shooting which resulted in misleading coverage in the media. As a result of this, the National Wildlife Crime Unit circulated a clarification to all Police Wildlife Crime Officers in the UK, and to all Partnership for Action Against Wildlife Crime members, in which it was drawn to the attention of those studying the research paper that the data used was out of date, and that in using such information there was a clear danger that the research paper might be misunderstood as representing the current situation, which it did not.²

8. In 2009, Natural England and the RSPB found that illegal persecution played no part in the breeding failures of the hen harrier, the low figure of only 6 successful nesting pairs being entirely due to natural causes.³ There have been no confirmed cases of persecution against the species since 2006.⁴

9. It is notable that the RSPB is not blaming illegal persecution for halving the population of hen harriers on the Isle of Man, a reduction that was revealed in its 2010 Hen Harrier Survey. Instead it has stated that the reasons for this decline are unclear and that it could be for any number of well documented reasons, whether it is availability of prey, weather, or unintentional disturbance. Predation by foxes can also be a significant threat, as can that by other birds of prey, as witnessed in the Forest of Bowland in June 2010 when an Eagle Owl was caught on CCTV attacking a hen harrier. In that case the hen harrier was not seen again, and the nest failed. Illegal persecution is also not being blamed for the poor breeding success of hen harriers at Geltsdale, the RSPB's upland reserve, where no hen harriers have bred successfully since 2006. It is hard to see why the same explanations for breeding failure do not apply to areas managed by keepers for shooting. Simply to assume criminal persecution as the cause is both illogical and wrong.

BIRD CRIME STATISTICS

10. Since 2006, the number of confirmed incidents of shooting and destruction of birds of Prey has been reducing each year, with the figure of 28 incidents in 2010 being 42.5% lower than the 2006–09 average.⁵ This is welcome news, as is the reduction in the number of reported incidents which were 18% lower than those reported in 2009, and just below the 2005–09 average of 230 incidents; this despite increased publicity urging the public to report any incidents.

11. Although also showing a reduction, incidents of poisoning and the indiscriminate way in which it can harm all wildlife, remain too common. The Countryside Alliance supports the call for the law to be enacted whereby it would be illegal for unauthorised people to possess named poisons, such as Carbofuran, Alphachloralose and Bendiocarb if they have no legal use for them.

12. In 2010 a total of 49 individuals were prosecuted for birdcrime offences, including prosecutions taken by the CPS, Procurators Fiscal and the RSPCA. Of these individuals, 46 were convicted of one or more charge, only three of which related to the persecution of a bird of prey; none of which took place in the English uplands⁶. The vast majority concerned **non**-birds of prey, yet since 2009 the RSPB has excluded this category of bird crime from its annual report.

13. Until its exclusion in 2009, the main category of wild bird crime was actually that against *non*-birds of prey; and one that had been rising at an alarming rate. Between 2004 and 2008 there was a 480% increase in reported crimes against *non*-birds of prey, and the figure of 682 reported incidents in 2008 was 115% higher than the 2003–07 average.⁷ The reason that the RSPB gave for its exclusion as a category was the need to focus its finite resources on wild bird crime affecting species of high conservation concern, namely birds of prey. The current trends regarding crimes against *non*-bird of prey are therefore now unknown, which is regrettable especially given the current bird of prey statistics.

¹ www.scotland.gov.uk/topics/environment/wildlife-habitats-paw-scotland/what-you-can-do

² Email from Sue Eddy, NWCU, 28 Nov 2011 14:42:52GMT.

³ Natural England Hen Harrier Recovery Project, 2 November 2009.

⁴ RSPB Birdcrime Reports.

⁵ RSPB Birdcrime 2010, offences against wild bird legislation in 2010.

⁶ RSPB Birdcrime 2010, offences against wild bird legislation in 2010—Appendix VI.

⁷ RSPB Birdcrime 2008, offences against wild bird legislation in 2008.

BIRD OF PREY STATISTICS

14. Many of the UK's 15 species of bird of prey are now at their highest numbers since records began, in some cases to the maximum that the habitat can support according to recently released figures used by the Government. With the exception of hen harrier, which between 2004 and 2010 declined from 806 pairs to 633 pairs, and honey buzzard, golden eagle and hobby for which no new figures were available, all other birds of prey show a marked increase. The most significant are buzzard which multiplied from 31,000–44,000 pairs in 2000, to 72,529–90,661 pairs in 2009, and red kite which went from just 1,000+ pairs in 2006, to 15,000 pairs. The numbers of kestrel rose from 36,800 in 2000 to 46,430 pairs in 2009.⁸ It is questionable how long such increases in the numbers of these top predators can be sustainable, without having a significant adverse impact not just on other wildlife, but also through incidents of birds of prey preying on each other. The plight of raptors is therefore not as it is frequently made out, and in the overall scale of wildlife crime, it is a category that needs to be put into proper perspective.

THE ROLE OF GAMEKEEPERS IN TACKLING WILDLIFE CRIME

15. Gamekeepers play a vital role in the fight against crime in the countryside, and in our rural areas they enjoy what is predominantly an excellent relationship with local police forces. By the very nature of their job, they provide the eyes and ears that law enforcement agencies are unable to resource properly, and have a fundamental role in the reporting of incidents, whether it is poaching, or any other illegal act. Wildfires can also cause substantial damage to wildlife and habitats, and without the quick response and equipment provided by keepers, their impact would be considerably greater. The continuing and unsubstantiated allegations against keepers are therefore unhelpful.

Adrian Blackmore
Moorlands Director

17 February 2012

Written evidence submitted by the Bat Conservation Trust

EXECUTIVE SUMMARY

Introduction

Scale and impact of wildlife crime

- BCT employs an investigations officer for two days a week.
- In 2010 BCT recorded 301 allegations of offences of which 127 were referred for investigation. This is a significant increase in the figures discussed in 2004 with a further increase expected in 2011.
- The overwhelming majority of incidents involve development and maintenance of buildings.
- Whilst preventing offences is seen to be preferable to prosecuting offender's enforcement is important when necessary. In the period 2004–07 five prosecutions arose from 124 referrals. In the period 2009–10 no prosecutions arose from 200 referrals.

Extent and adequacy of wildlife crime legislation

- BCT believe that whilst the legislation protecting bats is generally adequate the large number of amendments results in a low level of understanding amongst those who have to use and enforce the law.
- We think that conservation legislation urgently needs consolidation and as such we will contribute to the review of wildlife legislation being undertaken by the Law Commission.
- We are disappointed that the Wildlife and Countryside Act does not require that advice provided by the statutory agencies such as Natural England be followed when excluding bats from non-residential parts of dwellings.
- In recent years a problem has been identified whereby inadequate advice is provided to developers. It is often held that a prosecution is not in the public interest when developers follow advice no matter how inadequate that advice may be. Those who provide such advice have no criminal liability.
- Penalties for bat crimes are not dissuasive. The option for imposing penalties per bat as opposed to per charge was never taken up but has been removed by the Conservation of Habitats and Species Regulations 2010. For the most serious bat crimes BCT would like to see offences being punishable by unlimited fines as is the case for most environmental offences.
- We welcome the use of restorative measures by the Police when appropriate.
- We would like to see civil sanctioning powers extended to cover bat offences. Further we would like to see those who have been provided with such powers undertaking to use them to their full extent. (Section 3.11)

⁸ Government written response to Parliamentary Question on bird of prey numbers, 7 December 2010.

Coordinating enforcement activity and the role of any National Crime Agency

- Bat crime was first identified as one of the UK’s wildlife crime priorities in 2004 and remains as one to this day. BCT are the lead for this priority although we would prefer this task to be undertaken by statutory body with a UK remit. All key stakeholders play an effective part within the group and a significant amount of work has been undertaken.
- Generally the Police deal with allegations in an effective manner, in particular where early intervention can prevent offences. A small number of forces do however still appear to hold the view that criminal offences involving bats are not a matter for them.
- BCT are fully engaged with the National Wildlife Crime Unit and provide them with monthly incident returns. We do not support wildlife crime being in the remit of a National Crime Agency fearing that if this were to happen bat crime would not receive the attention needed. England’s Biodiversity Strategy “Biodiversity 2020: A strategy for England’s wildlife and ecosystem services” identifies as a priority action the need to reduce wildlife crime by contributing to funding of the National Wildlife Crime Unit. BCT strongly support the need for this unit and the need for continued funding.

New threats and the Internet

- We have identified that the Internet is being used on occasion for the illegal sale of bats. We also find sites usually of North American origin that offer inappropriate advice on how to deal with bats in the home. We report illegal sales to the Police and are generally content with the action taken. We make direct contact with those sites providing incorrect/illegal advice and this usually results in amendments being made.

Recording of offences and the application of penalties

- In 2004 BCT asked for bat offences to be made recordable. This has not happened and is still needed. The reporting of incidents to NWCUC does not replace the need for sophisticated recording. In the meantime BCT are the only organisation that has records of bat crimes that can be used to identify trends and performance.
- If as we suggest the potential for unlimited fines were to be introduced this would itself require such offences to be properly recorded.

Promoting attitude and behavior change

- BCT commits considerable time and resource to promoting attitude and behaviour change. This includes working to promote such change within the enforcement communities.

1. Introduction

The Bat Conservation Trust (BCT) is pleased to have the opportunity to submit evidence to the Environment Audit Committee’s inquiry into wildlife crime. We are the only organisation concerned solely with the conservation of bats within the UK. BCT is a registered charity, with a membership of nearly 5000 and a network of over 88 partner and network bat groups across the UK serving a network of over 95 bat groups across the UK. We are supported in our work by government agencies, professionals and expert volunteer bat workers.

2. The scale of wildlife crime and its impacts and how this has changed since the 2004 report

2.1 In 2004 we reported that bat crime was in our view both under reported and therefore under recorded. In March 2010 BCT employed for two days a week Pete Charleston (a retired Police wildlife crime officer who provided oral evidence to the 2004 inquiry) as our UK investigations officer.

2.2 During the past two years we have focused efforts on trying to obtain a greater understanding of the extent of bat crime with the following results:

	<i>Incidents of bat crime recorded by BCT</i>	<i>Incidents of bat crime referred for investigation</i>
April 2001–April 2003	144	
July 2004–April 2007	170	124
2009	127	81
2010	301	127

2.3 Whilst figures for 2011 are not yet available it is anticipated that the number of offences recorded by BCT will show a further increase of about 20% over 2010 with the number of incidents being referred for investigation also showing an increase.

2.4 These statistics corroborate the evidence we provided in 2004 suggesting that the levels of recorded bat crime amounted only to the tip of the iceberg. Even now we believe that we do not have a complete understanding of the scale of offending.

2.5 As in 2004 the overwhelming majority of reports (95%) are related to development and maintenance. This is of particular conservation concern; because female bats gather together from a wide area in the summer to give birth, incidents involving these maternity roosts can have very serious implications for conservation of bats from a whole area. Similarly, in the winter some sites are important for the number of hibernating bats they host. Whole colonies, not just individuals can be wiped out by these incidents.

2.6 BCT are of the view that best practice involves the prevention of offences and that prosecutions are not therefore a good measure of success. Nevertheless enforcement plays an important part in raising awareness. As such BCT note that in the period 2004–07 five prosecutions arose from 124 referrals whilst no prosecutions have arose from over 200 referrals made in 2009–10.

2.7 For the information of the committee BCT's review of bat crime 2003–10 is attached.

3. The extent to which UK legislation and regulations on wildlife crime are "fit for purpose" and the penalties for offences are adequate

3.1 The main issue with criminal legislation protecting bats is not we feel about adequacy but rather complexity. The legislation was complex in 2004 but has become even more confusing since then with bats being removed, in the main from the Wildlife and Countryside Act in 2007, with protection instead being offered by the Conservation (Natural Habitats) Regulations 2007. Those regulations have of course then been amended on an almost annual basis. This means that enforcers who are seldom called upon to investigate such matters do not usually have an understanding of the law.

3.2 BCT feels that there is an urgent need for UK conservation law to be consolidated in order to clarify the confusing and poorly understood protection afforded to bats at present. We were very pleased to see that the Law Commission are carrying out a review of wildlife law and we intend to contribute to that review.

3.3 Despite the numerous changes to conservation legislation that have been carried out in the past eight years BCT remain concerned that the weaknesses of the householders defence contained within the Wildlife and Countryside Act and identified to the committee in 2004 have not been addressed. This defence allows a householder in certain circumstances to exclude bats. Whilst the defence requires Natural England (for English matters) to be consulted prior to excluding bats from non-residential parts of dwellings, it provides no compulsion to heed that advice. The consequence of this is that householders who consult the statutory authority can then exclude bats in any manner they choose, without regard to the advice they have received.

3.4 BCT understands and supports, the necessity for householders to be able, in specific circumstances to exclude bats from the home. Where legislation requires advice to be sought prior to such action we would like to see a need to heed such advice introduced.

3.5 The Internet has in recent years provided BCT with greater access to biodiversity reports that accompany planning applications. Reading such reports has revealed to us that in a small number of cases the advice contained in such reports is inadequate and if followed can result in a developer committing criminal offences. Public interest will often prevent prosecution where the offender has followed professional guidance. This highlights the fact that those who provide inadequate advice, intentionally or negligently, have no criminal liability for offences that are then committed.

3.6 On the matter of penalties BCT feel that they are at present insufficient. It is a matter of interest to us that whilst somebody who imports bats into the UK can be sentenced to seven years imprisonment, yet a person who destroys the roost of our rarest species of bats can only be sentenced to a maximum fine of £5,000 and or six months imprisonment. In reality whilst there have been numerous cases of those dealing illegally in endangered species receiving custodial sentences there has never been a custodial sentence imposed for a bat offence.

3.7 It is often pointed out that the legislation protecting bats offers penalties of a £5,000 fine and/or six months imprisonment per bat. To our knowledge no court has ever imposed a penalty per bat and the highest fines ever imposed have been £5,000.

3.8 The Conservation of Habitats and Species Regulations 2010 contains no provision for sentences to be applied to each animal affected. Maximum sentences for offences relating to bats are therefore a £5,000 fine and or six months imprisonment.

3.9 Both logic and anecdotal evidence suggests that the levels of penalty available to the courts are inadequate and cannot be considered to be dissuasive. We understand that on occasion offences are committed after risk assessments have identified low risks of prosecution with negligible penalties even if prosecutions were to be undertaken.

3.10 It is important that those who commit the most serious offences relating to bats are made liable to dissuasive penalties. Profits arising from successful developments are significant but the penalties available to

the courts are inadequate to deter such offending. For the most serious offences BCT would like to see the potential for unlimited fines as with the majority of offences of an environmental nature.

3.11 These comments should not be taken as a suggestion that the penalties historically imposed for bat offences have been insufficient. They are merely a call for the availability of dissuasive penalties for the most serious offences.

3.12 BCT whilst accepting the need for prosecutions always feel regret when the need for such action arises. Our preference is always to seek early intervention and we work closely with the Police to achieve this. In the past two years there have been a number of occasions where police wildlife crime officers have used their discretion and applied restorative justice measures in relation to bat offences. In appropriate circumstances we support such action as it can deliver conservation benefit that are not available to the courts.

3.13 We also welcome in principle the granting to Natural England of civil sanctioning powers believing that the ability to issue stop notices and to require restoration or remediation could be very useful. At present such measures do not apply to offences involving bats and we would hope that this position could be quickly changed. We would also hope that Natural England will undertake to consider civil sanctioning powers for all bat offences and not just those that involve breaches of licence, as is proposed at present.

4. How policing of wildlife crime is coordinated in the UK (between bodies and geographically) and whether enforcement powers have sufficient resources and powers and how the proposed National Crime Agency might affect the policing of this sort of crime

4.1 Criminal offences involving bats were identified as one of the first UK wildlife crime priorities in 2004. Today they remain one of the priorities because the destruction of roosts remains a cause of population decline.

4.2 In 2010 the Chief Executive of BCT became the plan owner for the bat crime priority; we have also taken the prevention lead. It is our view that a government agency should take ownership of the plan thereby giving a clear message of intent but given that none of the Statutory Nature Conservation Organisations (SNCO's) have a UK remit we felt little option but to take the lead.

4.3 During the past two years the Bat wildlife crime priority working group has been active and representatives from all four SNCO's and the Police are active participants. The Operation bat standard operating procedure has been refreshed and circulated to all forces whilst ACPO have endorsed our minimum standards for the investigation of bat offences. We have identified our bat crime priorities and seek to engage further with industry.

4.4 BCT provide monthly returns on the number of bat crime allegations we receive to the National Wildlife Crime Unit (NWCU). These are used to inform both strategic and tactical assessments that they produce. We have a close and useful working relationship with the unit restricted naturally to the lawful exchange of information.

4.5 We engage with all of the UK police forces and endeavour to have direct contact with the investigating officer in all cases that we are aware of. Without doubt we have most confidence with forces that have appointed full time wildlife crime officers. That said we are conscious of a number of police wildlife crime officers who provide first class service despite the fact that they carry responsibility for wildlife crime investigations in addition to their other duties. In the majority of cases bat crimes are in our experience dealt with effectively by the Police in particular when there is the potential for early preventative intervention. Matters become rather more difficult where a criminal investigation is needed and requires time and resources to be put to it. Sadly it is our experience that there are a small number of Police forces who appear to take the view that criminal offences involving bats are not a matter for them.

4.6 BCT would not wish to see any National Crime Agency taking on responsibility for wildlife crime. If this were to occur then we think that wildlife crime resources would be focussed almost exclusively on level 2 and 3 crime to the detriment of other issues. Offences involving bats whilst on occasion being both serious and to an extent organised would generally only amount to level 1 criminality and would we fear be marginalised within a wider crime agency.

4.7 The need for the NWCU has been well documented and is supported by the UK government and the devolved administrations. England's Biodiversity Strategy "Biodiversity 2020: A strategy for England's wildlife and ecosystem services" identifies as a priority action the need to reduce wildlife crime by contributing to funding of the National Wildlife Crime Unit. We strongly support the call for the continuation of the unit as a stand-alone organisation with secure funding.

5. How well Government and responsible enforcement bodies are responding to newer threats challenges including the use of the Internet for wildlife crime

5.1 On occasion BCT become aware of the Internet being used in relation to bats. There have been occasions where taxidermy specimens are offered for sale although more commonly our attention is drawn to Internet sites where advice is offered on how to deter bats. Generally these sites are found to be of North American origin where the actions being suggested do not amount to criminal behaviour.

5.2 Where we find evidence of unlawful sale within the UK we refer the matter to the appropriate Police force and generally we are content with the actions that are taken.

5.3 In the case of website offering advice that would amount to an offence within the UK we usually make direct contact with the owners of the site asking them to make clear that the advice does not apply to the UK. Invariably we get a positive response that results very quickly in caveats being placed on the site.

6. How fully wildlife crimes are recorded and how rigorously penalties are applied

6.1 BCT has for a number of years recorded levels of bat crime in the UK. Two years ago we introduced a new investigations database that now provides useful data when measuring trends and performance.

6.2 In 2004 we asked for bat offences to be made recordable. This has not occurred. The reporting of incidents to the NWCUC has been a useful step forward but is limited not only because police forces are not required to contribute but also because they are merely numbers of allegations. As a consequence we are the only organisation in the UK who can provide statistics and views on trends and performance.

6.3 Our views on penalties available for bat crimes have already been expressed. We would add only that if bat crimes were to attract the potential for unlimited fines then the present crime recording system would require such offences to be recorded.

7. How effectively behaviour change and attitude change are being promoted

7.1 Since 1991 the Bat Conservation Trust has run a diverse range of projects to conserve bat populations. We are part of one of the most successful conservation movements in the world, supported by a network of members, volunteers, academics and professionals. Some bat species may already be benefitting from the positive effects of conservation, but we have a long way to go to achieve our vision of a world where bats and people thrive together in harmony.

7.2 We also work to raise awareness amongst the enforcement community. We speak at every Police wildlife crime course, attend wildlife crime conferences and have been instrumental in producing Operation Bat.

7.3 Despite our best efforts bats still often receive an unfair and bad press. On occasion they are demonised and falsely held to blame for preventing development. Amongst some enforcers there remains a reluctance to accept bat crime as an issue deserving of attention.

21 February 2012

Written evidence submitted by the Hawk Board

- Hawk Board represents an estimated 25,000 bird of prey keepers in the UK.
- Between them they are responsible for some 70, 000 domesticated raptors.
- The current legislation is cumbersome and difficult to communicate.
- Relaxation of registration legislation by the previous government did not lead to a rash of criminal activity.
- According to the RSPB only two (2) offences were successfully prosecuted in 2010 relating to the “taking and keeping of birds of prey”. And only 31 possible offences were reported to that same body in 2010.
- As a result there can be little or no illegal activity amongst body of people represented by the Hawk Board.
- We do not advocate removal of legislation but rather alternative solutions.
- We suggest the imposition of civil sanctions by appropriate government departments for paperwork offences.
- We require such offences not be classified as “wildlife” crimes.
- We will support genuine prosecutions relating to wild raptors.

BACKGROUND

1. Hawk Board: The representative body for all falconers and bird of prey keepers in the UK (currently estimated at 25,000 persons). Recognised by the Convention on the International Trade in Endangered Animals; UK government (Department for Environment, Food and Rural Affairs, and Animal Health Veterinary Laboratory Agency); by the police (National Wildlife Crime Agency and Partnership for Action against Wildlife Crime); national conservation organisations (Natural England, Scottish Natural Heritage, Countryside Commission for Wales); by NGOs including Countryside Alliance, British Association for Shooting and Conservation, Royal Society for the Protection of Birds and the Sustainable Users Network. The Hawk Board represents all British falconry clubs and anyone who owns, flies free or practises falconry in its true sense.

2. Falconry is defined as “the art of catching wild quarry in its natural environment by the means of a trained bird of prey”.

3. In addition to falconers, the owning and keeping of birds of prey (diurnal and nocturnal) falls into several other categories: visitor attractions and public displays, pest control and airfield clearance, breeding for conservation and sale, and the keeping, caring and rehabilitation of injured wild raptors.

4. It is to bird of prey keepers that the government, police and public turn to when presented with any issues about raptors. The Hawk Board is a primary point of contact for such enquiries. www.hawkboard-cff.org.uk

HISTORY

5. As a result of the 1981 Wildlife and Countryside Act and subsequent European legislation that overarches it, bird of prey keepers have been subjected to increased scrutiny by government and the police, aided by protectionist NGOs.

6. The justification for this strict legislation was the parlous state of our native raptors as a result of the over-use of pesticides in the decades immediately following WWII.

7. It is a fact recognised by ornithological bodies that no native bird of prey used in falconry (in its broadest sense) is currently endangered.

8. Indeed, many are at their highest population levels since the beginning of the last century.

9. As a result the previous government, following intensive lobbying by the Hawk Board, saw fit to reduce but not remove the number of the species requiring registration over and above that imposed by the EU. No increase in criminal activity within the bird of prey keeping community has been recorded as resulting from this reduction in red tape.

BENEFITS PROVIDED BY BIRD OF PREY KEEPING

10. Education of the public through contact with birds of prey at centres and through displays is totally effective in conservation terms.

11. Pest control and airfield clearance is a green and totally natural solution that has not been equalled by technology.

12. The sport of falconry is low impact and replicates the natural actions of wild birds of prey themselves.

13. Only experienced bird of prey keepers are equipped to care for injured birds. Indeed the obvious NGOs either refuse such a role or fail to achieve this with any degree of success.

14. Only bird of prey breeders have the knowledge and ability to maintain stocks of native species and when required provide specimens for re-stocking wild populations.

15. Export of captive bred birds of prey to countries such as the Middle East could be considered to represent greater value than more formal trade delegations and ambassadorial receptions, reaching, as it does, an influential end user with a product that touches his cultural background in a truly personal way. This trade has the additional benefit of reducing wild take in importer countries.

WHAT IS WILDLIFE CRIME?

16. Wildlife crime must be defined as that which negatively impacts on our native flora and fauna.

17. All legitimate birds of prey kept in this country have with very few exceptions been bred in captivity for several generations and cannot be considered as wild.

18. The only exceptions are those held by rehabilitators for re-release or kept permanently because, if released, they would not survive.

19. There remains a condition within the Wildlife and Countryside Act under which wild birds may be trapped to improve captive bloodlines, and for the purposes of falconry (judicious use). No licences have been granted in twenty-five years.

20. As a result, any crime committed by bird of prey keepers would be paperwork offences...

Unless

21. Birds of prey had been taken from the wild illegally and an attempt made to launder them into the system by passing them off as captive bred.

22. Have been trafficked into the UK via other EU countries having less secure borders or less vigilant authorities.

PAPERWORK CRIME

23. To maintain the current legislation, there is a need to communicate the regulations to all bird of prey keepers. The Hawk Board can achieve this in conjunction with the government authority (AHVLA) provided there is constant communication and consultation between government and the user group.

24. However, the cost of maintaining said legislation impacts unfairly on the user group. This is in effect a tax on legitimate bird of prey keeping and only has a value if it protects the wild population.

25. The captive bred bird legislation is outdated, serves no conservation purpose. It is complex, difficult to communicate and thus, little understood.

26. We can demonstrate that the cost/benefit penalises the keeper and does nothing for the wild population.

COST/BENEFIT

27. There is a huge temptation to make capital from so-called "bird of prey related crime". Excessive resource is applied with disproportionately substantial publicity generated as a result when compared with other offences.

28. In the most recent Bird Crime report (2010) prepared by the RSPB only two prosecutions relate to "the taking and keeping of birds of prey". Although we must acknowledge that one further case, involving smuggling of bird of prey eggs (by a foreign national), was with a view to selling to overseas falconry interests.

29. Indeed the RSPB show that the total reported (not prosecuted) incidents relating to the "theft, sale and possession of birds of prey" were the same in 2010 as they were in 2005, namely 31. In addition only two nest robberies confirmed by RSPB related to the theft of chicks of birds of prey (peregrines).

30. *So what does such a prosecution cost the taxpayer and is it cost effective, and more importantly is it a good use of resource? How many cases failed despite costly investigation? This is a question the Select Committee should level at the necessary agencies and make a careful valuation upon.*

31. We do not argue that such cases should not come to court, but only if they can be proven to impact on our native bird of prey population.

32. The huge advances of DNA testing have made checking provenance relatively simple and should enable the authorities to make a very quick decision if a case is in the public interest.

33. If they are paperwork offences then the efficacy of the paperwork and its communication to the end user must be questioned.

34. If such paperwork breaches are to remain on the statute book then we would argue that "civil sanctions" are a better solution.

35. And in the vast number of so-called "wildlife" crime relating to captive birds of prey, a tiny proportion is of true conservation benefit.

20 February 2012

Written evidence submitted by Philip Onions

1. INTRODUCTION

1.1 My name is Philip Onions, since 1986 I have lived at Keer Falls Forest Farm, next to the River Keer in Wash Dub Wood, Lancashire. This ancient wood has a rich biodiversity including a number of rare and some very highly protected wildlife species, such as salmonids, otters, badgers and a number of species of raptors.

1.2 Several landowners, including myself, own different parts of the wood, it is entirely privately owned and there are no public footpaths or rights of way through any part of it. Nevertheless, members of the public visit the wood regularly, both legitimately and illegitimately for a variety of purposes, some harmless and some highly illegal.

1.3 Everyone entering the wood, including myself has some impact on the wild fauna and flora there, but not all are involved in any crime by any means and we would not want to stop everyone.

2. WILDLIFE CRIME

2.1 Since 1986 I have lost count of the number of times that we have had to call out police officers to deal with acts of wildlife crime, theft and vandalism. I estimate that such callouts by us may be measured in dozens, possible in excess of one hundred. During the late 1980's early 1990's we would have to call out the police sometimes every week for a few weeks and then we might go for several months before having to call them out again. The last time we called out the police was about a year ago. At first, incidents were nearly always wildlife related but following police intervention we would then have to suffer other crimes of petty theft, vandalism of property, abusive hate mail and the like.

2.2 Those responsible for wildlife crimes also become involved in other rural crimes both here and nearby.

2.3 I have been assaulted personally a number of times, but this has never resulted in hospital treatment, yet.

2.4 There has never been a successful prosecution of anyone committing crimes in this wood in that time, despite some horrendous crimes having taken place, such as the digging and removing of badgers for badger baiting purposes.

2.5 The very best that we have achieved is deterring further acts from happening and sending out a clear message to certain groups that we have a policy of zero tolerance to wildlife crimes here. However the crimes continue to this day with gates being regularly left open and minor attacks on our property and some petty theft.

2.6 The wood has a long and convoluted boundary with two different public roads, one at either end, passing it. It is possible for individuals to arrive at and leave the location undetected along these roads.

2.7 It is possible for individuals to enter the wood unseen from any direction and the steep terrain, and in parts dense foliage, make it possible for a rifle with a silencer to be fired here without anyone at either end hearing the gun.

2.8 It is possible to enter the wood with dogs, interfere with badger setts or take deer and retire without being observed. We have evidence that this still happens from time to time. We have also lost sheep in a similar fashion; we believe and suspect the same people, but can prove nothing.

2.9 It is also possible to enter the wood and take salmon, sea trout or brown trout (salmonids) from the shallow river with powerful torches at night, without being observed. We have stumbled on groups in the wood at night but no evidence was found as to why they were in the river.

2.10 It is not financially viable to monitor the circumference of our land and the terrain and complex ownership and rocky soil make erecting man proof fences impossible.

2.11 Because the wood is isolated and reasonably quiet, it is possible to hear or see the approach of police officers (dressed in light reflective hi-viz clothing) and see and hear police cars or helicopters before they arrive. This means that anyone involved in any illicit or illegal activity can dispose of evidence and prepare themselves for questioning from the police in such a way as to walk free.

2.12 The wood and river are well known throughout the North West amongst people involved in wildlife crimes such as badger baiting and hare coursing. We have had people here from as far away as Liverpool according to the police.

3. MINOR CRIMES COMMITTED OFTEN IN IGNORANCE

3.1 We also get members of the public entering the wood with pet dogs and allowing them to run about interfering with ground nesting birds (a lack of hollow trees in the area means that this includes owls and other raptors). We are reluctant to put up nesting boxes as we have had these interfered with too and they are far more visible to the general public than natural nesting sites. A dog eating the chicks of a protected raptor, even if accidental, is still a crime.

3.2 Members of the public have also been observed gathering rare mosses for lining hanging baskets and picking wild flowers such as bluebells and even orchids.

3.3 A rather sweet old lady who collects evergreen foliage for decorating the church at Christmas has also damaged a number of trees in my neighbour's part of the wood. This has resulted in a number of conifers grown for straight stems for timber being forked and spoilt. This is vandalism.

3.4 Another neighbour also had a number of young beech trees felled by an axe, he informed me, back in the late 1980's. Had they survived then he had intended them to form an aisle or avenue and had planted them for that purpose I'm told. Vandalism and theft of firewood.

3.5 A member of the public (a middle aged, middle class, white, housewife) was caught digging up bluebells and spring flowering orchids to plant in her own garden. Had we realised that this was an orchid at the time, we might have prosecuted her, however our own ignorance led to the loss of that wild plant. [Just this behaviour led to the demise of the bee orchid when collected from the wild by Victorians and it is well documented that orchids probably do not survive such transplanting anyway. There are bee orchids at Silverdale, which is nearby, but we know of none here.]

3.6 A common mistake is for people to picnic and start fires (which could lead to forest fires) in areas where they also disturb wildlife. In front of a badger sett for example, or where deer fawns are hidden in the dense foliage in forest glades. In such cases, especially where dogs are involved, this has a disruptive affect on the local wildlife and might stop young being fed. On rare occasions it might result in a nest being deserted, or fawns or cubs deserted.

3.7 Members of the public rarely if ever in my experience have any idea that they are doing anything wrong, or that wildlife is near by. Example; a keen ornithologist used to walk up the river in a bright red anorak with his Dalmatian dog running about doing surveys for the BTO (British Trust for Ornithology). We invariably

knew he was coming by the bird alarm calls that preceded him. He always complained that there was no significant wildlife left in our wood these days. After he left, the wild birds would all suddenly reappear.

3.8 We have owls nesting right next to our yard and deer have had young just outside our house when our children were young, so not all human presence seems to be a problem. I suppose it is all a question of what the wildlife are used to; if they choose to rear young near humans, that is different to them choosing to rear young in a hidden forest glade. I repeat from earlier that we do not wish to stop all human visits for this reason.

3.9 A perennial problem is with young people walking up from Capernwray Hall (an Evangelical religious college just down the road) and swimming in the river. This is a great problem to wildlife because they do so at the falls, just above the salmonid spawning beds and by both a badger sett and dipper nest. They do this all year around and on the 14/1/2012 despite an air temperature of -4°C (we have observed similar activity when the falls were frozen and the air temperature was as low as -7°C) there were two boys and a girl stripped to their underclothes here doing just that. At that time of year the use of shampoos and soaps will have an adverse affect on eggs or fry in the spawning beds. Badgers may have young in the sett. Dippers will be looking for nesting sites. All species will be impacted. It is an offence to interfere with salmonid spawning beds and badger setts.

3.10 Salmonid populations in the river Keer have collapsed in recent years (invariably blamed on farming); one problem here is that young fish fry can have their sexual organs influenced during early development by tiny amounts of Oestrogen in the water. One source is human urine containing traces of the Pill. I am not aware of any sewage outlets directly into the stream upstream of this point—although in fairness the source of the Keer is near to the village of Hutton Roof. A hermaphrodite salmonid has both male and female sexual organs but is incapable of reproduction because the organs are vestigial (shrivelled and not healthy) and the ovum and sperm are sterile. I have observed sea trout in the Keer, and as an experienced trout farmer who has stripped many trout in a trout hatchery, I am well qualified to identify this, which appear to be males (hooked noses etc) but nevertheless seem to produce eggs. I have not seen any fish for a few years now of reproduction age. Interfering with salmonids in the closed season, in the wild, is an offence, so my evidence is based on observation and discussion with NRA personnel here.

3.11 Large salmonids have only ever visited this part of the river in the closed season to spawn. In the past I have observed up to 40 or 50 cm fish here. However such fish are here only to spawn and are extremely thin and close to total exhaustion. The river is very shallow, rocky and fast flowing. At night it was possible to walk up the river with a torch and see fish (in the closed season) swimming up stream, spawning or lying resting in deeper pools. As they can be trapped by falling water levels, there was no escape and fish could be picked from these pools easily although they would have had no commercial value and would have made a poor meal. Still the river here is still famous throughout the North West for its past sea trout and salmon runs and we still get members of the public visiting the river, in the closed season, to show their children this rare sight. They often come in the day (when fish are often hidden) and poke around in the river with sticks and throw rocks to try and drive hidden fish out of shelter into view.

3.12 Minor acts of this nature account for a far more major impact on the wildlife in my experience than deliberate acts of wildlife crime.

3.13 Opening up the countryside and inviting the public into wild places promotes knowledge of vulnerable and important wildlife and leads to needless acts of crime and countless acts of criminal damage and impact.

3.14 The “right to roam” sent the wrong message to the public and although they have no right to roam on this land, many assume a right that they don’t have.

4. POLICING WILDLIFE CRIME; THE PROBLEM

4.1 Since 1986 of all the hundreds of police officers attending incidents at Keer Falls, not one has worn appropriate clothing, had appropriate equipment, sufficient knowledge of terrain, wildlife, and wildlife crime or had the support to make any meaningful arrest. Example; standard issue boots are not adequate for river crossing and hi-viz jackets can be seen in the forest from some distance, day or night.

4.2 No police officer attending an incident at Keer Falls has ever appeared to have any field craft skills.

4.3 It is not the fault of the individual officers concerned but the way that the system is managed. The police force is geared up for the urban environment and road based incidents, not for the wild where wildlife crime happens.

4.4 In my experience wildlife protection officers have a great deal of knowledge about wildlife and the law relating to this, many of the criminals involved and the locations of the crimes, but they are small in number and have huge areas to police and lack the support to offer any kind of reasonable coverage. They also tend to be unavailable when needed. 24 hr coverage by Wildlife Protection Officers is not available in Lancashire or Cumbria and the average police officer is poorly able to meet the challenges posed.

4.5 *In my experience there is not the slightest possibility that calling out the police to any wildlife crime under the current system will ever result in a criminal prosecution here.* However by dialling 999 it is possible

to get such a massive response from helicopters and police cars that a crime can be prevented and further crimes here can be discouraged.

5. RECOMMENDATION

5.1 A dedicated task force to tackle wildlife crime should be set up.

5.2 Members of the task force should be ex military or trained by the military in field craft.

5.3 The task force should be equipped with camouflaged, waterproof clothing and Wellington boots.

5.4 They need to be fit and able to deal with rugged terrain and have access to 4x4 vehicles and boats.

5.5 They need night vision equipment and high candlepower lamps.

5.6 They need intelligence as to the location of vulnerable wildlife sites. Most criminals setting out to commit a crime will know where the wildlife they are targeting is likely to be. This is often site specific, for example badger setts or rivers, which have good access to vehicles but is remote and away from eyes.

5.7 Wildlife crime will occur most often at weekends and at night.

5.8 The task force needs to be part of the police force so that on demand they can call on back up and support from armed response officers, police dogs and helicopters.

5.9 Regularly targeted sites (bird nests, vulnerable badger setts, bottlenecks on rivers such as weirs or waterfalls) should be monitored with remote, hidden, night sight cameras.

5.10 Most criminals committing serious wildlife crimes here are regulars. A national database of their vehicles and habits should be built up and maintained. Their movements should be regularly monitored, especially at night and other police officers should be encouraged to use the database and be on the lookout for them and their vehicles in strange places.

5.11 All rural police officers should be encouraged to look out for vehicles left in strange places (especially near woods) with dog cages in the back and digging equipment such as spades and picks.

5.12 The task force should be equipped with portable motion activated cameras and radio detectors that can be planted near badger setts to detect the radio waves given off by radio collars put on terrier collars.

21 February 2012

Written evidence submitted by Sara Cadbury, a full member of the British Mycological Society and founder member of the Hampshire Recording Group

COLLECTING OF FUNGI IN THE NEW FOREST

- (a) An internationally important area of conservation is without complete protection.
- (b) The biodiversity and a fragile ecosystem are seriously threatened.
- (c) The local byelaws which prevent commercial collecting of fungi are not being upheld by the Forestry Commission as land managers.
- (d) Acts of theft are being committed on a regular basis, thus contravening the Wildlife and Countryside Act of 1981 (WCA 1981).

1. New Forest fungi are being increasingly threatened by unprecedented amounts of commercial collecting of fungi. Although commercial collecting is not permitted under the New Forest byelaws in the Forest, the practice still persists unabated, and commercial collectors are, however, still committing an offence of theft under the Wildlife and Countryside Act 1981. Because of this, the fragile ecosystem, the biodiversity and the entire "web of life" of this unique and internationally important area are also threatened.

The New Forest is a National Park, but the Forestry Commission are the land managers of the area, and are thus in control and responsible for upholding legislation.

2. Besides its National Park status, the New Forest is also a Special Area of Conservation (SAC), Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and has many important European Ramsar sites within it. In spite of all this conservation designation, the blatant abuse of fungi collecting still continues and even increases each year.

3. Although the New Forest already has the highest protection in place for all flora and fauna, as absolutely nothing is permitted to be taken from it, unfortunately, because fungi do not fall into either the category of flora or fauna (because in the 1980's they were declassified and put into a kingdom of their own), they are not protected in the same way, and thus are seriously vulnerable.

4. As well as the commercial collecting of fungi, the general public are requested to abide by the Mushroom Pickers Code of Conduct (issued by the British Mycological Society) which allows a total of 1.5 kilos of mushrooms to be collected person per day. When this amount is multiplied by the hundreds of visitors to the

area, it amounts to an enormous amount of fungi being collected in total. In an area with all the above the conservation and protection designations in place, this practice is also unacceptable.

5. Officially, commercial picking of mushrooms in the Forest is not permitted, but it has now increased to enormous proportions and huge amounts of money are being made, often by outsider people who come to the Forest for that very purpose.

It is extremely frustrating for the Forestry Commission Keepers, the local Wildlife Police Officers and for local people, to have to watch in dismay at this plundering of a unique area. They all have to frequently witness groups of people walking line abreast through the woods filling huge plastic bin liners with every kind of fungi including rare species, knowing that they are taken back “to base” where they are sorted for edible species, whilst the remainder is discarded. This is depriving numerous mammals and insects, who depend on fungi, for their food, habitat and completion their life cycles. Fungi complete the natural cycles which plants begin. They are the great recyclers of all woodland and by their association with the roots of trees are essential to their healthy growth. Removing their fruiting bodies must be seriously affecting the biodiversity of the area, and the entire ecosystem, and internationally important rare species of fungi and Biodiversity Action Plan (BAP) species.

