

Department for Environment, Food and Rural Affairs

The Defra and Natural England Approach to General Licensing for Wild Birds

General Licences and the next steps

June 2019

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Background

This document sets out the current approach to the general licensing of wild birds being taken by Defra and Natural England, updating the position statement issued by Natural England in April 2019.

On Thursday 25 April 2019, following a legal challenge by Wild Justice, Natural England revoked three general licences to kill or take certain species of wild birds to: prevent serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, fisheries or inland waters, and prevent the spread of disease (licence GL04); preserve public health or public safety (licence GL05); and conserve wild birds, and conserve flora and fauna (licence GL06).

Natural England subsequently issued three new general licences to kill or take: carrion crows to prevent serious damage to specified types of livestock (licence GL26, issued on 26 April); Canada geese to preserve public health and / or public safety (licence GL28, issued on 3 May); and woodpigeons to prevent serious damage to crops (including fruit and vegetables) (licence GL31, issued on 3 May).

On 4 May, the Secretary of State took over responsibility from Natural England for decision making powers for the purposes covered by the three revoked general licences. Defra initiated a formal, open evidence-gathering exercise to allow all concerned parties to explain the impact the recent revocation of the three general licences had on the management of wild birds. The call for evidence closed on 13 May, with over 4,000 responses.

Three new general licences for the killing or taking of wild birds in England will be issued at 00:01 on Friday 14 June. The three new general licences cover species and specified purposes that Defra considers appropriate in light of the information gathered through the call for evidence, and other relevant evidence, including statutory advice from Natural England.

The licences will allow users to:

- Kill or take certain species of wild birds to conserve wild birds and flora or fauna (WML GL34)

Species covered: *Carrion crow, jackdaw, jay, magpie, rook, Canada goose, Egyptian goose, monk parakeet, ring-necked parakeet, sacred ibis and Indian house-crow*

- Kill or take certain species of wild birds to preserve public health or public safety (WML GL35)

Species covered: *Carrion crow, jackdaw, magpie, feral pigeon, rook, Canada goose and monk parakeet*

- Kill or take certain species of wild birds to prevent serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, fisheries or inland waters (WML GL36)

Species covered: *Carrion crow, jackdaw, magpie, feral pigeon, rook, woodpigeon, Canada goose, Egyptian goose, monk parakeet and ring-necked parakeet*

Gulls

Users can continue to apply to Natural England for an individual licence for control of herring gulls, and now for lesser black-backed gulls. Due to their poorer conservation status, these species have not been included in the new general licences. In terms of control of nests and eggs, their breeding season for this year is largely complete, so Natural England is developing a new class licence for these species to be ready in good time for next year's breeding season.

Protected sites

European protected sites are subject to specific EU law requirements given their particular importance to conservation. These include a process for ensuring that any impacts on the site are properly considered before any plan or project can be undertaken, known as a Habitats Regulations Assessment (HRA). There are a number of ways in which people can continue to carry out control on European protected sites – which include Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) – as well as Ramsar sites. For instance, they can apply to Natural England for an individual licence if they are not already covered by an existing individual licence or the specific circumstances provided for by Natural England's three recent general licences (carrion crow, Canada goose and woodpigeon). Users who already have an individual licence issued since 25 April 2019 can continue to operate under that should they wish.

At this stage the three new general licences will not apply to European protected sites, or to land within 300 metres of those sites. Defra will continue to work closely with conservationists, farmers, landowners, pest controllers, gamekeepers and all interested stakeholders in order to develop solutions that may be available for activity on protected sites.

As in the previous system, users will need to ensure they have consent from Natural England for any activity on Sites of Special Scientific Interest.

The licences will be valid until 29 February 2020. In the meantime, Defra will lead a review of the longer-term general licensing arrangements. We intend to launch an initial public consultation in the summer, with further details to follow. Defra will work closely on this review with Natural England, who have already indicated the need to examine a wider range of general and class licences.

The new interim general licences are published on gov.uk: <https://www.gov.uk/government/collections/bird-licences>

The Government will publish a report setting out the reasons and evidence for issuing the new general licences shortly.