6. Dr. David Minter, internationally renowned mycologist, formed the International Society for Fungal Conservation two years ago, aimed at creating awareness of the importance of fungi worldwide, as all previous conservation movements have omitted fungi. He states, quote—“that protection of fungi is critical, and that their conservation is long overdue and that we cannot afford to wait any longer.”

7. The authorities at Epping Forest (which also suffers from massive and increasing public pressure) have already effectively addressed exactly the same problem as there is the New Forest, by making it illegal to collect any fungi in their area. A system of collecting under licence was tried, but proved to be too difficult to control and police. A total ban was then imposed and found to be the necessary solution. It is imperative that the New Forest follows suit before any more damage is done.

8. This act of THEFT needs to be stopped. Fungi should have the same COMPLETE PROTECTION that all the flora and fauna of the area possess. It is an internationally important, unique, beautiful and special place that people should be allowed to enjoy, without it being degraded by a selfish minority in a serious way. The relevant authorities—National Park, local Wildlife Police, Natural England, Hampshire Wildlife Trust, Hampshire Fungus Recording Group, National Trust and the Forestry Commission are all aware of the abuse and are in agreement that “something needs to be done”—but as yet, no one is prepared to do it! The Forestry Commission seem to find it difficult to uphold or strengthen their own byelaws in the Forest.

22 February 2012

Written evidence submitted by Badger Trust and Scottish Badgers

EXECUTIVE SUMMARY

Responses have been canvassed and collated by the submitter from badger trusts, badger groups and individuals concerned with the welfare of badgers. This submission will cover the following points:

1. Wildlife crime its impacts and how this has changed since the Committee’s 2004 report.
2. The extent to which UK Legislation and regulations on wildlife crime are “fit for purpose” and if the penalties are adequate.
3. How policing of wildlife crime is co-ordinated, whether enforcement agencies have sufficient resources and powers and how the National Crime Agency might affect policing of this type of crime.
4. How well the Government and responsible enforcement bodies are responding to newer threats and challenges, including the use of the Internet for wildlife trade.
5. How fully wildlife crimes are recorded and how rigorously available penalties are applied.
6. How effectively behaviour change and attitude change is being promoted.
7. The UK’s role in influencing the EU and International agreement on illegal wildlife trade.
8. Conclusions and recommendations.

We canvassed the membership of both the Badger Trust and Scottish Badgers and others in order that we might give the committee the benefit of a collated answer from people who live throughout the UK.

1. We were asked by the committee to consider the scale of wildlife crime, its impacts and how this has changed since the committees’ 2004 report

1.1 Whilst we acknowledge that the recording of wildlife incidents has increased we are also aware that the number of incidents in relation to badgers being reported has increased. Without a historic record to compare the numbers of badger incidents from more than three years ago, it is difficult to prove this point, but there has certainly been an increase in the number of badger-related incidents throughout the UK in the past three years.

1.2 Wildlife crime has a huge impact on individual badgers, their setts (shelter sites) and in certain cases their home territories. Badgers are regularly baited, beaten, illegally lamed and shot and in general subjected to some of the most horrific cruelty it has been our experience to encounter. In some instances badger setts are “harvested” leading to the deaths or desertion of all the badgers in a sett. In some areas of the Midlands, badger digging activities have been so sustained that they have become locally extinct. This has a direct effect by decreasing local biodiversity. We are concerned about a new generation of offenders emerging, with detected offenders being identified as being in their late teens and early 20s.

1.3 We should explain at this point that we refer only to “incidents” relating to badgers rather than recorded crimes. Incidents can refer to many things and it is only once a satisfactory investigation has been carried out that we can establish whether a crime has or has not been committed. As far as we are aware during the Calendar year 2011 in Scotland there were 57 incidents reported involving badger persecution but only five were actually recorded as crimes despite the fact that we know that in a number of instances, after investigation, it was established that a crime had taken place. There is a higher awareness of wildlife crime in some police forces and a willingness to investigate but in others the response is woefully inadequate where even reported incidents are not recorded. There has been no change in this position since 2004.

1.4 There is a general consensus that whilst statistical information available from the National Wildlife Crime Unit is an accurate record of what is reported to them, not all forces are reporting to them and that there is likely to be a huge discrepancy between the number of wildlife crimes committed and those recorded. There will inevitably be an even wider gap between the number of recorded incidents and the number of crimes committed where after investigation it has indeed been established that a crime has been committed. In conclusion all wildlife crimes *must* be recordable. We will never establish the true numbers of wildlife crimes unless we do so.

2. We were asked by the committee to consider the extent to which UK legislation and regulations on wildlife crime are “fit for purpose” and the penalties are adequate

2.1 Again the general impression we have is that the wildlife legislation in the UK is in place for very good reasons and the level of protection provided by current legislation must not be reduced in any way, although it would benefit in practice from (a) improved coherency and (b) being framed within a more user-accessible structure. In many cases there is no incentive not to break the law because the penalties are either insufficient or not applied with any vigour. There is a view that even where the most horrific acts are committed by offenders they get off lightly. Grave concern has been raised recently involving four accused persons who were sentenced to 16 weeks imprisonment after trial at Scarborough Magistrates Court. We have recently learned that they are to be released after serving only four weeks of the term of imprisonment imposed albeit with certain restrictions. There are still too many loopholes seized upon by defence lawyers which tend to make prosecution difficult and therefore an unappealing case for prosecutors to take forward. Additionally it was felt that the lack of enforcement of one type of legislation directly impacted on other legislation. As example not enforcing legislation in relation to hunting with dogs was having a direct impact on offences committed at badger setts. Once again in relation to badgers we feel the inconsistent approach to licensing is having a direct effect on badger setts and in some cases is actually reducing the amount of protection afforded to badgers and their setts. A licence basically allows someone to do something which would otherwise be illegal and are often issued for the purposes of forestry, development or agricultural operations at or near badger setts for example.

2.2 We feel that wildlife law is a specialist niche and not something a police officer or prosecutor would encounter on a regular basis. It is so difficult to establish sufficient evidence to charge a person(s) with an offence in relation to wildlife that we need specialist investigators and prosecutor who have a thorough knowledge of the legislation and regulations. A precedent has already been set by the Crown Office Prosecution and Fiscals Service in Scotland where two dedicated prosecutors have been identified to deal with all the wildlife cases in Scotland.

3. We were asked to consider how policing of wildlife crime is co-ordinated in the UK (between bodies and geographically) and whether enforcement bodies have sufficient resources and powers, and how the National Crime Agency might affect policing of this type of crime

3.1 It became clear that many of our respondees did not have a clear understanding of how policing of wildlife crime is co-ordinated in the UK (between bodies and geographically). Many who did understand the mechanisms felt that it was unsatisfactory and that communicating between different sectors of enforcement agencies was at best ad hoc. As example “Operation Meles” a national operation to tackle badger persecution has been running for three years and yet we regularly receive reports that local wildlife crime officers have never heard of the operation.

3.2 In every case our respondees were unified in their opinion that enforcement bodies had insufficient resources and powers. There is obviously a huge difference in forces who have appointed full time wildlife and environmental officers and those that have not. Where no full time officer is in post it is a lottery as to how a wildlife incident will be treated. Call centres have even diverted complainers to animal welfare charities because they decided that wildlife crime was not a matter for the police. Although this happens only in a small number of cases it is very worrying. There has been a sea change in some forces where they are aware of wildlife crime but where we are often told that the force does not have a wildlife crime officer on duty and

that they will therefore not be attending. In a situation where offenders are committing offence at the time the report is made it is unacceptable and forces have to realise that this is part of core policing and that someone has to attend at the time. We are aware of resources in general and that police have to deploy those resources in the most effective way they can but to just not attend is we believe falling way short of their commitment to investigating wildlife crime. We rely too heavily on charities to provide the expertise in this area of crime.

In other geographical areas the police have made firm commitments to tackling wildlife crime by appointing full-time wildlife crime officers. However even then these officers find themselves under-resourced perhaps not having their own vehicles or equipment to allow them to make effective investigations. All too often Wildlife Crime Officers carry out these duties only as part of a much wider remit, rural crime officer or community officer, as example. Wildlife crime investigations can be very protracted and might involve travelling within a force area but also, given the mobility of wildlife crime offenders, outwith their own force area. Some officers are restricted to their own division whilst few if any have the autonomy to travel at will to follow up investigations and therefore have to rely on other forces that might have their own higher priorities to deal with and as a result incidents are not vigorously or promptly dealt with. Delays in investigation inevitably lead to the loss of evidence and the denigration of powers. A warrant to search premises for example might be granted within 48 hours of an offence being committed, but with the same level of evidence applying for a warrant several weeks later would be looked on in a completely different light.

In relation to powers, the feeling was that police need more power to deal with wildlife and environmental crime. There are a plethora of Parliamentary Acts, domestic Regulations and European Regulations governing how we protect our wildlife and habitats in the UK. We understand that the Law Review Board are currently looking at the possibility of introducing new legislation to encompass all our legal protection under one Act and suggest that the Committee should liaise with them on improving the protection afforded to our wildlife and environment and increasing powers for those responsible for enforcement. We also firmly believe that training and awareness of wildlife crime needs to be introduced to those involved in enforcement and further that prosecutors and the judiciary need to be alerted to the serious nature of this type of crime.

We would also ask the committee to examine the Grampian Police commitment to investigating wildlife crime. This force put a full-time wildlife crime officer in post several years ago. As a result the reporting, investigation and recording of wildlife crime in that force increased dramatically to reflect the true nature of wildlife crime in the area. It became clear that steps had been taken to alert personnel within the force what the commitment was and now everyone within that force area is aware of how the force policy applies. This force has also appointed a full-time wildlife crime education officer who is having a major impact on schoolchildren in the force area.

3.3 Very few of our respondents had any knowledge of the National Crime Agency (NCA). We understand the vision for the NCA is to fight crime and tackle serious and complex crime and bring organised criminals to account, in partnership with local and international forces. We note that their specialist capabilities will include having the specialist operational capabilities that add value to those in police forces and other law enforcement partners, such as those working on cyber crime, economic and environmental crime, human, wildlife and drug trafficking and child exploitation. Collectively these specialist capabilities will enhance the fight against serious and organised crime. Given the serious nature of the crime types quoted we would be concerned that environmental and wildlife crime would be given a very low priority in the face of the resources the agency might have to deal with those other types of crimes. It is important to understand that investigations in to wildlife crime often reveal links to other seemingly unrelated crime.

4. We were asked to consider how well Government and responsible enforcement bodies are responding to newer threats and challenges, including use of the internet for wildlife trade

4.1 Again in relation to the use of the internet for investigative purposes in relation to wildlife crime most of our respondents had little experience of this happening at a local level. There was the odd incident quoted where an item had been placed for sale on e-Bay which aroused suspicion but in general nothing was known. However, what is known, is the use made by offenders of the internet, particularly social networking sites, to discuss their activities. It is not uncommon to find photographs of badger baiting for example on some of these sites. Offenders regularly use mobile telephones to record both still photographs and videos of their crimes taking place. The contemporary persecution of wild animals, like other criminal activity, is increasingly planned and celebrated on the internet and social media. The use of mobile phones in filming what is going on at badger setts and the number of images found on home computers is staggering. We believe that once we begin to look at this medium professionally a shocking amount of crime will come to light.

5. We were asked to consider how fully wildlife crimes are recorded, and how rigorously available penalties are applied

5.1 The common misconception in relation to statistics is the number of crimes recorded. We alluded to this in an earlier paragraph (1.3 above). When a person reports an incident the police force concerned should enter the complaint onto their force command and control system thus generating an incident number. We are aware that this is not always the case. It is not uncommon for an incident to go completely unrecorded in any official way. It would appear that only Scotland records wildlife crimes and even there few reports make it from the status of incident to crime despite the fact that it has been established that a crime has been committed. There

still appears to be a level of resistance in some forces to communicate their monthly incidents returns to NWCU for collation.

In relation to incidents being dealt with there is also a lack of communication on the progress of an investigation and commonly an end result is never communicated to the complainer.

5.2 In relation to how rigorously penalties are applied most of our respondees had little faith in appropriate sentences being handed down by the courts. Currently there is no incentive not to commit offences in particular where multi million pound schemes to develop an area have resulted in the commission of offences; a maximum fine of £10,000 is a small price to pay for making millions of pounds in profit, it is a calculated risk. To our knowledge the maximum level of fine has never been used in sentencing. In relation to restorative justice which is based on a theory of justice that considers crime and wrongdoing to be an offence against an individual or community, rather than the state, is held in low esteem together with cautions. The overall feeling was that courts were sending out the wrong message in relation to the punishment that could be expected in relation to wildlife offences. There was also a feeling that where offences were of a serious nature such as organized badger baiting or where offences were committed for pecuniary advantage then cases should be remitted to and dealt with by a higher court reflecting the seriousness of the offence. Again the precedent has been set in Scotland; where if there is sufficient proof cases can be dealt with on indictment rather than on summary complaint and sentencing is higher with unlimited fines and terms of imprisonment for up to three years available to be handed down.

6. We were asked to consider how effectively behaviour change and attitude change is being promoted

6.1 As we have already stated we have no confidence in restorative justice. Our respondees were unaware of any projects aimed at behaviour or attitude change although Scottish Badgers currently runs a project which entails taking schoolchildren, from areas identified as badger baiting hot spots, in the study of badgers and the use of film and literature to develop a positive view of badgers. This has been highly successful but it is very early in its delivery and far too early to quantify whether it will have any long term results.

7. We were asked by the committee to consider the UK's role in influencing the EU and International agreement on illegal wildlife trade

7.1 The UK should use whatever influence it has to standardise legislation and regulations in the EU and create a greater awareness of wildlife crime in other parts of the EU. There also appears to be a reluctance to enforce legislation and regulations in other countries which has to be highlighted and a greater willingness to enforce the law encouraged both at home and abroad.

7.2 Whilst the illegal wildlife trade does not impact directly on badgers there is however an international trade in dogs used in dog fighting and to bait badgers both domestically and abroad. Previous police operations have shown links between accused persons in the UK and dog breeders in places like France, Finland, Russia and even the United States of America. This situation needs to be given a higher profile and perhaps better liaison between enforcement agencies and the UK Border Force needs to take place.

8. Conclusions and recommendations

Our general conclusion is that wildlife crime is still not given the priority that it deserves and that whilst many chief officers of police may acknowledge the need to tackle the problem it comes down to resources and invariably they are lacking. The problem is still not being properly addressed. We would therefore make the following recommendations which should be implemented at the earliest opportunity. Most of these recommendations follow those put forward in the committee's 2004 report:

1. The Government must re-state its commitment to tackling wildlife crime.
2. The absence of any clear, national view of the scale of wildlife crime has a direct impact on the ability of those charged with enforcing current legislation. If the scale and nature of the problem is not known it is unlikely that the correct level of resources can ever be allocated to deal with it.
3. Wildlife crime must be classified as recordable by the Home Office so that police forces across the UK know that sufficient priority needs to be given to tackling wildlife crime and so that they can allocate the necessary resources to this work.
4. Any central record of wildlife crimes will only be as good as the information fed into it. It is vital, therefore, that all those who contribute to that database do so using consistent and comparable data.
5. We see the continued refusal to accept wildlife crime as an issue deserving of committed police resources as especially short sighted given the many links between wildlife crime and serious and organised crime. All forces must commit to the appointment of a full time wildlife crime coordinator in the knowledge that other crimes can be revealed benefiting society.
6. The failure to recognise the true impact of a wildlife crime, and then apply a punishment commensurate with that impact, simply reinforces the notion that wildlife crime is "low risk and high reward" for offenders.

7. We firmly believe that training and awareness of wildlife crime needs to be introduced to those involved in enforcement and that prosecutors and the judiciary need to alert to the serious nature of this type of crime.
8. The Environmental Audit Committee should liaise with Law Review Board regarding new legislation to encompass all our legal wildlife protection under one Act.

23 February 2012

Written evidence submitted by Barry Kaufmann-Wright

I am writing in response to the Environmental Audit Commission inquiry into Wildlife Crime.

I am a former Police Wildlife Crime Officer (PWCO) with Essex Police, a position I held for 22 years of my 32 years service with the force, including seven years in a full-time post. I was involved in the setting up of the scheme in this force in the mid-1980s under the supervision of the then ACC, Mr Terry Rands, and Ch. Supt. Mick Brewer. I left the force in 2005 when my full time PWCO role was axed. At this time I had 14 Divisional Officers who fulfilled their PWCO roles alongside their normal duties and with me supporting them and they me. I also arranged training courses with the Ministry of Defence at their HQ at Wethersfield in Essex. In 2003, I was named "Wildlife Law Enforcer of the Year" by the World Wildlife Fund.

I currently work for Natural England on a contract basis as a Criminal Investigator, dealing with breaches of licences for protected species and damage to Sites of Special Scientific Importance (SSSI).

I hold a BSC(Hons) in Natural Sciences and a Post Grad. Diploma in Ornithology. I am an associate of the Institute for Ecology and Environmental Management (IEEM) and I am a Fellow of the British Naturalists Association. (FBNA). Prior to joining Essex Police in 1973, I worked at Jersey Zoo with Gerald Durrell for six years.

I understand that this enquiry will be examining the points below and I have tried to make comments where I can.

- The scale of wildlife crime and its impacts and how this has changed since 2004. At the time of my retirement from the force, international wildlife crime was estimated at £17 billion per annum and drugs were estimated at £20 billion per annum. These figures were announced by the World Wildlife Fund, and other wildlife bodies.
- The extent to which UK legislation and regulations are "Fit for purpose" and the penalties for offences are adequate. With respect to the main wildlife Legislation namely the Wildlife and Countryside Act 1981 as amended (WCA 1981), Badgers Act 1992 and international wildlife crime under the Convention in Trade of Endangered Species (CITES) and Control of Trade Endangered Species (COTES), these are adequate as far as they go. However I would draw the Committee's attention to the Poaching Prevention Act 1862, Night Poaching Act 1828 and the Game Act 1831. These are very old pieces of legislation and need to be reviewed as a matter of urgency. Rural police forces use this legislation regularly. The latest piece of legislation the Animal Welfare Act 2006 was introduced after I had retired and I have no first hand experience of this act. However I understand that this legislation is mainly in respect to captive animals.
- How policing of wildlife crime is co-ordinated in the UK (between bodies and geographically) and whether enforcement bodies have sufficient resources and powers and how the National Crime Agency might affect policing of this type of crime. First, I should say that at the time of my retirement wildlife offences were not recorded and therefore did not become a statistic. As far as I know this is the only type of crime that is not recordable. Therefore when senior officers are being assessed for their divisional or force performance in crime detection and performance, wildlife crime is at the bottom of priorities and is not viewed as a core crime. With Police budgets being squeezed under the current recession, the PWCO role is suffering in many forces. I firmly believe that if Wildlife Crime was recordable more credence would be given by senior officers.
The National Wildlife Crime Unit was formed after I left the force but I am assuming that this unit will link in with the crime agency.
- How well Government and responsible enforcement bodies are responding to newer threats and challenges, including use of the internet for wildlife trade. I am aware that the wildlife team of HM Customs do monitor the internet as much as they can for any offences in respect to wildlife trade, particularly on an international scale.
- How fully wildlife crimes are recorded and how rigorously available penalties are applied. When I first took up the role as a PWCO it was found that many wildlife offences were given very poor sentences. This was mainly due to the lack of knowledge of the courts and Crown Prosecutors. As the years went on we found that nationally the courts were issuing much more robust sentences for wildlife offences.

- How effectively behaviour-change and attitude-change is being promoted. I can not speak for within the forces, but I do know from all the public speaking that I give annually (200 talks) that my talk on the role of a PWCO is a very popular subject. The general public are very interested in wildlife crime and how it is being tackled, both on a local level and internationally.
- The UK's role in influencing the EU and International agreement on illegal wildlife trade. I feel that the UK has a major role to play in influencing the EU and international agreement on illegal wildlife trade. We have major international airports and docks in the UK where illegal wildlife can enter or pass through the UK and I know that the team at the Animal Reception Centre at Heathrow Airport have never been busier.

I am in no doubt that the profile of Wildlife Crime and the enforcement of it must be raised and the support of Government and the public are crucial in this endeavour. Another way forward with tackling Wildlife Crime would be to take it away from the Police and place it under either a new body or an existing body, ie Natural England who already have the framework in place. This could follow the system in the USA, whereby wildlife crime enforcement has been taken away from the general policing and responsibilities of local forces.

23 February 2012

Written evidence submitted by the Lancashire Badger Group

EXECUTIVE SUMMARY

Lancashire Badger group was formed in the late 1980s in response to a rise in badger related crime. In order to respond to this inquiry a group of long serving members with responsibility for monitoring setts in several areas met to discuss their experiences and discuss the questions put forward by the inquiry. The following report is a culmination of that discussion, and analysis of the data held by Lancashire Badger group.

- It is our belief that wildlife crime has certainly not decreased and in fact in relation to badgers it is evolving to include a different type of offender. Most recently we are seeing what we believe is an increase as a result of this. In addition we also believe that the level of crime that exists is vastly under-represented by the recorded data. The effects of this are difficult to quantify.
- There are loopholes within the current legislation, however the main issues as we see it are as follows; police officers are not using, or aware of the ability to use, a variety of legislative tools which are not necessarily targeted at badgers. Ideally one act should encompass and include all of the features necessary; however this is never going to be the case.
- There are huge difficulties with allocated resources and this impacts on every area of policing with relation to wildlife crime including training, manpower and in operational activities.
- It is not our experience that there has been a positive change in attitude or behaviour, indeed we feel that this has worsened among the public at large. Police officers are positive in outlook but often do not know how to deal with this sort of crime.
- In our experience courts are not imposing the maximum penalties nor do we feel that those penalties are adequate to fit the crime.

1. *The scale of wildlife crime and its impacts, and how this has changed since the 2004 report*

1.1 Having looked at our data for the last seven years we are of the opinion that wildlife crime with relation to badgers has at least remained at a similar level and is beginning to show signs of increase. We are aware of 45 sett digs (where badgers have been dug out of their setts to be baited) during that period, there are however many other types of incidents including illegal snaring, sett blocking and interference and lamping. This figure does not accurately represent the amount of sett digs likely to occur in this county alone, as we are only aware of an indeterminate percentage of badger setts in the county (approximately 800), of those we are able to monitor less than 20% regularly. Of those approximately 20% have been “dug” *at least once* during the period.

1.2 It is very important to note that we do not by any means have a comprehensive list of all the setts in Lancashire. Survey effort is often determined by the number of active volunteers in a given area and commonly greatly restricted by landowners who do not wish to allow us access to survey.

1.3 We do not have the resources to analyse all the information that we do hold due to cost and practical issues (lack of suitable and inexpensive computer software or expertise, lack of time and volunteers etc). We cover a county of 1,880 square miles with 30 volunteers. The police are further overstretched.

1.4 Wildlife crime is inherently under-reported (as many people do not realise it is not a crime) and unseen (as there are victims but they are unable to make a complaint). It is our belief that the crimes that we are aware of are the tip of the iceberg.

1.5 We are also now seeing an increase in hunting or lamping with dogs. Cross bred lurcher and greyhound, bull terrier dogs are becoming popular with younger men from certain areas within the county. These people, have a pattern of starting out “rabbiting”, then want a bigger “thrill”, so move onto deer poaching, then finally

progress to badger baiting. We know that this is their hobby of choice due to the information and intelligence we receive; they may spend two or more days a week hunting with dogs in one form or another.

1.6 The dogs described are used to hunt down any animal spotted with a lamp, this does also include badgers. We are aware through a number of intelligence channels that this is becoming more popular and that badgers are taken regularly, along with other species including hares, foxes and deer. This is a more difficult crime to spot as not only does it happen in rural areas (as does most other wildlife crime) but it also occurs at night. The overlap between hunting in this way with dogs and badger baiting is bringing many more young men in particular into the “sport” than previously, when it was much more underground.

1.7 Confusion about TB is causing problems as the public are unsure about the TB situation in their area. In some cases people think that it is now legal to remove badgers (we have heard of three such incidents). In addition there is a more negative image of the badger, making them more at risk through ignorance and criminal persecution. In the past landowners have been unwilling to allow such persecution on their land, however we now know that many are not only turning a blind eye, but are in some cases actively encouraging this. Sadly many people in both rural and urban communities are unwilling to report such crimes for fear of retribution, despite speaking to us anonymously.

1.8 It is difficult to assess the impact without scientific study. Clearly it does cause extreme distress to the animals themselves and to anyone who is confronted by it, however, we also believe it is likely to have an impact on the behaviour of those animals remaining in an area. Badger behaviour seems to change when in a territory of regularly dug setts—one territory monitored by this group had six setts within it. There were very few badgers remaining in the territory and activity was low. Activity was monitored for over a year and during that time the badger(s) moved constantly between setts. Three of the setts had been dug, one on 7 occasions (every chamber). This increases the likelihood of badger activity not being picked up during ecological surveys for development.

1.9 It may be that this also has a perturbation effect, as was seen during culling activities in the South West. We have had some regularly monitored, vulnerable setts repeatedly dug, three to four times a year. The “old school” baiters always left a breeding sow and boar. The “new” ones will dig until they wipe the clan out.

2. The extent to which UK legislation and regulations on wildlife crime are “fit for purpose” and the penalties for offences are adequate

2.1 In our experience it is not being properly enforced and understanding of the legislation varies from one police officer to another and indeed from one police force to another. It does not appear to be taught as standard. Often police are not aware that wildlife crime is an offence.

2.2 “Digging” a badger sett is a technical offence and can sometimes be hard to prove under the Badger Protection Act, as it must be proved that the sett was active prior to the offence and also that a chamber or tunnel has been breached. It is also necessary to prove that entrances are connected should a dog have been put in one and digging occurs away from that entrance. It should be made clear that all entrances and tunnels are interconnected unless they are over 30m away, as it has been found that tunnels from a single sett can be as long as this.

2.3 The Hunting with dogs act has been used in its place on occasion. We have found this to be of use in convicting offenders who have tried to use the “digging for other species” defence.

2.4 The sentencing however, is not a deterrent; few offenders found guilty go to prison. Non wildlife related legislation (the ability to seize a vehicle or dog when it has been used for criminal activity for example) is not commonly used in these cases. This part of legislation, although not wildlife specific, has been very effective as it makes it harder for the offender to go out and commit the crime in the future.

2.5 We note however that a ban for keeping dogs used for badger baiting or lamping under the Badger Protection Act does not prevent the person from keeping dogs at their property (if they claim the dog belongs to someone else in the same household). We would like this to be the case as they can only receive such a complete ban under the Animal Welfare Act if the dogs are injured.

2.6 We are not aware of anyone being charged with “going equipped” although some of the tools (eg badger tongs and locator collars) are specific. Ideally, digging with any tools in the vicinity of a badger sett should already have a licence through Natural England (if for development), therefore without one it should always be an offence whether or not chambers are breached.

2.7 The main problem however, is not in the legislation; it is in catching these people in the act, or in resources. If we have an offender and the evidence a conviction is certainly a reasonable possibility, however often police attending the scene do not know what evidence to gather or how to do so and in some cases have not asked for our advice. Without the evidence a case clearly cannot go forward.

2.8 In addition two members of one force communications team told members of the public to report a crime to the RSPCA as they did not realise it was an offence. It is well known, however, that perpetrators of wildlife crime are often involved in other types of illegal activity yet this message does not always appear to reach the officers on the ground.

2.9 Whilst we do believe that the Badger Protection Act has shortcomings as a piece of wildlife legislation (we do not extend this to development), we also firmly believe that the badger requires specific legislation due to its behaviour and ecology. The hunting with dogs act adds to the Badger Protection Act and is complementary; however it could not replace it. Crime against badgers takes many forms which are not covered entirely by the numerous other legislative devices related to animals. Badgers cannot be kept for example, yet under the Hunting with dogs act (which may yet be repealed) this would not be an offence. However it is clear that keeping a badger would both be for nefarious reasons and also cause extreme distress. In addition the badger is a particular target as it is seen as a real test of the dog. Whilst the Badger Protection Act can be considered complex by itself, it is simpler than using a combination of other animal related laws to achieve the same thing. We believe therefore that rather than having several pieces of legislation which can be used in different ways it would be better to strengthen one piece of legislation to cover all circumstances. At present it is confusing given the number of pieces of legislation required to effectively deal with wildlife offenders. As a result many are slipping through the net.

2.10 Wildlife criminals are using well known “loopholes” to avoid conviction. Whilst the Hunting with Dogs Act has closed some of these loopholes, powers of arrest and entry onto land should also be added. As a badger group, we rely on the goodwill of landowners and farmers to gain access to land to check badger setts and carry out sett protection work. Permission is not always granted, so a great deal of wildlife crime (with or without the knowledge of the landowner) goes undetected and unreported. In Scotland the Right to Roam allows groups like ours to survey for and monitor setts, whilst this may not be suitable in England, we would like the problem to be addressed in some form.

2.11 The use and possession of “burrow blasters” should be banned completely. We also strongly believe that snares should be banned as legal snares do not protect against indiscriminate loss of non-target species.

2.12 With specific regard to crimes through development, we do not believe that the potential fines act as any deterrent whatsoever. It is far more costly to delay building on large projects than to simply bulldoze a badger sett and take the fine (if successfully prosecuted). Fines should therefore be increased and awareness should be tackled within the development community, thus allowing them to plan for badger related issues in advance and avoid the potential for costly delays acting as a powerful disincentive to obeying the law.

3. How policing of wildlife crime is coordinated in the UK (between bodies and geographically) and whether enforcement bodies have sufficient resources and powers, and how the proposed National Crime Agency might affect policing of this type of crime

3.1 Lancashire police did not have a WCO, for a number of years, between approximately 2004 and 2009. During this time, wildlife crime in Lancashire virtually went unreported.

3.2 Local police officers, then and more importantly now, do not have sufficient training in wildlife crime and the various legislation that can be applied.

3.3 Very often we are faced with officers who have no knowledge of the law on wildlife crime as there are no resources for training or are shocked to hear that badger baiting still occurs. There are not enough resources to carry out any kind of forensic (this extends to postmortem) examination unless we pay for that ourselves.

3.4 Due to lack of resources and time, links between police and other wildlife enforcement bodies have degenerated. We find personal relationships with mutual trust to be particularly valuable and we are working hard to keep them in place. Additionally, formal intelligence sharing is not set up, currently our intelligence is passed on in a piecemeal fashion and no feedback is ever received. This causes a loss of faith and a reduced appetite to provide intelligence, as it can be perceived that it is not valued or acted upon.

3.5 We find that members of the public sometimes prefer to call us with intelligence rather than contact the police or crimestoppers. As a result it benefits all parties if good relationships between police, enforcement agencies and groups exist. We feel that trust on all sides is an important factor in ensuring that intelligence is passed on, even if it cannot be acted upon. This should be the standard throughout the country.

3.6 We would also like to see local police officers attending “refresher” courses on wildlife crime on a regular basis, to keep up to date on current legislation and to take wildlife crime more seriously. LBG offer to assist the police investigations, but are rarely called on to do so. We would like to see a better dialogue between the police and wildlife bodies.

3.7 A WLO was appointed in approximately 2009, but was unable to fully address these issues. More recently, due to cutbacks Lancashire police have demoted the WLO position to a civilian post. We feel that this is unacceptable, as a civilian has little to no powers, regarding policing. This shows us that little resource is put into this area.

3.8 As badger crime happens nationwide with criminals commonly travelling to different counties to commit these crimes, police forces (and wildlife agencies) must more effectively pass intelligence to each other across borders.

3.9 The proposed National Crime Agency, should hopefully begin to address these issues.

4. How well government and responsible enforcement bodies are responding to newer threats and challenges, including use of the internet for wildlife trade

4.1 We are not aware of the local police carrying out any work in this area, they may do so however it is not communicated to us. Our local WLO is extremely stretched, therefore we do not believe that this is likely, particularly since greater specific expertise and facilities would be required in this field than any other.

4.2 We believe that greater resources must be allocated to this, particularly since we are aware of links between dog fighting (which often has Europe wide links) and badger baiting.

5. How fully wildlife crimes are recorded and how rigorously available penalties are applied

5.1 All wildlife incidents and offences should be recorded as a crime where this is the case. Without this resources cannot be properly allocated. We do not know if all incidents are reported to the NWCUC, but we are aware that in some forces they have not always been passed onto the local WLO due to them being incorrectly marked by officers attending. However this has improved in recent years within Lancashire. One force however does not appear to have an effective procedure in place to ensure such information is not lost.

5.2 We would reiterate our previous statement that those crimes and incidents reported are likely to be the tip of the iceberg. Fewer still are recorded properly.

5.3 Lawyers who specialise in defending badger baiters often use weaknesses within this legislation to overturn convictions on appeal.

5.4 More recently the Hunting with Dogs Act has been used for badger crime, with good success. Unfortunately, most cases do not go to crown court, where higher penalties could be imposed.

5.5 We would like to see increased maximum penalties. The 6 month jail term is inadequate. Crimes against animals show a lack of respect for the vulnerable that is indicative of the type of person who commits them. In fact at our most recent court case at the magistrate's court, the magistrate did impose the maximum fine, but said they wished they could impose more. It is our belief that banning such people from ever owning animals should also be the norm. We note that a recent case in which the perpetrators were given a custodial sentence they were allowed out on licence having served a third of the sixteen week sentence.

5.6 We would like to see these cases going to higher courts.

6. How effectively behaviour-change and attitude-change is being promoted

6.1 As stated previously, negative press regarding the badger and badger culling has caused confusion and also a change of attitude in landowners.

6.2 We do not see any specific schemes (aside from our own) aimed at targeting behaviour or attitude change with respect to wildlife crime. Since the beginning of February, we have had several badger setts targeted. We feel that rate of incidents will increase dramatically, in the short and longer term, due to ignorance or excuse.

6.3 Operation Meles is starting to raise awareness and several high profile cases are now being reported in national press when perhaps previously they were not. Lancashire Badger Group has received some publicity for recent crimes and this is all important in raising awareness and educating the public. However, very few people we meet realise that badger baiting for example still occurs, much less is a favoured pastime for a surprisingly large number of people.

6.4 We would like to see specific schemes aimed at targeting young people and in raising awareness in the public that these offences occur and how they can help to combat them.

7. The UK's role in influencing the EU and International agreement on wildlife trade

7.1 It is our understanding that there is a link between trade in dogs bred for dog fighting in Europe and therefore to the use of such dogs for badger baiting. We would like to see some consideration given to this.

7.2 We would like to see the UK government pushing for a ban in import of badger and wildlife related articles (such as badger hairs for fishing or shaving brushes) and also to use any influence they may have to reduce wildlife persecution across Europe.

7.3 We are concerned therefore that the current administration is considering the repeal of an act which is currently of great benefit to badgers and other forms of wildlife. Should this happen we would hope the Badger Protection Act would be strengthened further.

8. Recommendations

8.1 Our recommendations are as follows:

- Wildlife crime legislation should be taught to police officers as standard and refreshed regularly.
- We believe that offenders under the Badger Protection Act should receive a ban on owning and caring for animals in the same household.

- Police should either be trained to use a combination of legislation to charge offenders or the legislation should be improved to cover all relevant aspects where suitable.
- All wildlife crimes should be effectively recorded as such.
- Greater resources should be allocated to combating wildlife crime.
- Resources should be allocated to raising awareness and changing behaviour and attitude towards wildlife crime within society.
- Whilst the NWCUC is collecting and disseminating data and we support this structure fully, we feel that personal relationships through a formal intelligence-sharing infrastructure and increased partnership working are vital to engender trust and keep the flow of information going, both on a practical and actual level.
- We feel that penalties should be increased; offences should be dealt with at higher courts.
- We feel that greater significance should be given to the value of detection through the internet given its ubiquitous use in society.
- We feel that stiffer penalties should be imposed on developers for badger-related crime in order that they act as effectively as a deterrent.
- We would like to see the UK government pushing for a ban in import of badger and wildlife related articles.
- We would like to see a tightening of the legislation that protects badgers and other wildlife rather than a reduction.

23 February 2012

Written evidence submitted by the Countryside Council for Wales

The Countryside Council for Wales (CCW) is the Government's statutory advisor on sustaining natural beauty, wildlife and the opportunity for outdoor enjoyment in Wales and its inshore waters. We are a Welsh Government (WG) sponsored body. CCW has an all Wales remit operating through three Regions. CCW has statutory responsibility for the protection of European Protected sites and Sites of Special Scientific Interest (SSSI). We are also the licensing authority for certain activities affecting protected species in Wales.

CCW welcomes the inquiry and submits below its responses to the questions specified by the Committee.

SUMMARY

Wildlife Crime incidents

The number of recorded wildlife crime incidents has risen year on year since 2004. This may be a result of more effective recording mechanisms within Police Forces and other agencies, the true scale and impact of wildlife crime is in reality difficult to measure. The increase in cases suggests that wildlife crime is still widespread and continues to be a threat to both species and habitats.

UK Legislation

There have been few changes to wildlife and habitat protection legislation in Wales since 2004. CCW have not to date been given powers under the Environmental Civil Sanctions Regulations which provide more flexibility when dealing with wildlife offences. The introduction of The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009 added another layer of enforcement provision but its application has proven to be limited and complicated.

Co-ordinating and funding the policing of wildlife crime

The prevention of wildlife crime in Wales relies on partnerships with the most successful being that between the CCW and the police that is now twelve years old. This is still considered an exemplar partnership with other agencies such as the Environment Agency (EA) and Forestry Commission (FC) following our example. 2011 also saw the creation of the Wales Biodiversity Partnership Wildlife Crime and Prevention Working group bringing together all the main enforcement agencies and other interested wildlife Non Government Organisations (NGOs).

Responding to new threats

CCW acknowledges that the internet, social media and expanding mobile phone technology is being actively utilised in the carrying out and co-ordination of wildlife offences. Combating this new threat is spearheaded by the Police and the National Wildlife Crime Unit (NWCUC).

Recording wildlife crime

Generally recording has improved since 2004. There are a number of memoranda of understanding between key agencies ensuring data exchange and analysis. A number of agencies and NGOs regularly submit intelligence data to the NWCU. In certain areas however there is still limited data exchange, for example habitat fires.

Applying penalties

There is a significant difference between the enforcement penalties which Natural England (NE) can apply compared to CCW. As of January 2012, NE can apply a number of environmental sanctions under the Environmental Civil Sanctions Regulations. On a positive note the increased penalties applied by the courts in respect of certain cases seems to demonstrate that wildlife crime offences are being taken more seriously by the judiciary. However there is still much work to be done in raising the profile of wildlife crime and its impacts.

Behaviour-change and attitude-change

CCW, with other partner agencies and NGOs, is involved in a number of initiatives dealing with issues such as illegal off-roading and illegal grassland and heather fires. This multi agency/group approach is a well tested method of dealing with issues of an anti social nature.

EU and International agreement on illegal wildlife trade

This is not an area that CCW is actively involved in although our seconded officers are involved in the investigation of offences involving the trade in endangered species.

DETAILED RESPONSE

1. What is the scale of wildlife crime and its impact, and how has this changed since the 2004 report

1.1 It is difficult to evidence the scale of wildlife crime and the impacts it is having. In 2007 the Police Service introduced the National Standards of Incident Recording which, for the first time, provided an opportunity to capture statistics relating to wildlife crime; all four forces within Wales provide statistical returns to the NWCU on a monthly basis. Between December 2010 and November 2011 there were 298 wildlife crime incidents recorded within Wales and, in addition to this, there were a further 196 incidents recorded as either Operational, Suspicious or Non Crime Related.

1.2 As well as the submission of figures by the police, CCW also records incidents relating to un-consented or damaging operations on SSSIs.

1.3 In 2010 the Welsh Biodiversity Partnership (WBP) created a Wildlife Crime Prevention and Enforcement Working Group. This group was tasked with identifying wildlife crime priorities within Wales. The priorities were identified using data provided by the NWCU and from returns submitted by all four Welsh Police Forces, CCW and other agencies. The data coupled with an examination of what protected species and habitats were affected by wildlife crime enabled the Group to agree a number of key priorities. The identification of these priorities will enable Welsh Police Forces, working in close partnership with other organisations such as CCW, to target areas of concern in a coordinated and pro-active manner. A number of these priorities such as Bats, Poaching and Badger Persecution have already been identified as national UK priority areas. In addition to the UK priorities the exercise in Wales identified illegal activities causing damage and destruction to protected habitats within Wales as a specific priority. The identification of this priority, together with the UK priorities, will assist the Welsh Police Forces, CCW and other agencies in better targeting their limited resources at specific areas of concern.

1.4 As well as assisting in targeting illegal activities the identification of priorities will provide a far greater understanding amongst enforcement authorities of the impact that wildlife crime has within Wales.

2. To what extent is UK legislation and regulations on wildlife crime “fit for purpose” and are penalties for offences adequate?

2.1 There have been few changes to wildlife and habitat protection legislation in Wales since 2004, but in October 2007, the then Chief Constable of North Wales submitted a report to the WG outlining a number of ideas for legislative changes within Wales. Some of these changes could only be progressed by Westminster, although some could have been progressed through devolved powers provided to the WG.

2.2 In 2010 these suggestions were revisited, and an amended list was provided to the WG for consideration. Although some of the original suggestions have now been progressed a number still remain valid and are waiting to be progressed.

2.3 One of the problems encountered by enforcement authorities is the complications in reading and understanding the legislation, this is often due to the numerous amendments that have been made to it over the years. An example of this is the protection afforded to various species under both the Wildlife and Countryside Act 1981 and The Conservation of Habitats and Species Regulations 2010, over the years there have been a

number of amendments to both pieces of legislation, this leads to a lot of confusion in understanding the legislation and ensuring compliance with it. Amongst enforcement bodies it is usually only the specialised Police Wildlife Crime Officers who deal with it on a daily basis, and who therefore have a full understanding of the legislation. CCW welcomes the Law Commission's announcement to reform wildlife legislation in the hope it delivers consolidated and clearer legislation.

2.4 One of the Police Officers currently seconded to work with CCW has been involved in a major investigation into the illegal trade in birds of prey across Europe. As a result of this investigation a number of issues relating to policy and processes involved in the control of this trade have been identified. It is understood that work is currently underway on amending COTES regulations, and it is hoped that this review will address the areas that have been identified during this investigation.

3. How is policing of wildlife crime coordinated in the UK (between bodies and geographically) and do enforcement bodies have sufficient resources and powers. How will the proposed National Crime Agency affect policing of this type of crime?

3.1 Since 2004 CCW has maintained the secondment of two Police officers to working as Wildlife and Environmental Crime Officers. In 2011 we seconded an additional officer when a Dyfed Powys Sergeant was seconded to work with CCW in the mid Wales area. These secondments are viewed as essential in helping to prevent and detect wildlife crime within Wales.

3.2 Since 2004, due to the success of the secondment of officers to CCW, further secondments of operational police officers have taken place to environmental agencies within Wales. In 2006 a North Wales Police officer was seconded to work with the EA in North Wales and discussions are currently taking place to second a further two officers to the EA in West and South Wales. In 2005 a South Wales Police Officer was seconded to work with FC Wales in order to tackle crime within the vast areas of forestry in South Wales.

3.3 In 2010 the WG commissioned a review of the prevention and investigation of wildlife crime within Wales (appendix 1). A number of recommendations were made within this report. One of these recommendations was that an enforcement working group be established within the Welsh Biodiversity Partnership, charged specifically with ensuring interoperability through the production of a Welsh wildlife crime strategy (appendix 2). The Wildlife Crime Prevention and Enforcement Working Group, comprising of enforcement agencies, together with a number of statutory agencies and NGOs was formed in 2010. This group is currently chaired by a senior police officer from the Dyfed Powys Police Force and reports directly to the Welsh Biodiversity Steering Group (WBSG). The WBSG set the overall steer and implementation of the UK Biodiversity Action Plan in Wales, and established the outcomes contained within the Environment Strategy, Wales.

3.4 Another recommendation of the WG review was the need for forces to recognise and plan for the training needs of wildlife crime officers. It was also recommended that police forces train at least one officer to the standard that allows for the effective investigation of crimes relating to the illegal trade in endangered species. Since 2004 there have been five ACPO accredited training courses, supported by CCW, held within Wales. These have resulted in over 70 police officers receiving specialised training in wildlife crime, a further course is planned to be held in April 2012.

3.5 In November 2011 the Welsh Government Environment Minister, John Griffiths, announced the intention to establish a new single body within Wales, bringing together the functions of the CCW, the EA Wales, and FC Wales. With the current secondment of five police officers to these various agencies, (and the possible addition of a further two), the creation of the new single body will provide an excellent opportunity to look at how enforcement of wildlife crime in Wales can be progressed and improved.

3.6 CCW is fully supportive of the continued role of the NWCUC and has signed an information sharing agreement with the unit in order to facilitate the lawful exchange of information.

Attached Documents:

- Review of the Prevention and Investigation of Wildlife Crime within Wales.
- Welsh Wildlife Crime Strategy.

4. How well are Government and responsible enforcement bodies responding to newer threats and challenges, including use of the internet for wildlife trade?

4.1 CCW supports the Police and NWCUC in their continued assessment of new threats to wildlife and habitats. The internet and social media have provided a new platform for the organisation and committing of wildlife offences. CCW has seen internet forums used in organising illegal off-roading events. CCW has also passed on details of posted videos showing illegal activities on SSSIs to the police. Other cases involving illegal trade in animal parts and derivatives have also come to light. Monitoring the vast amount of forums and web sites requires considerable resources and the scale of the problem is difficult to measure, whilst investigation and subsequent enforcement can prove difficult.

5. *How fully are wildlife crimes recorded, and how rigorously are available penalties applied?*

5.1 CCW maintains a database of all incidents relating to un-consented operations within SSSIs as well as cases of damage, destruction and disturbance to the features of a SSSI by a third party. These collated figures can be supplied to the NWCU via a data exchange protocol. Although capturing a lot of the data relating to SSSIs there are shortcomings such as the recording of deliberate or reckless burning. CCW are currently working with the Wildfire Group, set up within the Welsh Wildlife Crime Prevention and Enforcement Working Group, to address this issue.

5.2 The three police officers, seconded to CCW, are responsible for the collation and submission to the NWCU of incidents of wildlife crime in Wales recorded under the national incident recording system (NSIR). CCW are given to understand that there are limitations in relation to the collection of this data due to issues relating to the correct recording of incidents within police systems, including the initial description of the incident and the subsequent closure of the case.

5.3 The penalties for wildlife crime vary in relation to how they are applied, and to what extent they act as a deterrent. In relation to offences relating to SSSIs it would appear that the current sentences are adequate, and when necessary are applied. One area that does cause concern relates to illegal action taken by developers against European Protected Species. Many developments may generate a substantial profit for the developer for which a small scale fine for breaching wildlife legislation will not act as a deterrent. In some cases a far greater deterrent is the risk of adverse publicity from illegal actions. Sentencing must ensure that those individuals/organizations that do not comply with the law are not placed at an economic advantage to those law abiding parties.

5.4 One area that may lead to reduced sentencing is the failure of the judiciary to understand the importance of the case, one reason for this may be the failure, on behalf of the prosecution, to provide sufficient evidence in the form of impact statements to enable courts to make an informed decision in relation to sentencing. CCW are working with Police Forces within Wales, through their seconded officers, to both provide and ensure impact statements are provided to the courts in wildlife crime cases, in particular those involving European Protected Species.

5.5 The secondment of the three police officers to CCW helps ensure that police officers faced with an investigation into a wildlife related crime have ready access to the specialist knowledge these officers provide. This enables cases to be investigated, and evidence provided in a professional manner, with easy access to specialist advice from CCW staff and other NGOs.

5.6 Within Wales, CCW has a close working relationship with the Crown Prosecution Service (CPS) in cases of wildlife crime, and the nominated wildlife crime prosecutors within Wales are invited and attend conferences and training events run by CCW. In a recent development the CPS, being empowered to give consent on behalf of the Director Public Prosecutions, have agreed to prosecution offences contrary to section 28P(1) of the Wildlife and Countryside Act 1981 (as amended). This enables cases of damage and destruction to SSSI's, which are investigated by one of the police officers seconded to CCW, to be passed to the CPS for advice and prosecution.

5.7 There is one area where applying penalties differs between CCW and NE. In England NE can apply a range of penalties under the Environmental Civil Sanctions Regulations. Penalties can range from fixed penalty notices to restoration orders, thus allowing NE far more flexibility in dealing with offences, and decriminalising certain offences which would otherwise end up in Court. In failing to gain these powers CCW is limited in its enforcement options, restricted to either verbal or written warnings, or cautions and prosecution in extreme cases.

6. *How effectively is behaviour-change and attitude-change being promoted?*

6.1 CCW is actively involved in a number initiatives aimed at promoting behaviour change and attitude change, both through their seconded police officers, as well as the work of other members of staff. Some of the initiatives are as follows:

6.2 Wildlife Crime Prevention and Enforcement Working Group. As previously mentioned in this report this group was formed as a result of the review of the prevention and investigation of wildlife crime within Wales. Part of the role of this group is to look at how it promotes awareness of wildlife crime, this has resulted in the production of a Communications Strategy for Wildlife Crime in Wales (appendix 3).

6.3 Wales Off-road Motors Steering Group (WORMSG). This group, chaired by CCW and comprising of both enforcement authorities as well as off-road user groups, was formed in 2005 in order to develop a consensus to address three main issues relating to off-roading:

- effective enforcement against illegal off-road use;
- provision/management of appropriate opportunities; and
- information & education for responsible use.

The work of this group, which is on-going, resulted in the production of a report in 2010 which included a strategic action plan (appendix 4).

6.4 All Wales Wildfire Group. This recently formed group, which sits under the Wildlife Crime Prevention and Enforcement Working Group, has been set up to look at the issue of wildfires within Wales. In particular it will look at how the Police and partner agencies, including CCW, can improve their service delivery and increase public, community and partner agency confidence in the way they deal with reported incidents of deliberate wildfires, both within and outside protected sites. This group has recently drafted a report providing recommendations into improving the response, investigation and prosecutions of deliberate wildfires in Wales.

6.5 Licensing Operation—In an attempt to raise the awareness of the importance of the licensing process in the protection of species and their habitats within Wales CCW recently organised an all Wales operation. This drew together the resources of CCW staff, Police Officers and WG staff to look at the compliance of licences issued under The Conservation of Habitats and Species Regulations 2010. This operation involved CCW staff together with police officers and WG staff visiting locations where such licences had been issued, ensuring compliance with the terms and conditions of the licence. This operation is still on going with further visits planned over the coming months.

6.6 As well as these initiatives CCW together with their seconded police officers actively promote awareness of wildlife crime through attendances at shows and displays throughout Wales. CCW also works in partnership with the Police to provide an annual Wildlife Crime Conference which has taken place every year since 2001.

Attached Documents:

- Communications Strategy for Wildlife Crime in Wales.
- Wales Off-road Motors Steering Group Strategic Action Plan.

7. How effectively is the UK's role in influencing the EU and International agreement on illegal wildlife trade?

7.1 This is not an area that CCW is actively involved in, although our seconded officers are involved in the investigation of offences involving the trade in endangered species.

7.2 A recent on going investigation by one of our seconded officers into the trade in wild taken birds of prey across Europe has involved working in close cooperation with a number of EU enforcement agencies and Management Authorities. This enquiry has highlighted a number of issues which it is hoped will be taken forward.

24 February 2012

Written evidence submitted by Scottish Raptor Study Groups

I am writing on behalf of the Scottish Raptor Study Groups (hereinafter “SRSGs”) to respond to the consultation on the above matter. SRSGs comprise experienced fieldworkers who, largely on a voluntary basis, carry out monitoring of raptors throughout Scotland. They provide the bulk of the data on raptor numbers, distribution and productivity required by central government (Scottish and/or UK, via Scottish Natural Heritage and the Joint Nature Conservation Committee) to fulfil certain legal duties under the Wildlife and Countryside Act 1981 as amended and under the EU Birds Directive, 2009/147/EC.

Naturally SRSGs’ primary concern is with raptors in Scotland. Nevertheless SRSGs are alive to issues further afield, in England and Wales (in this context) and for that matter Europe-wide and indeed world-wide. Taking the view that Scottish raptor conservation issues/problems on the one hand and English/Welsh ones on the other are closely linked in many respects, SRSGs consider the following points to be relevant to this consultation: a number of raptors breeding in Scotland (including honey buzzard, marsh harrier, hen harrier, osprey, kestrel and merlin) are known to migrate through England and Wales; juvenile raptors reared at Scottish nests may disperse to England and Wales, an example being young hen harriers from southern Scotland moving to the English uplands where they may be at distinct risk of destruction; egg/chick collectors from south of the Border, engaged in their nefarious pursuits, are active in Scotland; and there are linkages between some sporting interests operating in both England and Scotland which have been implicated in commission of wildlife crime in Scotland.

The above are just some examples (they are not exclusive) of links between Scotland and England/Wales in the field of raptor biology and wildlife crime as affecting raptors, a group of birds that are all too often protected (legally) in name only and not (on the ground) in reality. Thus wildlife crime, carried out in or emanating from England and Wales, is highly significant for Scottish raptor populations and their conservation as well as, obviously, for those in England and Wales. It is therefore important that, for these three countries as well as elsewhere, raptor-related crime is curbed much more strenuously. Focusing on the Environmental

Audit Committee's remit to consider the role of the Government and other bodies in England and Wales in tackling wildlife crime, SRSGs' specific representations to the Committee (not necessarily in any order of importance although they are all necessary steps) are as follows:

1. A vicarious liability provision, akin to the one now in force under the Wildlife and Natural Environment (Scotland) Act 2011, should be introduced.
2. Wildlife offences should become technically recordable crimes.
3. All individual police forces should have full-time wildlife crime officers.
4. The National Wildlife Crime Unit should remain an autonomous unit with ring-fenced long term funding but with a mechanism in place to feed information on serious and organised crime through to the new National Crime Agency.
5. More stringent controls on pesticide storage and use should be introduced, as has happened in Scotland with the list of proscribed pesticides under Section 43 of the Natural Environment and Rural Communities Act 2006.
6. Gamebird management and shooting should be more tightly regulated, for instance through a licensing system, given the known serious impact that some of its practices (ie the criminal ones) have on raptor populations in certain localities, indeed over wide areas of countryside.
7. Schedule 4 of the Wildlife and Countryside Act 1981 should be re-enforced, especially by reinstating peregrine on it thus requiring this species to be ringed and registered if kept in captivity—as an aid to law enforcement and to more effectively deter criminal taking of the species from the wild.

24 February 2012

Written evidence submitted by Amphibian & Reptile Conservation

KEY POINTS

- Amphibians and reptiles require legislative protection.
- The legislation is complex—consolidation is needed.
- Legislation should better address the significant impacts of “incidental/collateral” damage, especially to habitats, and legislation should be developed to encourage positive measures for conservation.
- Enforcement remains problematic—wildlife is given a low priority.
- Penalties should reflect the “cost to society”, impacts on conservation status and consider the financial incentives for “cutting corners” that result in environmental damage. More should be made of “restorative” penalties to offset damage to wildlife.

1.0 EXECUTIVE SUMMARY

1.1 Reptiles and amphibians are two groups of animals for which legislative protection has proved important.

1.2 Through the mechanisms involved in developing and amending legislation, and as a consequence of devolution, wildlife legislation is complex. Consolidation of legislation at country level would provide greater clarity and enable more effective enforcement. Consideration should be given to creating a supporting “federal structure” for assisting the implementation of UK obligations (eg European legislation) more effectively and consistently.

1.3 Legislation should be developed to direct positive conservation measures moving away from the reliance only on “prohibitive” provisions; including, for example, allowing amendments of schedule for species whose conservation status needs legislative measures for effective conservation, and not simply linked to risk of extinction. This would facilitate implementation, and thereby compliance with the Habitats Directive.

1.4 Enforcement remains a problem by the continuing low priority given and perception of a “victimless crime”. This particularly so in connection with habitat damage/incidental killing on private land, for example through development or intensive management. Environmental legislation needs to be given higher priority amongst law enforcement agencies, prosecutors and magistrates; the importance and public benefits of wildlife need to be better explained and more effective relationships between conservation and enforcement agencies need to be promoted (eg secondment of police officers to statutory conservation organisations).

1.5 Penalties should be proportionate to impact on conservation status—and more recourse should be allowed for restorative measures including habitat management and costs of acquisition of land to offset damaging activities. Existing provisions allowing confiscation of vehicles/plant used in damaging activities should be used more. This would ensure those, whose activities are compliant with legislation, are not placed at an economic and thereby competitive disadvantage.

1.6 Legislation should be developed to provide powers to outlaw “pre-emptive trashing” of sites that may be valuable for nature ahead of assessments to make them more attractive for development (and to avoid

possible impacts of planning constraints), again this would help avoid placing individuals or organisations who are compliant with legislation at an economic or competitive disadvantage.

2.0 BACKGROUND

2.1 Amphibian & Reptile Conservation welcomes the opportunity to provide evidence for the Environmental Audit Committee's Inquiry into Wildlife Crime. We are a national charity focusing on the conservation of two groups of animals often dependent on the effective interpretation and implementation of wildlife legislation for their conservation. We are actively involved in many aspects of work relating to management of habitats, planning, including direct involvement in "casework", in the scientific evaluation of impacts of development, development of monitoring schemes and in policy, legislative and licensing issues at national, UK and European levels which touch on use and implementation of legislation.

2.2 We are keen to see effective and proportionate legislation that achieves an improved status for our wildlife and keen to see that it is both widely understood and implemented.

3.0 MAIN ISSUES

3.1 Reptiles and amphibians are two groups of animals whose conservation needs are characterised by their relatively low dispersal ability and need for open habitats. Often species will be very site faithful or return to use certain features year after year (eg toad breeding ponds, adder hibernation sites). Loss and fragmentation of habitats has caused significant declines in some species and often the areas left are small and isolated bringing increased risk of local extinctions. These factors make these species vulnerable to habitat destruction and effects of habitat degradation.

3.2 All native species of amphibian and reptile receive some degree of legislative protection but this varies from the "full protection" afforded to the "European Protected Species"; to protection against killing, injury and sale for the remaining reptile species and for "sale" only for the more widespread amphibians. The levels of protection have changed over time through amendments to the primary and secondary legislation (Regulations and Variation of Schedules Orders, etc) and between countries in the UK resulting from devolution of environmental legislative responsibilities.

3.3 The protective measures through "species protection measures" have proved highly valuable in preventing persecution and unregulated trade and for the European Protected Species, and for other reptile species, a robust framework for regulating impacts from planned development and other activities that might damage habitats or kill/injure the species that are present. Levels of protection afforded are generally appropriate (though it is possible that the adder is a species where further protection may be needed) and mechanisms exist to allow revisions where necessary.

3.4 However the legislation is weak in promoting positive conservation measures needed for these species. Article 10 of the Habitats Directive, which would encourage the creation of "stepping stones/corridors" is not strongly represented through domestic legislative measures and the "Biodiversity duty" (S 40 Natural Environment and Rural Communities Act 2006/S. 1 Nature Conservation (Scotland) Act 2004/S. 1 Wildlife and Natural Environment Act (Northern Ireland) 2011) has not engendered the necessary positive activity through Governmental bodies to impact positively on wildlife conservation. The statutory designated sites series (SSSI/ASSI/SAC) provide the only real mechanism for achieving positive conservation measures—and amphibians and reptiles are poorly represented in this series both in terms number of sites and in geographic range of coverage. Thus while "protection" is provided, the legislation is not effective enough for encouraging positive conservation gain.

3.5 The evolution of legislation protecting reptiles and amphibians, since the original Conservation of Wild Creatures and Wild Plants Act in 1975, has been complex: with new Acts, amendment Acts, variations of Schedules and Regulations; increasingly through parallel (or diverging) processes across the UK. The net effect is that it is now impenetrable. A trick was missed when devolving environmental responsibilities not to define a clear "federal" UK role such that adequate control could be kept on the delivery of the international/European obligations that bite at a UK level. Consequently we have witnessed a complete loss of clarity about the way in which the UK is managing its environmental legislation and this manifests itself, on the one hand, through increased attention from the European prosecutors aware of the insufficiencies in the way that Directives are being implemented and on the other by massive replication of effort in the separate countries of the UK. While this complexity may be difficult to address, a simple and pragmatic solution to helping clarity within each country would be to produce consolidated legislation and repealing former instruments so that the legislative measures are all found in one place without needing to follow the tortuous path through previous Acts and amendments.

3.6 The legislative measures needed to control both direct persecution and trade are sufficient for conservation purposes though not necessarily widely understood nor enforced. There is some ambiguity regarding possession of specimens, the definition of "captive bred" (as far as trade/keeping is concerned), what constitutes "a wild animal" and the restrictive nature of some provisions of the Directive (eg possession of shed skins of smooth snakes) may be unnecessarily restrictive and hard to cover through licensing.

3.7 The biggest issue, and hardest to interpret and apply to benefit conservation, is the issue of habitat destruction and the concept of unlawful killing of animals as a consequence of an otherwise lawful activity (very often this involves development of land). The discrepancy between the intent and interpretation of these provisions for European Protected Species (EPS) and those protected only through national legislation is confusing (note that the incidental result of a “lawful operation” defence does not apply to EPS). Neither instrument is proving effective enough in addressing the declines of some species, notably the great crested newt, adder and other widespread reptile species. In particular the law encourages people not to look—if you don’t know it is there then loss of habitat/species is not considered an offence—and while surveys can be required before planning permission is granted, the “pre-emptive trashing” of land ahead of any approach to planning authorities to clear the land of wildlife remains legal.

3.8 There is limited direction through legislation to monitor/survey—the exception being the needs through the Habitats/Birds Directive and commitments through Conventions/Treaties (eg Convention on Biological Diversity). As such there is insufficient direction to create a mechanism that allows us to understand status, trends or distributions of species—thus denying the evidence base needed to assess the effectiveness of, and facilitate the implementation of, legislation. Such mechanisms should encourage recording at local, national and country levels and information be made available to assist with compliance by citizens, developers and other organisations.

3.9 Enforcement remains a problem. The perception that there is no victim from wildlife crime still remains a barrier to enforcement and while clear deliberate actions (shooting/poisoning/taking eggs/selling specimens) may be conceptually easier to consider offences those more subtle, and often more damaging, such as habitat destruction (and especially as this may result from negligence rather than malice) are considered too complex to pursue. Wildlife crime still remains low on the agenda for most police forces and there needs to be better clarity of roles and working together with all appropriate agencies to help prevent wildlife crime and see effective enforcement once crimes are committed. Enforcement must also take economic or financial impact issues into account. Recent cases (such as the Hafod Land Tribunal, ie Mersey Waste Holdings Limited v Wrexham County Borough Council) have highlighted the financial costs of undertaking operations or works in a compliant manner. Indeed, we surmise HM Customs and Exercise, or perhaps those departments involved in the investigation of serious fraud, would look very seriously at cases with “equivalent sums of money” involved. Failure to consider this issue will inevitably mean those compliant organisations are placed at a competitive and financial disadvantage.

3.10 After climate change, invasive non-native species (INNS) are considered to be the second greatest threat to our native fauna and flora. At present, legislation and statutory responsibilities in respect of INNS is confusing and virtually impossible to enforce. INNS detrimentally affect our native fauna and flora. However, this is not the only impact. Research by CABI on behalf of the GB Non-Native Species Secretariat conservatively estimated the impact of INNS on the GB economy to be £1.8 billion. INNS can also cause adverse effects on health, society and infrastructure. In conclusion, we advise urgent revision to INNS legislation.

3.11 Statutory sites typically reflect the principle natural heritage interest of the British Isles. The Statutory Nature Conservation Organisations (NE, CCW, and SNH) are both responsible for their designation, management and where applicable enforcement. Consequently, there is a potential for conflict between promoting appropriate management and transparent and consistent enforcement. Recently, non-compliance cases have been taken forward by the CPS. This approach is welcomed and needs to be cascaded. Investigations and enforcement by the police/CPS will ensure transparency and consistency in respect of ensuring and demonstrating compliance.

3.12 It is noted that legislation, such as the Environmental Liability Regulations appears to have not been used in the UK. Why? What are the barriers? The appropriate use of this legislation may help to address status issues caused by non-compliance. Confusion also appears to exist in the application of this legislation. We are unclear if this legislation should be used “as well as”, or as an “alternative too” other nature conservation legislation? Clarification on this issue would be welcome.

3.13 Issues consistently get raised in respect of the “ecological security” and therefore functionality of land following the implementation phase of a derogation licence. We suggest that to help address this re-occurring issue that derogation licences are listed as a local land charge.

4.0 RECOMMENDATIONS

4.1 An underlying problem is there is a lack of clarity about the overall purpose of legislation and of conservation objectives more generally. Thus when assessing the effectiveness of legislation, setting parameters for derogation, determining the need for enforcement or addressing appropriate penalties there is no clear or consistent basis on which judgements are made. Thus “shooting a robin” may be deemed a more significant crime than “destruction of the last adder site in a county”, and while it appropriate to consider the degree of malice, etc, by the perpetrator it is also important to set this in the context of the overall impacts on biodiversity conservation. We therefore recommend that through other processes (eg biodiversity action planning) clearer frameworks are established for describing conservation objectives against which impacts of wildlife crime can

be assessed and proportionate responses developed. These will also provide a framework for understanding impacts and should be considered when considering or executing a prosecution.

4.2 The complexity of legislation should be addressed through producing consolidated legislation at country level. Measures should be taken to standardise legislation relating to UK level obligations and look to consistent interpretation across the different countries in the UK. While appreciating the political drivers to do otherwise, we would suggest there would be a value in distinguishing between legislation requiring a UK competence (akin to “federal legislation”) as opposed to that more readily can be devolved.

4.3 We feel that closer relationships should be support should be generated between statutory/competent authorities and enforcement agencies to help increase confidence and capacity in both agencies to wildlife law enforcement. For example, this could include the secondments of police officers to statutory nature conservation organisations or more actively engaging biodiversity organisations with the Police Wildlife Officer network. CPS needs to be better trained in wildlife issues, and should be encouraged take more wildlife related prosecutions, both in respect of sites and species. There needs to be a much clearer message about the public benefit and significance of wildlife so the relevance of taking prosecutions for the public good is better understood.

4.4 Habitat loss is a serious problem for nature conservation and legislation should be considered to address this. Consideration could be given to: (i) creating (new) offences in respect of loss of habitat (in the wider countryside). This has implications, for example for European Protected Species, though is currently not an offence, (ii) creating new offences in respect of damaging/destroying sites before surveys are undertaken that are materially required to inform the decision making process (in what could be termed “pre-emptive trashing”). This could be regarded as perverting the course of statutory decision making processes.

4.5 When looking at sentencing, economic impact assessments should be carried out and needs to serves as a deterrent. Where development impacts on European Protected Species, mitigation can be costly for example, the cost of a typical GCN mitigation scheme that includes a long term compensatory component has been calculated to be in the region £230–350,000. Sentencing must therefore ensure that those individuals/organizations that do not comply are not placed at an economic advantage. Sentencing should consider greater use of forfeiture of equipment used in offences and look to seek compensatory measures, perhaps including cost of purchase and management of land to offset conservation impacts.

4.6. There needs to be greater consistency of enforcement to ensure corporate compliance. Failure to enforce non-compliance can place people who do not comply with legislation at a commercial/economic advantage compared to those who do. This specific issue has been undervalued and understated to date. To help ensure “ecological security” and functionality of land following the implementation phase of a derogation licence we suggest that derogation licences are listed as a local land charge.

24 February 2012

Written evidence submitted by INTERPOL

1. BACKGROUND

INTERPOL and its Environmental Crime Programme

INTERPOL

1. INTERPOL is the world’s largest international police organisation, with 190 member countries. Created in 1923, it facilitates cross-border police cooperation, and supports and assists all organisations, authorities and services whose mission is to prevent or combat international crime. As the only organisation with the mandate to share and process criminal information globally, INTERPOL is able to lead efforts developing an international strategy to deal with criminal activity and aims to facilitate international police cooperation even where diplomatic relations do not exist between countries. Action is taken within the limits of existing laws in different countries and in the spirit of the Universal Declaration of Human Rights.

Environmental crime

2. Environmental crime is defined as a breach of a national or international environmental law or treaty that exists to ensure the conservation and sustainability of the world’s environment, biodiversity, or natural resources and includes but is not limited to illegal trade in wildlife, illegal logging or fishing, pollution of air, water and soil and theft of natural resources.⁹

3. INTERPOL recognizes that environmental crime is a serious growing international problem, threatening not only the world’s biodiversity but also the global economy and security. It is not restricted by borders and is often interconnected with other types of criminal activities, such as corruption, fraud, theft and even murder. In addition, there are examples where environmental crime is linked to issues such as the arms trade and conflict; and the spread of diseases including *zoonosis*. For these reasons, INTERPOL addresses these issues as matters of “environmental security” which affect not only the natural world, but also human health and welfare.

⁹ Environmental Crime Programme Strategic Plan 2011–13

INTERPOL Environmental Crime Programme

4. INTERPOL's work against wildlife crime dates back to 1992 with the creation of the Environmental Crime Committee to assist INTERPOL in identifying emerging patterns and trends in the field of environmental crime. The Committee acts as a forum in which law enforcement officials can meet face to face in order to discuss new strategies and practices, share experience and expertise, and build bridges of international cooperation vital to the fight against international environmental crime. Two working groups, the Wildlife Crime Working Group (WCWG) and the Pollution Crime Working Group (PCWG) further focus the Committee's activities in specific areas.

5. INTERPOL's efforts were further strengthened in 2009 with the formation of the INTERPOL Environmental Crime Programme (ECP) which brought all forms of environmental crime under the management of one dedicated unit. The mission of the ECP is to assist member countries in the effective enforcement of national and international environmental laws and treaties. Through this we can contribute to the ongoing conservation of the world's environment, biodiversity and natural resources.

6. Since its creation the ECP has coordinated global and regional operations, delivered training on standard communication techniques, secure system procedures and intelligence gathering and analysis, developed law enforcement guides, coordinated intelligence campaigns, and hosted and managed international conferences.

7. The negative effects of environmental crime are not limited to individual nations thus there is a fundamental need for international cooperation and coordination. INTERPOL therefore encourages participation from environmental experts across the world in order to maximize the global impact of current projects and to devise new initiatives. The overarching aim is to identify ways and methods to improve the flow and exchange of information between wildlife enforcement agencies, INTERPOL National Central Bureaus (NCBs) and the INTERPOL General Secretariat.

8. The INTERPOL Environmental Crime Programme is funded entirely from external sources and is not eligible to receive core funding from the INTERPOL General Secretariat. As a result, the Programme is reliant on voluntary direct donations from NGOs and governmental departments to continue its work. However, following the unanimous resolution adopted at the 79th INTERPOL General Assembly in 2010 (Appendix 1), the Organisation's member countries committed themselves to a sustainable Environmental Crime Programme through departmental support for the Programme's goals and objectives.

2. UK—INTERNATIONAL ACTIVITIES

9. Due to INTERPOL's international scope, our evidence regarding the UK's response to environmental crime will focus on its international dimensions, particularly within the scope of engagement with INTERPOL Environmental Crime Programme.

UK Engagement with INTERPOL

10. A number of UK Government agencies concerned with wildlife crime have played a vital role in the development of the INTERPOL ECP and displayed leadership in a number of ECP projects and operations. Furthermore, some agencies have provided vital financial assistance to the ECP.

UK National Wildlife Crime Unit (NWCU)

11. From 2010 and until February 2012, the UK NWCU's representative was the Chairperson of the WCWG and the project leader of Wildlife Operations project. This WCWG project supports ECP coordinated operations and insures that recommendations from conferences on environmental crime are followed in accordance with the ECP's strategic plan. In 2010, NWCU assisted with two successful cross-border operations coordinated by INTERPOL:

12. *Operation TRAM*, which targeted the illegal trade in traditional medicines containing wildlife products, involved 18 countries across five continents and resulted in seizures of more than EUR 10 million worth of illegal medicines worldwide. The operation was developed and coordinated by the INTERPOL Environmental Crime Programme with strong support from the UK NWCU, in response to the increasing use of endangered and protected wildlife products in traditional medicines throughout the world.

13. *Operation RAMP*, which involved participants from 51 countries across five continents in an effort to fight illegal trade in reptiles and amphibians. Internationally, this operation led to more than EUR 25 million worth of animals and product being seized. In the UK, for the duration of operation RAMP, more than 60 inspections were completed at Heathrow, Gatwick and Manchester airports, and visits were made to reptile traders, importers and exporters across England, Scotland, Wales and Northern Ireland. This included the cooperation of 46 police forces across the UK, Animal Health's Wildlife Licensing and Registration Service, the NWCU and the UK Border Agency (UKBA).

14. The NWCU, through the WCWG, is currently actively assisting in the development and establishment of Project PREDATOR, an INTERPOL lead initiative targeting the illegal trade in tigers and tiger products, and Project WISDOM, a project targeting the poaching and illegal trade in elephant ivory and rhinoceros horn.

UK Department for Environment, Food and Agriculture (DEFRA)

15. DEFRA has cooperated closely with INTERPOL and has been an important partner throughout ECPs existence providing financial assistance despite the economic crisis affecting contributions. At the end of 2011, DEFRA granted £75,000 towards the establishment and development of Project PREDATOR and £90,000 for the development of Project WISDOM. With current engagement in ongoing operations, DEFRA is setting a prime example for other governmental organisations in combatting wildlife crime.

16. DEFRA has been active in conferences and meetings organized by the ECP and has also confirmed its participation in the forthcoming 1st International Chiefs of Environmental Compliance and Enforcement Summit to be held in Lyon, France, 27–29 March 2012. The summit, hosted by The INTERPOL General Secretariat and the United Nations Environment Programme (UNEP), will bring together world leaders in the field of environmental law enforcement with the aim of improving environmental compliance, and to take the first co-operative step towards an enhanced state of international law enforcement collaboration.

Environment Agency for England and Wales (EA)

17. The Environment Agency provided funding in 2008 and 2009 to assist the nascent ECP in conducting a vital awareness raising campaign. This support enabled the ECP to produce marketing materials including posters, presentation templates, and a booklet in INTERPOL's four official languages: Arabic, English, French, and Spanish. These materials were invaluable in securing international support for the ECP from both government and civil society. Following the launch of this awareness raising campaign, international engagement with the ECP's projects and operations increased significantly from our member countries as did NGO interest in financially supporting the ECP. Without this support the ECP would not have achieved the breadth of international success, engagement, and support at the speed it has.

18. The Environment Agency was a key contributor to the 2009 INTERPOL report *Electronic Waste and Organised Crime—Assessing the Links* as part of its work with the PCWG. Inspired by EA's intelligence led operational successes, the PCWG adopted the EA intelligence led approach on a global level within the framework of an INTERPOL project that assessed the links between organised crime and the waste sector since 2006. The EA generously offered to take the leading role in this project which has continued its mission under the name INTERPOL Global E-Waste Crime Group. The Group was launched in 2010 and aims to further investigate links with organised crime, perform tactical analysis, provide sustainable integrated solutions for awareness, intelligence, prevention and enforcement, and set up intelligence-led global joint operations.

Scottish Environment Protection Agency

19. The Scottish Environment Protection Agency (EPA) attended 23rd Wildlife Crime WG Meeting and 17th Pollution Crime WG Meeting in Bangkok, Thailand held in February 2012 and has confirmed its participation in the forthcoming 1st International Chiefs of Environmental Compliance and Enforcement Summit to be held in Lyon, France 27–29 March 2012. By engaging in international events and meetings organized by INTERPOL ECP, The Scottish EPA is showing an active participation in the global efforts to combat environmental crime.

UK Border Agency (Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Team)

20. Although the UK Border Agency has had only limited direct contact with the ECP, the Agency's CITES Team contributed to the 2010 Wildlife Smuggling Concealment Case Study Handbook. This manual for law enforcement officers was produced principally by the New Zealand Wildlife Enforcement Group under the auspices of INTERPOL. The Border Agency provided a number of images of methods used by wildlife smugglers to conceal wildlife when crossing borders and also provided commentaries on how their officers detected the concealments.

21. The UKBA's operational activities (as noted above) were prominent during Operation RAMP. Such operations highlight the importance of cooperation between the local and national authorities and the INTERPOL NCB for successful information exchange and communication. Unfortunately, as will be discussed further in this document, successful intelligence and information sharing between UK and INTERPOL is an area in need of improvement.

3. COMMUNICATIONS AND INFORMATION EXCHANGE

22. While open sources indicate that the UK is responsible for a large amount of enforcement actions and successes against wildlife crime, INTERPOL records contain only limited information to reflect this. Between 1997 and 2012 only a quarter of information exchange between authorities in the UK and INTERPOL contained information related to wildlife crime, with the remaining three quarters predominantly concerning pollution crime.¹⁰

23. In 2011, the INTERPOL Environmental Crime Programme processed 41 transmissions from the United Kingdom, containing one or more intelligence report. On the basis of these transmissions, the criminal history

¹⁰ According to records held in the INTERPOL Criminal Intelligence System (ICIS)

of 172 persons and numerous companies (suspects, fugitives, convicted felons, associates) was recorded onto the INTERPOL Criminal Information System. The vast majority of these intelligence reports were provided by the Environment Agency of England and Wales related to electronic waste trafficking. Approximately 10 transmissions from the United Kingdom, related to environmental crime, are currently pending processing.¹¹

24. While communication in general among the UK's environmental agencies, the INTERPOL NCB in London and the INTERPOL General Secretariat has been efficient and effective in the recent years, the connection between the national and international environmental crime intelligence model does not seem to have been fully incorporated in standard procedures. This particularly concerns wildlife crime related intelligence. Furthermore, the use of INTERPOL's recommended format for communication for environmental crime incidents, the Ecomessage, has not been implemented by the UK authorities. Apart from a single exception, no information received from the UK in 2011 was submitted using this format, which was designed and recommended by INTERPOL at the request of and in close cooperation with the member countries, gathered in the INTERPOL Environmental Crime Committee.

25. The Ecomessage system provides a uniform format to report all forms of environmental crime. The form is available in the four official languages of INTERPOL and is designed to facilitate the rapid, efficient and methodical entry of data into the INTERPOL data systems, where it can be cross-referenced with previous entries and become available as structured data for strategic and tactical criminal analysis.

26. Given the international nature of environmental crime and the necessity of cooperation between law enforcement agencies globally in order to successfully apprehend and deter criminals, there are a number of clear benefits for the use of the Ecomessage:

27. The field structure of the format supports and guides the reporting officer to complete all necessary information accurately.

28. Information collected by Ecomessages can be recorded and structured more accurately and efficiently into the database. This allows INTERPOL criminal analysts to better study the data on a strategic level to discern such information as the structure, extent, and dynamics of international criminals and organisations involved. On a tactical level, the analyst able to make connections on a global between routes and elements of transnational organised crime groups that cannot be discovered at a national level.

29. Swift cross-referencing of information can produce rapid and valuable feedback on similar charges in a different country, wanted status, prior convictions or other criminal history details that may be of great value to on-going investigations in the reporting country. Furthermore, through INTERPOL's I-24/7 global police communications system, electronic Automated Search Facility (eASF) and MIND/FIND system, law enforcement officials on the ground will have immediate access to this information for so called "hit/no-hit" checks.

30. The Ecomessage form enables the reporting agencies to make well specified requests and receive accurate responses from other member countries and the INTERPOL General Secretariat. In doing so, countries encourage effective international cooperation between law enforcement agencies. In the case of smuggled wildlife, the Ecomessage system also allows countries to address such issues as the repatriation and preservation of seized wildlife.

31. To date, the UK has not adopted the Ecomessage system as an integral part of their national environmental intelligence model. This has two major consequences:

32.(1) A large amount of relevant enforcement information that may be crucial for effective environmental law enforcement in other member countries and is vital for adequate criminal analysis at the INTERPOL General Secretariat remains unknown to the global enforcement community.

33.(2) The processing and recording of the provided unstructured information onto the INTERPOL systems requires an unnecessary and disproportionate amount of the scarce capacity available at the INTERPOL Environmental Crime Programme, both in extracting the relevant data elements from the submitted reports and in follow-up efforts to request additional information. This information is often needed to be able to record the intelligence in accordance with the INTERPOL rules for processing enforcement information or to fill in crucial intelligence gaps.

34. For comparison, the Polish National Environmental Intelligence Model has adopted the Ecomessage format as an efficient and effective internal reporting tool from the local to the national level. Sharing these reports with relevant member countries and the INTERPOL General Secretariat requires therefore minimum effort and is included in standard procedures. The processing of the forms at INTERPOL is equally time efficient. 92% of the close to 100 transmissions received from Poland in 2011 contained one or more Ecomessage forms.