Users of the Defra General Licences can contact the customer contact helpline on **0330 159 1986** or by email at GLEnquiries@defra.gov.uk.

For other licences, including individual licences, users should call Natural England's general enquiries line on **0300 060 3900**.

General licence decision tree for 2019

I need to kill or take a wild bird

Do you hold an individual licence (including those issued in 2019)?



NO, BUT I HAVE APPLIED FOR ONE

Natural England will be in touch to discuss whether you still need one.

YES

NO

You can choose whether to act under (a) one of the Defra general licences; (b) one of the three recently issued Natural England general licences; or (c) your individual licence.

You must be clear which licence you are operating under and comply with the conditions of that licence.

In many cases, the Defra general licences will be the most appropriate option.

The three Natural England general licences recently issued (carrion crows and specified livestock; wood pigeons and crops (including fruit and vegetables); Canada geese and public health and/or safety) remain available – and may be helpful, for example, if you need to control these species in European protected sites (see further detail below).

You must be clear which licence you are operating under and comply with the conditions of that licence.

If your circumstances do not meet the criteria for these licences, you should apply to Natural England for an individual licence.



Do you need to kill or take birds on or within 300m of a protected site (Special Areas of Conservation (SACs)/Special Protected Areas (SPAs)/Ramsar sites)?

Do you need to kill or take herring gulls or lesser black-backed gulls?



As before, if operating under a general licence on an SSSI, you also need Natural England consent – contact your local Natural England office if you do not have consent or are unsure.



SPAs/Ramsar sites for bird species: you may be able to control Canada Goose and woodpigeon under one of Natural England's general licences, otherwise you must apply for an individual licence using form A08.

SACs/Ramsar sites for non-bird species: you may be able to control carrion crow, Canada goose or woodpigeon under one of Natural England's general licences, otherwise you must apply for an individual licence using form A08.

You must apply to Natural England for an individual licence using form A08.

Natural England intends to develop a class licence for control of nests and eggs in time for the 2020 breeding season.

The New Defra General Licences

1. How are the new licences different to the old ones?

We have tried to ensure that the format and language of the new licences is familiar as far as possible to aid users but there are a number of changes:

- a) **Purposes of the licence:** The old general licence for preventing serious damage also covered the purpose of preventing the spread of disease. Combatting the spread of disease is critically important. However, following consideration of the evidence we do not believe the best way to approach the issue is a general licence with a purpose to prevent the spread of disease. Where there is risk of disease transmission (for example the contamination of human food or animal feed), this will be covered by either the public health or public safety licence, or the serious damage licence. Beyond this, the evidence did not support a need for a general licence to prevent the spread of disease.
- b) **Species:** Species covered by the previously withdrawn general licences (GL04, GL05 and GL06) have been retained with the following exceptions, as there was not satisfactory evidence of the need for a general licence for these species and these purposes:
 - i. Serious damage – does not include jay, collared dove and lesser black-backed gull
 - ii. Public health or public safety – does not include jay, wood pigeon, collared dove, lesser black-backed gull and herring gull
 - iii. Conservation – does not include feral pigeon and lesser black-backed gull
- c) **Geographical area covered:** This licence applies to England but may not be used in a European Site (Special Protected Area or Special Area of Conservation), a Ramsar site, or within 300 metres of any such site (see further detail below on what to do if you need a licence for one of these areas).
- d) **Conditions:** Condition 1 is different from the condition in the revoked licences. To strengthen their proportionate use, the licences require that, before and alongside their use, reasonable endeavours are made to achieve the purpose in question using lawful methods not covered by the licences, unless such endeavours would be impractical, without effect or disproportionate in the circumstances.
- e) **Information and advice:** We have updated a number of points to reflect the most up-to-date legal position and recommendations on best practice. These include an updated section on the release of non-target species caught in traps; and advice that users keep a record of the actions they have taken so that they can demonstrate that they are using the licence lawfully.

2. Under what circumstances can I rely on the licence for the conservation of wild birds and conservation of flora or fauna?

You can use this licence to conserve wild birds (including wild breeding game birds), animals and plants, for example by reducing the impact of predation by the listed species.