35. It is strongly recommended that the United Kingdom assess the opportunities to include the international sharing of relevant environmental enforcement information in the standard procedures of its National Intelligence Model and adopt, where possible, the Ecomessage for reporting.

¹¹ INTERPOL Environmental Crime Programme, 2012, *Quarterly Intelligence Report Quarter 4 October 2011–December 2011 Including annual overview*, Lyon, INTERPOL—For Official Use Only

4. ROLE OF NON-GOVERNMENTAL ORGANISATIONS (NGOs)

36. The UK has a number of active and effective NGOs. It is predominantly these UK based NGOs that ensure the UK's representation at international events, meetings, conferences and summits. Recent 23rd Wildlife Crime WG Meeting and 17th Pollution Crime WG Meeting in Bangkok, Thailand held in February were attended by representatives from TRAFFIC, Global Witness, TRACE Wildlife Forensic Network, and the UNU institute of advanced studies.

37. In addition, two NGOs in particular have been consistently engaged with the ECP's activities:

38. *The International Fund for Animal Welfare (IFAW)* has been supporting INTERPOL's wildlife crime activities for over a decade and has been a strong and consistent donor with regards to ECP's projects. IFAW is currently providing funding in support of both Project PREDATOR and WISDOM and has actively participated in international meeting and forums. A vital contribution was made to the six-day training initiative in Botswana for law enforcement officials from 10 countries which comprised classes and exercises in how to combat illegal wildlife trade.

39. *The Environmental Investigation Agency (EIA)* UK office has actively engaged in highlighting the role of INTERPOL at an international level, improving the exchange of information and outreach material and endorsing the creation of the International Consortium on Combatting Wildlife Crime (ICWC), encouraging more parties to get involved. EIA's advocacy in support of the activities and objectives of the ECP is also acknowledged and appreciated.

40. The number of UK based NGOs involved in the international arena, and particularly with INTERPOL, should also be seen as a motivation for governmental bodies to become more involved in providing similar support to INTERPOL's efforts in combatting and preventing environmental crime activities.

5. CONCLUSION AND RECOMMENDATIONS

41. The UK's involvement in the work of the Environmental Crime Programme since its formation in 2009 sets an example to other member countries. The support received from various agencies has not only been valuable in developing the ECP, but is also responsible for the creation of successful projects, increased cooperation with other countries, and assistance provided in a number of successful operations. The UK NWCUs involvement in the Wildlife Crime Working Group, in particular, supports the notion that the UK government recognizes the seriousness of environmental crime and the financial support provided by the UK DEFRA and the EA is a leading example of the efficient and effective cooperation on the international level.

42. However, there are a number of weaknesses, as outlined above, informing a number of recommendations:

43. The UK government is strongly encouraged to continue raising awareness of the importance of law enforcement and compliance response to environmental crime.

44. The INTERPOL Environmental Crime Programme encourages greater governmental commitment to the UKs environmental crime agencies to support their responses to environmental crime on national and international levels.

45. UK environmental crime agencies are encouraged to increase their engagement with the INTERPOL Environmental Crime Programme to strengthen their involvement in combatting environmental crime on the international level.

46. The identified weakness in effective environmental crime related information and intelligence sharing between the UK and INTERPOL needs to be addressed. In order to improve this, it is strongly recommended for the UK to assess the opportunities to include the international sharing of relevant environmental enforcement information in the standard procedures of its National Intelligence Model and adopt where possible the Ecomessage field structure for reporting.

47. The INTERPOL Environmental crime, in line with the 79th General Assembly Resolution, is urging the UK, as a member country, and partner organisations to support the work of the Programme by making voluntary financial contributions.

48. Further in line with the 79th General Assembly Resolution, INTERPOL is urging the UK, along with the other member countries, to provide support by seconding specialized personnel.

49. Only by working together with common objectives will we truly have an impact on the activities of the individuals, networks and companies that illegally exploit our shared environment.

APPENDIX 1

AG-2010-RAP-08

GENERAL ASSEMBLY RESOLUTION

Subject: Sustainable Environmental Crime Programme

The ICPO-INTERPOL General Assembly, meeting in Doha, Qatar, from 8 to 11 November 2010 at its 79th session:

DEEPLY CONCERNED about the impact that environmental crime can have on the planet, the environment, biodiversity and human life,

TROUBLED by the influence that environmental crime has on the global economy and security,

RECOGNIZING that environmental crime is not restricted by borders and involves organized crime which engage in other crime types including murder, corruption, fraud and theft,

BEARING IN MIND the long-standing commitment by INTERPOL to fighting environmental crime, evidenced by AGN/61/RES/12 recommending that INTERPOL form the Environmental Crime Committee,

ACKNOWLEDGING that environmental law enforcement is not always the responsibility of one national agency, but rather, is multi-disciplinary in nature due to the complexity and diversity of the crime type which can encompass disciplines such as wildlife, pollution, fisheries, forestry, natural resources and climate change, with reaching effect into other areas of crime,

TAKING INTO ACCOUNT that there is a vital need for a global response to combating environmental crime and that INTERPOL, as the largest international police organization, should play a leading role in supporting the international enforcement efforts,

CONSIDERING that not one national agency is responsible for enforcing environmental laws, that there is a need for these responsible agencies to be connected with INTERPOL and the National Central Bureaus and that these agencies contribute to the enforcement efforts alongside the international police community,

URGES the member countries and partner organizations of INTERPOL to support the Organization by making voluntary financial contributions or, in the case of member countries, by seconding specialized personnel in support of the INTERPOL Environmental Crime Programme, and

URGES the National Central Bureaus to support the Environmental Crime Programme by connecting with the responsible national agencies and encouraging their involvement and support.

24 February 2012

Written evidence submitted by the League Against Cruel Sports

THE LEAGUE AGAINST CRUEL SPORTS

The League Against Cruel Sports campaigns to expose and end the cruelty inflicted on animals in the name of sport. As an animal welfare charity, the League has a strong concern with animal health and welfare as well as the prevention of unnecessary suffering. The League welcomes the opportunity to provide its input into the Environmental Audit Committee's inquiry into wildlife crime.

The League is currently investing significant resources into tackling wildlife crime which will result in around 18 full-time dedicated members of staff, making it over five times the size of the National Wildlife Crime Unit (NWCU) and larger than the RSPCA Special Operations Unit and the RSPB Investigations Team.

SUMMARY

- Wildlife crime is a significant issue and indications are that it is on the increase, but important data is difficult to obtain as wildlife crime is not generally recorded by the Home Office.
- It is vital that wildlife crime offences become "notifiable offences" and are therefore recorded at the Home Office in order to facilitate effective strategic assessment, prioritisation and deployment of enforcement resources and measurement of performance.
- Between 1 September 2011 and 1 February 2012 311 incidents were reported to the League Against Cruel Sports where wildlife crime or suspicious activity relating to wildlife crime was assessed to be present. Of those, 40.1% had been or were going to be reported to the police.
- There are significant links between wildlife crime and serious and organised crime which demonstrates the clear need for a zero-tolerance approach in policing to wildlife crime offences.
- A review of penalties for wildlife crime offences is necessary as a result of the current anomalies in sentences.
- Tackling wildlife crime has the potential to unite the rural community.

INQUIRY RESPONSE

1. It is clear that wildlife crime is a significant problem and there are indications that it is on the increase, as shown in statistics from the National Wildlife Crime Unit's (NWCU) Annual Report 2010:

*“There have been 3,477 intelligence logs processed at the NWCU this year alone—almost the same amount that were processed in the two previous years added together. The unit also processed nearly 10,000 incidents, compared to just 3,832 in 2008–09”.*¹²

2. Between 1 September 2011 and 1 February 2012 311 incidents were reported to the League Against Cruel Sports where wildlife crime or suspicious activity relating to wildlife crime was assessed to be present.

- Of those, 40.1% had been or were going to be reported to the police. 17.3% of all incidents included “Havoc”. Havoc is recorded where wildlife crime is present with either anti social behaviour, criminal damage or highway obstruction.
- Where “Havoc” was present, 51.8% of incidents were reported to the police.
- Of incidents where firearms were seen, 80% were reported to the police and where there was violence 67% were reported. Although disappointing that not all firearms and violent incidents were notified, the figure represents a contrast to the significant under-reporting of other criminal activity.

Whilst the public recognises the need to report serious crime, they are less likely to report minor (including wildlife) crime. Considering that much reporting received by the League Against Cruel Sports is based within rural communities this suggests there may be a potential lack of confidence in policing in these areas. The League Against Cruel Sports has the capability to record rationale for the under reporting identified and intends to do so during 2012.

3. The following table produced by the Ministry of Justice, sets out the number of cautions, prosecutions and convictions under a range of wildlife legislation for the years 2005–10 and demonstrates the scale of the problem faced by wildlife crime enforcement agencies. The MoJ was unable to provide statistics for offences under the Control of Trade in Endangered Species Regulations 1997, the Habitats (The Conservation [Natural Habitats, &c.] Regulations 1994 or the new The Conservation of Habitats and Species Regulations 2010, so the actual totals for wildlife crime prosecutions will, in fact, be higher). Total convictions in 2006 numbered 174; by 2008 this had increased to 220 and by 2010 the total was 269.

PERSONS(1) CAUTIONED, AND DEFENDANTS(1) PROCEEDED AGAINST AND FOUND GUILTY OF OFFENCES UNDER SELECTED LEGISLATION, ENGLAND AND WALES, 2005–10(2)

Legislation	2005			2006			2007		
	Cautioned	Proceeded against	Found guilty	Cautioned	Proceeded against	Found guilty	Cautioned	Proceeded against	Found guilty
Deer Act 1991	3	4	3	0	1	0	0	3	1
Game Act 1831(5)	6	421	341	17	57	35	9	81	60
Hunting Act 2004	1	2	2	0	11	5	8	62	48
Night Poaching Act 1828(5)	2	36	29	2	19	14	10	21	16
Protection of Badgers Act 1992	0	39	20	0	22	7	8	30	11
Wild Mammals (Protection) Act 1996	1	3	1	4	7	4	3	7	3
Wildlife and Countryside Act 1981(5)	18	62	44	14	150	109	19	49	38

Legislation	2008(3)			2009			2010		
	Cautioned	Proceeded against	Found guilty	Cautioned	Proceeded against	Found guilty	Cautioned	Proceeded against	Found guilty
Deer Act 1991	0	4	1	4	3	2	0	10	5
Game Act 1831(5)	17	125	110	5	163	128	15	178	135
Hunting Act 2004	4	44	33	8	92	59	11	49	36
Night Poaching Act 1828(5)	9	25	16	17	44	32	25	48	37
Protection of Badgers Act 1992	2	37	22	2	50	30	6	50	30
Wild Mammals (Protection) Act 1996	0	6	5	2	8	5	2	6	4
Wildlife and Countryside Act 1981(5)	12	41	33	15	48	33	13	41	22

¹² UK National Wildlife Crime Unit (2011) Annual Report 2010. [online] <http://tinyurl.com/8xbp5sb>

4. Although there are indications that wildlife crime is on the increase, there is a significant problem for law enforcement agencies and NGOs: the vast majority of wildlife crime offences are not currently being recorded by the police because the Home Office does not require them to do so. The Ministry of Justice prosecution statistics have only limited meaning because we do not have any idea how many such offences occurred in the first place; there is no way of determining the relevant detection rates because only the offences prosecuted are counted.

So in 2010, for example, there were 269 convictions recorded in the criminal courts for the range of wildlife crimes shown in the table above, but how many similar, undetected offences occurred? What is the overall detection rate in 2010 for offences against the Protection of Badgers Act 1994, for example? There is no way of knowing unless *reported* offences are counted first and then that number is contrasted with the number of offences prosecuted.

Reported wildlife crime offences will not be categorised and recorded by the police until the Home Office requires them to do so by designating them as “notifiable”.

Generally, police forces give wildlife crime very low priority because there is little data available to them from which they can make a proper assessment of the range and scale of the problem. If the police are not required to record wildlife crime offences reported to them by the public, it is not difficult to understand why the attention of crime managers is diverted elsewhere and that resources are allocated accordingly. It can be argued that this reduces confidence in the police, especially within rural communities, and leads to fear, frustration and even confrontation when people living and working in the countryside see wildlife crime being committed and the police not dealing with it effectively.

Furthermore, it is understood that wildlife crime is not on the national curriculum for the training of police officers and this may be related to the fact that wildlife crime is not recorded and does not feature in policing plans.

5. The Environmental Audit Committee’s “Wildlife Crime” report in 2003–04 recognised the problem of wildlife crime not being “notifiable offences” and called for them to become recordable, but this has yet to occur:

“Wildlife crime must be classified as recordable by the Home Office so that police forces across England and Wales know that sufficient priority needs to be given to tackling wildlife crime and so that they can allocate the necessary resources to this work.”¹³

6. The Home Office publishes a list of all “notifiable offences”. Many offences included in that list can only be dealt with by way of a fine and yet are notifiable offences (eg making a false statement to obtain motor insurance), and so constitute “recorded crime”. There are clearly important precedents here because the argument in the past that wildlife crimes should not be notifiable was because they are said to be only *minor summary offences*. In fact, most wildlife crimes are imprisonable offences—see table below:

Wildlife & Countryside Act 1981	6 months imprisonment
Protection of Badgers Act 1992	6 months imprisonment
Wild Mammals (Protection) Act 1996	6 months imprisonment
Animal Welfare Act 2006	51 weeks imprisonment
Conservation of Habitats Regs 2010	6 months imprisonment
Deer Act 1991	3 months imprisonment
Salmon & Freshwater Fisheries Act	3 months imprisonment
Night Poaching Act 1828	6 months imprisonment
Hunting Act 2004	Level 5 fine
Game Act 1831	Level 5 fine
Poaching Prevention Act 1862	Level 3 fine

It seems absurd that someone can go to prison for a wildlife crime offence but the Home Office regards the offence as too trivial to record as a crime.

7. To make wildlife crime a recordable offence is a relatively simple change that would play a significant role in allowing police forces, law enforcement agencies and NGOs to have a much clearer picture of the real impact that wildlife crime is having in the UK. Such a change will enable police forces, the NWCU and NGOs to strategically target their resources in the most effective way to combat wildlife crime. The League urges the Committee to once again press the Home Office to make these necessary changes.

8. A review of the penalties for wildlife crime offences needs to be undertaken due to the current illogical anomalies that exist. For instance, the maximum sentence for “clubbing” a domestic pet to death is a custodial term of 51 weeks, but the same offence against a badger or a fox would result in a maximum sentence of six months imprisonment. The Animal Welfare Act 2006 set a precedent of sentencing powers up to 51 weeks (as the maximum penalty that can be ordered in the Magistrates’ Court, subject to the provisions of Section 281(5) of the Criminal Justice Act) and the League firmly believes that magistrates should have a range of penalties at their disposal, including custodial sentences of up to 51 weeks, for all wildlife crime offences.

¹³ Environmental Audit Committee (2004), *Environmental Crime: Wildlife Crime*. Twelfth Report of Session 2003–04 House of Commons, p12

9. There are numerous links between wildlife crime and serious and organised crime which demonstrates the vital need for a zero-tolerance approach and committed police resources to tackle the significant problem of wildlife crime. This view is supported by this Committee's previous report in 2003–04 which stated:

*"We see this refusal to accept wildlife crime as an issue deserving of committed police resources as especially short-sighted given the many links between wildlife crime and serious and organised crime."*¹⁴

10. The EAC report in 2004 further highlighted the joint report, *The International Wildlife Trade and Organised Crime*, which was published in 2002 by the World Wide Fund for Nature (WWF) and the wildlife trade monitoring network, TRAFFIC International, and estimated that 50% of those prosecuted for wildlife crimes over a 12 month period also had previous convictions for serious offences, including drugs and firearms. Another report entitled *Cruelty to Animals and Other Crimes* from December 1997 by the Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA) and Northeastern University found:

"70% of the people who committed violent crimes against animals also had criminal records for violent, property, drug or disorder offences".¹⁵

11. A report by the National Society for the Prevention of Cruelty to Children (NSPCC) in 2007 further supports the links between animals abuse and other crimes:

"It is also clear from analysis of some highly deviant individuals, that abusing animals is a developmentally significant experience, which may contribute to the development of empathy deficits and which may project them towards violence later in adolescence and adulthood. For such highly deviant individuals, the experience of harming animals in their childhood may well have served as a powerful developmental mechanism, which desensitises them to pain inflicted on others and which may inhibit the development of their capacity for empathy to other people".¹⁶

12. Perhaps most importantly, tackling wildlife crime has the potential to unite both the rural and urban communities. Wildlife crime is not purely a rural activity; it takes place in all communities and so needs to be seen in this way. The League is beginning to see wildlife crime as the rural equivalent of the "broken window" theory which suggests that an inability to deal with relatively minor crimes such as a broken window can lead to an increase in illegal activity which then progresses to more serious crime being committed. Wildlife crime logically fits into this theory particular with members of the public who see such offences not being dealt with in a zero-tolerance approach which can lead to public distrust in the police not to mention division between communities. The League firmly believes that developing a zero-tolerance approach to wildlife crime, including making such offences recordable crime has the potential to rebuild confidence between the public and the police in rural communities as well as strengthening community cohesion.

24 February 2012

Written evidence submitted by WWF

A. INTRODUCTION

A.1 WWF is a leading global conservation organisation, employing over 5,000 staff in more than 100 countries and with more than five million supporters across the world. WWF-UK was launched in 1961 and has offices in England, Northern Ireland, Scotland and Wales. It is a challenging, constructive, science-based organisation that addresses issues from the survival of species and habitats to climate change, sustainable consumption and environmental education.

A.2 WWF has worked on wildlife trade issues since its inception, and in 1976 founded TRAFFIC, a joint programme with the International Union for the Conservation of Nature (IUCN), to ensure the trade in wild plants and animals is not a threat to the conservation of nature. WWF and TRAFFIC work very closely on illegal wildlife trade issues, either jointly or in parallel individually.

A.3 WWF-UK welcomes the Environmental Audit Committee's inquiry into Wildlife Crime at this time. It is hoped that the inquiry will raise the profile of these pressing issues and ensure they get the political attention they deserve.

A.4 The evidence presented here primarily relates to illegal wildlife trade.

B. SUMMARY AND RECOMMENDATIONS

B.1 Illegal wildlife trade is the major threat to many flagship and keystone species, including tigers, rhino and elephants. Whilst there has been some progress in recognising this as serious and organised crime since 2004, much more recognition and resourcing is needed to tackle this problem effectively.

¹⁴ Environmental Audit Committee (2004) Environmental Crime: Wildlife Crime. Twelfth Report of Session 2003–04 House of Commons

¹⁵ MSPCA & Northeastern University, December 1997, Cruelty to Animals and Other Crimes

¹⁶ NSPCC Inform, October 2007, Animal abuse and child maltreatment: A review of the literature and findings from a UK study, p21

B.2 The Home Office has signalled its intentions to significantly restructure both the UK Border Agency (UKBA) and the major institutions of crime enforcement. WWF-UK believes it is vital that illegal wildlife trade is kept high on the agenda and given the recognition it deserves as a serious, organised crime.

B.3 WWF-UK look forward to inputting to the long-awaited review of the Control of Trade in Endangered Species (Enforcement) Regulations (COTES) later this year as necessary changes are urgently required.

B.4 Prosecutions should be sought jointly under both COTES and Customs and Excise Management Act (CEMA) legislation and utilise other legislation such as fraud, proceeds of crime and serious crime prevention orders that also often apply to wildlife crimes.

B.5 Clear guidance on UK legislation and regulation on wildlife trade would reduce accidental infractions by normally law-abiding traders.

B.6 Increased penalties for wildlife trade offences would act to deter future criminal acts and better reflect the gravity of the crime.

B.7 WWF-UK recognises that Police forces across the UK are under considerable pressures in resourcing and staffing, but nevertheless believes that wildlife crime enforcement should not be neglected.

B.8 Long-term sustainable funding should be secured for the National Wildlife Crime Unit (NWCU) for a full complement of staff and sufficient tools in order to work effectively. Illegal wildlife trade should be recognised as a priority for enforcement by the Home Office, and properly resourced within all relevant bodies including the UK Border Agency (UKBA), UK Border Force (UKBF), and the future National Crime Agency.

B.9 The vacant Head of Compliance post at Animal Health and Veterinary Laboratories Agency (AHVLA) should be filled by an enforcement professional as this has been extremely effective. Consideration should be given to merging this inspectorate with the NWCU and UKBA/UKBF.

B.10 Cooperation with enforcement agencies and prosecutors fighting organised drug, arms and other serious crimes should be improved, with the same tools they use made available to those fighting illegal wildlife trade.

B.11 Each Police force should have at least one full-time Wildlife Crime Officer, fully trained in intelligence gathering, to effectively combat this crime.

B.12 An information sharing protocol should be agreed between the NWCU and National Crime Agency for information about Level 3 wildlife crimes.

B.13 The government and responsible enforcement bodies do not have adequate resources to be aware of newer threats and challenges, and to be able to respond effectively. This also applies to “older” threats. WWF-UK welcomes the one year of funding that has currently been secured for the NWCU to investigate the issue of internet wildlife trade and encourage long-term support if this proves to be effective.

B.14 WWF-UK urges that all wildlife crime is made a recordable crime, and targets are set, so that it is properly accounted for and the scale of the problem can be fully ascertained and addressed.

B.15 Available penalties are not applied rigorously enough to reflect the nature of illegal wildlife trade crimes, nor to act as a deterrent for future offences. A fully-trained wildlife specialist prosecutor should be established in each region, and sentencing guidelines produced.

B.16 Whilst some activities are undertaken to change behaviour and attitudes, and thereby reduce the illegal wildlife trade, more could be delivered, especially if increased government funds were made available for communications materials.

B.17 The UK plays an important and critical role in the EU and internationally in relation to illegal wildlife trade issues. WWF-UK urges the UK to continue to act as a strong player in international agreements on illegal wildlife trade.

1. The scale of wildlife crime and its impacts, and how this has changed since our 2004 report

1.1 It is almost impossible to obtain reliable figures for the value of illegal wildlife trade because of its illicit nature. The value of illegal, unreported and unregulated (IUU) fisheries alone has been estimated as between USD 4.2 and 9.5 billion per year; the value of the illegal international timber trade as USD 7 billion per year; and the illegal wildlife trade (excluding timber and fisheries) as between USD 7.8 and 10 billion per year.¹⁷ Combining these, illegal wildlife trade is the fourth largest global illegal trade after drugs, counterfeiting, and humans¹.

1.2 Over 12,000 seizures of illegal wildlife products were made in the EU between 2005 and 2009.

1.3 There were 108 seizures of illegal wildlife products reported by UK Border Agency (UKBA) to the National Wildlife Crime Unit (NWCU) between September 2010 and May 2011. Of those, over 85% were related to traditional medicines; 10% involved ivory; and the remainder involved tortoises.

¹⁷ Myburgh, Johannes in Global Financial Integrity. Transnational Crime In The Developing World. Jeremy Haken. February 2011

1.4 TRAFFIC has compiled information on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) cases that have been successfully prosecuted at court in the UK since 1987 (see their separate submission for full table). Between October 1987 and May 2003 there were a total of 93 cases heard that resulted in a conviction. Since May 2003 a further 55 cases have been recorded, making a total of 148 since October 1987. The information contained in this table has been compiled from a number of different sources including the Police, HMCE, Defra and NGOs. Although every attempt has been made to ensure it is complete, this cannot be guaranteed.

1.5 Of these 148 cases, 60% related to bird convictions, 20% to parts and derivatives, 17% to amphibians and reptiles, and 3% to plants. Compared to 2004, bird convictions have increased by 10%, parts and derivatives convictions have reduced by 10%, amphibians and reptile convictions have increased by 2%, and plant convictions have reduced by 2%. HMRC prosecuted 30% of the cases, with the Crown Prosecution Service (CPS) (on behalf of the Police) prosecuting the remaining 70% of the cases. Compared to 2004, this is an increase of 5% for the CPS (and a corresponding decrease of 5% for HMRC). The high number of bird related convictions can be explained in part by the active role the Royal Society for the Protection of Birds (RSPB) plays in supporting and advising the Police in regard to bird-related crimes. Plant crime often goes undetected, partly because of a lack of knowledge of what constitutes such crime amongst the general public, and partly because enforcers have very little experience in this area. The use of other legislation for the prosecution of wildlife criminals has also begun to make an impact, such as fraud, proceeds of crime, and serious crime prevention orders.

1.6 Illegal wildlife trade is the major threat to the future survival of many flagship and keystone species, including tigers, rhino and elephants. One of the global obstacles to controlling illegal wildlife trade has historically been the widespread cultural perception that wildlife crime is not a serious crime; that it is even a “victimless” crime.

1.7 Yet the impacts of such wildlife crimes are vast—they often involve some of the same criminal networks as other serious crimes; they pose great risks to enforcement officials as well as those involved in the illegal trade; they can decrease government revenue; they can destroy ecosystems which provide fresh drinking water, flood control and livelihoods for communities; cause the introduction of invasive non-native species; and, of course, overexploitation can quickly lead to population, or even species, extinction.

1.8 Over the last two years, there has been some momentum in raising the profile of wildlife crime internationally. In particular, November 2010 was a banner month: (i) the International Consortium on Combating Wildlife Crime (ICWC) was launched, combining the forces of CITES, INTERPOL, the United Nations Office on Drugs and Crime (UNODC), the World Bank and the World Customs Organization (WCO);¹⁸ and (ii) The Interpol General Assembly passed a resolution¹⁹ recognising:

- (1) “that environmental crime is not restricted by borders and involves organised crime which engage in other crime types including murder, corruption, fraud and theft”;
- (2) “the influence that environmental crime has on the global economy”;
- (3) “the impact that environmental crime can have on the planet, the environment, biodiversity and human life, security.”

1.9 As an example of the scale of impact due to the illegal wildlife trade, since 2007, rhino deaths from poaching have increased at an alarming rate. Very few African rhinos now survive outside of protected areas or sanctuaries, and some groups remain small and threatened. In 2010, 333 rhinos were illegally killed in South Africa, including 10 critically endangered black rhinos. The poaching rate for 2011 far surpassed that, with 448 rhinos killed, of which 19 were black rhinos. That means more than one rhino was killed every day in South Africa alone. Poaching has spiked recently as a result of new rhino horn markets and increased prices for rhino horn; in particular in Vietnam, where rhino horn is now touted as a hangover cure, and as a cure for cancer, despite the lack of any supporting medical evidence. This poaching, driven by the illegal international trade in rhino horn, has the potential to reverse the conservation gains made for rhinos throughout the continent.

1.10 The main driver of elephant poaching continues to be the demand for ivory from Asian countries, mainly China and Thailand, where illegal ivory is openly on sale. Central Africa appears to be the main source of illegal ivory globally and the result is a rapidly declining elephant population in Central Africa. For example, it is estimated that the Democratic Republic of Congo (DRC), which was once home to more than 100,000 elephants, now has only four separate groups of more than 500, and the entire population of DRC may be as low as 2,500 elephants.

2. The extent to which UK legislation and regulations on wildlife crime are “fit for purpose” and the penalties for offences are adequate

2.1 Defra has informed us that the review of the Control of Trade in Endangered Species (Enforcement) Regulations (COTES) is underway with a public consultation expected later this year. This review has been long awaited, as changes compulsory for the proper implementation of CITES agreements are required, in

¹⁸ http://www.cites.org/eng/news/pr/2010/20101123_ICWC.shtml

¹⁹ http://www.cites.org/eng/news/pr/2010/20101108_Interpol_resolution.pdf

addition to changes desirable for more effective enforcement. WWF-UK looks forward to contributing to this review.

2.2 Many COTES offences will also have a link to illegal import or export, and as such prosecutions may apply under the Customs and Excise Management Act (CEMA) as well. WWF-UK encourages more joint prosecutions under both COTES and CEMA legislation. Where possible prosecutors should also seek to use other legislation, such as fraud, proceeds of crime and serious crime prevention orders that are often applicable to wildlife crimes.

2.3 Clear guidance on UK legislation and regulation on wildlife trade would reduce accidental infractions by normally law-abiding traders, thereby highlighting and marginalising those intentionally breaking the law.

2.4 A maximum penalty of five years' imprisonment applies to wildlife trade offences under COTES, and seven years under CEMA. Other crimes of a serious, organised and international nature are afforded greater maximum penalties, such as 14 years imprisonment for money laundering and human trafficking.

2.5 It is important that penalties for wildlife trade offences serve as a sufficient deterrent to future criminal acts (particularly where the risks are minimal in comparison to potential large profits) and reflect the gravity of the crime. For example, allowable jail time and fines should be increased, and powers to freeze and seize assets should also be put into place.

3. How policing of wildlife crime is coordinated in the UK (between bodies and geographically) and whether enforcement bodies have sufficient resources and powers, and how the proposed National Crime Agency might affect policing of this type crime

3.1 CITES offences are an agreed enforcement priority for the UK, with a particular focus on traditional medicines (including rhino horn), ivory and reptile trade (especially tortoises). The CITES Priority Delivery Group (CPDG) exists to co-ordinate delivery of the plan of action for this priority, led by the UKBA. The NWCU serves a vital role in the co-ordination and support of investigations into wildlife trade. However, the financial resources committed to the NWCU should be long-term, stable and sufficient for effective interventions. Current funding is secured only until April 2013.

3.2 An effective staff complement for this unit would require the following posts: Head of Unit, one senior intelligence officer and two intelligence officers, one senior analyst and one analyst, and six investigative support officers (one each in Scotland and Wales, two in northern England and two in southern England), and appropriate administration support. They ought to also be supplied with sufficient tools to deliver their work, including up to date laptops and smartphones for site visits.

3.3 Wildlife crime should be a priority for enforcement at the UK border. The UKBA CITES team at Heathrow airport have exceptional knowledge and expertise on enforcement of CITES trade controls. They play a valuable role, not only at Heathrow, but also by providing technical support to other ports of entry. However, they are under-resourced, and vacated positions remain unfilled.

3.4 The secondment of a police officer as the Head of Compliance at Animal Health and Veterinary Laboratories Agency ("Animal Health" or AHVLA) has been extremely effective in increasing targeted intelligence-led investigations. Recruitment for this critical, now vacant, post should seek another enforcement professional who understands and can work with the National Intelligence Model (NIM) approach used by Police and the UKBA.

3.5 Given the need for effective inter-agency cooperation, the possibility of merging the NWCU with the Animal Health inspectorate, along with a UKBA representative, should be explored.

3.6 In 2010, two operations co-ordinated by INTERPOL focused on illegal wildlife trade: Operation TRAM targeting the illegal trade in traditional medicines containing CITES-listed species; and Operation RAMP targeting the illegal trade of reptiles and amphibians. The UK participated in both operations, having also been instrumental in the conception of the idea, and the NWCU subsequently recorded increases in intelligence logs of 13% for the traditional medicines priority and 58% for tortoises.²⁰ Due to lack of resources, enforcement and reporting actions from these inspections are still on-going.

3.7 There should be increased cooperation between those agencies that deal with wildlife crime and other relevant anti-crime bodies, such as anti-tax fraud agencies, so that intelligence can be shared for mutual benefit. The same tools available to enforcement agencies and prosecutors in fighting organised drug, arms, and other crimes should also be available to those fighting illegal wildlife trade.

3.8 Scientifically approved forensic tests and other tools exist to facilitate prosecution of wildlife trade offences. However, Police resources need to be increasingly allocated to the use of such tools. WWF-UK, amongst others, has contributed to the Partnership for Action against Wildlife Crime (PAW) Forensic Analysis Fund, which enforcement authorities can use to part-fund forensic tests to facilitate the prosecution of wildlife crime offences. There have been occasions where matched funding from the relevant enforcement agency could not be obtained.

²⁰ NWCU Tactical Assessment October 2011

3.9 The enforcement of CITES controls varies across the UK, as Wildlife Crime Officers (WCOs), where they do exist, do not receive sufficient support from their superior officers to prioritise this work and use sufficient resources. The consistent submission of incident data to the Scottish Intelligence Database managed by the NWCUC is a positive reflection of full-time wildlife officers being in place in each force there. As recommended in the EAC 2004 report, there should be at least one full-time Wildlife Crime Officer for each Police force, fully trained in intelligence gathering. This ambition remains unfilled to date.

3.10 The World Society for the Protection of Animals (WSPA) recently announced its sponsorship of posts within the Metropolitan Police Wildlife Crime Unit (Met WCU), including an enforcement officer. WWF-UK shares WSPA's desire to see a successful future for the unit and preservation of their enforcement expertise. However, WWF-UK strongly believes that all financial support for enforcement of such serious, organised crime, as with others of a similar nature (eg drugs, human trafficking, gun smuggling, money laundering), should always come from government sources. It should be a priority for the London Mayor and the Metropolitan Police to ensure adequate, long-term funding for the Met WCU from within their own budgets.

3.11 In relation to the development of the National Crime Agency (NCA), most wildlife crime is Level 1 or 2 and therefore would not be of interest to the new agency. However, it is vital that information about Level 3 wildlife crime is passed to the NCA for appropriate action. This could be achieved through an information sharing protocol, in a similar manner to the way information is passed to the environmental lead in the Serious and Organised Crime Agency (SOCA) for action.

4. How well Government and responsible enforcement bodies are responding to newer threats and challenges, including use of the internet for wildlife trade

4.1 In 2010, the CITES Priority Delivery Group noted an increase in the number of re-export permits issued by Animal Health for rhino horns, and that "sold" prices for auctioned rhino horn antiques far exceeded the estimated price based on artistic value. As a result of concern over the effects this may have on the conservation status of wild rhino populations, the CPDG recommended that rhino horn be given concentrated focus within the existing priority of traditional medicines.

4.2 In September 2010, in response to this surge in UK trade in rhino horn and concerns over the impacts on wild populations, Defra restricted the re-export of rhino horn. Recognising this was a wider problem across the EU, the UK promoted similar stricter measures across other EU Member States. This reflects a positive response to a newer threat.

4.3 However, in general, the UK government and responsible enforcement bodies do not have adequate resources to be aware of newer threats and challenges, and to be able to respond effectively. This also applies to "older" threats.

4.4 Rhino horn from antique dealers, auction houses, art galleries, museums, private collectors and zoos is being stolen by an international organised criminal group. The group are of Irish origin and have committed offences in 15 countries, including five thefts in the UK. They have a usual pattern of offering to buy the rhino horn, and if refused, returning to steal the item later. Warnings have been given to auction houses, museums and zoos to be vigilant and there has been joint working with Europol to gather and analyse intelligence. Given the scale and seriousness of the problem it needs to be resourced by a dedicated operational team that will drive enforcement action.

4.5 The internet offers greater opportunity for unscrupulous traders in illegal wildlife products to reach more potential consumers. In 2008, eBay responded to concerns by banning the sale of ivory. This may have made such sales more difficult for police detection, but not necessarily impeded the sales themselves as alternative words are used instead of "ivory". The NWCUC has received Defra funding for a one year post to investigate illegal wildlife crime on the internet. WWF-UK hopes that this will be a successful role that can be continued in the long-term as required.

5. How fully wildlife crimes are recorded, and how rigorously available penalties are applied

5.1 There is no obligation for all wildlife crime to be reported to a centrally controlled database, though COTES and CEMA convictions are recordable. There is some recording of wildlife incidents by the NWCUC, but neither the Police nor Customs are obliged to submit such information, and such inconsistency in reporting means the record is not complete. WWF-UK urges that all wildlife crime is made a recordable crime and targets are set, so that it is accounted for and the scale of the issue can be fully ascertained and addressed.

5.2 Penalties actually handed out for illegal wildlife trade are often not sufficient to reflect the crime. Whilst stronger penalties are available, those given are unlikely to deter criminal activity given the potential profits from that same crime. For example, Trevor Lay sold lemurs to the value of £20,000 and at court was fined £1,500 and £950 costs; Brynn McDonagh imported £26,000 worth of birds of prey from South Africa to sell on, and received a suspended sentence and £1,000 costs; David Brett had Indian Star Tortoises sent to him in the post to the value of £8,000 and was given a suspended sentence and £360 costs; Heng Low sold Arowana fish to the value of £10,000, and was fined £2,000 with £800 costs at court; the Renaissance company had £353,000 worth of illegal shahtoosh shawls in stock, and was fined £1,500 at court.

5.3 It is important that prosecutions are executed as effectively as possible. Wildlife crime cases are often dismissed because of a lack of awareness or understanding of the crime and its impact among prosecutors and the judiciary. In parallel, dropped cases mean Police and Customs resources spent on that case are wasted. In the USA, levels of fines are higher than in the UK and custodial sentences often imposed for wildlife trade offences. The current UK system of precedent-based guidance is insufficient given the very few cases that reach the higher courts.²¹

5.4 The prosecutors and judiciary must be aware of the serious nature of these crimes and how to handle them appropriately. Following the model that is used in Scotland, WWF-UK recommends that a specialist wildlife prosecutor is secured within each region, provided with appropriate training and support, and urged to communicate regularly with other wildlife prosecutors. Such specialist prosecutors can help to inform the judiciary of the seriousness of cases.

5.5 It is important that the judiciary are provided with information on the potential profit and the conservation impact (to both the species and its habitat) of wildlife trade crimes. The Magistrates Association's report "Costing the Earth",²² revised in 2009, provides information for sentencing of wildlife crimes, but sentencing guidelines for wildlife trade should be developed by sentencing councils.

6. How effectively behaviour-change and attitude-change is being promoted

6.1 For illegal wildlife trade, work to change behaviour and attitude should target existing and potential consumers and traders of illegal wildlife products, tourists who may inadvertently return with illegal wildlife souvenirs, and senior staff in enforcement agencies (in order to increase prioritisation and resourcing for wildlife crime). It is difficult and costly to measure the effectiveness of initiatives to change behaviour and attitudes to identify the real impact.

6.2 Defra leads the CITES Communications Group, which consists of representatives from Defra's CITES and Marine Species Conservation teams, Animal Health, UKBA, NWCU, Met WCU, WWF-UK and TRAFFIC. While this group brings together key players in the communications of CITES messages, a lack of financial resources from Defra and other government agencies impedes delivery on the long-term and hard-hitting projects that are required to change behaviour and attitudes. This is an area for improvement.

6.3 Animal Health does not have sufficient funds to produce guidelines, and has requested financial support from WWF-UK for the production of traditional medicine leaflets. WWF-UK has provided expertise, financial support and other resources, where possible, to joint communications projects with government and enforcement authorities, such as (i) a poster to highlight illegal trade in tortoises posted in Police stations to promote action on, and reporting of, such crimes; and (ii) a poster and guide on illegal wildlife products and the use of sniffer dogs to detect them, which are distributed in some UK airports.

6.4 More messaging on CITES controls could be displayed at major airports, and would be a prime opportunity to inform travellers of continued concerns surrounding the illegal trade and importation of CITES products. Many do not perceive the issue as current, nor understand that goods offered openly for sale in other countries may, in fact, be illegal to bring back to the UK. However, it is difficult to erect posters or displays of illegal goods in airports as large fees have to be paid in competition with shop advertising and other demands on the space.

6.5 The Foreign and Commonwealth Office (FCO) provides some information on CITES-controlled tourist souvenirs for key countries on its website. Particular information relating to South Africa was uploaded surrounding the Football World Cup in 2010. Other opportunities should be taken to advise travellers to countries where illegal goods are more likely to be on offer. The Olympic Games in London later this year provides an opportunity, which is currently under discussion, to highlight the issue to a great number of people.

6.6 The PAW Publicity Working Group continues to support the use of the PAW trailer, with displays and education on wildlife crime, at various events and shows.

6.7 Operation Charm, a partnership of the Met WCU, David Shepherd Wildlife Foundation, International Fund for Animal Welfare, WildAid, World Society for the Protection of Animals and WWF-UK, raises awareness of the illegal wildlife trade in London, recently initiating a travelling exhibition of illegal wildlife products seized in London.

6.8 The recent "Wildlife Patrol" series shown on primetime ITV1 offered an opportunity for the work of WCOs and the UKBA CITES team to be shown to a mass audience.

6.9 WWF-UK sponsors the PAW "Wildlife Law Enforcer of the Year" award, given annually. Nominations are approved by senior staff in the candidate's agency, and judged by a panel including Defra, Association of Chief Police Officers (ACPO), Scottish government, HMRC, WWF-UK and TRAFFIC. This award is valued by the wildlife enforcement sector and informs senior officers in those agencies of the good work and value of wildlife enforcers within them. It is hoped this garners greater high-level internal support for such work.

²¹ WWF/TRAFFIC report—Crime and Punishment in wildlife trade. 2002

²² <http://www.magistrates-association.org.uk/dox/Costing%20the%20Earth%20for%20MA%20with%20cover.pdf>

7. The UK's role in influencing the EU and International agreement on illegal wildlife trade

7.1 The UK plays an important and critical role in the EU and internationally in relation to illegal wildlife trade issues. WWF-UK urges the UK to continue to act as a strong player in the decision-making processes for these agreements.

7.2 The UK is an active member of EU groups focused on CITES agreements and their implementation. Defra participates in the Management Committee, Joint Nature Conservation Committee and Royal Botanical Gardens Kew in the Scientific Review Group, and the UKBA and NWCU in the Enforcement Working Group.

7.3 Within CITES, the UK is a Standing Committee member representing Europe, and lead for the working groups on rhino and e-commerce. For the 15th meeting of the Conference of the Parties (CoP15) to CITES in 2010, the UK led the development of, and difficult negotiations for, amendments strengthening Resolution 12.5 pertaining to trade in tigers and other Asian big cats. The UK was also pivotal in fractious negotiations within the EU on the debate over listing Atlantic Bluefin Tuna on the CITES Appendices. WWF-UK welcomes the UK's leadership and willingness to take a stand on this issue, and to follow the scientific evidence rather than the politics of the EU.

7.4 The UK is the only member of the Global Tiger Forum (GTF) that is not a range state for tigers, and are highly respected in discussions and decision-making in this forum. The UK has also played an important role in the development of the Global Tiger Recovery Programme (GTRP) which was agreed at the Tiger Summit in 2010, particularly around the issue of governance. Both the GTF and GTRP address the illegal trade in tigers. Alongside Defra's investment of around £300,000 into the major donor fund for the GTRP, announced in December 2011, the UK can continue to have positive influence on the delivery of the GTRP.

7.5 The UK is the current Chair of the global Coalition Against Wildlife Trafficking (CAWT), which aims to raise the political profile of illegal trade in wildlife and wildlife products. As Chair the UK organised a side-event at CITES CoP15, and in September 2011, chaired a CAWT workshop on rhino conservation, hosted by South Africa and attended by a range of governments and organisations including CAWT members and other interested parties such as Vietnam, Kenya and INTERPOL. The aim of the workshop was to assess what CAWT members could do to support on-going efforts to address the recent unprecedented rise in rhino poaching and illegal trade in rhino horn. WWF-UK hopes the UK will act as a positive lead for the CITES working group on rhino to ensure urgent, effective actions tackle the rampant poaching and trade.

7.6 As mentioned in Question 4 above, the UK government recently announced stricter measures to control the export of rhino horn, and subsequently led the discussions resulting in a new set of standards issued across the EU.

24 February 2012

Written evidence submitted by the Ornamental Aquatic Trade Association

1. OATA represents the interests of some 750 businesses in the ornamental fish industry supplying the needs of the several million households²³ in which either aquariums or garden ponds are owned. Among our members are importers, breeders, wholesalers and retailers of a wide variety of aquatic plants and animals. OATA provides a Code of Conduct, training manuals and a variety of information materials some of which I refer to below.²⁴ The ornamental fish industry is significant in turnover and employs over 10,000 people.

2. While your call for evidence asked for comments on a number of areas I have chosen to respond on the issue of "*How effectively behaviour-change and attitude-change is being promoted*" which links responses on any of the other issues upon which we might have chosen to respond together and it avoids repetition. We believe awareness is a fundamental.

- OATA believes awareness raising and good communication is essential to enable honest businesses to comply with the law.
- Equally good simple easily comprehensible material made available to the public will help them comply.
- Some laws may be becoming so complex that their very complexity confounds their intent.
- Wildlife crime should not be tolerated as it does not help the plants or animals involved and often allows the dishonest to undercut the honest in the market place.

²³ The Pet Food Manufacturers Association pet statistics research see: <http://www.pfma.org.uk/pet-population-2011/> found 9% of homes (2.385 million households) had garden ponds and 6% (1.6 million) owned aquariums (estimates based on household numbers from <http://www.communities.gov.uk/documents/housing/xls/table401.xls>) . These figures are conservative compared to data included in the 2001 English Housing Survey—in this 2,377 (14%) of 17,139 households asked replied they had a pond with the aim of attracting wild life <http://www.communities.gov.uk/publications/housing/housingengland2001-02>.

²⁴ Further information about OATA can be found on our web site at www.ornamentalfish.org

AWARENESS & COMMUNICATION

3. There is no defence in law for ignorance. However, we do believe there is no excuse for leaving businesses or the public, who are prepared to expend a little effort, in ignorance of the law.

Before continuing let there be no misunderstanding that OATA has no time for those who deliberately break the law. These people do no service to the animal or plants in which they trade and routinely undermine those who conduct honest business. We would advocate very robust action be taken against those who will not mend their ways.

4. Changes in policy and procedure concerning how information is communicated may confound compliance. As an exemplar I might point to information concerning the Import Of Live Fish Act (ILFA). Easy to find comprehensive information used to be found on the CEFAS website (www.cefass.co.uk). As information migrated to the DirectGov website, it became a considerable trial of patience and persistence to find that same information. It should be made easy to comply with the law and difficult ever to argue that information could not be found. In effect making information readily available achieves better compliance and undermines the defence of the guilty, should a case come to court.

5. This issue of clear effective communication is of particular importance with very complex pieces of law such as that relating to CITES. In the absence of clear communication a lot of resource may be wasted in pursuing inadvertent offenders while the more organised deliberate offender gets away. This is especially so for small businesses who face a raft of detailed provision from a host of laws and a host of policy groups across government. It is sometimes apparent civil servants do not know what initiatives are being taken in the next door office let alone have any comprehension of the overall legislation burden on individual businesses. Clear communication will more readily enable those who wish to comply with the law to do so and more clearly identify those who willingly chose to flout the law.

INVASIVE SPECIES

6. It is only in the last few decades that the problems caused by invasive species have come to prominence. It was not that long ago that one of our most damaging invasives, the signal crayfish, was being promoted as subject for farm diversification projects by agencies such as Food For Britain. All sectors have contributed to the problem, we are all learning and must co-operate to reach the most effective proportionate outcome. Few, if any, invasives have been introduced with the intention of causing harm, rather they were used and kept according to the social, legal and scientific norms and understanding of the day.

7. Species can only become invasive if they escape or are released from "captivity". Animals and plants that remain in ponds and aquaria cannot become invasive. For well over ten years OATA has produced a variety of posters entitled "Pet fish belong."²⁵ and another entitled "Keep your pond plants in the garden".²⁶ Further we arranged for the production and sales of millions of plastic bags in which fish and plants are carried home from retailers by the member of the public printed with the message "Ornamental fish and plants bought for aquariums and ponds must never be released into the wild".

8. By promoting such messages through our retail members, we have started to influence the behaviour of their millions of customers and casual visitors to their sites. We are firmly of the belief that the key issue is influencing public opinion and behaviour and thereby achieving informed compliance with the law. We also rather like the system introduced in Scotland where the presumption is made that nothing should be released into the wild without prior permission ie a presumption against release. This message is easy to convey to the public, especially in comparison with expecting any awareness of the labyrinthine Schedules and conditions in the Wildlife and Countryside Act and other relevant legislation.

9. As well as these activities, OATA played an active role in the Government policy review of this field and continues to work closely with DEFRA and the Non Native Species Secretariat on relevant issues. Further we have also been active in the Convention on Biological Diversity and authored a Code of Conduct on Invasive Pets for the Council of Europe.

10. We would first like to bring to your attention to initiatives that can be regarded as successful and reflect well on all concerned.

Horticulture Code of Conduct

11. In DEFRA's submission to your inquiry in 2003, they mentioned that OATA was participating in the development of a Horticultural Code of Conduct. I am happy to report this work was completed. Moreover, I understand it has been included in the procurement standards for government horticultural contracts. This latter point is especially important as the sum of such contracts, including flower beds to motorway verges, makes government a very significant purchaser of relevant services. Thus it raises awareness by the need of businesses to meet contractual obligations. Such use of procurement allows government to influence behaviours by purchasing policy and existing contract law rather than resorting to new primary or secondary legislation.

²⁵ <http://www.ornamentalfish.org/aquanautconservation/petfishbelong.php>

²⁶ <http://www.ornamentalfish.org/aquanautconservation/invasiveplants.php>

Though it took some time and some pestering for this stance to be adopted it is welcomed as it shows government is prepared to lead from the front and practice what they preach.

Be Plant Wise

12. OATA was pleased to be a partner, along with DEFRA and others (including the Devolved Administrations and NGOs), the Be Plant Wise²⁷ project. OATA has promoted this campaign to its members, on its website and by commenting positively on it both in meetings in the UK and globally eg at side events at the Convention on Biological Diversity (CBD) COP in Nagoya (2010) and the CBD SBSTTA in Montreal late last year. After a presentation I made at the latter meeting several countries contacted the relevant DEFRA official to ask for information about the campaign.

13. We think so highly of this program because its development has been very collaborative in nature. Additionally the message is simple and comprehensible. In its development without diluting the message the process “has spoken to industry rather than just about industry”. This approach has led to good buy in from the relevant sectors of OATA members and millions of members of the public being exposed to the message. The Be Plant Wise campaign is just that a campaign that has been maintained over a period of time not a tick box, done that one hit wonder. As said elsewhere we are trying to influence attitudes and behaviours that require repetition and reinforcement of messages.

14. We found it very helpful that Ministers from England, Scotland and Wales wrote a letter to all retailers participating in the first year of Be Plant Wise the concluding with a sentence which emphasised that they were part of the solution to the invasive problem. Catching people doing the right thing and offering positive reinforcement is, we believe, invaluable in influencing participation in and reactions to campaigns and thus their efficacy.

Mixed messages

15. While we have outlined examples of good practise above there are other examples that trouble us. We provide a lot of information to our members with view to them being aware of and compliant with the law. We anticipate any problems that do occur will be dealt with in the same manner in whatever sector they crop up. That is there will be a clear message given across government agencies.

16. Though I believe instances are rare, if ILFA species are ever found in the ornamental sector prompt action is taken. This does not seem to be the case in fisheries. The spread of ILFA species in fisheries over the last couple of decades might have been mapped from the front pages on angling magazines. The presumption might be made that such high profile promotion would mean that the relevant stockings were all legal. Unfortunately this does not seem to be the case. Over the last couple of years of some 50 fisheries known to have sturgeon (ILFA species requiring a licence) present only 1 may have been forced by the EA to clear them from their waters. It appears there is instant action in my sector by the Fish Health Inspectorate of CEFAS but more a “we might or might not get round to doing anything” attitude taken by the EA about the same species seemingly illegally present in fisheries. Fisheries are, whether man made or not, regarded by many as the wild, so some may think if species are present and advertised as present and the authorities take no action they must be happy so its OK. This seems to give out the wrong message and it might be further investigated as to why illegal stockings seem so easily tolerated.

24 February 2012

Written evidence submitted by Chris Foreman

I am an individual who does animal rescue and my comments below are submitted because I have heard and seen many instances (both first and second hand) of dreadful cruelty to wild animals and birds which have gone unpunished. I have not listed names and dates below but examples I mention are those that have happened.

I welcome the opportunity to take a small part in this enquiry and urge you all to make radical changes to end the unnecessary suffering of many wild animals, or at least bring it to the attention of the public.

Please consider all species of wildlife the same and do not discriminate against species that are on a temporary “pest” list. All animals suffer pain.

My main points are:

1. Lack of Publicity: people don't know who to contact and who to call, what is a crime and the penalties that could be applied.
2. There are hardly any prosecutions, despite overwhelming evidence of dreadful abuse.
3. There is no one body that takes responsibility so eventually little is done with regards to following up, especially when it is large organisations that are responsible.

²⁷ For further details see <https://secure.fera.defra.gov.uk/nonnativespecies/beplantwise/>

LACK OF PUBLICITY

Firstly there is not enough knowledge in the general public about what is a crime and who to contact if they are aware of one. Wildlife crime officers appear to be few and far between and only have certain things they are interested in, eg in Scotland it might be birds of prey, in the country it might be badgers.

If you are unfortunate to come across a fox which has been poisoned illegally or pigeons boarded in buildings to be left to die, this may not be of interest to your specific Wildlife Crime Officer assuming you were even able to find out who he/she is.

Many people feel they have to walk away carrying the sadness of what they have witnessed because they can't do anything else.

I was told by the police, (document attached) that the Fire Brigade can assist. I have often called the Fire Brigade and can assure you that they rarely want to get involved in anything, saying that the RSPCA have to instruct them! If the RSPCA are called they invariably immediately kill what they have "rescued" causing great shock and upset to the poor person who called them.

DIFFICULTY IN PROSECUTING

There is very little that anyone appears to do with regards to prosecution. The RSPCA make all the noises about prosecution but are only interested in high profile cases, the police can gather all the evidence but often decide for whatever reason not to prosecute. The RSPB almost never prosecute. Whilst it is reassuring to see an individual in court occasionally, being given a prison sentence, there are large businesses which can with impunity do exactly what they like if the animals/birds are an inconvenience to them. The people who care very passionately about these things and have tried desperately to get it stopped or witnessed unspeakable horrors are unable to take a prosecution because of the expense involved.

eg pigeons regularly being netted in under bridges , rabbits on cricket pitches being killed by dogs in case they spoil the grass, badgers and foxes in golf clubs being trapped and dreadfully and illegally poisoned. Parakeets being culled because the council don't like their noise. Geese being culled when they live on lakes and are affecting no-one! Even a pigeon being shot in a church. All of these examples have been the subject of petitions and protests just within the last two months.

NO-ONE RESPONSIBLE

I had the police involved in a clear cut case of dreadful animal abuse, loads of witness statements, photographs, and evidence of the people responsible. Months and months of helping them, but no one was ever prosecuted , buck passing? lack of interest ? lack of resources? lack of responsibility? Really you have to say what is the point of the whole system, if it does not work as it should.

Also Defra should not be allowed to randomly issue "general licences" which killers pretending to be "pest controllers" can hide behind. Full details of the licences should be made public and records kept of what animals have been killed and the reasons behind it. The Act states that it should be a last resort to kill, when everything else has been tried, but in actual fact this is usually the first resort. Let the "pest controllers" *prove* they have tried other methods before they get an individual licence for a specific case. I know of pest controllers who prepare tea bags with chlorine to kill foxes and they die horrifically, they have been prosecuted for killing a cat accidentally, but still they carry on their practice under their "general licence".

MY RECOMMENDATION FOR CHANGES

The biggest change which should be done is allow and encourage other people to take private prosecutions. However, as prosecutions are usually very expensive, set up a Tribunal which allows anyone, members of the public or Charities or big organisations to submit details of the alleged crime (and maybe even pay a fee) with their evidence, see the response of the person accused and the Tribunal have the power to publish details of the crime and levy fines and decide if there is sufficient evidence for a criminal prosecution. If you decide to do such a thing I will work for free.

24 February 2012

Written evidence submitted by Somerset Trust Badger Group

1. We are a group of local wildlife experts who deal with a wide range of wildlife issues and in particular badgers.
2. Our submission refers specifically to illegal interference to badger setts where the action was considered or proven to be deliberate.

3. We are aware of very many other illegal actions against badgers including the placement of poisons and the use of snares.

- A. In the past 12 months we have recorded 12 incidents of illegal interference to badger setts within our county.
- B. This interference ranges from deliberate blocking of sett entrances to complete sett destruction by mechanical excavator.
- C. We are sure that in some cases badgers were killed as a result of sett destruction.
- D. We have records of three incidents where poison has been deliberately placed at badger setts or very near within our county.
- E. We can provide further information and location/action details if requested.
 - (a) We would respectfully ask the Environmental Audit Committee to recommend the Government to implement two specific courses of action.
 - (b) Government should instruct the Home Office to make the recording and investigation of all Wildlife Crime a performance related Police action.
 - (c) Government should ensure that all Police forces have dedicated full time officers to investigate all Wildlife Crime.

26 February 2012

Written evidence submitted by Mrs A Judith Smith

1. I was the County Recorder for birds in Greater Manchester, 1992–2011. In that capacity I frequently liaised with the police, RSPCA and others dealing with instances of wildlife crime. As a swan rescuer since 1990, I saw many instances of cruelty to Mute Swans.

2. I only want to make a couple of points to the Committee.

3. A plea for them to bring pressure to bear on the Greater Manchester Police to appoint one full time officer to deal with wildlife crime (Wildlife Liaison Officer). The present system is to have one officer per division who is allowed to spend 5%–10% of his/her time on wildlife crime, and one of these officers (from the Wigan Division) also acts as County Wildlife Liaison Officer. On the face of it this sounds excellent. In practice, several of the divisional posts are always vacant, and the County Divisional WLO, who is only a constable, has no control over the allocation of his time. This results in him never being available and never answering emails.

Until about five years ago, the post of County WLO was held by an inspector in a policy team based at GMP HQ, on a rotational basis. Whilst the interest in wildlife varied, the members of this team worked office hours so could nearly always be contacted. Wildlife crime is a specialist subject and the ordinary policeman knows little about it.

Merseyside Police have a dedicated officer and the postholder has achieved excellent publicity for the force as he has been able to apprehend notable egg thieves.

Surely it is not too much to ask that one officer out of the 7,000 in GMP could be allocated to this type of crime? Perpetrators of wildlife crime are often involved in other types of crime eg child abuse.

4. It would also be helpful if wildlife crime had a Crime Reference Number rather than an Incident Number, as the former count in crime statistics and therefore to the budget allocation.

22 February 2012

Written evidence submitted by the Federation of British Herpetologists & Reptile & Exotic Pet Trade Association (Joint)

PREAMBLE

The Federation of British Herpetologists was formed in 1996 to unite and represent the interests of private reptile and amphibian keepers & it exists to promote and support the responsible keeping of reptiles & amphibians by individuals in the UK. Its primary objectives are:

- To represent the legitimate interests of UK reptile keepers at national level.
- To oppose unnecessary regulation/legislation.
- To manage a national information base of key facts/issues/statistics relating to reptile & amphibian keeping.

The Reptile & Exotic Pet Trade Association was formed in 2005 to represent the interests of the UK reptile industry. Its primary objectives are:

- To protect the reptile trade from excessive, or over restrictive, legislation.
- To raise the reptile trade to a position where it is above reproach with regard to animal welfare, professionalism and ethics.
- To actively encourage breeders to supply captive bred animals to the trade.

The UK has a long tradition of keeping reptiles and amphibians in captivity, with records dating back to the 1600's. More species of reptiles and amphibians have been bred in captivity for the first time by private keepers than have been bred by all of the zoological institutions combined. Today in the UK more than a million households keep in excess of eight million reptiles and amphibians & the reptile industry is valued at over two hundred £million annually.

INTRODUCTION

1. Over the past decade acknowledgement of “Wildlife Crime” has risen from obscurity to prominence and, whilst this is laudable, it is not without difficulties and controversy, not least of which entails proper definition of what constitutes a wildlife crime.

2. For the purpose of this submission the Federation of British Herpetologists and the Reptile & Exotic Pet Trade Association will confine this narrative to wildlife crime issues pertinent to its interest and defer other broader issues of wildlife crime, such as habitat destruction or hunting offences, to those with more relevant expertise in these areas.

- At present there is an increasing trend to consider any keeping or trading in animals as suggestive of wildlife crime.
- The animal-rights viewpoint that possessing animals is in itself a crime is backed by a very small but strong political lobbying force.
- The law allows regulated trade in wildlife and sustainable trade is fully supported by the ideals of CITES.
- The vast majority of animal keepers would view the illegal trade as unacceptable.
- Confusion exists as to requirements of paperwork and licensing requirements as:
 - Wildlife crime is poorly defined.
 - Communication between authorities and stakeholders is pitiful.
 - Education from authorities is poor to non-existent.
- Enforcement is currently overwhelmed with paperwork offences which prevents resources being targeted at true wildlife crime.

DEFINING WILDLIFE CRIME

3. Defining wildlife crime is an issue that has not as yet been adequately addressed and the term currently appears to be a “catch all phrase” which encapsulates a whole raft of offences. Some, or possibly many, are arguably not wildlife offences but offences of a bureaucratic nature which have no detrimental effect on wildlife. Former co-chair of the Partnership for Action Against Wildlife Crime (PAW) and Chief Constable for North Wales, Richard Brunstrom, advocated that better defining or categorising “wildlife crime” would be useful tool for better law enforcement.

4. This issue will be dealt with in greater detail under the section headed Operation RAMP, however, but the following is an example of the problems which currently exist. All species of tortoises are protected by CITES, (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention), which is in place to support sustainable wildlife trade. Some species are afforded higher protection than others.

5. To lawfully trade in, or “use for a commercial purpose”, a species listed on Annex A of the EU Wildlife Trade Regulations, an Article 10 Certificate is required. It is generally recognised that there are two forms of Article 10 Certificates: Transaction Specific Certificates and Specimen Specific Certificates. Possession, breeding and disposal of an Annex A species requires no certification if it is deemed there is no commercial activity.

6. It is, therefore, the author's contention that such certificates are irrelevant as a conservation tool and do not even create any kind of registration which would allow the authorities to know what species are being kept and by whom. The vast majority of animals are kept by private keepers with no commercial interest involved and, thus, slip under the net. This matter has been addressed in a letter to Elaine Kendall, Head of Wildlife Crime, Zoos and Bird Policies Biodiversity Programme, dated 12 January 2012 [Appendix 1] in which I requested clarification as to the purpose of Article 10 Certificates and confirmation as to whether noncompliance is a wildlife crime.

7. For the record, the latest information on the DEFRA website states: “*You only need a certificate if a specimen is to be used for commercial purposes; this includes sale, keeping for sale, display and breeding for sale. You do not need a certificate simply to possess an Annex A CITES specimen or to give it away*”.

8. John Hounslow, former head of UK CITES management authority, was always at pains to point out that A10’s are not a registration of animals in the same way that the Wildlife and Countryside Act registers birds (or indeed how the DVLA provides a registration for vehicles). It is, therefore, unclear what function Article 10 Certificates serve, and how non-compliance could be considered a serious crime.

9. At time of submission the two specific issues raised in the letter have not been answered, although a partial response has been received from Trevor Salmon Head of CITES policy, Defra in which he neglected to address the two key questions.

10. This is actually an extremely serious issue as in numerous prosecutions brought in relation to non-compliance with Article 10 Certificates it is always stated by the Crown that non-compliance is serious wildlife crime.

OPERATION RAMP

11. In early 2010, INTERPOL identified the illegal trade in endangered Reptiles and Amphibians as a significant threat to global conservation. Operation RAMP was instigated in September and October of 2010 as a global operation, not restricted to the UK.

The INTERPOL aims set were to:

- gather information and intelligence globally;
- detect, suppress and apprehend criminals and criminal networks;
- increase public awareness and trade awareness; and
- strengthen wildlife law enforcement capacity nationally, regionally and internationally.

12. It should also be noted that in 2008 the National Wildlife Crime Unit (NWCUC) announced at the PAW seminar in March that the illegal trade in tortoise was their highest priority. At the time I did point out that there is no mass trade in illegal tortoises in the UK, but large-scale trade in legal tortoises being traded illegally due to confusion over the requirements of Article 10 Certificates.

13. In addition, I asked the NWCUC to meet with key participants within the pet industry specialising in tortoises [Appendix 2] in order to discuss this matter and see what assistance could be afforded in detecting illegal trade and address issues of inadvertent illegal trade. Despite repeated requests the NWCUC declined to meet with representatives from the industry, which was most regrettable.

14. There are other issues concerning Article 10 certificate (Ref: letter of 18 November 2010 to Richard Benyon, Parliamentary Under Secretary for Natural Environment and Fisheries Defra [Appendix 3]). In 2006 Defra implemented the following fundamental change to Article 10 Certificates requirements:

Prior to 2006 certificates (referred to as Transaction Certificates) were *not* required to be returned to Defra each time the animal(s) was transacted to have the name in Box 1 amended.

Post 2006 it became *mandatory* for such certificates to be returned each time the specimen was transacted and the name in Box 1 amended. Non-compliance was punishable by imprisonment.

This fundamental change was implemented without informing stakeholders, despite repeated requests for this to be done.

15 To add further confusion, in August 2010 (the month preceding instigation of Operation RAMP) Animal Health, an executive agency of Defra to which they had deferred licensing, implemented further changes to the Article 10 requirements. A policy decision was again made not to inform stakeholders of the changes, despite being fully aware they would be co-ordinating Operation RAMP, which was imminent. Considering one of the key objectives of the Interpol initiative was to “increase public awareness and trade awareness” this decision seems perverse and incomprehensible.

OPERATION RAMP—ANALYSIS

16. Operation RAMP was conducted in August and September 2010 but Defra/Animal Health have still not (as of date of this submission) provided full disclosure of statistics concerning the operation. The data presented here is taken from a document released on 9 January 2012 [Ref: Appendix 4]

STATISTICS

664 raids or inspections.

9 (1.5%) have lead to prosecutions two prosecutions have been withdrawn.

200 cases (30%) no report sent anywhere.

25 (3.7%) cases no further action.

37 (5.5%) verbal warnings.

4 (0.7%) traders cautioned.

OPERATION RAMP—COST TO THE PUBLIC PURSE

17. Many of the inspection/raids were conducted in a very heavy-handed manner, with up to seventeen personnel from multiple agencies in attendance. According to Hansard (Citation: HC Deb, 25 January 2012, c285W) Neil Parish (Tiverton and Honiton, Conservative) asked the Secretary of State for the Home Department what was the cost to the public purse of Operation RAMP. James Brokenshire (Parliamentary Under Secretary of State, Home Office; Old Bexley and Sidcup, Conservative) responded that Operation RAMP is an Interpol led operation which is still under way, and has involved a number of UK organisations. Details of the costs to date are not held centrally and could be collated only at disproportionate cost.

18. The cost to the public purse for Operation RAMP has been independently estimated to exceed £3.2 million, which includes costs for executing the raids, including search warrants, officers in attendance police, wildlife inspectors, local authorities, RSPCA etc., as well as costs of planning, briefings & debriefings, CPS costs, Court costs and costs met from central funds when prosecutions have collapsed. Ongoing and ancillary costs are not included.

OPERATIONS RAMP REVIEW

19. In a press release on the 2nd November 2010, Operation RAMP was hailed a success by Wildlife Minister Richard Benyon, but the reality is that in the UK it would be our submission that Operation RAMP can only be viewed as an abject failure in terms of uncovering wildlife crime. It is highly unlikely a single truly illegal animal (ie an animal illegally taken from the wild) was uncovered in the UK.

20. As a former proactive member of PAW I recall Mr Chris Kerr, the inaugural head of the NWCU, address the PAW conference in or around 2003 as follows (and I quote verbatim): “.....we have now been in existence for a full year, and whilst we are absolutely certain wildlife crime is common, we have yet to find any”.

21. One may be forgiven for at least contemplating the cynical view that the UK’s enforcement agencies enthusiasm for engaging so unreservedly in Operation RAMP (compared to any other country) was perhaps more to do with justifying their continuing existence in times of cuts and austerity, rather than the reality of the abundance of wildlife crime. A fact not entirely unsupported by the results, it might be suggested. The relevant government departments/agencies could have upheld the objectives of Interpol and engaged in an exercise to raise awareness of licensing requirements with stakeholders, including tortoise keepers and traders, for a fraction of the cost of Operation RAMP. This would have been a more pragmatic approach and would in all likelihood have achieved a more beneficial.

ILLEGAL TRADE IN WILDLIFE

22. It is inarguable that a small, but significant, illegal trade in wildlife exists and that such activities are totally unacceptable. It is also appropriate that the full weight of law should be employed to prevent such activities. Notwithstanding this, emotion should not be allowed to rule reality, and sustainable legal trade in wildlife should be carried out in controlled and regulated manner. Sustainable Utilisation may be considered the cornerstone of conservation, as supported by CITES, and the legal trade in wildlife should have the support of relevant authorities. The trade in wildlife or wildlife products may be unpalatable to some and there is considerable political pressure brought to bear from animal rights lobbyists to curtail all such trade, but the law does permit such activities so interaction with enforcement agencies should be reasonable and proportionate.

23. The keeping of pets (companion animals), both domestic and non-domestic, may likewise be unacceptable to a very small minority of people, just as the utilisation of animals for food may be unpalatable to a tiny minority, but a vocal minority (animals rights activists) are currently having a disproportionate influence at a political and legislative level. Over 50% of households keep pets and the overwhelming majority of the public utilise animals in their dietary intake, but the vast majority are politically inactive and have little or no interest in legislative issues.

CONCLUSION

24. Recognition of wildlife crime and enforcement of regulations is laudable and the overwhelming majority of those involved in the pet industry, including private animal keepers, are opposed to the illegal trade in wildlife. The illegal trade in wildlife has a negative impact on legitimate traders who, therefore, have a vested interest in assisting the authorities in regulation and enforcement. Illegal trade in tortoises, for example, is highly detrimental to legitimate tortoise traders or breeders as they only way such an activity can flourish is to undercut the value of legitimately traded animals. This is due to the fact that the only means by which wildlife criminals can dispose of illegal animals is to undercut the price of legally traded animals, which obviously directly undermines legal sales. The same position applies to tortoise breeders as smuggled animals are significantly cheaper than captive-bred specimens, having a serious financial impact on genuine breeders.

25. Those involved in legitimate trade (importation or breeding of livestock), therefore, have a clear incentive to oppose illegal trade. Persons actively involved in the animal trade, as a profession or hobbyist, are far more likely in-depth knowledge of activities, legal and illegal, than any outside observer and interaction with stakeholders should, therefore, be a priority for enforcement agencies. That is clearly not the case at present and, regrettably, numerous attempts to liaise with enforcement agencies and authorities have thus far proved unsuccessful. The current situation, as clearly demonstrated by the PAW partnership, is that priority is directed towards those bodies opposed to sustainable utilisation (animal rights groups) by governmental agencies and enforcement bodies, largely due to the fact that these groups are politically pro-active.

RECOMMENDATIONS

- (1) Detection and enforcement of wildlife crime should be a high priority and training of wildlife crime officers should be reviewed and improved as this currently appears inadequate.
- (2) Defining wildlife crime should be a priority: the current “catch all phrase” is ultimately detrimental to tackling actual wildlife crime as many offences which are transparently not wildlife offences are encapsulated.
- (3) Education on wildlife crime issues should be a priority to deter inadvertent wildlife crime. For example, a simple Code of Practice for internet trade was presented to the PAW partnership in 2006 which could have reduced inadvertent wildlife crime over the internet by an estimated 90% had it been adopted.
- (4) It should be mandatory for police forces to have dedicated wildlife crime officers rather than volunteer police officers who adopt this role in addition to their usual police duties.
- (5) Engagement between direct stakeholders and enforcement agencies should be dramatically improved as this is currently woefully inadequate. At present priority appears to be directed towards campaigning organisations rather than direct stakeholders who may be adversely affected by any changes, which is unacceptable.
- (6) Wildlife crime should be classified as recordable by the Home Office to enable police forces across England and Wales to prioritise to tackling wildlife crime and allocate the necessary resources to the work.
- (7) When government department/agencies introduce changes to legal requirements it must be mandatory for public consultation and subsequent appropriate notification to take place. For example, if significant changes to Article 10 Certificates take place notice of such changes must be issued to stakeholders.
- (8) An urgent review of COTES (Control of Trade in Endangered Species Regulations) should take place to make it compliant with the Human Rights Act.
- (9) Any prosecution of wildlife offences must be brought by the police through the Crown Prosecution Service and not devolved to private prosecutions brought by campaigning organisations, for example the RSPCA.
- (10) Encourage police forces and other agencies with enforcement responsibilities to develop Memoranda of Understanding (MOUs) to facilitate cooperation and direct links with stakeholder groups.

24 February 2012

Written evidence submitted by the National Theft Register for Exotic Species

1. The National Theft Register was set up in 1995 at the request of the Federation of Zoos to collate and co-ordinate all exotic animal thefts.
2. Shortly afterwards the Parrot Society and other animal groups became supportive of the scheme.
3. The predominant species being the target of the thieves are the Parrots, Cockatoos and Macaws, Chelonia, especially Tortoises and small Primates.
4. Two decades ago we suffered from an average of 50 Parrot thefts per year.
5. Due to substantial increases in awareness, security and crime prevention we now deal with fewer Parrot thefts especially since custodial sentences have been received by such thieves.
6. In the year 2010 we handled 15 separate Parrot thefts involving some 104 birds.
7. In the year 2011 17 individual thefts were reported when in total 91 birds were stolen.
8. Our primary objective is to carry out Crime Pattern Analysis to define whether the theft is a “one-off” casual crime or whether it is part of a series in order to advise the Police accordingly especially if it is the work of the travelling cross-border criminal.
9. We work closely with all Police Forces, the National Wildlife Crime Unit and many other NGOs. We represent the Parrot Society on the PAW Group, (Partnership Against Wildlife Crime).

10. The National Theft Register is a unique national and international service dealing with both UK criminality and those thefts of CITES Annex A, Appendix 1 animals that are stolen to order and may be destined for the worldwide trade in rare species.

John Hayward

Co-ordinator of the National Theft Register for Exotic Species, Security Advisor for the Parrot Society UK
Ex Detective Inspector (Rtd) Thames Valley Police and Wildlife Liaison Officer.

21 February 2012

Written evidence submitted by the Animal Protection Agency

SUMMARY

The Animal Protection Agency (APA) has numerous serious concerns regarding the important issue of wildlife crime, and the Agency fully supports the ongoing presence, actions and enhancement of wildlife crime enforcement bodies and initiatives. Our submission is directed at, in particular:

1. Extant and probably increasing unlicensed trade via the Internet;
2. Pet markets (sometimes called “pet fairs”) and their illegalities, and how numerous local authorities remain poor at enforcement;
3. Supply of animals to pet shops by private and unregistered sources, which are capable of supporting the “pet-theft” market;
4. Movement of wildlife from EU into UK in buses/private cars from continental markets;
5. Breaches of Wildlife & Countryside Act involving birds at many shows/pet shops;
6. Regular failure to house exotic wild animal “pets” in accordance with the “five freedoms” (included in the Animal Welfare Act 2006);
7. Loss of contributions to HMRC as a result of illegal trade.

Also

8. As an additional issue, the Agency is concerned at the importation and sale of products involving animal skins that are often acquired unlawfully or from animals killed unlawfully in country of origin.

INTRODUCTION

The Animal Protection Agency (APA) is the only European organisation solely focused on ceasing the trade in wild animals as pets. The Agency also lobbies at national and European level for changes in the law to protect captive exotic animals.

APA conducts awareness-raising programmes on all issues concerning the trade in wild animals as pets. It also coordinates research into the impacts of the wildlife trade on individual animals, species and the natural environment, as well as the risks of disease transmission between wildlife and people. Supporting APA is a team of scientific, veterinary and legal advisors that includes specialists in exotic animal welfare, conservation and public health.

APA’s primary working remit is focused on the trade in and associated problems of selling wildlife as pets, although the Agency also shares the concerns of others about wildlife trade and crime in general.

SUFFICIENT RESOURCES FOR TACKLING ILLICIT INTERNET TRADE

1. The extant and probably increasing unlicensed pet trade via the Internet presents considerable obvious enforcement problems. APA considers that it would be cost-effective to commit more resources to this area given that in the absence of a proactive approach, sales of prohibited and endangered species could pose a risk to public health (in the case of wild birds) and threaten biodiversity (where prohibited invasive or endangered species are sold).

ENFORCEMENT OF THE PET ANIMALS ACT 1951—INTERNET, MARKETS AND PET SHOPS

2. Section 1 of the Pet Animals Act requires all establishments used for keeping animals intended for ultimate sale as pets to be licensed. However, APA has established that many Internet traders of exotic pets fail to become licensed and thus operate outside the law. Unlicensed Internet trading presents difficulties both in establishing the conditions in respect of animal welfare (eg housing and husbandry) as well as the trading practices (eg transportation). In addition, ascertaining the chain of supply and even primary registration of Internet operators is difficult and this needs to be addressed. The investigation and shutting down of unlicensed Internet traders is an area that could be tackled extensively by the police with minimal resources. Again, given that local authorities often do not take action against these unlicensed traders, APA would like these matters pursued as wildlife crime by the police as well as local councils.

3. Trading in animals at pet markets (sometimes called “pet fairs”) was outlawed in the UK in 1983 following an amendment that year to section 2 of the Pet Animals Act 1951, which makes it a criminal offence for any person to carry on a business of selling animals as pets “in a street or public place or in a market”. Haynes v Stafford BC established that pet markets/fairs constitute “markets” under the law and as such, sales of animals as pets are covered by the prohibition. However, numerous local authorities remain poor at enforcement, and as a result exotic pet markets—particularly reptile and amphibian markets—continue to take place. Despite many apparent violations of the law, since 1983 there has not been a single prosecution of a trader selling animals in a pet market. Some local authorities view enforcement of the 1983 amendment as a low priority and some even allow pet markets at council-owned venues. APA would like to see the sale of animals at pet markets actively pursued as acts of wildlife crime by the police as well as local authorities.

4. There appears to be a growing supply of animals to pet shops by private and unlicensed sources. APA considers this supply route to be dubious and capable of supporting the increasingly reported “pet-theft” business. Pet theft can be a devastating event for owners, and the Agency believes that this category of crime should be pursued wherever possible. As a preventative measure, local authorities can attach a condition to pet shop licences to set out a requirement for a purchase register to be kept (ie with details of wholesale suppliers) and to prohibit the supply of animals from unlicensed sources to pet shops.

INCREASED SURVEILLANCE TO COINCIDE WITH EUROPEAN WILDLIFE MARKETS

5. APA has noted UK commercial and private purchasers regularly acquiring animals (typically amphibians and reptiles) from large markets (eg in Germany and The Netherlands) and importing these animals into the UK via Eurotunnel and ferry ports with no inspection whatsoever. Animals on sale at these Continental markets include species that are endangered and extinct in the wild. APA would like to see more vehicles stopped and checked at UK ports around the time that European markets take place.

ENFORCEMENT OF THE WILDLIFE & COUNTRYSIDE ACT 1981

6. Breaches of section 8 of the Wildlife & Countryside Act 1981 involving birds occur at many shows and pet shops as spatial provisions for birds are regularly not met. APA would like to see prosecutions against offenders to establish deterrent examples.

ENFORCEMENT OF THE ANIMAL WELFARE ACT 2006

7. There appears to be a regular failure to house exotic wild animal “pets” in accordance with the “five freedoms”, as enshrined in the Animal Welfare Act 2006. Commercial pet sellers and many hobbyists substantively fail to keep animals (particularly amphibians, reptiles and birds) in conditions that allow them to behave normally and this results in animal suffering. While many investigators have previously lacked the expert knowledge to adequately establish suffering in these animals, recent scientific findings greatly aid assessments of exotic animal welfare. The Agency believes that keeping amphibians, reptiles and birds in, for example, highly restrictive tanks and other enclosures, should be regarded as criminal, and treated as such.

GREATER COLLABORATION BETWEEN POLICE, LOCAL AUTHORITIES AND HMRC

8. At least 25% of wildlife trade is believed to be illegal, and this lawlessness likely involves loss of tax contributions to HMRC. Just as wildlife crime is often linked to other areas of criminal activity, it follows that tax evasion is also a likely component of this. APA has documented many cases where, it believes, traders in the UK warrant investigation both for wildlife crime and for non-payment of tax. APA would like to see routine collaboration between wildlife crime and HMRC investigators.

UNLAWFULLY SOURCED WILDLIFE PRODUCTS

9. APA is concerned at the importation and sale of products involving animal skins that are often acquired unlawfully or from animals killed unlawfully in their country of origin. A key example is rattlesnake skin, which is commonly subject to both US State and Federal violations. We consider that products that are linked to unlawful practice in any country should be banned from import and sale within the UK and that enforcement should be stepped up to guard against this activity.

RECOMMENDATIONS FOR ACTION

The Animal Protection Agency recommends that:

- (1) more resources are committed to tackling illicit Internet trade;
- (2) the unlicensed trade in exotic pets via the Internet is actively pursued as wildlife crime by the police as well as by local authorities;
- (3) the sale of animals at exotic pet markets is actively pursued as wildlife crime by the police as well as by local authorities;

- (4) local authorities attach a condition to pet shop licences to set out a requirement for a purchase register to be kept (ie with details of wholesale suppliers) and to prohibit the supply of animals from unlicensed sources to pet shops;
- (5) surveillance at UK ports is increased around the time that European markets take place, which would involve more vehicles being stopped and checked;
- (6) Section 8 of the Wildlife & Countryside Act relating to spatial requirements for birds is enforced and offenders prosecuted;
- (7) there is wider interest by possible enforcement agencies to enforce the provisions of the Animal Welfare Act;
- (8) police and local authorities routinely collaborate with HMRC when investigating wildlife criminals; and
- (9) products that are linked to unlawful practice in any country should be banned from import and sale within the UK and that enforcement should be stepped up to guard against this activity.