3. Under what circumstances can I rely on the licence to preserve public health or public safety?

You can use this licence only where the presence or the feeding of birds causes a demonstrable risk to human health or increases the risk of accidents, for example by increased risk of transmission of disease to humans or aggressive behaviour from breeding birds.

You cannot use this licence to kill birds because they are damaging your property, such as your car or house, or if they are a nuisance.

4. Under what circumstances can I rely on the licence to prevent serious damage?

You can only use this licence to prevent serious damage to:

- livestock, including reared game birds while in captivity
- foodstuffs for livestock including, for example, contamination of feed through fouling
- crops, vegetables and fruit
- growing timber
- fisheries or inland waters

You cannot use this licence to kill birds because they are damaging property such as your car or house, or if they are a nuisance.

5. Can I still use the three general licences for carrion crow, Canada goose and woodpigeon that Natural England has recently issued?

Yes. For many users, Defra's new licences will be the appropriate option. Beyond these, Natural England recently issued three general licences GL26, GL28 and GL31 to cover some of the species and purposes covered by the original licences that were revoked. These remain in place, since they allow for specified activity on European protected sites which are not covered by Defra's new licences.

You can choose to rely on a new Defra general licence or on one of the Natural England general licences where both would apply. Unlike the Defra licences, the three Natural England licences permit the killing or taking of certain birds for the purposes on those licences on European sites by some methods (for example excluding trapping). You may still rely on those licences if they cover your circumstances and you have the relevant SSSI consent.

Whichever licence you choose to rely on, you need to ensure that you comply with the conditions and requirements of that licence.

6. How do these licences relate to the individual licence which I applied for as a consequence of Natural England withdrawing the old general licences?

Those wishing to control bird species may choose to rely either on an individual licence they already possess or on one of the general licences where this is appropriate. Whichever licence you choose to rely on, you need to ensure that you comply with the conditions and requirements of that licence.

7. Who do the new general licences apply to?

The licences can be used by those who come within the definition of an “authorised person”. In particular, this definition covers the land owner or occupier – as well as any person authorised by the owner or occupier to undertake control of birds on their land.

An authorised person could also be a person who is authorised in writing by:

- the local authority
- any England, Scotland or Wales conservation body, a district board for fisheries or local fisheries committee
- the Environment Agency, a water undertaker or a sewerage undertaker

You do not need to apply for a general licence but you must meet its conditions and follow its requirements, as you may be committing a criminal offence if you fail to do so.

8. How long will these licences be in place?

The licences are valid until the end of February 2020. In the meantime, Defra will lead a review of the longer-term general licensing arrangements. We intend to launch an initial public consultation in the summer, with further details to follow. Defra will work closely on this review with Natural England, who have already indicated the need to examine a wider range of general and class licences.

9. Am I required to try - and keep trying - all alternative methods of control before I can shoot?

No you are not. The licences require that, before and alongside their use, reasonable endeavours are made to achieve the purpose in question using lawful methods not covered by the licences, unless such endeavours would be impractical, without effect or disproportionate in the circumstances. Users are advised to keep a record of problems and their use of other lawful methods, but do not need to submit those records to Defra or Natural England.

10. What does 'reasonable endeavours' mean?

The licences require that the user ensures that reasonable endeavours are taken before and alongside use of the licence. 'Reasonable endeavours' in general means a reasonable course of action to try to achieve an outcome, taking into account all the circumstances. In this context, a user must ensure that lawful methods not covered by the licences are used where that is reasonable, but they do not have to have tried every option or have exhausted all other avenues. It does mean that a user must consider what is reasonable both before, and during, reliance on the licence and ensure that this is carried out.

What is reasonable is fact dependent. It may depend, for example, on the species of bird in question, the size and type of land, and the cost of using lawful methods not covered by these licences. For example, on a large farm certain alternative measures are likely to be impractical and too costly to be considered reasonable. Other measures may have a detrimental impact on the feature you are trying to protect, for example bird scarers are unlikely to be an appropriate tool for protecting ground nesting birds from corvid predation.