23 February 2012

Written evidence submitted by Wildlife and Countryside Link

Wildlife and Countryside Link (Link) brings together 37 voluntary organisations concerned with the conservation and protection of wildlife, countryside and the marine environment. Our members practise and advocate environmentally sensitive land management, and encourage respect for and enjoyment of natural landscapes and features, the historic and marine environment and biodiversity. Taken together our members have the support of over eight million people in the UK and manage over 690,000 hectares of land.

Many of our member organisations are putting forward their own submissions to this inquiry where they have particular expertise. This brief collective submission therefore identifies five key points that we wish to bring to the Committee's attention.

This submission is supported by the following 12 organisations:

- Amphibian and Reptile Conservation.
- Bat Conservation Trust.
- Buglife.
- Friends of the Earth England.
- Humane Society International.
- International Fund for Animal Welfare.
- The Mammal Society.
- People's Trust for Endangered Species.
- Royal Society for the Prevention of Cruelty to Animals.
- Whales and Dolphin Conservation Trust.
- World Society for the Protection of Animals.
- WWF—UK.

1. We are extremely pleased that the Environmental Audit Committee has decided to follow up on its 2004 Report by conducting a further inquiry into Wildlife Crime. We consider that this issue remains of the utmost importance and we look forward to the Committee making robust recommendations to ensure that the Government and enforcement agencies prioritise it accordingly.

2. We support the work of the National Wildlife Crime Unit (NWCU). We regard the Unit as being effective in coordinating wildlife crime intelligence and assisting in investigations, and strongly believe that it should continue to be funded beyond 2013. We also recognise and support the effective work being done by the Metropolitan Police Wildlife Crime Unit to tackle wildlife crime in London.

3. We support the mandate of the National Crime Agency (NCA) to "crack down on the trafficking of... wildlife" as identified in the Home Office Structural Reform Plan but urge that the introduction of the NCA should not undermine the work of the NWCU. The NWCU should not be subsumed into the NCA such that its important mandate is lost: rather the capacity of the NCA to tackle wildlife crime should be integral to the work of the NWCU.

4. Wildlife legislation is complicated and therefore it is vital that dedicated wildlife crime officers in the Police and wildlife crime prosecutors in the Crown Prosecution Service have the resources and support they need to take cases through to successful prosecution. Too often cases have to be passed onto colleagues who do not have the same expertise and so the strong penalties available in many cases are not successfully applied by the courts.

5. Regarding legislation, we welcome, in principle, the Law Commission's Project on Wildlife Law in so far as it seeks to clarify and simplify legislation in order to improve understanding and to make it easier for successful prosecutions to take place. We do not support any weakening of protection for wildlife. We support making wildlife crime recordable, whether by making offences triable either way or through another means. We also highlight the importance of improving surveillance of wildlife in relation to potentially damaging activities, understanding environmental impacts and supporting the addition of species to the relevant legislation where unsustainable activities are revealed.

27 February 2012

Written evidence submitted by Animal Aid

SUMMARY

- Animal Aid is opposed to all animal cruelty and wildlife crime but it notes that much wildlife crime occurs near land with legal game shooting interests.
- The illegal persecution of raptors occurs mainly near land with game shooting interests.
- Illegal snaring of mammals occurs mainly near land with game shooting interests.
- Illegal poisoning of birds and mammals occurs mainly near land with game shooting interests.
- Gamekeepers are the single largest group who are prosecuted for wildlife crime.
- Landowners with game shooting interests are rarely prosecuted when a wildlife offence occurs in their orbit.
- The refusal of government to introduce a law of Criminal Vicarious Liability within England and Wales is lamentable.
- Police Wildlife Protection Officers generally must conduct their wildlife duties secondary to other policing. This problem is exacerbated by the fact that they tend to be badly trained and under-resourced.
- Legislation concerning surveillance is hampering the collection of wildlife crime evidence.
- The General Licences issued by Natural England and devolved governments are not enforced but abused and a conduit for wildlife crime.
- We have not seen the maximum tariff for wildlife crime applied except in suspended form.

1. Animal Aid has actively campaigned against the cruelty of game bird shooting since 1999. Since that date other groups have been more closely committed to the opposition of the blood sport, notably the League Against Cruel Sports. What we all agree as well as the direct cruelty of breeding the birds to kill for pleasure, is the wholesale destruction of indigenous British wildlife that is considered "vermin". *Vermin* is a game shooting defined word. It means any creature injurious to game.

2. There are prescribed legal methods for catching and destroying "vermin". Animal Aid maintains that the protection of game is not a good legal reason for destroying wildlife. Indeed much wildlife is attracted to the artificial feeding conditions created by the presence of unnaturally large populations of game birds. The size of the predator colony is related to the size of the prey colony. The natural balance becomes an unnatural balance.

3. The restrictions placed on legal control of wildlife are not sufficient for the game shooting community. It resorts to illegal methods. For instance, birds of prey habitually alight on fence posts and other poles. Illegal spring traps are placed on the tops of poles and secured with chains.

4. Snares are placed in well-established runs beneath obstructions like fences. Indiscriminate snares catch badgers. Snares must not be self-locking. The purpose is to catch the creature who will be despatched later. It is a simple operation to fix the free running toggle on a snare to make it illegally self-lock around the victim's neck.

5. Ladder traps and Larsen traps are illegally used to catch birds of prey, who are destroyed and not released as required by the law. Both designs of traps are not inspected and provisioned as required by law. The latter design is illegal in its country of origin: Denmark. Larsen traps are even used to trap foxes and are placed at ground level where the bait bird is terrorised by the investigating fox.

6. Poison baits are left where birds of prey and other predators hunt. The poisons that are used are not only banned, they are indiscriminate.

7. There is insufficient scope in this submission to offer specific examples—to be found in numerous news reports—of gamekeepers being successfully prosecuted for wildlife persecution. Nobody could claim that detected, successful prosecutions represent the full scope of offences.

8. It is gamekeepers who are consistently arrested and prosecuted for wildlife crime near shooting grounds, yet they often claim that evidence has been placed by animal rights objectors. Gamekeepers are under considerable pressure to produce results for shoot owners and operators. The number of birds available on drives and the success of the shoot is a responsibility carried by the gamekeeper. Often he and his family live

in a tied house on the shooting estate. The involvement of land owners and other employers is implicated when the gamekeeper is not dismissed following a wildlife crime that should otherwise bring shame upon the estate. The Scottish Government's recently introduced legislation of Criminal Vicarious Liability will force ultimate responsibility for gamekeepers' crimes upon employers. The Westminster government steadfastly refuses to follow the enlightened Edinburgh lead. English raptor crime is more numerous than Scottish. The Hen Harrier is eliminated from Peak District grouse moors where it should be thriving.

9. Wildlife and Firearms law is complex and muddled. Police officers cannot be expected to know every facet and often do not. The General Licences issued by Natural England specify each year which species may be shot as "pest" species. Police forces issue shotgun licences where "pest control" is presented as good reason for possessing a shotgun. Derrick Bird, a taxi driver and mass murderer who was living in a row of terraced houses in Whitehaven possessed a shotgun for "pest control". His "good reason" for keeping a shotgun cannot have been compared with the need for "pest control" of other people living in the same terrace. The "good reason" of "pest control" is used to abuse the General Licences issued by Natural England and devolved regional governments. "Pest" species may only be destroyed to protect agriculture, public health, aviation or flora and fauna. It is illegal to shoot them for any other reason, including for sport. Yet, the pages of the shooting magazines regularly feature men and women posing for the camera with shotguns and carefully arranged multiple rows of dead pigeons and crows. The descriptions for the photographs describe how the birds were shot over fields of stubble. Editors award accolade for the biggest bag.

10. Police Wildlife Protection Officers always seem badly informed. Shooting seasons exist for game birds to breed in the closed season. But released game birds, who represent the bulk of game birds in the countryside, do not breed well in the wild. At the close of the season, in February and March, released game birds, who are now wildlife by law, are collected in special cages for breeding-in-captivity stock. The breeding ratio of one cock to 8 or 10 hens results in the discarding of most of the cock birds. No pheasant may be killed or taken outside of the shooting season. But a prominent advertisement by the well-known game meat producer Rick Bestwick offered good prices for cock pheasants to be processed into meat products long after the end of the shooting season. The Police Wildlife Protection Officer notified, seemed baffled as to what action he could take.

11. There is increasing pressure on police resources and manpower is in the process of reduction under government economy measures. Animal Aid cannot see how Wildlife Protection and the detection of Wildlife Crime can improve under these restraints. Police Wildlife Protection Officers conduct their duties alongside all other policing matters, which must be given first priority.

12. The law and the decisions of law enforcement authority make it very difficult to produce evidence of wildlife crime. Video and photographic evidence can be rejected if it is considered to be surveillance. Police claim they may not procure video evidence to use in prosecutions. Criminals, who are caught red-handed in wildlife crime or offences against the Animal Welfare Act 2006 once the wild animal is in captivity, go untroubled by the law.

13. We have never seen the maximum tariff for wildlife crime applied.

23 February 2012

Written evidence submitted by the British Association for Shooting and Conservation (BASC)

1. EXECUTIVE SUMMARY

1.1 This memorandum focuses mainly on poaching.

1.2 Poaching is no longer a low level activity in many areas.

1.3 Poaching is carried out by well organised individuals and gangs.

1.4 People that poach are also involved in other illegal activities in both rural and urban areas such as metal and fuel theft.

1.5 There is a commonplace perception that reporting poaching incidents to the police is a pointless exercise.

1.6 The performance of police forces dealing with poaching ranges from very good to extremely poor.

1.7 Many of the laws relating to poaching game are outdated and no longer fit for purpose.

1.8 Poaching is under reported and under represented because those affected often have little confidence that anything will be done by the police.

1.9 BASC was invited to give oral evidence to Her Majesty's Inspectorate of Constabulary when they carried out a joint thematic inspection of the arrangements in Scotland for preventing, investigating and prosecuting wildlife crime in 2007 and 2008.

1.10 Opportunities should be provided to second police officers who have developed expertise in their relevant fields to the National Wildlife Crime Unit and relevant statutory conservation agencies.

1.11 Greater emphasis needs to be placed on working with rural communities and empowering individuals to assist the police.

1.12 National coordination of all the separate watch schemes is needed to maximise their individual efforts in tackling poaching.

1.13 There needs to be a wider understanding by law enforcers and the courts of the true cost of wildlife crime to society given that other crimes are being committed by the same people.

1.14 It is critical that we try and bring some consistency to the reporting and recording of wildlife crime by using key words that are recognised and used nationally by the various police forces.

2. INTRODUCTION

2.1 The British Association for Shooting and Conservation (BASC) is the largest representative body for sporting shooting in the UK with 130,000 members. It aims to promote and protect sporting shooting and the well being of the countryside throughout the UK and overseas. It actively promotes high standards of animal welfare, training, education, scientific research and practical habitat conservation. BASC believes that all who shoot should conduct themselves according to the highest standards. It has 5,000 gamekeeper members who are often at the sharp end when it comes to tackling wildlife crime. BASC produce codes of practice on all aspects of shooting including wildlife management.

2.2 BASC staff work on many initiatives and programmes relating to wildlife crime in partnership with enforcement agencies, government bodies and other organisations such as the Royal Society for the Protection of Birds and the Royal Society for the Protection of Animals. BASC staff work actively with the Partnership for Action against Wildlife Crime (PAW) across the whole of the UK. BASC is represented on the advisory group of the Law Commission's review of wildlife law.

2.3 This memorandum was submitted on behalf of BASC by Glynn Evans, Head of Game and Gamekeeping. He is the plan owner for poaching priority in England and Wales for the National Wildlife Crime Unit (NWCU) and is shortly due to take up a place on the PAW publicity group. He provides the secretariat for the code of good shooting practice and has 25 years experience as a full time gamekeeper. This memorandum focuses mainly on poaching.

3. THE SCALE OF WILDLIFE CRIME AND ITS IMPACTS

3.1 Wildlife crime impacts upon both individuals and communities. The scale of poaching and hare coursing varies geographically and seasonally and depends upon the presence of target species. Large scale commercial poaching of some species of deer and fish is organised by criminal gangs. Many of those involved in poaching will also be involved in other rural and urban crime such as metal and diesel thefts, burglary and theft from farms and houses. Effective combating of hare coursing and poaching should be seen as a mechanism that helps reduce all rural crime. If the full impacts of poaching and hare coursing were understood, then more resources would be committed to getting those responsible before the courts.

3.2 Hare coursing is a major problem in some parts of the country. Individuals, but often large gangs, will travel extensive distances to run their dogs and sometimes large sums of money are gambled. Crops are routinely damaged with 4x4 vehicles driven at will over land. Those illegally pursuing hares with dogs are just as likely to target other species such as badgers and deer when the opportunity presents itself. Such illegal acts will often involve immense cruelty. Estates do try to take preventative measures with gates being locked on all fields to restrict access but this tends to only move the problem elsewhere. A farmer or gamekeeper who intervenes in poaching and hare coursing risks being intimidated through threats of violence. In some cases they are assaulted whilst trying to protect their livelihoods and property. Many have found themselves isolated and vulnerable.

3.3 In a single night poachers can take several deer. A deer lost to poachers can represent a significant loss to the landowner. The value of each carcass could be £2.50 per kg to the estate if it were taken legitimately and sold to a game dealer. A deer culled by a paying stalker as part of a management plan could be worth in the region of £500. A mature medal head quality male deer could be worth in excess of £1,000. The unplanned loss of such specimen deer represents a significant loss to the quality of the herd as it will not be able to pass on its genes to enhance the overall condition of the herd as part of the estate's management plan.

3.4 Poachers often target pheasants either as individuals or in gangs. Dead pheasants are worth in the region of 50 pence. The incentive to poach pheasants is for the thrill of the risk and the thought of getting one over on gamekeepers rather than a financial incentive. Pheasants are sometimes targeted because the gamekeeper has disrupted other illegal activities being carried out by the same people. The loss through poaching of even a single bird to a shoot is significant given that its value to a paying guest could be as much as £50. The disturbance caused by poaching can also affect the viability of the shoot.

3.5 Poaching of large and small game species can introduce risks to human health if meat enters the food chain without having been processed according to food hygiene regulations.

3.6 Some relevant quotes obtained from BASC members are as follows:

- 3.6.1 We have a problem with dog men and have had 18 electric fence units taken.
- 3.6.2 The individuals responsible are involved in a local crime wave.
- 3.6.3 Anybody saying poaching does not happen is wrong I have had it all deer poachers from Blackpool hare coursers from Liverpool and a local element taking pheasants.
- 3.6.4 We need to do something now as the situation is out of hand in my part of the country (I am sure other parts as well) where serious incidents are now occurring I have to take on hare, deer and fox coursers, poaching with firearms, hawks during the day and night and with not a great response from the police at the moment.

4. WILDLIFE LAW IN ENGLAND AND WALES

4.1 The legal framework is not sufficiently robust enough to effectively deal with wildlife crime in some areas, in particular the poaching of game and deer

4.2 Many of the laws relating to poaching game are outdated and no longer fit for purpose. The key game poaching offences are contained within legislation dating back over 180 years (Night Poaching Act 1828 & Game Act 1831) and were passed prior to the Great Reform Act of 1832. The legislation is unnecessarily complex and a simplification of wildlife law is required.

5. POLICING OF WILDLIFE CRIME

5.1 The performance of police forces dealing with wildlife crime ranges from very good to extremely poor.

5.2 PAW and NWCUC are well placed to assist with intelligence gathering, for the prevention of wildlife crime and the enforcement of wildlife law but their resources are mainly dependant on the time and finance provided by member organisations. For example, the relevant stakeholders of the Poaching Priority Group contributed to the one year post of a poaching priority officer, who gave advice to police forces and others.

5.3 Only with the necessary funding and resources will PAW and NWCUC be fully effective. Opportunities should be provided to second police officers who have developed expertise in their relevant fields to the NWCUC, to enable this expertise to be utilised and shared on a wider basis. Police officers could also be seconded to relevant statutory conservation agencies, as has happened in Wales with Countryside Council for Wales and the Environment Agency.

5.4 Police forces are primarily concerned with policing in their own area. When a police force becomes effective at dealing with a particular issue involving poachers or coursers they simply move to a neighbouring area. Someone who has land in two separate police force areas may receive completely different responses to the same problem.

5.5 The response to wildlife crime incidents is inconsistent across police forces. For example, some police forces are proactive and deploy officers in known “hotspots” for coursers and poachers, disrupting and arresting offenders. Other police forces are reactive and are not seen to be tackling the problems.

5.6 There is also inconsistency in approach within police forces. An enthusiastic police officer can have a huge impact if he or she is taking an interest in tackling wildlife crime and gaining positive outcomes but within the same police force another police officer may take little interest. Consistency of approach depends on the support and direction of police officers higher up the chain of command.

5.7 Better coordination across all the relevant agencies and police forces is needed to combat poaching. There are many good initiatives to combat poaching such as farm watch schemes, but there is little coordination between them. National coordination of all the separate watch schemes is needed to maximise their individual efforts in tackling poaching.

5.8 For many poachers being caught and prosecuted is treated as an occupational hazard. Unless policing is proactive there is little chance of detection and arrest let alone conviction. There needs to be a wider understanding by law enforcers and the courts of the true cost of these crimes to society given that other crimes are being committed by the same people. A zero tolerance approach to poaching will reduce rural crimes overall.

5.9 Those living and working in the countryside, such as gamekeepers, shooters and farmers, are ideally placed to assist in the detection and prevention of wildlife crime and other rural crimes. For a number of years there have been initiatives such as farm watch and poacher watch.

5.10 Hertfordshire constabulary has trained local people such as gamekeepers as rural special constables. They patrol their local community making use of their local knowledge. They provide a visible deterrent and reassurance to their community that there is someone on the ground who is a trained police officer capable and equipped to deal with incidents.

5.11 Hampshire constabulary has developed Country Watch, which actively involves farmers, gamekeepers and shooters to keep a lookout for illegal or suspicious activity and to share information with their neighbours and the police.

6. REPORTING AND RECORDING OF WILDLIFE CRIME

6.1 Poaching is under reported and under represented because those affected often have little confidence that anything will be done by the police.

6.2 Feedback to BASC reveals that many members do not report poaching incidents to the police because when they have previously tried to make a report there has been no response. There is a commonplace perception that reporting poaching incidents to the police is a pointless exercise. Greater emphasis needs to be placed on working with rural communities and empowering individuals to assist the police.

6.3 National standard incident recording is used by many police forces. However this does not fully record the nature and outcome of incidents of wildlife crime. More work is needed to encourage people to make the initial call to the police and for the person “logging” the call to do so accurately. It is critical that we try and bring some consistency to the reporting and recording process by using key words that are recognised and used nationally by the various police forces.

6.4 The reporting of incidents of illegal poisoning and pesticide abuse have a dedicated and well publicised Wildlife Incident Investigation Scheme and a hotline for the reporting of these offences nationally.

7. SCOTLAND

7.1 BASC was invited to give oral evidence to Her Majesty’s Inspectorate of Constabulary when they carried out a joint thematic inspection of the arrangements in Scotland for preventing, investigating and prosecuting wildlife crime in 2007 and 2008.

7.2 Since the thematic review in Scotland and the restructuring of PAW Scotland, BASC has played an active role in two of the Priority Action Groups (poaching and raptor persecution) as well as sitting on and contributing to a number of other groups and police constabulary PAW groups.

7.3 The thematic review and commitment from Ministers and stakeholders has raised the profile and effectiveness of PAW in Scotland.

8. NORTHERN IRELAND

8.1 BASC has been instrumental in helping to establish a series of rural neighbourhood watch schemes in Northern Ireland, working in partnership with both the shooting and farming communities, residents groups, the Northern Ireland Firearms Dealers Association and the Police Service of Northern Ireland.

9. RECOMMENDATIONS FOR ACTION

9.1 Opportunities should be provided to second police officers who have developed expertise in their relevant fields to the National Wildlife Crime Unit and relevant statutory conservation agencies.

9.2 Greater emphasis needs to be placed on working with rural communities and empowering individuals to assist the police.

9.3 National coordination of all the separate watch schemes is needed to maximise their individual efforts in tackling poaching.

9.4 There needs to be a wider understanding by law enforcers and the courts of the true cost of wildlife crime to society given that other crimes are being committed by the same people.

9.5 It is critical that we try and bring some consistency to the reporting and recording of wildlife crime by using key words that are recognised and used nationally by the various police forces.

1 March 2012

Written evidence from the Humane Society International/UK

Humane Society International (HSI) is the international arm of The Humane Society of the United States, one of the world’s largest animal protection organisations—backed by 11 million people. HSI is creating a better future for animals and people through advocacy, education, and hands-on programmes.

HSI UK welcomes the inquiry into UK wildlife crime currently being conducted by the Environmental Audit Commission. In particular, HSI UK sees the review as an opportunity to advocate a zero-tolerance approach. Wildlife crime is too often regarded as “soft crime”, with insufficient resources allocated to its detection and prosecution. In addition, the punitive measures imposed on perpetrators of crimes against wild animals following successful prosecutions are all-too-often inadequate to act as effective deterrents to others, and the incentives and funding available for those with an interest in investigating and prosecuting such crimes are low. Consequently wildlife crime continues to be a significant problem.

HSI UK would like to see the inquiry refocus attention on the serious nature of wildlife crime, and reflect the link between wildlife crime/animal cruelty and wider criminal activity within society. In particular, we would like to see the following areas examined by the inquiry:

1. The disparate nature of UK legislation protecting wild mammals, and the need for overarching legislation to create a presumption of protection, is a problem for enforcement. The Law Commission is scheduled to conduct a review of UK Wildlife Legislation during 2012, and we encourage the Environmental Audit Commission to make representations to the Law Commission to recommend that a framework be put in place to achieve a legal presumption of protection for wild mammals in the UK, in order to facilitate the work of enforcement agencies;
2. The incentives for government and non-government organisations and the Crown Prosecution Service to proceed with investigations and prosecutions of wildlife crimes are low, given poor prosecution-to-detection rates and soft punitive measures. Wildlife crime is often dismissed as unenforceable and unworkable, which sends the wrong message to those who would partake in it. The serious nature of wildlife crime needs to be emphasized, and the resources for effective investigation and prosecution of such crimes need to be made available;
3. The execution of the UK Government's obligations to international treaties and conventions designed to protect wildlife from exploitation and abuse, including the Convention on International Trade in Endangered Species (CITES), the Convention on the Conservation of European Wildlife and Natural Habitats ("Bern Convention"), the Convention on Migratory Species (CMS) and others, needs to be examined. The resources available to of the various government agencies tasked with overseeing the UK's commitments to these important international initiatives need to be protected and enhanced;
4. Recent discussions with the UK Border Agency have revealed that illegal wildlife product trade is often given low priority compared to other aspects of illegal international trade (such as narcotics and weapons) when it comes to enforcement. The enforcement work of the UKBA is vital if the UK is to effectively execute its commitments under CITES and other international agreements. While we commend the work of UK agencies in highlighting aspects of the illegal international trade in wildlife products such as rhino horn, sufficient resources for effective enforcement are essential if such work is to be meaningful;
5. The National Wildlife Crime Unit is a vital and effective part of the UK's enforcement activities in terms of wildlife crime. It should be maintained as a separate specialist entity, working closely with the National Crime Agency to combat wildlife crime, and be adequately resourced. In addition, the work of Wildlife Crime Officers in individual police constabularies is vital to the successful enforcement of wildlife protection legislation, yet the work of these officers is often undervalued and underfunded. Wildlife Crime Officers need to be given the respect and resources they require to carry out their duties effectively;
6. The Environmental Audit Committee has been tasked with undertaking an inquiry into wildlife crime, without examining the issue of hunting with dogs (Hunting Act 2004). Activities that are banned under the Hunting Act 2004, including hunting wild mammals with dogs (Section 1), and hare coursing (Section 5), continue largely unabated in many parts of the country, and as such it seems strange that a review of wildlife crime should exclude the examination of crimes committed under such an important piece of wildlife protection legislation. The Environmental Audit Committee should review whether the current maximum penalty of a £5,000 fine (level 5 on the Standard Scale) under the Hunting Act 2004 represents a sufficient deterrent; and
7. In relation to the government's proposals to license the shooting of badgers as part of its policy to control bovine tuberculosis, we are particularly concerned about possible increases in abuses under the Protection of Badgers Act 1992 that may occur should the government's proposals proceed.

2 March 2012

Written evidence submitted by Scottish Natural Heritage

1. SUMMARY

2. A summary of our comments are as follows:

- It is difficult to quantify how or if the scale of wildlife crime has changed since 2004 but it is evident that it affects some of our most rare and sensitive species.
- PAW Scotland has made considerable steps forward in bringing together key players involved in tackling wildlife crime but the commitment to wildlife crime varies between individual police forces.
- Partnership working, with well defined roles, responsibilities and adequate resourcing is key to tackling wildlife crime.

- We support and acknowledge the significant success of the National Wildlife Crime Unit since their creation, but consider there should be a longer-term and secure resource commitment to their work.
- We would hope that should a National Crime Agency be created, that the expertise of specialist team dedicated to wildlife crime would not be compromised.

3. BACKGROUND

4. Scottish Natural Heritage (SNH) is funded by the Scottish Government. Our remit is within Scotland and our purpose is to:

- promote care for and improvement of the natural heritage,
- help people enjoy it responsibly,
- enable greater understanding and awareness of it, and
- promote its sustainable use, now and for future generations.

5. SNH is a member of PAW and a key partner in PAW Scotland.

6. Wildlife criminality affects all areas of the UK. Whilst we understand that the scope of this inquiry is restricted to England and Wales, with this in mind, and considering the cross-border nature of many wildlife crimes and initiatives, we provide the following comments.

7. SCALE AND IMPACTS OF WILDLIFE CRIME SINCE 2004

8. It is difficult to assess whether or not there has been any significant change in either the scale or impacts of wildlife crime since 2004. However, we do believe that improved reporting and awareness of wildlife crime since that time may have increased the recording of wildlife crime.

9. Whilst it is difficult to analyse these changes, most importantly we are aware that wildlife crimes affecting some of our most rare or vulnerable species continues. For instance cases of raptor persecution in Scotland show little signs of reducing and there are clear conservation impacts arising as a result. Another example is freshwater pearl mussel, for which Scotland is a global stronghold. Relatively small numbers of offences or incidents in relation to this species have a disproportionate impact on their survival.

10. EXTENT AND EFFECTIVENESS OF UK LEGISLATION AND REGULATIONS ON WILDLIFE CRIME

11. SNH considers that, in general, legislation in relation to protected species and habitats are fit-for-purpose. Primary legislation can differ between Scotland and England and Wales, despite much of it arising from the same underlying Directives. Care is needed to ensure that where differences do exist, these are made as clear as possible to potential stakeholders, and that we should collectively try to ensure that any divergence between similar pieces of legislation (particularly where there is a common underlying Directive) is kept to a minimum.

12. It is worth noting that in Scotland the PAW Scotland Legislation, Regulation and Guidance Sub-group was created to review the operation in practice of wildlife legislation and regulations; identify areas for improvement and make recommendations and to produce guidance for wildlife crime law enforcement practitioners, land managers and other countryside users. The sub-group is made up of representatives from the Procurator Fiscal Service, Police, Land-owners and managers and conservation organisations.

13. The Wildlife & Natural Environment (Scotland) Act 2011 introduced a new vicarious liability offence for certain wildlife crimes whereby a shooting land owner or manager may be liable for the crimes committed by an employee, agent or contractor under their management or control. The new offence came into force on 1 January 2012. The Scottish Land & Estates, the leading representative body for land owners in Scotland has produced a Due Diligence Good Practice Guide to help its members understand the new offence and to take necessary measures to prevent the relevant offences taking place. This is an example of the type of measure which the Scottish Government and SNH consider will assist law abiding land managers to take all reasonable measures to ensure their employees abide by the law. It sits alongside the legal provisions contained within the Act itself and is an example of the benefits of partnership working through PAW Scotland.

14. CO-ORDINATION OF WILDLIFE CRIME POLICING, RESOURCES AND PROPOSED NATIONAL CRIME AGENCY

15. PAW Scotland provides an effective mechanism to bring together all stakeholders involved in tackling wildlife crime. From an enforcement perspective a national Police Tactical & Co-ordination Group has been established to look at operational issues across force areas. At the same time the National Wildlife Crime Unit's remit obviously also covers Scotland and they appear to interact well at the "force-level".

16. In Scotland there is still considerable variation in the level of commitment to wildlife crime depending on the police force in question. There are some particularly good forces where wildlife crime is a high-priority and where there are extremely committed and dedicated staff, but there are others where it has a much lower profile and resource commitment. The proposed establishment of a single Scottish Police Force (currently the subject of the Police and Fire Reform (Scotland) Bill) may serve as an opportunity to have a dedicated National Unit to tackle wildlife crime and to work alongside the UK National Wildlife Crime Unit.

17. We note the proposals to establish the National Crime Agency but are unclear as to the scope of their work. The National Wildlife Crime Unit does an excellent job and we work very closely with them. We believe that in order to be able to effectively tackle wildlife crime there needs to be a specialist team dedicated to that task. However, we are aware of the uncertainty that has surrounded the funding and future of the NWCU in the past. If the new Agency remit included wildlife crime and a dedicated team to tackle it together with a longer-term resource commitment in this area then we would support it.

18. HOW WELL GOVERNMENT AND OTHER ENFORCEMENT BODIES RESPOND TO NEW THREATS AND CHALLENGES

19. SNH contributes annually to a review of wildlife crime conservation priorities via the Wildlife Law Enforcement Working Group. This then helps determine UK wildlife crime priorities but importantly also can highlight emerging issues or intelligence requirements. We feel that this process, in combination with contribution (with other agencies), to PESTELO analyses led by the National Wildlife Crime Unit, does provide a useful way of identifying emerging issues in wildlife crime.

20. HOW EFFECTIVELY BEHAVIOUR AND ATTITUDE-CHANGE IS BEING PROMOTED

21. Wildlife crime enjoys a relatively high-profile in the media, with stories generally being picked up by the press quite readily—the result is that we have had very good opportunities to influence both behaviour and attitude-change. Additionally, through PAW Scotland and the development of appropriate sub-groups and wildlife crime priorities it has been possible to bring in all stakeholders (ie not just enforcement bodies) to look at ways of combating wildlife crime. We believe that engagement of this kind is extremely important in helping to raise awareness and positively change behaviours and attitudes.

1 March 2012

Written evidence submitted by The Self Help Group for Farmers, Pet Owners and others experiencing difficulties with the RSPCA (The SHG)

1. The Self Help Group for Farmers, Pet Owners and Others experiencing difficulties with the RSPCA (The SHG) is an organisation which was originally set up in 1990 to provide support and legal advice to people being investigated or prosecuted by the RSPCA whose activities and prosecutions are often controversial and have attracted a great deal of criticism. That remit has grown and we run a legal help line and put people in touch with solicitors who are experts in Animal and Wildlife Law.

Summary

2. There is no accurate measure of wildlife crime.
3. Its investigation and prosecution are driven by special interest groups, some of whom are controversial and whose aims appear to be the ending of many human animal activities and interactions.
4. Current legislation is confusing and contradictory and enforced by an equally confusing range of authorities, charities and organisations.
5. The Law Commission consultation should extend to cover the entirety of animal law including the Animal Welfare Act. The aim should be to produce one Act which is properly reviewed each time new European legislation needs to be implemented into UK law.
6. The National Wildlife Crime Unit should continue and oversee all animal or wildlife crime investigations and prosecutions and it should be properly funded by government.
7. Parliament should not be passing criminalising legislation if it has no intention or ability to fund its enforcement.
8. There should be proper protections against the sharing of sensitive and personal data with non-police organisations.

The scale of wildlife crime and its impacts, and how this has changed since the 2004 report

9. It is impossible to draw any conclusions as to the scale of wildlife crime and whether it has increased or decreased without independent records being kept by magistrates courts and police forces.

10. Measures of the number of complaints received are not an accurate reflection of the scale of such crime as they are bound to be artificially boosted by publicity drives and campaigns run by special interest groups. A result of any particular campaign might be a large increase in complaints about activities relating to a specific animal or plant which overwhelm investigators and prevent them from tackling crimes relating to animals or plants which are less popular or emotive but which have far greater need of protection.

The extent to which UK legislation and regulations on wildlife crime are “fit for purpose” and the penalties for offences are adequate

11. Legislation which is as confusing and contradictory as wildlife legislation has become, which drags people who have made a technical mistake into the net, and which is often prosecuted by charities as opposed to the police and CPS brings the whole system into disrepute.

12. Furthermore there are a confusing range of Agencies, organisations and charities who police this equally confusing and sometimes contradictory range of legislation.

13. The current range of legislation has grown piecemeal over the years and even the Animal Welfare Act 2006 applies to wild animals while they are in the control of man. The entirety of the legislation needs reviewing, including the AWA.

14. We are aware that the Law Commission intend to issue a consultation paper in the second half of 2012, possibly progressing to a draft bill by 2014.

15. An example of the deficiencies inherent in the current legislation is the way it applies to the activity of keeping British birds. Demands that paperwork should be kept along with a refusal to accept birds ringed in other EU countries as being captive bred has led to an application to the ECJ on grounds of restriction of trade. Worse, a legitimate hobby has become impossible for many to pursue because of the impossibility of understanding the complexity of the documentation required.

16. Penalties are severe and wide ranging, including confiscation of equipment including vehicles. While this scale of penalty might be reasonable in large scale organised crime, it is outrageous when applied to defendants who are guilty of petty crimes such as poaching a rabbit for the pot.

17. The cost of over zealous prosecutions and penalties applied to individuals will be the loss of public support for wildlife crime policing in general.

18. The SHG believes that the severity of the penalties and the resultant impact on the lives of those convicted means that wildlife crime should be triable either way, with defendants having the choice of trial by jury in the Crown Court. This would also serve to provide proper records.

19. The SHG can see no real and inherent links to other forms of organised crime or criminal mindset other than the obvious statement that prohibition always creates a demand that will be filled by someone. It therefore makes sense to prohibit as little as possible.

20. We observe that perhaps the greater wildlife crime is the insistence that animals and plants at risk from poachers and which cannot be protected in their native habitat should be left in danger of being killed or destroyed. A close second is the continued campaign against those whose hobby or work it has been to keep and breed them. Surely the best protection for the gene pool of each endangered species is for many individuals to be in an enthusiasts aviary or collection, or to be in a circus or a zoological gardens, and for government plans to be developed for controlled reintroductions to wild habitat when proper protections can be enforced or when the particular species is no longer so rare that poaching of any sort is financially viable?

21. The key question is “Why is a particular trade or activity illegal?” The response to the answer should be to try to find a way of making it legal and sustainable without creating a whole new raft of “crimes” that relate to the incorrect keeping of paperwork. Bureaucratic paperwork offences should never be classified as “wildlife” crime since so doing produces a false impression of the amount of wildlife crime that exists.

22. The biggest asset to endangered species are the enthusiasts and hobbyists. By criminalising their activities or by making them impossible to carry out legally and allowing a few zealots who do not believe any animal should be kept in captivity to access police resources for targeted prosecutions the inevitable result is the destructions and squandering of that knowledge base.

23. While we believe that there should be a complete review and consolidation of all wildlife/animal related legislation in the UK we are aware that continuing EU legislation must be incorporated into UK law. We believe that this should be achieved by one Act which is reviewed each time it becomes necessary to incorporate new EC legislation which should then be incorporated into that Act with priority being given to clearly understandable wording.

How policing of wildlife crime is coordinated in the UK (between bodies and geographically) and whether enforcement bodies have sufficient resources and powers, and how the proposed National Crime Agency might affect policing of this type of crime

24. We note that the National Crime Agency is intended to replace the Serious Organised Crime Agency and that its remit will be wide ranging and cover the most serious and complex organised crimes both nationally and internationally. The aim is to work in partnerships conducting multi-agency operations. The SHG has to question where wildlife crime fits into these categories. There is a vast difference between organised smuggling of rare animal body parts for medicines and a child who has taken a bird's egg. We are concerned that there is a lack of proportionality in many decisions to prosecute and in the penalties obtained.

25. Perhaps it would be better for the National Wildlife Crime Unit to run parallel to the National Crime Agency and for the National Wildlife Crime Unit to oversee all wildlife crime prosecutions. This would ensure consistency. It would remove the accusations of bias in prosecutions.

26. The SHG is concerned about the sharing of sensitive information and data with non government bodies and with countries whose record on human rights may be questionable.

27. It also concerns us greatly that independent agencies such as Interpol and the Metropolitan Police Wildlife Crime Unit have become dependent on NGO or charity donations and funding. The SHG does not believe that these bodies should be dependent on organisations like IFAW and WSPA. Can it be right for IFAW to train customs officers or the RSPCA to train magistrates? There is bound to be a public perception that “He who pays the piper calls the tune”.

28. The SHG believes that Parliament should not be passing criminalising legislation if it has no intention or ability to fund its enforcement.

29. By allowing campaigning bodies to bring prosecutions government has discredited wildlife crime prosecutions in the eyes of the public and those whose legal activities may attract the attention of campaigners. It has encouraged the belief that prosecutions are being brought on a political basis.

30. An example of the difference between a professional approach and the approach of a campaigning organisation is the case of a ten year old boy who befriended a jackdaw which had been dive bombing children at his school. The RSPCA visited the family and said that the bird would have to go. It took the intervention of the police wildlife officer to declare that the bird had become imprinted and so it would be dangerous to the bird if it was released into the wild. Common sense prevailed.

http://www.sunderlandecho.com/news/local/home_tweet_home_as_jackdaw_jack_becomes_a_bird_of_stay_1_3356932

How well Government and responsible enforcement bodies are responding to newer threats and challenges, including use of the internet for wildlife trade

31. Claims of internet trade are much over-hyped with little actual evidence.

32. The SHG is very concerned over the current practise of the police seizing computers, telephones and other electronic gadgets and handing them over to non government organisations. If government wants NGOs to be empowered then they should consult the public and openly legislate for this to happen. We should not be presented with a situation where the protections that apply to the police are bypassed.

How fully wildlife crimes are recorded, and how rigorously available penalties are applied

33. As already stated, there is inadequate recording of wildlife crimes but penalties which were intended for large scale organised crime are often disproportionately applied to individuals for small scale offences.

How effectively behaviour-change and attitude-change is being promoted

34. The SHG believes that this is not being promoted to any real extent. People travelling abroad are not provided with leaflets explaining what can or can not be brought into the country. There is no radio campaign of education. There is no leaflet dropping through the letter box of every household. How then are people to know of often obscure changes in the law?

The UK's role in influencing the EU and International agreement on illegal wildlife trade

35. The SHG is disappointed that the UK seems to prefer to encourage stringent regulations as opposed to finding ways to enable people to continue with their hobbies and activities.

7 March 2012

Written evidence submitted by the Moorland Association

1.0 Summary

1.1 There should be a presumption to work with moorland land owners and managers to stamp out wildlife crime, rather than alienate this key stakeholder.

1.2 Raptor wildlife crime correlated to grouse moors has been increasingly and misleadingly emphasised taking the scale of any illegal activity out of context and placing the issue out of all proportion to other much more numerous wildlife crimes.

1.3 The decreasing breeding success of Hen harrier in England does not necessarily mean that the species will become extinct. The impact on the species of perceived illegal persecution is not as great as has been accepted by the 2004 report.

1.4 Resources should be allocated in correlation to the frequency of confirmed NWCU incidents against the identified six wildlife crime priorities.

1.5 It is not possible for the Police and Conservation agencies to effectively “police” the remote upland moorlands.

2.0 Introduction

2.1 The Moorland Association (MA) represents landowners and land managers that look after 850,000 acres of the heather moorland in England and Wales—over one fifth of the uplands. Integrated moorland management over two centuries, often with red grouse habitat conservation as the linch-pin, has led to over 70% of this land being designated as SSSI in the 1980s and 1990s. The majority of these SSSIs also recently attracted European protection through Special Areas of Conservation for vegetation and Special Protection Area for breeding birds as part of the Natura 2000 network. Red grouse are wild and cannot be artificially reared like other game birds such as pheasant and partridge.

2.2 Moorland Association members therefore rely upon the good management of the red grouse’s habitat—globally rare heather moorland—to optimise the breeding success of the red grouse. Through this management, MA members continue to protect important designated habitats and a suite of important “priority” species which are cited in the designations and/or for which there are Biodiversity Action Plans. In addition, the gamekeepers employed by Moorland Association members provide a network of “eyes and ears” across the remote uplands to help detect and report wildlife crime. It is unrealistic to expect police forces or other agencies to prioritise the active policing of such large and depopulated areas.

3.0 What is the scale of wildlife crime and its impacts, and how this has changed since the 2004 report?

3.1 *Poaching* remains a frequent problem with no perceived improvement since 2004. Perpetrators tend to be associated with other crime, often carry firearms and can be threatening to anyone trying to prevent their activities. Police are often too busy with higher priorities to make any effective response especially given the remote locations and travelling times/distances.

3.2 *4x4, Mountain Bikers and Trail Bikers.* Every inch of MA members’ land is Open Access providing huge amenity value across the uplands. However, damage to sensitive habitats remains an issue due to illegal wheeled access. Again the remoteness and travelling distances make police support difficult. Gamekeepers are vigilant and report number plates where possible, but with little success of prosecution. There appear to have been no significant additional resources applied to the issue since 2004.

3.3 *Breeding birds:* Damage done to important and often protected ground nesting bird populations through Open Access is difficult to quantify, but dogs running off the lead will scatter hen birds off the nests leaving the eggs to chill and die. Equally, small chicks can be separated from the hen bird and become vulnerable to predation. All breeding birds are protected by law and yet unwitting visitors, particularly in very high visitor number areas such as National Parks and close to urban areas, are disturbing and destroying birds on a regular basis.

3.4 *Wildfire:* Wildfire is perhaps the greatest threat on both a geographical scale and the seriousness of impact. A wildfire is an ecological disaster on the scale of an oil spill. It can devastate 10s of square miles of prime habitat, burning all species in its path. Wildfires are increasing in frequency and often coincide with the ground nesting bird breeding season compounding the seriousness of impact on heather moorland dependent wildlife.

3.5 *Raptors and other birds:* The taking of eggs and birds from moorland particularly applies to Merlin and Peregrine. The Middle Eastern market remains very strong for captive bred birds and presents a strong temptation for unscrupulous individuals to boost their stock with wild-taken eggs and birds. Improved DNA testing technology and systems for captive bred birds is thought to be good and may have helped reduce the perceived rate of this crime on moorland.

3.6 If birds of prey come into conflict with integrated moorland management. MA members pursue the proper and legal channels to seek positive management solutions, as in the case of the hen harrier.

3.7 We believe that the NWCU confirmed and investigated figures for poisoning, trapping and shooting of birds of prey should be openly reported in preference to individual agencies reporting all reported incidents—whether or not they are confirmed, followed up or investigated. The NWCU figures alone should give the true scale of the problem as identified in your 2004 report and resources applied accordingly.

3.8 Over stating the problem and accusing grouse moor managers of alleged crimes that have not been investigated only alienates the moorland community. In turn this has led to deep mistrust between all parties. As a result, moorland managers, proud of their assemblages of birds of prey, keep information as to the species and abundance supported on their land close to their chests to avoid heavy handed investigations and further misrepresentation by these agencies. Members report to the MA the increase of frequency of sightings of bird of prey on their land consistent with their increasing national populations.

3.9 *Hen harrier*: The scale of crime against the hen harrier and its impact on the hen harrier population has been overstated and is misleading. A lack of breeding success on grouse moors does not automatically mean that laws have been broken. There are many, many more birds in England than four successfully nesting pairs, which can be seen over grouse moor during migration and at winter roost sites.

3.10 Until a full set of special rules allowing the positive management of hen harriers breeding on grouse moors is forthcoming from the Environment Council's Hen Harrier Dialogue, moorland owners are within their rights and the law to deter the birds from settling on their moors to breed.

3.11 The Environment Council process is the correct route to find practical management techniques and rightly engages positively with the land managers, as opposed to initiatives such as Operation Artemis which only alienate the moorland communities. The Moorland Association is fully engaged in the Environment Council process and is at the forefront of pushing for progress. We believe that Diversionary Feeding is as yet unproven and its full consequences unknown and alone cannot provide the full package of solutions required to see a sustainable increase in Hen Harriers breeding on grouse moors.

4.0 *To what extent are UK legislation and regulations on wildlife crime "fit for purpose" and are the penalties for offences adequate?*

4.1 Abiding by the Code of Good Shooting Practice requires that all employers ensure that they and their employees operate within the law and these laws are well understood and respected by Moorland Association members. The Moorland Association condemns any act of wildlife crime. With so few successful prosecutions it seems unlikely that vicarious liability would have any impact on the scale of bird of prey crime.

4.2 The Moorland Association welcomes the initiative to add listed poisons for which the holder has no legitimate use to the statute book.

4.3 Those that may be compelled to take the law into their own hands and illegally control the numbers of birds of prey hunting on their land, need a reliable and workable framework to apply for licenses instead. The continued protection of all species of bird of prey under all circumstances, irrespective of their increasing populations and their impact on other wildlife, is not sustainable.

5.0 *How is policing of wildlife crime coordinated in the UK (between bodies and geographically)?*

5.1 We would welcome a much more satisfactory approach to nest watch activity to help prevent crimes against the Hen harrier. Moorland Association members have acted in full cooperation during nesting attempts on grouse moors since 2004, but all too often there is dispute about who, when and how many people are involved and what to do to properly record the causes of a potential nest failure. Without a clear and enforced protocol there is too much room for conjecture and misinformation if things go wrong. All directly relevant parties need to be fully involved in any such protocol and other interested bodies should be kept well informed but well away from the site.

5.2 The group that co-ordinated the Goyt hen harrier nesting attempt in 2011 on moorland managed for grouse shooting should be applauded for its efforts to work together, however the nest failed and DNA testing only found hen harrier DNA at the site. No other DNA was found despite feathers and broken eggs consistent with predation. This left the causes of failure open to speculation and it is unknown what was eventually entered into the NWCUC database for this nest.

6.0 *How effectively is behaviour-change and attitude-change being promoted?*

6.1 *Visitors to Moorland*: More should be done to educate the public on their responsibility to moorland breeding birds between 1 March and 31 July—especially those walking with dogs.

6.2 More can be done by agencies to warn the public about starting fires, deliberately or accidentally. It is illegal to light a camp fire or BBQs on moorland for example—how many people know that or what the penalties would be for accidentally starting a devastating moorland fire?

6.3 *Media campaigns* that have focused on the highest possible figures for wildlife crime eg The RSPBs figures of *reported* incidents on Bird of prey crime as opposed to *confirmed* incidents logged by NWCUC, creates a confused and misleading picture. Equally, there have been several incidents of a poisoned bird of prey being discovered and the landowner on whose land it is found is immediately implicated in all but name, in media reports, despite there being no evidence to link the two together.

6.4 Engaging the public to report anything they see in the countryside they suspect is wildlife crime will have boosted figures, but the quality of the reported incidents are questionable given the poor understanding of what constitutes legal predator control and what are simply natural predator prey events.

6.5 These communications initiatives targeted at the general public have quite possibly succeeded in changing attitudes towards landowners and gamekeepers—and not for the better—but done nothing to change the attitude of anyone compelled to commit a wildlife crime and are therefore a failure. All they have succeeded in doing is the alienation of moorland landowners and gamekeepers—the very group of people that can offer so much towards crime prevention in the uplands.

9 March 2012

Written evidence submitted by UK Environmental Law Association

1. INTRODUCTION

UK Environmental Law Association (UKELA)

1.1 UKELA is the UK's foremost membership organisation working to improve understanding and awareness of environmental law, and to make the law work for a better environment.

1.2 This submission is made by the UKELA Nature Conservation Working Group which is one of a number of working groups which have been in existence for many years. It meets on a regular basis to discuss issues relating to the legal framework for wildlife protection.

1.3 Membership of the Group is open to anyone within UKELA and, as one would expect, it is composed of those with a particular interest in wildlife protection. It draws upon lawyers in private practice, public and administration, academic institutions and NGOs. This means that it is able to comment from both a theoretical and practical point of view.

1.4 The Group has links with the Partnership Against Wildlife Crime, and so it is able to understand matters of enforcement of wildlife law in practice.

1.5 This inquiry is timely given other initiatives undertaken by Government, such as the Environment White Paper and the Defra review of the implementation of the Habitats Directive in England. It is also timely to review progress since the last inquiry on Wildlife Crime undertaken by the Committee in 2004.

1.6 We are aware that the Committee has received detailed evidence from a number of bodies and, rather than duplicate issues raised, this submission will focus on a few points unlikely to be addressed elsewhere. The Group would be happy to give further details and evidence if this would be helpful.

2. CONSOLIDATION OF LEGISLATION

2.1 There is a critical need for the consolidation of wildlife legislation. Firstly, there is so much legislation with some of the oldest provisions in force being over 60 years old. This is illustrated by Michael Fry's book "A Manual of Nature Conservation Law" which in the second edition, contains one international treaty; three European Directives; 13 Acts of Parliament and three Regulations. It is over 800 pages long and does not include the relevant legislation for Scotland, Northern Ireland, the recent Marine Act and further changes to the Habitats Regulations.

2.2 Secondly, some of the key legislation has been amended many times, making for unwieldy provisions which are difficult to follow. For example Section 28 of the Wildlife and Countryside Act which deals with the identification, notification and confirmation, management and protection of Sites of Special Scientific Interest (SSSIs), has been amended many times. This section currently comprises 19 components and over 100 subsections, and a total 24 pages in Michael Fry's Manual. Other statutes have been the subject of partial amendments with the subsequent changes also being amended. This fragmentation adds to the complexity and challenge of interpretation and implementation.

2.3 The exercise to consolidate legislation will be a challenge because of the complexities and also because of changes to the provisions undertaken by the devolved governments. However, much can be done to improve the existing legislative framework for wildlife. This issue will be considered by the Law Commission under its 11th Programme but in the meantime the Committee's support in seeking greater consolidation of Wildlife Legislation is requested, with a recommendation be made that the Government progress this initiative.

3. DEVOLUTION

3.1 Devolution has resulted in changes to primary and secondary legislation for and affecting wildlife and also in the associated policies and guidance. These have not led to major differences but do reflect the different environments, priorities and administrative structures in each of the countries. Anecdotal information appears to indicate inconsistent approaches to wildlife crime being adopted by and within the countries, but further research is needed to establish the extent of the perceived problem. The Committee's support for this initiative is requested.

4. ENFORCEMENT PROSECUTION AND CIVIL SANCTIONS

4.1 Our overview is that the situation has improved greatly since 2004 but there is still much to be done. Through the good work of ACPO and PAW more police forces are proactive and have trained and dedicated Wildlife Crime Officers. However, there are still some forces that do not have such officers (see recommendation 27 of the 2004 report).

4.2 A recurring theme at PAW meetings is that the service provided by Crown Prosecution Service (CPS) is varied, depending on priorities, expertise and resources of the particular office. The RSPB produced a report in 2005 called "Getting Away With It" which highlights this problem, and the issues identified are still current. Further concern is raised following recent staff cuts and reorganisation that wildlife crime will have an even lower priority.

4.3 We welcome the introduction of civil sanctions and look forward to seeing them being implemented. In doing so we emphasise that the process needs to be transparent and conducted in accordance with the rules of natural justice.

4.4 One concern is that the use of civil sanctions is currently constrained with regards to breaches to species licensing provisions. This is due to the absence of offences in the relevant statutes. In addition the Conservation of Habitats and Species Regulations 2010, which provides protection for habitats and species of European importance, is currently not the subject of civil sanctions. These anomalies need to be addressed.

4.5 There is still a reluctance to prosecute by some agencies and the CPS because of the cost and time involved. This reluctance is misconceived. If accurate costings are kept, our experience is that the courts are willing to grant reimbursement assuming that the case is proved. However, most offenders plead guilty and where case are contested, costs can usually be recovered over time.

5. PENALTIES

5.1 There has been much improvement due to increasing awareness of the courts and changes in legislation. However, there is still a general feeling of unease that penalties are often too low, either because the damage has not been explained to the court or the court is unsympathetic. Both of these can be addressed by raising awareness of those involved in the court process.

5.2 The use of schedules of damage and cost of mitigation, as set out in the Friskie Pet Care case, is a good legal sanction in appropriate cases. Large costs to restore a damaged habitat can be a deterrent and should be used more.

6. LOCAL AUTHORITIES

6.1 These require particular mention. In conclusion 24 of the 2004 report the Committee was very critical of the ability of local authorities to fulfil their own statutory duties, commenting that it reflected at best a "woeful ignorance on the part of those in charge and, at worst, neglect or absolute disdain." We concurred with those findings at the time and are sad to report, that with a few worthy exceptions, our wide experience indicates that nothing has changed.

6.2 For example, under Section 40 of the Natural Environment and Rural Communities Act 2006 local authorities are required to conserve biodiversity in the exercise of their functions. This is to meet the UK's obligations under the Convention on Biological Diversity 1992 (Rio Convention). It carries no criminal sanction but in our experience local authorities have largely failed to implement this provision.

6.3 The 2004 Committee report states that 65% of local authorities have no qualified ecologist. We believe that since 2004 the situation has further deteriorated, especially in the light of recent financial cutbacks. You may wish to look further into this.

7. GOVERNMENT INITIATIVES

7.1 The Committee needs to be aware that there are currently a number of Government initiatives to reduce the burden on businesses and to simplify policy and guidance, which could further weaken wildlife protection. Their impact will become clearer in time.

8. THE STATE OF UK ENVIRONMENTAL LEGISLATION IN 2011

8.1 UKELA, in conjunction with King's College London and Cardiff University, has undertaken a review of environmental legislation including wildlife law. Many of the points are relevant to the Committee's inquiry. The report will be launched on 23 May and a copy will be provided for the Committee.

Written evidence submitted by the Institute of Chinese Medicine

I apologise for the delay in replying to your email. The questions you are asking cover an extremely complex area in Traditional Chinese Medicine. Clearly in a discipline which has over 3,000 years of history there are aspects which are outdated and neither applicable nor acceptable in the modern world. It is therefore important to clarify many issues around TCM. To this end, many groups are now attempting to use modern scientific methods to understand whether certain “herbal” products are effective and whether one can find alternatives to items derived from endangered species.

To fully discuss the issue would take more than a few words as there are many points of contention in the TCM community. The only points that have reached consensus are:

1. Products derived from endangered species that are prohibited by law should not be used by anyone irrespective of any evidence of efficacy. It is therefore clear that these products are not sold openly, but that there may be a black market for them. We have no specific knowledge of whether such illegal products are currently on sale in the UK.
2. Many of the plant species listed by CITES have almost been harvested to extinction in the wild. However, some can now be cultivated and, as far as I know, only products containing nominally endangered herbs that are farmed are currently in use in the UK. These are considered acceptable but their production needs to be licensed.
3. It is still unclear whether any endangered species have essential properties or components that contribute to their effectiveness. There is extensive research in China and Japan to try to isolate compounds from these items, which can then be synthesised or derived from other sources. However, this research is fraught with difficulties and clear alternatives are generally not currently available.

I am afraid I will not be available to discuss these issues further in April as I will be in the Far East on business. I hope you will be able to find other experts to help clarify these questions.

18 March 2012

Written evidence submitted by Trevor Lay

I write to you to clarify a mistake in the submission to the Environmental Audit Commission made by The World Wildlife Fund on 24 February this year which was brought to my attention as it names me specifically.

I was arrested in March 2010 on suspicion of theft of animals. This was obviously untrue and was never proceeded with. I believe it was the excuse for a large Police raid and search of my premises. However, once released on Police bail, I had to wait over a year before being charged, not for trading illegally in wildlife as is suggested, but for incompetent administration in respect of licences. Our business for 45 years has been the breeding and sale of birds and animals which are technically classified as “Wildlife”, although in fact they are home bred either by ourselves, zoos or other private breeders, from the progeny of specimens which have been in captivity for generations. We are well known and respected for producing healthy stock and for our contribution to Conservation through the captive gene pool. We try to comply at all times with the appropriate laws and only under pressure agreed to plead guilty to three charges of trading illegally, owing to minor and petty errors committed with no intent to circumvent the law. You will think, “Well, he would say that, wouldn’t he?” but you would also agree, given the facts of the case, that there was no conceivable gain to be made and certainly no harm to any animals.

In section 5.2 the WWF submission asserts that punishments are not sufficient to reflect the crime and states my case as an example: “Trevor Lay sold lemurs to the value of £20,000 and at court was fined £1,500 and £950 costs.” This is absolutely untrue and misleading. The value of the lemurs was actually £2,250. As to the complaint that “the current precedent-based guidance” system is insufficient, I believe that it is thankfully “common-sense based.”

Realising that my own case had been incorrectly reported led me to look briefly at the other four examples. Of these, chosen supposedly from numerous current cases, it is immediately apparent that one, The Renaissance Company, is only of historic significance dating, as it does, to a prosecution in 2000, which had been ongoing for years. The charges in my case date back to 2006 and the Crown Court judge did question the retrospective nature of the prosecution. In the case of Brynn McDonagh DEFRA issued import licences in spite of the danger of avian disease transmission and the unusually large number of birds for a private breeder. Similarly, Heng Low was granted licences to import perfectly legally farmed Arowana fish for trade purposes, but he did not obtain further licences to sell them. The press release after his arrest in 2007 was grossly misleading, claiming that the fish were 18 inches long and worth £2,000 each, when they were actually 18 centimetres long and worth £350 each, (the huge discrepancy was only acknowledged and corrected when Mr Low contested it.) Even in the David Brett case, the truth is unnecessarily stretched beyond reason; the pet shop value of this size of star tortoise is £200 resulting in a total of £1,600 value for the eight animals seized rather than the “estimated” value of £1,000 each giving an “estimated” total value of £8,000.

It is scandalous to think that a government committee is being asked for more funding to combat a suspected crime wave when the best examples are so poor and spread out over so many years.

On the subject of “estimations”, can anyone seriously read and accept that no closer reckoning of the estimated “value of illegal, unreported and unregulated fisheries” can be secured than the range between 4.2 and 9.5 Billion US dollars per year? In this inaccurate and largely imaginary arena of wildlife crime it would be more persuasive to see definite figures, solid facts and evidence in order to make a sound judgement on the real dangers it poses to the natural world and where best to focus attention. It would appear that vague allusions to its vast scope and magnitude have in the past obtained the funding requested to pursue the ghostly villains of the script rather than assisting people to carry out legal trading. DEFRA is prioritising prosecution over education and encouragement on the excuse of lack of funding.

Moreover the general tone of the document is alarmingly scaremongering and out of all proportion to the trivial nature of some of the crimes. I am appalled to read that I am considered to be as dangerous as a drug trafficker, a gun-runner, a human trafficker or even a murderer, just because of minor errors in procedure. It is disgraceful that the truth is being flagrantly distorted and embellished in order to increase funding to a unit that has not shown itself beyond reproach nor overwhelmingly successful in uncovering serious wildlife crime.

The inevitable result of vilifying and intimidating the breeders will be the cessation of captive breeding and a loss to the world of this valuable gene pool for numerous species which are in danger of extinction in their “wild” habitat.

I urge the committee to re-examine and to question the document and what it purports to describe. Without doubt no-one wishes to encourage wildlife crime, but it must be made clear that current methods are only managing to follow the paper trail of licence applications and check them for inaccuracies.

20 March 2012

Supplementary written evidence submitted by the Reptile & Exotic Pet Trade Association

I feel it incumbent upon me to offer comment and context to two successful prosecutions for wildlife offences as portrayed in the written submission made by TRAFFIC and WWF in paragraphs 37 and 5.2 respectively.

Additionally, I am very familiar with the case of Mr Trevor Lay who has submitted comment in respect of his case to the committee. His submission renders it unnecessary for me dwell in detail on his case, other than to say such tactics employed in his arrest and subsequent protracted investigation and prosecution are common place.

I would also like to comment on two other cases jointly highlighted by TRAFFIC and WWF, those of Mr David Brett and Mr Heng Low.

In the case of Mr David Brett, the smuggling of Indian Star Tortoises is without doubt a serious wildlife offence and the authorities must be applauded for the detection and subsequent prosecution. I do, however, have grave concerns over the exaggerated value of the animals concerned given. It was suggested in the media that the value of the animals was £1,000 each, when the actual value of the animals (which are freely legally available in the UK) is approximately a fifth of this.

This may appear to be a pedantic point, but the ramifications for what appear to be institutionalised exaggeration of values of wildlife, commonly between five and ten fold, could have very serious implications. From the media articles, it looked like opportunist smuggling driven by financial gain, when in fact the value of the animals would not have provided sufficient motivation to commit such a crime. Persistent gross exaggeration of the value of wildlife could actually be counterproductive in that it could encourage opportunist criminals to enter an area perceived has potentially highly profitable.

The retail value of young Indian star tortoises *Geochelone elegans*, would be in the region of £200–£250. The only way to sell illegal animals quickly (one would assume someone unfamiliar with keeping such animals would seek a rapid turnover), would be to undercut the price of legitimate animals and it is, therefore, unlikely that illegally-obtained animals would fetch more than £100 each.

In the Heng Low case—and indeed Mr Lay’s—none of the animals sold were illegal or smuggled animals. Mr Low legally imported the fish from Singapore and the shipments had all the necessary documentation and, importantly, CITES import permits issued by Animal Health. His conviction was for selling the fish without the relevant Article 10 Certificate, which is also issued by Animal Health.

In order for Mr Low to acquire a valid CITES import permit he would have to declare the purpose of the importation which would be stated on the export CITES from the exporting county and which would have to be sent to Animal Health with the import application. The same department, indeed the same case officer responsible for issuing the CITES import permit, would then be responsible for issuing the Article 10 Certificate.

For the offence of not having Article 10 Certificates, generally *mens rea* [criminal intent] would be expected, but in this case there was absolutely nothing to gain by committing the offence. As the fish were imported with all the correct paperwork, it would have been a formality that Animal Health would have issued the Article 10 Certificates, and at the time of the offence Animal Health did not charge for the application, although subsequently an application of £25 has been levied.

Since 2004 Animal Health [then Defra] have repeatedly stated that raising public awareness of CITES requirements is a priority and one might have thought it reasonable that the Government Department processing Mr Low's import applications (and thus aware of the purpose of that importation) might have reminded him of the necessity for Article 10 Certificates issued by the same department, if he was to sell them. It is clear that Mr Low committed an offence, but I would argue this is not a "wildlife crime" as the animals were perfectly legal and the failure was purely bureaucratic.

The issue of Article 10 Certificates is a hugely complex and ever-changing requirement that is poorly understood by keepers, traders and many enforcement officers. Dissemination of information and notification of changes to Article 10 Requirements by Defra/Animal Health is, at best, poor. The requirement for Article 10 Certificates is only used within the EU and is part of the stricter domestic measures imposed by Council Regulation 338/97. According to a study commissioned by Defra [CR 0483 21 January 2011] implementing stricter domestic measures costs the EU €23.3 million per year. According to the report:

"The conservation impacts of the EU stricter measures examined are complex, uncertain, and highly case-specific. The stricter measures typically effectively reduce trade into the EU. Beyond this, however, their impacts are highly variable and sometimes ambiguous in conservation terms."

Stricter domestic measures as imposed by the EU Wildlife Trade Regulations [338/97] certainly create a prosecution charter, although the benefit to conservation is unclear. Both TRAFFIC and WWF have highlighted these cases, but the facts are that one case is from 1997, the two involving Mr Lay and Mr Low are clearly not "wildlife crimes", and the fourth seems to involve the illegal trade in what appear to be legal animals.

The EU Commission is currently reviewing the EU Wildlife Trade Regulations and this may be an opportunity to strip out some of the overly bureaucratic processes in order to create more streamlined and cost-effective regulations that would enhance conservation without undue burden of paperwork.

The other issue that could perhaps be addressed is that of institutionalised exaggeration of monetary values of wildlife items seized. True, wildlife crime is a serious issue and should not be undermined by palpable distortion of facts. The cases highlighted show that exaggeration of actual values could be as high as ten-fold, which is extremely unhelpful. In reality, this could exacerbate the problem and encourage criminal activity by opportunists who have a distorted perception of the actual profit margins involved in the wildlife trade.

21 March 2012

Written evidence submitted by Harry Bishop

I am Harry Bishop, a private individual with over 50 years experience of Aviculture (the keeping and breeding of birds) and during that time I have kept a wide variety of species, both Foreign and Native, achieving two UK First Breedings. I have also kept and bred a number of species of Exotic (non-domestic) animals and Reptiles (including Chelonians and Amphibians). In the past, I have also worked with Police and Customs Officers, and the RSPCA as an "unregistered informer" on matters relating to illegal trade in CITES species. I have also been prosecuted by the RSPCA—a fact that I feel gives me an additional, possibly unique, insight to the problems of Wildlife Crime.

SUMMARY OF POINTS

1. "Wildlife Crime" is poorly defined.
2. The Wildlife and Countryside Act (1981), due to the Reverse Burden of Proof and custodial sentences, is in breach of the EU Human Rights Act.
3. The Control of Trade in Endangered Species Regulations (1997) (COTES), due to the Reverse Burden of Proof and custodial sentences is in breach of the EU Human Rights Act.
4. There is doubt as to whether The Wildlife and Countryside Act (1981) is a Common Law Act also known as a Common Enforcement Act).
5. Private Prosecutions brought by campaigning organisations such as the RSPCA do not meet the required standards set by the Crown Prosecution Service.

6. The intention of The Wildlife and Countryside Act (1981) was that a closed ring—as defined in the Act, and such that it can only be fitted to a bird in the nest up to eight days old ie cannot be placed on an adult bird—was proof of legal captive breeding. This intention is confirmed in correspondence from a Minister involved in drafting the Act. It is also accepted throughout member countries of the EU that a closed ring is proof of legitimate captive breeding.

7. As a result of the RSPCA/Natural England actions, an estimated 90% of captive-bred native birds fall outside the interpretation of the law applied by the RSPCA—despite being close-rung and captive bred for generations!

8. There is a growing trend to consider the keeping of birds, animals and reptiles as suggestive of Wildlife Crime.

9. There is a very small, but powerful Animal Rights lobby that consider the possession of any animal, bird or reptile as a crime.

10. The great majority of aviculturists view the illegal trade—ie the trapping of native bird species—as unacceptable.

11. Import bans/Restrictions.

12. Internet Crime.

1. “Wildlife Crime” is poorly defined

- “Wildlife Crime” is currently used as a “catch-all” phrase by many parties to encompass what they wish to be considered as “Wildlife Crime”—primarily to enhance their statistics. “Wildlife Crime” needs to be properly defined in such a manner that it cannot be misinterpreted by any party.
- A considerable number of cases recorded as “Wildlife Crime” are, in fact, offences relating to paperwork—and the addition of such “crimes” on to any database creates a completely false set of figures. Additionally there is a tendency of certain organisations to include Animal Welfare under “Wildlife Crime”—again this creates a false (fraudulent?) set of figures presented to senior authorities and the Public. The growing tendency on the part of NGO’s to exaggerate figures also creates a false impression.
- Very specific examples of exaggerated figures and questionable data include:
 - (a) Figures and facts quoted by TRAFFIC in their Written Submission—subsequently queried by both Trevor Lay and The Federation of British Herpetologists/REPTA
 - (b) Andy Shipp (RSPCA) in Uncorrected Oral Evidence on 7 March referred to an incident: “We stopped a guy in Kent who had 800 chaffinches. This was a Maltese guy who was coming once every other month with that load of birds and he was taking them out to Malta”. Research shows that an incident matching that statement occurred in 1999—13 years ago! Additionally, the number of birds involved has increased over a period of time—originally quoted as 400, then 500, then 600—and finally, 13 years after the event—800! Due to the age of the incident, it is “historic” and has no place in the current Committee’s taking of evidence.
 - (c) The two examples above, to any fair-minded individual, raise serious questions regarding the validity of any statement made by, or figures quoted by, NGOs or their employees.
- In one case, RSPCA v. Easter, the District Judge, in passing sentence, stated that he had no reason to believe that the Defendant had trapped birds—yet handed down a heavy financial sentence, couple with a confiscation order, for “paperwork” offences. It is of further interest to this Committee that the grounds for sentencing were purely a “recommendation” from Natural England and not law!
- The continued use of the phrase “wild birds” or “possession of wild birds” by NGO’s is misleading. Native birds, rung in compliance with The Wildlife and Countryside Act (1981) are captive bred for generations, and are by definition not “wild birds” but captive bred. The only acceptable proof that any specimen is a “wild bird” is if an individual is caught trapping.
- The frequent allegations made by NGOs to justify the inaccurate description include:
 - (a) “Wild birds are in demand because they have better colouration”
Captive bred birds frequently have better colouration, and are frequently of better quality and size—the Greenfinch is a perfect example, captive-bred specimens being of far better quality than their wild cousins.
 - (b) “Wild behaviour is considered as proof of wild caught origin”
Having kept wild caught foreign birds for many years, behaviour is no indication of origins and allegations to the contrary by NGOs are totally unfounded.
 - (c) “Wild birds are valued at £xx”
An unringed bird has no financial value.

- Frequent allusions are made that “Wildlife Crime” is responsible for the drastic reduction in species numbers in the wild by NGOs, Magistrates and District Judges. Habitat destruction, farming techniques, usage of weedkillers, pesticides and other chemicals, coupled with an upsurge of predators are the real causes for our depleted countryside.

2. *The Wildlife and Countryside Act (1981)*

- The Wildlife and Countryside Act (1981), due to the Reverse Burden of Proof and custodial sentences, is in breach of the EU Human Rights Act. This query was raised via my Member of Parliament with the Attorney-General in January 2011 and remains unanswered. Immediately that custodial sentences were appended to the Act, it became in breach of the EU Human Rights Act and every prosecution which relied upon the Reverse Burden of Proof is of questionable validity.

3. *The Control of Trade in Endangered Species (Enforcement) Regulations 1997 (COTES)*

- The Control of Trade in Endangered Species (Enforcement) Regulations (1997), due to the Reverse Burden of Proof and custodial sentences, is in breach of the EU Human Rights Act. This point has been raised via the writer’s Member of Parliament with the Attorney-General in January 2011 and remains unanswered. Immediately custodial sentences were included in this Act, it became in breach of the EU Human Rights Act and every prosecution which relied upon Reverse Burden of Proof is of questionable validity. This especially applies to all prosecutions regarding the possession of eggs since many eggs cannot be accurately dated and many collections of scientific interest ie Victorian have been destroyed as a result of prosecutions of questionable validity. The NGO responsible for the majority of prosecutions in relation to egg collections, as opposed to egg collecting from the wild, appear to have the opinion that possession of ALL eggs is a crime irrespective if the eggs are of Victorian origin or captive origin.

4. *The Wildlife and Countryside Act (1981)*

- There is doubt as to whether The Wildlife and Countryside Act (1981) is a Common Law Act—sometimes known as a Common Enforcement Act. This query was raised with the Attorney-General via the writer’s Member of Parliament in January 2011 and remains unanswered. The Question has been raised with Solicitors, Barristers, QCs and Wildlife Crime Officers—none of whom have been able to provide incontrovertible proof as to whether the Act is a Common Law Act. If it is not a Common Law Act, every private prosecution brought by NGOs is unlawful.

5. *Private Prosecutions*

- Private Prosecutions brought by campaigning organisations (NGOs) do not meet the required standards set by the Crown Prosecution Service.
- An estimated 75% of private prosecutions, if processed through the properly constituted authority—ie the Crown Prosecution Service—would be rejected by that body.
- Private prosecutions by NGO’s cost the public purse—ie the taxpayer—a considerable amount. The actual cost to the taxpayer is very difficult to quantify, but it is estimated to be at least five times, and possibly 10 times, the amount that it costs the NGO to proceed with private prosecutions.
- Investigation and prosecution should be carried out by the properly constituted authorities, namely the Police and Crown Prosecution Service.
- Breaches of Police and Criminal Evidence Act (PACE) are ignored both by the NGOs and by the lower courts which hear the cases. PACE should be strictly applied to ALL cases, not ignored at the whim of NGO employees or magistrates.
- Evidence offered by the prosecution is frequently suspect. The “intelligence” offered is frequently obtained by illegal means, such as “scanning” of mobile telephones, “hacking” of computers and e-mails—but the origins of the “intelligence” are never questioned. This “Jesuitical” approach is not acceptable.
- Expert Witness statements for the Prosecution are, in many cases, extremely questionable. In one case totally false evidence—alleging that the leg colouration of Goldfinches was a guide to decide if birds were wild-caught or captive bred—was accepted by the Court.
- NGO’s and their employees do not fall within the definition of Investigative Officers as defined in the Police Reform Act (2004) and therefore do not have the authority which many Police Officers are led to believe.
- Neither the Scottish Society for the Prevention of Cruelty to Animals (SSPCA), nor the Royal Society for the Protection of Birds (RSPB) carry out private prosecutions, instead opting for using the properly constituted authorities, namely the Police and Crown Prosecution Service.
- Illegal acts by employees of NGOs are invariably ignored by the Police. In some cases, Police Officers are inveigled into breaking the law themselves by the employees of the NGOs.

- It has not been unknown for Employees of NGOs, such as the RSPCA, to unlawfully obtain Search Warrants from Magistrates. A Search Warrant can only be obtained by a Police Officer, with a sworn statement to a Magistrate. On occasions where an RSPCA employee has illegally obtained a Search Warrant, it has proven very difficult to obtain proof of the illegal act due to the refusal of co-operation by Police Officers and Magistrates—those individuals, in refusing to provide the required information are, in effect, actively assisting the commission of a crime.
- Wildlife Crime prosecutions brought by campaigning organisations (NGO's) have discredited the entire arena of wildlife crime prosecution since they are frequently brought on a “political” basis or for publicity purposes—in clear breach of the standards required by the Crown Prosecution Service.
- It has been the practice of certain Police Officers to pass all seized computers, telephones, other electronic equipment, paperwork (breeding records etc) and livestock and pass them to NGO's. The Police have no authority to pass the property to a non-governmental organisation, and it is questionable if the actions are, in fact, legal. Additionally, when the Police are approached with a request for return of property, they are unhelpful, merely suggesting that the individual should contact the NGO—who are reluctant to return the property, and in many cases, refuse to return property. If the Government wants NGOs to be empowered, there should be open consultation with the public prior to open legislation. Until that occurs, the Police and NGOs are guilty of theft!

6. *Wildlife and Countryside Act (1981) Close ringing and paperwork*

- The intention of The Wildlife and Countryside Act (1981) was that a closed ring—as defined in the Act, and such that it can only be fitted to a bird in the nest up to eight days old; ie it cannot be placed on an adult bird—was proof of legal captive breeding and a requirement for sale or exhibition. It was also legal to possess an unringed bird if not offered for sale or exhibition. This intention is confirmed in correspondence from a Minister involved in drafting the Act. It is also accepted throughout member countries of the EU that a closed ring is proof of legitimate captive breeding.
- It should be noted that all Native birds kept in captivity in Europe must, by the law of individual countries, be ringed with a closed ring of a size specified for the species.
- When certain questions were posed to Members of Parliament, the MPs' staff came back with the comment that British birds had to be ringed—even they were unable to find any mention of a requirement for paperwork.
- Additional “paperwork” is not required in any other EU member state.
- The UK is the *ONLY* country in the EU to require paperwork in addition to closed rings, and it is questionable as to whether the “recommendations” made by Natural England—and implemented in private prosecutions by organisations such as the RSPCA—have any legal weight.
- The recommendations made by Natural England are of doubtful legality, as DEFRA has recently admitted, and can be construed as a “restriction of trade” and do not comply with European Law.
- The continued allegations by NGOs that rings are routinely tampered with is untenable. Ring manufacturers in the UK have admitted that quality control in the manufacture of the rings is not infallible—some rings are “substandard” but still fit for purpose. A frequent argument by NGOs that the anodised elements are damaged only if a ring is tampered with is again untenable, since it has been proven that the anodised elements can fail before use.
- There has been a lack of transparency on the part of Natural England and DEFRA.
- There has been little or no attempt by Natural England or DEFRA to publicise any recommendation—effectively an appalling lack of communication.

7. *RSPCA/Natural England actions*

- As a result of the RSPCA/Natural England actions in relation to paperwork and the disregarding of the legality of closed rings, an estimated 90% of captive bred native birds fall outside the interpretation of the law applied by the RSPCA—despite being close-ringed and captive bred for generations!

8. *There is a growing trend to consider the keeping of birds, animals and reptiles as suggestive of Wildlife Crime*

9. *There is a very small, but powerful Animal Rights lobby that consider the possession of any animal, bird or reptile as a crime*

- Treating items 8 & 9 together, the relevant Authorities should consider that the number of individuals within those groups are relatively small—but achieve a disproportionate amount of damage to legitimate livestock keeping interests. An interesting “twist” on democracy—those who shout loudest or have deeper pockets achieve their objectives over the majority!

10. *The great majority of aviculturists view the illegal trade in trapping of Native bird species as unacceptable*

- The trapping and sale of illegally trapped birds is not encouraged by aviculturists.
- It is easier to breed from a captive bred bird than from a wild caught specimen.
- Captive bred specimens are invariably superior to wild caught specimens in size and colour. Colour mutations exist in captivity in Goldfinch, Bullfinch, Redpolls, Siskins, Greenfinches, Blackbird, Starling, Song Thrush, Chaffinch, Skylark, Great Tit, Cole Tit, Crossbill, Magpie, Jay and other species.
- Wild trapped specimens reduce the value of captive bred specimens, and it is therefore in the interests of breeders to discourage the trapping and sale of inferior wild caught birds.
- The basic principle of the foregoing comments also applies to Reptiles, and more specifically Chelonians. The statistics quoted by NGOs relating to the trade in wild-taken European Tortoises should be considered as “fiction”—a responsible keeper or breeder of Chelonians does not want to have animals that are minus A10 Certificates in their collection—and there is a plentiful supply of captive-bred stock available. The sale of illegally obtained specimens reduces the value of genuine captive-bred specimens.

11. *Import Bans/Restrictions*

- At present there are numerous Import Bans and Import Restrictions.
- The UK has Restrictions in respect of import of birds from Europe—in breach of the Balai Directive.
- Those same Restrictions are also considered as a “Restriction of trade” in Breach of EU law.
- The Restrictions applied to the import of domestic dogs and cats, recently amended, are in breach of the idea of “free trade” within the EU.
- The refusal of the UK to allow free movement of other species of animals classified as Exotic or non-domestic is also an unnecessary restriction. and this refusal is believed to be in breach of EU law. Captive-bred specimens such as Skunk, Raccoon, Raccoon Dog which are routinely vaccinated against Rabies in Europe should be allowed into the UK under the same rules as Domestic Dogs and cats. There is no valid reason that captive-bred Egyptian Fruit Bats and many other species that are captive bred and have not been exposed to rabies should not be allowed into the UK without quarantine and unnecessary “red tape”.
- The EU import ban on importing birds from areas outside the EU is seriously flawed—statistics supplied by NGOs lobbying for a ban were based at best, on inaccurate data, and at worst on fraudulent data.
- The grounds behind the ban are extremely suspect—it was stated in the press that the head of the WHO had received payment from Pharmaceutical Companies.
- The Pharmaceutical Company involved in manufacturing the Avian Flu vaccine had, as shareholders, senior American politicians—it was in the interests of the Pharmaceutical Companies to encourage the hysteria surrounding Avian Flu.
- It has been suggested that the infection of a UK turkey farm was the result of turkey meat brought into UK from the same turkey producing company in Europe (Hungary, I think). If poultry meat is a vector for transmitting Avian Flu, why does the UK allow import of tons of poultry flesh from South East Asia and Brazil, whilst a ban of live birds is in place? Re-introduction of Quarantine facilities would allow imports of birds again—at a lower level of risk than that posed to the public by infected poultry flesh!
- The Bans in place in respect of import of prairie dogs from North America and animals from Africa is totally illogical—again based on flawed or fraudulent data.
- The ability of Government departments to be swayed by hysteria regarding any possible virus is extremely disturbing—the subjects require research, not “knee-jerk” responses encouraged by NGO’s with a private hidden agenda.
- In summary, the UK is guilty of applying unnecessary and unjustified Restrictive Practices in the movement of birds and animals within the European Union.