The continuing requirement to make reasonable endeavours alongside use of the licence strengthens the proportionate use of the licence. There is evidence that lethal control can work well alongside non-lethal methods. Users should consider where other methods would be effective, practical and proportionate alongside licensed methods, and such methods should continue to be used at the same time as action is taken under the licence. But where users consider that other methods are impractical, without effect or disproportionate, then there is no obligation to continue to take other measures.

11. Is there a list of reasonable measures that users need to have tried before being able to use a general licence?

No, what is reasonable will depend on the particular circumstances. It may depend, for example, on the species of bird in question, the size and type of land, and the cost of undertaking lawful methods not covered by these licences. For example, on a large farm certain alternative measures are likely to be impractical and too costly to be considered reasonable. Other measures may have a detrimental impact on the feature you are trying to protect, for example bird scarers are unlikely to be an appropriate tool for protecting ground nesting birds from corvid predation. For reference to alternative measures please see Natural England's advice note: [GU01](#).

12. Do the licences have any requirements such as registering or recording information?

Users do not need to apply or register to use these general licences nor do they need to report the activity they have taken. However, users of a licence will need to be able show that they are complying with the terms and conditions of the licence if asked by an enforcement officer or the Police. It is therefore advised that users keep a record of the actions they have taken so that they can demonstrate that they are using the licence lawfully.

13. What does 'serious damage' mean?

There are two aspects to serious damage: the likelihood and the extent of damage. On likelihood, it would not be considered serious damage if there is just a chance of damage. If damage is not yet apparent, past experience or other evidence should indicate that there is a high probability of serious damage occurring if action is not taken. On extent, it should concern serious damage to an economic interest, so it does not cover circumstances such as mere nuisance.

14. Do the licences cover the use of Larsen mate traps (and similar clam-type traps)?

The new licences reflect the position on the use of cage traps that was set out in the withdrawn licences, alongside the conditions that apply to their use. The type of traps that should be permitted is an issue we intend to consider as a priority as part of the review of general licences to follow.

Users are recommended to use, as a source of good practice, 'Standard Licence conditions for trapping wild birds and using decoys under a Natural England licence'. This is available on gov.uk.

15. Can I sell/consume the birds I have shot?

Birds killed or taken under a licence may be eaten but, with the exception of the woodpigeon (*Columba palumbus*), may not be sold for human consumption.

16. For species not covered by the new general licences, can I still apply for an individual licence?

Yes, where you wish to take any action not covered by a general licence, you will need to apply to Natural England for an individual licence. Information on how to apply for an individual licence is given at <https://www.gov.uk/guidance/wildlife-licences>.

17. Why aren't gulls included in the new licences?

The herring gull and lesser black-backed gull are not included in any of the new general licences, due to their conservation status (red and amber listed respectively). It is intended that control of nests and eggs will be covered by a new class licence, which will be developed by Natural England in good time for next year's breeding season. Users can apply to Natural England for an individual licence for control of lesser black-backed gulls (as is already the case for the herring gull).

18. I applied for an individual licence over a month ago and still haven't received one – will you be contacting me or do I need to do anything?

Natural England will be contacting all those who applied for an individual licence after 25 April who have not yet had their application determined.

19. My individual licence application was for several species, some are now covered by the new licences, but I still need one for gulls – do I need to reapply and who to?

Natural England will be contacting all those who applied for an individual licence after 25 April who have not yet had their application determined, to ensure users know the options available to them and to ask them if they wish to continue with their individual licence applications.

20. Should I apply to Defra or Natural England for an individual licence?

Natural England is responsible for issuing individual licences. Information on how to apply for an individual licence is given at <https://www.gov.uk/guidance/wildlife-licences>.

21. Is Defra planning to issue more general licences? If so, what for?

We are still considering whether to issue additional time-limited general licences for European protected sites (Special Areas of Conservation and Special Protection Areas) and Ramsar sites. We plan a review of the general licensing system, including an initial consultation to be launched in the summer.

22. If I am a user, who do I contact if I have queries about the general licences?

A dedicated Defra enquiry line on 0330 159 1986 and email GLenquiries@defra.gov.uk is available.

If you have applied for an individual licence (GL19-01, GL19-02, GL19-03 or GL19-04) and not yet received an answer, Natural England will contact you as soon as practically possible.

For all other general licencing enquiries, you should contact Natural England at: wildlife@naturalengland.org.uk or call Natural England's general enquiries line on 0300 060 3900.

European Protected Sites

23. What do you mean by European protected sites?

European protected sites are sites with habitats or populations of species which the UK considers are sufficiently important to be recognized at EU level as requiring protection. The sites are designated under the Conservation of Habitats and Species Regulations 2017 (which transpose the EU Habitats Directive and elements of the EU Birds Directive into UK law). In the UK these are known as Special Areas of Conservation (SACs) and, for sites designated in relation to birds, Special Protected

Areas (SPAs). As a matter of policy the UK has also treated Ramsar sites (which are wetland sites deemed of international importance under the Ramsar Convention) in the same way as European protected sites. In practice there is a considerable degree of overlap between these sites.

24. Why have European protected sites been excluded from the general licences?

European sites are subject to particular EU law requirements because of their importance to conservation. This includes a special process for ensuring that any impacts on a site are properly considered before any plan or project can be undertaken, known in the UK as a Habitats Regulations Assessment (HRA).

At this stage the three new general licences do not apply to European protected sites, or to land within 300 metres of those sites. Defra will continue to work closely with conservationists, farmers, landowners, pest controllers, gamekeepers and all interested stakeholders in order to develop solutions that may be available for activity on protected sites.

25. How far does the exclusion of European protected sites from general licences extend?

General licences exclude European protected sites but also a buffer zone of 300 metres from the boundary of a European protected site. Individuals wishing to kill or take wild birds within 300 metres of a European protected site can apply for an individual licence, or it may be that one of Natural England's recently issued general licences may apply.

26. Why is a 300 metre buffer zone needed around European sites?

This is required in order to prevent any potentially significant disturbance to European site features (e.g. shooting, which may disturb breeding birds in an adjacent Special Protected Area).

27. How do I get permission from Natural England to kill or take on a European protected site?

You need to apply for an individual licence or it may be that one of Natural England's recently issued general licences may apply. You may also need a consent or assent from Natural England.

28. What percentage of land is covered by protected areas which require HRAs?

European protected sites cover around 6% of England landmass (source: UK Biodiversity indicators).

29. Are there any circumstances in which I can undertake bird control on a European site now?

There are a number of ways in which people can continue to carry out control on European protected sites – which include Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) – as well as Ramsar sites. For instance, they can apply to Natural England for an individual licence if they are not already covered by an existing individual licence or the specific circumstances provided for by Natural England's three recent general licences (carrion crow, Canada goose and woodpigeon).

General Licences and SSSIs

30. I have an SSSI on my land which is not a European or Ramsar site. What does this mean for me?

As has always been the case, a general licence requires permission from Natural England for an activity that could damage a Site of Special Scientific Interest (SSSI). The notification documents for each SSSI contain a list of operations that could damage its special features and for which prior permission from Natural England is required. Owners and occupiers of sites notified as SSSIs are required to give written notice to Natural England before beginning any of these operations. SSSI consent can only be given to an SSSI owner or occupier. See <https://www.gov.uk/guidance/protected-areas-sites-of-special-scientific-interest> for further information on how to get SSSI consent from Natural England.

31. What do I have to do if I am using a general licence on a SSSI but don't own the land?

If the activity you need to undertake covered by a general licence is listed in the SSSI notification documents as an operation that could damage the site's special features, you can only undertake this activity if the owner or occupier of the SSSI has applied for, and received, Natural England's SSSI consent. If you act without this consent having been given, you may be at risk of committing an offence. See

<https://www.gov.uk/guidance/protected-areas-sites-of-special-scientific-interest> for further information on how to get SSSI consent from Natural England.

32. How do I find out what land has been designated as a European protected site, a Ramsar site or an SSSI?

To identify SSSIs, European Sites, Ramsar sites and the features for which they are designated, refer to www.magic.gov.uk. You can also consult the SSSI citation which lists the reasons for designation, to find details of 'operations likely to damage' and consider whether your activity is likely to have an impact.



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