12. *Internet Crime*

- Whilst various parties appear to be trying to raise a degree of hysteria in relation to Wildlife Crime via the Internet, they seemingly fail to appreciate that anything purchased has to be collected or delivered—in many cases not only across borders, but countries and continents.
- Simply put, it is possible to purchase many things via the Internet—which may be legal in the country of origin. However, anything purchased or obtained via the Internet still has the problem of “physical ownership”.
- It should be considered that attempts by NGO’s to “hype” the subject of Internet Crime is ill-founded—is it an attempt to justify computer hacking by NGOs?

RECOMMENDATIONS

Clear and unequivocal definition of the term “Wildlife Crime”.

Whilst it is understood that there is to be a Public Consultation later in 2012, an immediate and urgent review of The Countryside and Wildlife Act (1981) on the following points is required:

- (a) The use of closed rings as proof of captive-breeding of birds to bring UK into line with common EU practice.
- (b) Confirm that the “recommendations” regarding paperwork in addition to closed rings are a Restriction on Trade as defined by EU.
- (c) Remove, with immediate effect the requirement for such paperwork.
 - Immediate suspension of all Prosecutions (including private prosecutions) involving “paperwork” offences whilst the matter is being reviewed.
 - Immediate review and amendment of both The Wildlife and Countryside Act (1981) and The Control of Trade in Endangered Species (Enforcement) Regulations (1997) in respect of breach of The EU Human Rights Act.
 - DEFRA and Natural England are effectively a “closed community”—there is a need for more transparency, consultation and engagement with keepers of birds, exotic (non-domestic) animals and reptiles.
 - All prosecutions (future, pending and current) to be handled by the properly constituted Authorities, namely the Police and Crown Prosecution Service and not devolved to charities, NGO’s and campaigning organisations such as the RSPCA.
 - Since Wildlife Crime is a complex and specialist area, more resources should be made available to the Police to train Wildlife Crime Officers. Additionally prosecutors within the Crown Prosecution Service also need to be made aware of the complexities of Wildlife Crime. However this training should not be undertaken by employees or members of campaigning organisations such as the RSPCA.
 - Reduce the “red tape” and paperwork to make keeping livestock within a legal framework more effective.
 - Simplify requirements for import from countries outside the EU.
 - Ensure that DEFRA and Natural England are prepared to issue licences for legitimate taking of native species for the purposes of breeding and maintaining captive bred populations of native species.
 - Encourage DEFRA/Natural England and other bodies to co-operate with private sector keepers to enable release programmes of captive-bred species such as Tree Sparrow to be kept bred and released.
 - Place an immediate “stop” on all release programmes where eggs or young are taken from the wild (in UK and abroad) by NGOs.

26 March 2012

Written evidence submitted by the Northern England Raptor Forum

The Northern England Raptor Forum (NERF) was founded in 2006 to give a more unified and effective voice to Raptor workers and study groups in upland England. Membership currently comprises of the Bowland Raptor Study Group, Calderdale Raptor Study Group, Durham Upland Bird Study Group, Manchester Raptor Group, Northumbrian Ringing Group, North York Moors Upland Bird (Merlin) Study Group, Peak District Raptor Monitoring Group, South Ryedale and East Yorkshire Raptor Group, South Peak Raptor Study Group and Yorkshire Dales Upland Bird Study Group. Our membership is at the forefront of monitoring a range of raptor species such as Peregrine, Merlin and Hen Harrier and providing that data in various forms to Natural England, British Trust for Ornithology, Rare Breeding Birds Panel and RSPB.

Published peer-reviewed scientific data clearly shows that in many areas, illegal persecution of a number of species of birds of prey is still widespread, and there is a clear link between this persecution and grouse moor management. This includes the recently published paper by Amar *et al*²⁸ that shows the especially poor productivity and occupation of Peregrine nest sites on grouse moors. This apparent illegality is also driving the breeding population of the Hen Harrier to extinction in England.

NERF believes there is a clear need for a much better co-ordinated approach to fighting all wildlife crime and to raptor persecution in particular, especially between those organisations with statutory duties in this respect, but including other expert bodies.

We believe that the following measures need to be considered as part of this current review.

²⁸ Amar, A, Court, I R, Davison, M, Downing, S, Grimshaw, T, Pickford, T and Raw, D. 2011. Linking nest histories, remotely sensed land use data and wildlife crime records to explore the impact of grouse moor management on peregrine falcon populations. *Biological Conservation*. www.elsevier.com/locate/biocon

That all wildlife crime is serious enough that it should become recordable and all police forces should be required to supply the full details of such crime and any intelligence concerning wildlife crime to the National Wildlife Crime Unit (NWCU). The NWCU must be properly and fully funded and there should be a firm commitment to do so in the longer term. NWCU should maintain close links with the National Crime Agency as we believe that much wildlife crime is serious and organised. It is only then that all parties can be sure that there is a complete set of data that can be examined to show trends and assess whether policies and enforcement relating to such crime are working.

We also believe that despite these financially difficult times all UK police forces must have at least one full time Wildlife Crime Officer and an appropriate number of part-time WLO's to assist the full time officer in the investigation of wildlife crime. At the present the decision to appoint a full time Wildlife Crime Officer is the sole responsibility of the local Chief Constable. This leads to inconsistencies across neighbouring Police Force boundaries, boundaries that birds of prey, and other wildlife, do not recognise. A change of Chief Constable can, and often does, lead to a change of policy and the removal of the WCO post. We believe the requirement to have a Wildlife Crime Officer should be directed by the Home Office and form part of the Policing Performance Strategy.

A vicarious liability provision, similar to or the same as the one now in force under the Wildlife and Natural Environment (Scotland) Act 2011, should also be introduced. This would allow those who originate, commission or allow wildlife crime to happen through negligence can face the normal penalties for their actions as is the case in other walks of life.

Given the high incidence of illegal poisoning of birds of prey and other predators and the inherent dangers to other users of the countryside, there needs to be more stringent controls of pesticide use and storage introduced, as has already happened in Scotland with the list of proscribed pesticides under Section 43 of the Natural Environment and Rural Communities Act 2006.

There is some data to suggest that the theft of Peregrines for use in falconry may have increased since its removal from Schedule 4 of the Wildlife and Countryside Act 1981. We believe that Schedule 4 should be re-enforced and Peregrine added to its provisions thus requiring this species to be ringed and registered if kept in captivity—this would aid law enforcement and deter removal of the species from the wild.

The gamebird shooting industry in the UK is one of the least regulated in Europe. NERF believes that due to the apparent high levels of illegal persecution and criminal practices that are prevalent in some areas, and the significant impact these have on raptor populations over wide areas of countryside, this needs to change and tighter regulation is required. We believe that a proper licensing system for shoots should be introduced. We also have some concerns over the ecological impact of the unnaturally high stocking densities in some areas of Pheasants and introduced Partridges.

NERF believes that the penalties for wildlife offences should also include, for those involved in game shooting, a provision for banning the individual or estate from game shooting for a period of time. As a starting point this should be for one season for a first offence. We believe that only with this sort sanction will the law-flouting elements of the game shooting industry act responsibly.

In preparing this submission we note that Countryside Alliance has implied that the data used in Amar *et al*¹ is out of date, that the broad conclusions no longer apply and that Peregrines by implication are now doing well on grouse moors. NERF utterly refute this claim as the continued collection of data shows the conclusions reached by Amar *et al* continue to be relevant and that there still appears to be widespread interference and persecution of Peregrines on grouse moors.

We also note with considerable concern and incredulity the suggestion from the Moorland Association that the level of Hen Harrier persecution has been grossly exaggerated. It is widely agreed that the uplands of England could and should support a Harrier population of approximately 300 pairs, yet the current population is a mere 2.3% of that, and is restricted to only one estate managed sympathetically by United Utilities. This tiny remnant consistently produces enough young for the population to slowly grow and expand but the conclusions reached by Natural England²⁹ are that “there is compelling evidence that persecution continues, both during and following the breeding season” and that “persecution continues to limit Hen Harrier recovery in England”.

NERF also find the MA statement concerning the deliberate disturbance of pairs of Hen Harriers in the early part of the breeding season totally reprehensible and morally bankrupt considering the bird's protected status and rarity. If this is not already illegal it certainly should be.

19 April 2012

²⁹ Natural England. 2008. A future for the Hen Harrier in England? Natural England. Peterborough.

Written evidence submitted by the Wildfowl & Wetlands Trust

INTRODUCTION

1. The Wildfowl & Wetlands Trust (WWT) is a UK-based international charity conserving wetlands and wetland wildlife including waterbirds. WWT's conservation actions are evidence-based and the organisation tackles threats to wetland wildlife by undertaking high quality research and monitoring, policy and advocacy work, intensive species management, habitat creation and restoration, and capacity building.

2. WWT wishes to respond to the enquiry into wildlife crime with respect to two issues, namely lead poisoning and illegal shooting of swans.

3. WWT has been conducting research into lead poisoning in wildfowl and the illegal shooting of swans since the 1970s.

LEAD POISONING

Summary

4. Lead poisoning through the ingestion of spent lead gunshot is a significant cause of mortality, morbidity and suffering in wildlife, especially in waterbirds.

5. English legislation, introduced in 1999, to address the problem of lead gunshot is not working: there is widespread non-compliance; understanding of the spirit of the law appears good but motivation to comply is poor; and the restrictions have produced no measurable decline in incidence of the disease. There is nothing to suggest the situation is any better or worse in Scotland, Wales and Northern Ireland.

6. Action needs to be taken to ensure that wildfowl and other birds do not continue to suffer and die of lead poisoning resulting from spent gunshot ingestion. Several European countries, including Denmark, the Netherlands, Norway and parts of Belgium have introduced total bans on the use of lead gunshot. This appears to be a more practical solution than partial bans introduced in many countries based on the shooting of selected species (*ie* wildfowl) or in selected habitats (*ie* wetlands).

7. There is evidence to suggest that UK-wide legislation restricting the use of lead angling weights has reduced lead poisoning in Mute Swans in England although lead poisoning continues to affect the species to some degree.

Factual information

8. Poisoning caused by the highly toxic metal lead is a widely accepted and well documented global problem for humans, domestic animals and wildlife, and remains an important cause of morbidity, mortality and suffering in waterbirds and terrestrial birds.¹⁻⁸

9. Waterbirds are poisoned following ingestion of spent lead gunshot, either inadvertently or mistaken for food particles or grit.⁹⁻¹³ Predatory and scavenging birds, primarily raptors, are also exposed to embedded lead ammunition in their prey or carrion⁷: a high proportion (*eg*, a third), of both legally and illegally shot living birds of some species can carry embedded shot.¹⁴

10. The ingestion of discarded lead angling weights has also caused significant illness and death in swans and other bird species.¹⁵⁻¹⁷

11. Based upon the incidence of lead shot ingestion, it has been estimated that from a population of just over 11 million waterfowl of 17 species, approaching one million (8.7%) might die from lead poisoning in Europe during the wintering season from November to February each year.⁵ In Britain, over 10% of waterfowl found dead were diagnosed as dying of lead poisoning, with no significant change over the last 30 years despite legislative changes designed to reduce poisoning.¹⁸

12. As a response to the issue of lead poisoning in wildlife in the UK, restrictions on the use of lead in angling weights were introduced in 1986.¹⁹ In addition, as a Contracting Party to the African-Eurasian Waterbird Agreement (AEWA), the UK is obliged to phase out the use of lead shot over wetlands¹⁹⁻²¹ and thus introduced lead shot restrictions in England,²²⁻²⁴ Wales,²⁵ Scotland²⁶ and Northern Ireland.²⁷

13. There is evidence to suggest that legislation restricting the use of lead fishing weights has reduced lead poisoning in Mute Swans in England^{18,28,29} although lead poisoning continues to affect the species.³⁰

14. Although measuring compliance with the various Regulations restricting the use of lead shot is complicated,³¹ in 2008, Defra commissioned WWT working with the British Association for Shooting and Conservation (BASC), to undertake an 18 month study to assess compliance in England.³²

15. A game dealer survey found high levels of non-compliance across England with 70% (344/492) of ducks sampled having been shot illegally with lead.³² This represents no improvement since a similar but smaller study in 2000-01 which found 68% (27/40) to have been shot illegally with lead.³³ Although not an offence, 73% of game suppliers in the study sold illegally shot ducks.²⁷

16. Questionnaire surveys of shooters and shoot providers found, that despite a good understanding of the spirit of the law (*ie* education about the Regulations does not appear to be the problem), 45% of respondents admitted that they sometimes or never complied with the Regulations. There was an apparent lack of motivation to comply as reasons for non-compliance included: disagreement with the rationale for the Regulations and a widely held belief that lead poisoning was not a sufficiently great problem; misperceptions about the alternatives to lead shot; and also the lack of enforcement.³²

17. Compliance with the Regulations in Scotland, Wales and Northern Ireland has not been measured but there is no reason to assume the situations there to be any better or worse.

18. There has been little enforcement of the Regulations to date. We are aware of only one case, that of R-v-Quince (Harrogate Magistrates Court, 16 May 2011) where a man was fined £100 as a secondary offence for shooting a protected species (*ie* a swan) with lead.³³

19. A range of alternative gunshot types to lead are widely available the UK, along with advice on their properties and the most appropriate non-toxic shot types for different types of shooting.³⁴

Recommendations for actions

20. Motivation to comply with Regulations restricting the use of lead shot seems to be poor in England. Further education about the Regulations may not make a significant difference as there is currently good understanding of the spirit of the legislation in England, although raising awareness of the scale of the problem and unpleasant suffering caused by the poisoning may be valuable.

21. A substantial increase in efforts to police and enforce the Regulations may be beneficial although this would be complex and resource-intensive. Without significant resourcing we therefore consider that this would be ineffective.

22. The introduction of “liability of a principle” may help improve compliance with the existing legislation, as might regulatory restrictions on the sale of wildfowl shot with lead ammunition. However, as with the existing regulations, these would be complicated and potentially costly to enforce. Also, many wildfowl are also exposed to lead shot through feeding on agricultural and other “dry” land where lead may be currently used legally. Therefore while, given adequate resourcing, such actions could potentially reduce the level of wildlife crime they would not solve the conservation and welfare problem.

23. Several European countries, including Denmark, the Netherlands, Norway and parts of Belgium have introduced total bans on the use of lead gunshot (these vary from bans on use for all game shooting to bans on use, possession and trade). This appears to be a more practical solution than partial bans introduced in many countries based on the shooting of selected species (*ie* wildfowl) or in selected habitats (*ie* wetlands), and we consider that this would be the most efficacious and enforceable solution in the UK countries.

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ILLEGAL SHOOTING OF SWANS

Executive summary

24. Illegal shooting continues to affect all three species of migratory and resident swan in the UK despite each being legally protected from hunting throughout its range. This is a particular conservation issue for Bewick's Swans as their numbers are declining, yet 22.7% of living birds have been shot at (and others undoubtedly killed). Illegal shooting occurs in UK as well as overseas.

25. Greater compliance with legislation should be encouraged, both through increased public awareness and through engagement with local authorities and communities across the swans' ranges including the UK.

26. There is a need for stricter enforcement of legislation throughout the swans' ranges including the UK.

Factual Information

27. Illegal shooting continues to affect all three species of swan in the UK (the migratory Whooper and Bewick's Swan and the resident Mute Swan), despite each being legally protected from hunting throughout its range.

28. Despite a reduction in hunting pressure on Bewick's Swans since the 1980s, the incidence of illegal shooting remains high, with 22.7% of live Bewick's and 13.2% of Whooper swans caught and X-rayed in Britain in the 2000s found to have been shot at.¹

29. Bewick's and Whooper Swans are known to have been shot dead in Britain as well as other countries along their migratory route^{1,2} and there are annual reports in the UK of Mute Swans being shot at by vandals or mistakenly by hunters *eg* R -v-Quince, Harrogate Magistrates Court, 16 May 2011.

30. Illegal shooting is of particular concern for swan species as they are long-lived and slow to mature (with delayed onset of breeding and low annual productivity), and therefore sensitive to increases in adult mortality. The threat of illegal shooting is of particular conservation concern for the Bewick's Swan population because its numbers are declining.³⁻⁶

Recommendations for actions

31. Greater compliance with legislation should be encouraged, both through increased public awareness and through engagement with local authorities and communities across the swans' ranges including the UK.

32. There is a need for stricter enforcement of legislation throughout the swans' ranges including the UK.

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Written evidence submitted by the Remembrancer of the City of London

This letter responds to the recent call for evidence for this inquiry. The City of London runs the Animal Reception Centre (ARC) at Heathrow Airport, which receives around 80% of imports of live animals which enter the UK from non-EU (third country) states. The main remit of the ARC is to enforce the animal health and welfare legislation as it relates to the animals passing through the airport. The City of London is also responsible, under the Animal Health Act 1981, and Trade in Animal and Animal Product Regulations 2011, for imported animals for the Greater London area.

By way of background, the ARC has a very close working relationship with the UK Border Force Convention on International Trade in Endangered Species (CITES) team and four senior ARC staff are also Animal Health and Veterinary Laboratories Agency (AHVLA) Wildlife Inspectors. The ARC conducts training courses for police wildlife crime officers and UKBF officers and is involved in the one week CITES training course, run by and for UKBF and Police and is a member of the Partnership Against Wildlife Crime, chaired by Defra.

A major problem in tackling wildlife crime is that trends in the trade of exotic animals changes over the years in response to external factors. The banning of the import of wild caught birds in 2005 in response to the threat of avian influenza led to an increase in the illegal trade of birds. Similarly, since the increase in airport security following the attacks on the World Trade Centre, the level of smuggling by airline passengers has dipped, although the perception is that this has moved smuggling to other routes particularly by post and courier. The internet has also caused a large shift in patterns. It is now easier for individuals in the UK to find suppliers in third countries, with enforcement agencies lacking the resources or capacity to address the problem. Whilst there have been some successful prosecutions of online traders, the size of the problem means that often only large and persistent offenders are dealt with.

Imports from within the EU also cause difficulties. Many of the very rare species found in trade in the UK have been imported via the EU—this presents a major problem as the UK cannot stop internal movement from other EU Member States. Whilst there is no easy solution, an increase in intelligence gathering would help AHVLA officers to target smuggling networks. Fellow Member States should also be actively encouraged to enforce EU legislation at their own borders to help stem the problem. From contact with people and agencies abroad it is clear that the UK does have a large role in influencing EU and International agreements on illegal wildlife trade.

In the view of the ARC, domestic legislation is generally fit for purpose, except the requirement in the Control of Endangered Species (COTES) legislation for a veterinarian to take a sample of all biological imports. This should be amended to allow a more practicable and sensible approach to sampling, especially with regards to plants or non-living imports.

Potentially the single biggest factor that would contribute to a reduction of wildlife crime is the introduction of a possession or registration scheme. There is already a possession licensing scheme within the Habitats Directive and CITES listed species could be combined with this. There could also be a secondary benefit to such a system as CITES licensing is moving to full cost recovery. This has made the UK one of the most expensive EU Member States to apply for CITES permits, driving business from the UK to other EU States. For example, a plant permit which costs 10 euros in some EU states can be anywhere from £60–200 in the UK. By having a full and proper scheme for possession, it could, by dint of volume, reduce the cost of the individual permits to a more publicly accessible and acceptable level. Overly expensive licensing schemes will also tend to encourage evasion.

Some wildlife crime fits within existing local or regional action/initiatives, whereas some has a more national or international scope. From the City's viewpoint, the UKBF and CITES team have done well in helping police forces to enforce the regulations on such national and international crime. However, wildlife crime is not a reportable offence—if it became reportable, it would potentially increase the priority given to it by individual police forces and the resources they allocate to it.

The introduction of the National Wildlife Crime Unit (NWCU) in 2006 had a very positive impact on the policing of wildlife crime. Its method of working, whereby officers on the ground support local forces (the latter may not have expertise and specialist knowledge), is one that has achieved demonstrable results. The City thinks that these arrangements should not be changed. The NWCU's main issue is uncertainty over its future. The temporary nature of the Unit's funding is wholly unsatisfactory and currently there is little information available on how the proposed National Crime Agency (NCA) will work in this field, how the NWCU would potentially fit into the NCA, or if it will sit elsewhere. To improve its effectiveness the NWCU

should be properly resourced and put on a permanent footing, whether that is as a stand-alone unit, as now, or within another organisation.

If the Committee would care to visit the Animal Reception Centre to see its work first hand and raise any issues or queries that they may have with the staff, please do not hesitate to contact my office.

7 June 2012

Supplementary written evidence submitted by Ornamental Aquatic Trade Association

1. Further to our evidence submitted by a letter dated 24 February we would like to make comments regarding the verbal evidence provided by the Angling Trust and the Environment Agency. Among other issues a recurrent theme are references made to retail outlets or garden centres being a part of the invasives problem with no reference made to the already very active role they are playing in the solution by wide spread public awareness raising campaigns they are participating in nor of the possible greater role of other actors in the problem.

ANGLING TRUST

2. In his answer to Q65 Mark Lloyd of Anglers Trust made a number of sweeping statements. We have addressed the issue of releasing fish or plants purchased for aquaria and ponds in our original evidence and I will not rehearse these here. Suffice to say OATA and its members are at the forefront of raising public awareness of the issue of invasive species. I would however comment further on two aspects of his answer:

3. "The same with fish-there are top mouth gudgeon being sold. If someone doesn't want one and flushes it down the toilet-they can even survive that-or releases them into a lake or anything else, they can cost millions to remove."

Top mouth gudgeon

4. While noting the word "freely" has been removed from the uncorrected evidence the comments regarding the retail sale of this species tends to leave one with impression that sales remain regular to the extent they may constitute an issue. We believe this is incorrect.

5. The controls on retail sales of species controlled by the Import of Live Fish Act, of which top mouth gudgeon is one, are enforced by the Fish Health Inspectorate of CEFAS based at Weymouth. A Senior Inspector said of the idea that this species is being offered for retail sale:

6. "Among the many species that we have either regulated imports or banned keeping in the last 17 years, only once have we come across topmouth gudgeon, and I had those killed within the hour, as it was me who found them. We have not had any notifications from the public or trade so I suspect there are very few, if any, out there."³⁰

7. This answer also adds weight to my initial evidence concerning the generally firm, fair and robust way in which the CEFAS Fish Health Inspectors undertake their role which enhances their reputation within my sector of the fish keeping industry.

8. It is perhaps disappointing, particularly given his association with Fish Legal, that the purported illegal sale of this species, though important enough to bring to your attention, was seemingly on no occasion deemed important enough at the time for Mr. Lloyd to report the matter to the enforcement agency CEFAS. I am confident they would then have taken effective dissuasive action. As we would not support deliberate illegal sales had he chosen to report the instances as claimed to CEFAS Mr. Lloyd would have had our support.

The "flushing" issue

9. Flushing fish down the toilet would be an act of cruelty. While being the subject of the popular Pixar film cartoon "Finding Nemo" I can find very little foundation in the real life for a happy ending for any fish flushed in the UK. When asked for his opinion regarding the likelihood of fish surviving such an experience Nigel Hewlett, Fisheries Technical Services Manager of EA commented "I am of the opinion that a fish, such as a goldfish, surviving flushing down a toilet and transport through the foul sewer is unlikely. There is likely to be a significant level of damage caused by the flushing and transport of the fish and the conditions within the foul sewer are unlikely to allow a fish to survive for any length of time."

10. He went on to say "In flood conditions from surface water run off, the bypassing of normal sewage flow routes may be regarded as a route by which fish could enter open water courses. However, storm sewage overflows are deoxygenated and are frequently responsible for losses of fish within the receiving water body. Due to this and the physical impacts on a fish, it is highly unlikely that flood conditions increase risk of survival."³¹

³⁰ From: Alasdair Scott (Cefas) <alasdair.scott@cefass.co.uk> To: "Keith Davenport" <keith@ornamentalfish.org> Date: Tuesday, March 27, 2012, 4:41:09 PM Subject: While you are on ILFA matters. Only text relevant to top mouth gudgeon quoted.

³¹ Email from Nigel Hewlett received April 20 2012

11. A further minor issue is that a species closely resembling a fungus not a virus from signal crayfish is wiping out native species (Question 84). I believe signals were promoted relatively recently (the 1980's) as an agricultural diversity option by "Food for Britain".

ENVIRONMENT AGENCY

12. Fish stocked for angling are intentionally introduced into areas regarded by the public, but not always by law, as wild. On the other hand ornamental fish sold through pet shops and garden centres are intended to live their whole lives in garden ponds or aquariums-the vast majority do so. It is perhaps worth recalling that Zander mentioned in the EA evidence was apparently introduced into a fenland drain by a River Authority in the 1960's.

13. In response to Question 232 Adrian Taylor said "There are many species of fish, for example, that can be brought in legally and kept and sold through garden centres, often under licence. These are not licensed by the Environment Agency, but the Fish Health Inspectorate licenses the keeping of non-natives in aquarium retail centres and also the import of fish. There is no doubt that some of these species, such as sturgeon, then do find their way into fisheries and into the wild, often because they get too big for the aquariums that they are sold for. That is a problem."

14. This tends to reprise the EA response given to the consultation on ILFA in 2010:

"Sturgeon of various species are also being illegally stocked in increasing numbers in fisheries, increasing the risk of disease being spread. Occasional angler catches of sturgeon from rivers have been reported. We believe that the general licence for sturgeon species, which enables suppliers to sell without reference to the purchaser's ILFA licence, contributes to this illegal activity. We recommend that this general licence for sturgeon should be withdrawn and are disappointed that this is not being done within the amendments to the Order."³²

15. The Government's response at that time while noting the possibility of releases agreed with the position that sturgeon should remain on general licence. It went on to say "However, in the short term, the government and its agencies are committed to taking strong action on illegal introductions of into fisheries and are actively seeking their removal." And further said "the importance of applying the legislation evenly across the sectors is recognised."³³ The EA are the agency charged by DEFRA to implement ILFA in fisheries.

16. In response to Q236 he further commented "As far as fish are concerned, non-native fish can only be kept in still waters. We don't allow them in rivers anyway. We wouldn't allow them to be stocked. They can only be kept under licence in still waters. So I think there is strong regulation there."

17. In my original Memorandum I stated "It appears there is instant action in my sector by the Fish Health Inspectorate of CEFAS but more a 'we might or might not get round to doing anything' attitude taken by the EA about the same species seemingly illegally present in fisheries." Given the EA's assertion of "strong" regulation I believe I should elaborate on the evidence for my comment.

18. Given the use of the word "strong" it is interesting to note that the first prosecution under ILFA was only undertaken in May 2011, 13 years after the introduction of relevant Order.³⁴ The EA removed the sturgeon involved in this case and returned them to owner of the fishery in which they were stocked illegally to put in an ornamental pond. The fish removed as evidenced by the photograph at Annex II were not of a size that came from a retail pet shop or are usually found in garden ponds. Whether or not this pond is a garden pond as envisaged by the general license may be open to further consideration. If, as occurs occasionally, illegally held ILFA species are found by CEFAS in the ornamental sector they are euthanased very quickly as is evidenced by the comment made by Alasdair Scott recorded above.

19. There remained at the start of April this year 39 Time limited licences and 82 Time limited expired licences for Wels catfish and 15 Time limited and 32 Time limited expired licences for sturgeon in fisheries. Thus there were, 14 years after the relevant orders were introduced, 168 outstanding situations known to the EA where fish had been introduced to fisheries illegally³⁵ but there had been just one prosecution. Persuading fisheries to remove fish may be the best option, and may have been successful on occasion, but the patience of the EA is to be admired in tolerating matters for over a decade. During the mid 2000's there is a case to be made that fisheries may have been prepared to stock first and apply for licences later as they suspected whatever the outcome of their application no action would be taken against them.

20. Actions have been taken to eradicate the small species the top mouth gudgeon (and much is made of this) which has no angling purpose and so has few friends. As is illustrated above rather less action has been taken against bigger species that are commercially valuable and whose owners may present a rather more difficult obstacle to EA progress. It is also perhaps worth noting that removal of big specimens can be achieved by removing individual fish whereas removal of smaller species requires methods that may, while being effective, be more damaging to environment being saved from harm.

³² http://www.environment-agency.gov.uk/static/documents/Research/2186_ILFA_-_Import_of_Live_Fish_Act.pdf Section 3.2

³³ Summary and Government Response to the the Consultation on an Amendment to the Order Made under the Import of Live Fish Act 1980 (ilfa. December 2010

³⁴ <http://www.defra.gov.uk/aahm/2011/05/06/environment-agency-first-prosecution-under-ilfa/>

³⁵ Personal email from CEFAS FHI dated 11 April 2012.

21. While pointing the finger at garden centres and other government bodies the EA may have failed to reveal their part in the current situation while characterising themselves as strong. Whether such characterisation is correct is for others to judge, even if it transpires some actions have been taken more recently. Though two years have passed and some action has been commenced a few sentences of a letter I received in 2010 from the EA seems to better describe the overall position with regard to enforcement since 1998 “I acknowledge that this does excuse apparent inaction for the previous 12 years. We are working to put this right.” and “Due to those challenges local teams have prioritised use of enforcement resource to issues other than ILFA. This situation is regrettable and we would like to have done better.”³⁶ This letter followed an extensive exchange of views by email in which DEFRA officials responsible for policy in this area were fully engaged and so very well aware of the issues raised presumably reported to the Minister responsible for the EA enforcement of ILFA controls.

22 June 2012

Written evidence submitted by the Wildfowl and Wetlands Trust and Plantlife

SUMMARY

- This document offers solutions that we believe will have more impact in the control of invasive non-native species.
- We believe that any future approach should be outcome focussed, with priority given to implementing existing regulation, communications, strategic working, biocontrol, and risk assessments

1. Despite an increase in the evidence base detailing the financial and ecological impacts of invasive non-native species (INNS), and the increased policy response by governments across the globe (for the UK, via The Invasive Non-Native Species Framework Strategy for Great Britain (INNSFSGB) of 2008 and the establishment of a dedicated secretariat), they and their impacts continue to escalate both here and overseas. The competitive edge that a changing climate could provide some INNS, combined with increasing trade opportunities, makes the outlook particularly concerning. We need more action if we are to succeed in stemming the flow of INNS. Below are what we consider should provide the immediate focus with regards to regulation, communications, strategic working, biocontrol, and risk assessments. The approach moving forward should be outcome focussed, and developed in advance of any obligations arising from an EU Invasive Species Directive.

2. REGULATION

It should not be possible to legally purchase any species which is known to be highly invasive in Great Britain. The number of known INNS currently being sold is small in comparison with the wide range available in the horticultural trade. However, it is inevitable, despite the best designed and communicated bio-security measures, that these INNS will eventually become established in the wild. It is already possible to ban such species from sale utilising existing legislation in England (selecting on Schedule 9 of the Wildlife and Countryside Act (1981), made possible via Section 14ZA of the NERC Act (2006)). There should no longer be any delay in enacting this piece of legislation for a known suite of species which have already been consulted on (in 2007) and for which a ban on sale is in receipt of widespread support. In addition, those known to be causing species listed on Schedule 9 to grow in the wild should be held to account as should those who sell intentionally mislabelled species via, for example, Ebay.

3. In Scotland the Wildlife and Natural Environment Act (2011) introduced a new regime of Species Control Orders into the 1981 Act. This enables relevant bodies (eg Scottish Natural Heritage) to make a Species Control Order setting out measures that should be taken to control or eradicate an invasive non-native animal or plant. We recommend that this approach be followed in England and Wales as part of an overall national management plan that is appropriately resourced and considers disproportionate effects. As a result, Government will be able to retrieve costs from landowners whose land they have deemed it necessary to clear of INNS.

4. ENGAGING COMMUNICATIONS, AND CITIZEN SCIENCE

When many members of the public realise the impact that certain plants that they have purchased can have on native wildlife, they are genuinely concerned and want to do “the right thing”. Consequently, public guidance on the adoption of good bio-security measures is required. The public should be empowered to make good decisions, and this will require the development of a long term framework to provide the necessary learning to support this—much of the future solution to this problem, lies in the hands of the general public. There have been a number of positive communication initiatives (eg BePlantWise), but we feel these have yet to have sufficient purchase with the general public and are often inadequately resourced. A programme of sustained, government led communications is needed, detailing the impacts of INNS and advising how all sectors of society can help to reduce the impacts of these species. Communications should deal with mislabelling and advise on the avoidance of buying species likely to cause problems for our native wildlife should it escape. More Local Action Groups should be set up and the public need to be encouraged to further engage with them.

³⁶ Letter dated 13 August 2010 “The application of ILFA Orders in England and Wales” Ref 1810/NRH/RFI from Nigel Hewlett Technical Advisor at the EA.

5. There is also a need to provide information packs to a variety of landowner groups, so that they can effectively address infestations on their land holdings. Importantly, a new approach should create and utilise new relationships with “trusted” communicators, and assign the funds necessary to have impact. The general public have a hugely untapped potential role in spotting newly invading species before they become established, and reporting this information within a timeframe in which new populations can be dealt with before they bring about a large detrimental effect. The NGO community, in particular, could play an increased role in motivating the general public into doing this in partnership with Government. We also recommend a programme of awareness raising for parliamentarians through, for example, a focus on invasive species in the APPG on biodiversity, and by updating the relevant POST note.

6. RISK ASSESSMENTS

To date, although there have been a number of species specific rapid risk assessments carried out and there is a process laid out in the GB Non-Native Species Strategy, very few detailed risk assessments have been undertaken of the existing range of known invasive species, or of those that have similar ecological tendencies but have yet to be imported or established. Additional assessments should be produced as soon as feasible, and the results widely disseminated and acted upon in such a way that either restricts the sale of such species, or ensures they can be kept in check.

7. BIOCONTROL

Continued funding for high quality research into biocontrol mechanisms for non-native invasive species is needed. This is potentially an effective way of controlling the spread of individual INNS, which can have fewer harmful effects than mechanical control measures. Given comprehensive high quality research, it should be possible to avoid mistakes such as those associated with the introduction of the cane toad to Australia. The cane toad failed to control the cane beetle and the toad itself, became a pest, eating many other native Australian fauna and being venomous had little fear of predation in Australia. There are success stories where biocontrol has been used on INNS, such as the control of Azolla with the Azolla weevil. Trials of the psyllid bug and its control of Japanese knotweed look promising.

8. STRATEGIC WORKING

The INNSFSGB needs updating, with an assessment of the success of its originally proposed measures. Re-establishment of an invasive species working group in England (such groups have persisted in Scotland and Wales) would help ensure that strategic cross sector, outcome based priorities can be set by all of those concerned with and affected by INNS. This should have a remit to recommend priority measures for the control and management of INNS and highlight resource needs.

16 August 2012

Written evidence submitted by the Royal Botanic Gardens, Kew

TOWARDS A JOINED-UP APPROACH TO INVASIVE NON-NATIVE SPECIES

1. The subject of Invasive Non-native Species (NNS) is being debated within the EU currently. In the UK we have a framework strategy for Great Britain (GB) published in 2008 and due for review in 2013.

2. The review by the Environmental Audit Committee is very timely as it could help ensure better integration of the agencies involved in monitoring for and dealing with invasive species.

3. A review of legislation on wildlife management on invasive non-native species is currently being undertaken by the Law Commission, with a draft bill likely in 2014. A consultation document has just been published.

4. It is vital that these reviews and the EU review on invasive non-native species are integrated and that sectors and government agencies work together. A key outcome should be more joined up action across the relevant sectors in the UK to tackle the problems posed by invasive non-native species.

How might one identify which plant species pose an invasive threat and should not be imported for sale in garden centres?

5. This can be difficult to predict, especially when so many new species enter trade each year, though in the case of plants aquatics are much more likely to be invasive than terrestrial species (40% of aquatics have negative impact, as opposed to 7% of terrestrial species) but there are a number of high quality information sources available (most of these are not Kew sources). The GB Non-Native Species Secretariat (NNSS) runs the risk analysis framework for the UK, to which Kew hopes to contribute in the future (resources permitting).

6. There was a unanimous view at a recent plant biosecurity meeting that the EU plant health regime is not fit for purpose and that the UK is disadvantaged when it comes to safeguarding its resources because of the limited control it now has over its borders and because of the issues regarding third country plant imports-that

is imports originating from outside the EU. As several EU members of a group studying invasive species have commented-“how lucky the UK is to be an island but how strange they don’t seem able to capitalise on this”.

7. Unfortunately, other activities/commodities can provide pathways for introduction of invasive non-native species such as angling, aquaculture, recreational boating, ships’ ballast, agricultural products, dunnage or wood packaging or lumber, and escapes from domestic and botanic gardens and zoos. Control of these also need to be considered and checks made to decide if measures such as ISPM 15 (for pallets) are adequate.

8. Even from within the EU this type of material can be infested by quarantine pests or diseases (pinewood nematode, Asian or Citrus Longhorn Beetle, to name but a few). Limiting ports of entry for imports in the UK and concentrating checks in these areas would help make the system more efficient. Making checks risk-based (and whatever managers at the agencies say, they aren’t truly risk-based at present) would help focus resources too. Introducing tighter controls on online purchase and imports made by post should also be looked at. For example, the internet was used to order *Fuchsia* plants from South America and these entered Jersey with no checks and this led to the introduction of *Fuchsia* gall mite to the UK.

9. As global trade in plants, especially large specimens, is a significant pathway for the introduction of invasive species, especially plant pests and diseases but also invertebrates, one idea could be a levy on trade in imported plants (including cuttings as they have been the source of a number of quarantine pests) and animals. This could be based on a percentage of their final sale value (so, in the case of plants, the larger the plant, the greater the risk (usually), the higher the levy). We could not be sure if the EU or World Trade Organisation would permit this or that the trade would co-operate.

10. Linked to this, and to ensure that conservation and research weren’t used as a way of avoiding the levy, organisations working on such material could be licensed, sign up to a code of conduct and either pay no fee or a reduced fee (as for CITES). This approach would mean that it should (hopefully) be easier to track movement of incoming biological material and identify trends and pathways.

11. Encouraging local and national government to source locally, for example in the case of garden plants, vegetables, cut flowers, houseplants, and trees, buying from UK growers would offer a number of social and economic benefits and reduce carbon emissions hopefully. If planning and policy guidelines made this a stipulation for landscaping schemes the risks should be significantly reduced.

12. These and related topics including personal and corporate responsibility or accountability, the need for rapid response to outbreaks, proper resources to tackle initial outbreaks (including legislation giving rights of access) were discussed at a recent workshop on the Tree Health and Plant Biosecurity Action Plan in Edinburgh. There are particular issues with third country imports-ones that originate outside the EU and move freely once inside-as it appears that not all EU states implement the EU legislation equally or comply with the rules.

What options might Defra consider to address the spread of existing invasives, such as Japanese Knotweed or Floating Pennywort?

13. With already established invasive species, eradication and restricting spread becomes more and more difficult. The UK and EU need to be pragmatic and practical about what is and is not possible with regards to legislation and action on invasive non-native species be they plants, animals, pests or pathogens. We must not dissipate already inadequate resources on species where there is no possibility of eradication.

14. We need to concentrate more of our effort on prevention, identifying the key high risk pathways and implementing ways to reduce the risks pragmatically. As prevention is never foolproof we need to develop capacity for rapid eradication of a range of invasive species to prevent their establishment and spread.

15. Kew are currently part of the taskforce reviewing how we implement plant health legislation in England and Wales but this is under considerable strain because plant and animal health issues appear to being treated as a financial luxury rather than an imperative.

16. Whilst always aiming to minimise pesticide use and ensure it is appropriately targeted where it is used, government should bear in mind the need for chemical tools as a safe and reliable means of treating some pests and diseases when they are looking at registration of products and when they are producing pest risk assessments too. It’s not enough to look at lifecycles and pathways since we need to have clear and comprehensive advice on what, if anything, can be done to eradicate introduced species, whether they are plants, fish, bacteria, etc. and how safely to manage associated waste, for example, infected wood from diseased trees.

Are radical options involving the introduction of predator species worth consideration, or is the example of the Cane Toad in Australia the decisive point?

17. Introducing predators and parasites is fraught with dangers unless there is lengthy and comprehensive testing and the timescales involved would likely mean the target organism is well established in large areas before release is licensed.

18. It will be interesting to watch whether the psyllid being tested for Japanese knotweed control stays “on message”. Kew has just been asked by CABI to provide material of UK native species for evaluation, despite the biocontrol insect being tested *in situ* already in several locations in the UK. Given the changing climate,

the response of biocontrol organisms is changing and so is their behaviour so these things may prove much less reliable and predictable than is assumed. In the case of “biocontrols” like harlequin ladybirds, cane toads, and giant African land snails warnings by scientists of the risks involved were ignored.

20 August 2012
