

COUNTRYSIDE ALLIANCE BRIEFING NOTE

WILDLIFE CRIME



The Voice of the Countryside

House of Commons, Westminster Hall Debate

“Wildlife crime” (Christian Matheson, Lab, City of Chester)

Wednesday 20 March, 2.30-4.00pm

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Introduction:

- The British countryside has been shaped by man over many centuries. It is our nation's larder, a place for recreation and also underpins rural tourism in this country. Our countryside is a workplace that requires management to protect vulnerable habitats and species. The aim of wildlife management is to maintain healthy and balanced populations at levels that can be sustained by their local environment, and which are acceptable to farmers, landowners and the overall balance of all other wildlife. A lack of management threatens species and habitats, and the production of food.
- Wildlife management is best achieved by a combination of methods undertaken by farmers, gamekeepers, landowners, naturalists and huntsmen, with their divergent interests, using the appropriate methods of control for their particular circumstances.
- In all cases the law must be followed when undertaking wildlife management, and the Countryside Alliance is determined to see an end to all wildlife crime. As part of this work, it is essential that wildlife laws and policies are based on principle and evidence to ensure that people are able to engage in the most practical and humane forms of wildlife management without the risk of breaking the law.
- The Countryside Alliance is working in partnership with other groups, through initiatives such as the Partnership for Action Against Wildlife Crime, and the Raptor Persecution Priority Delivery Group, which seek practical measures to tackle wildlife crime. We welcomed the Government's pledge in 2016 to provide £1.2 million in funding for the National Wildlife Crime Unit over four years (up to 2020), and we hope that funding for the Unit will be addressed in the next Spending Review.
- The Government must ensure that resources are provided to tackle the full range of wildlife crimes and that priorities are based on the needs and interests of local areas. In many areas, more action is needed to tackle illegal hare coursing and deer poaching, as well as related rural crimes such as sheep worrying and fly-tipping.

Foxes:

- Farmers and other land managers have a legitimate interest in controlling foxes, which can cause damage and loss of livestock. The decision on how to control foxes lies with the owner or occupier of the property where the problem occurs and should take local factors into account, such as terrain, proximity to people, and welfare needs.
- It is lawful to shoot foxes, and restraining snares can also be used as long as the law and code of practice are followed. In many parts of the country the use of dogs in fox control has proved an extremely effective form of management. The only [peer reviewed evidence](#) on the restrictions contained in the Hunting Act 2004, which imposed a limit of two dog for searching and flushing foxes, showed that using packs of dogs is both more effective and more humane than using two.
- This was supported by the findings of Lord Bonomy's review into the hunting law in Scotland, which was commissioned by the Scottish Government and reported in November 2016. Lord Bonomy's report was clear and unequivocal about the effectiveness of using dogs in fox control under the current law, and that there was no case for any further restrictions. He stated in his report: "...not only that searching and flushing by two dogs would not be as effective as that done by a full pack of hounds, but also that imposing such a restriction could seriously compromise effective pest control in the country, particularly on rough and hilly ground and in extensive areas of dense cover such as conifer woodlands" (para 7.26). It is regrettable that the Scottish Government has decided to ignore the evidence, and findings of its own report, by announcing it intends to introduce a two dog limit in Scotland.
- The findings of Lord Bonomy's review and the peer-reviewed evidence justify the decision by the then Conservative Government to announce amendments to the Hunting Act, which would have lifted the two dog limit. These amendments were not moved by the Government at the time, but we hope that this or a future government will have the opportunity to consider them again and make much needed improvements to the legislation.
- On account of the two dog limit imposed by the Hunting Act, many hunts in England and Wales have converted to trail hunting in order to retain their infrastructure and/or follow the exemptions in the Act, which include seeking a wounded or diseased animal. [Trail hunting](#) involves laying a scent across the country which a pack of hounds then searches for and follows using their noses to simulate traditional hunting. Hunts have worked hard to comply with a law which was never justified by science or evidence.
- The last Labour Government's review into hunting, carried out by Lord Burns, was clear that a ban could not be justified on welfare grounds. His report stated: "Arguably, the precise cause of death is irrelevant. What is more critical is how quickly insensibility and death result and how much suffering, physical or mental, the fox experiences...There seems little doubt, however, that in the vast majority of cases the time to insensibility and death is no more than a few seconds, bearing in mind the great disparity between the size and weight of the fox and the hounds" (para 6.48). In a House of Lords debate, Lord Burns confirmed that his inquiry "did not have sufficient evidence to reach a clear conclusion on whether hunting involves significantly worse welfare effects than other legal methods of control" (Hansard, 12 October, 2004).
- The Countryside Alliance has always maintained that the law needs to be followed, however unjust and unprincipled it may be. Any pack of foxhounds that is registered with the Master of Foxhounds Association (MFHA) commits to follow the law and a code of

practice for their activities. There are over 250 registered hunts in England and Wales. Together they have carried out over 250,000 days of legal hunting since the Hunting Act came into force on 18 February 2005.

- Data from the Ministry of Justice from 2005 – 2017 shows that 476 people have been convicted of Hunting Act offences. Just 24 of those people were involved with hunts registered with the MFHA. In other words, more than 94 per cent of Hunting Act convictions did not involve hunts. The majority of offences that are prosecuted under the Hunting Act are for poaching. While figures for 2018 have not been released by the Ministry of Justice, the Countryside Alliance is aware that 5 registered hunts faced prosecution last year, 9 persons were proceeded against, and one individual was found guilty and is appealing.
- Some organisations and individuals claim the law needs to be strengthened to increase the number of prosecutions, but the [RSPCA](#), who campaigned to introduce the Hunting Act, state: “The number of successful prosecutions under the Hunting Act compares favourably with other wildlife legislation aimed at protecting animal”. As recently as 2014, the [League Against Cruel Sports](#) described the Hunting Act as “the most successful wild mammal protection legislation in England and Wales”.
- Prosecutions are being made under the Hunting Act. The fact that very few individuals involved with registered hunts have been found guilty is a testament to the determination of hunts to abide by the law rather than any weakness or “loopholes” in the legislation, as claimed by the Labour Party which passed the law when in government. Hunts across the country are subject to high levels of scrutiny and surveillance by hunt monitors and saboteur groups. These groups between them have recorded thousands of hours of footage of the activities of hunts, which has often involved violence and intimidation towards hunt supporters, and yet very little evidence of illegal hunting has stood up to scrutiny in the courts.
- The Countryside Alliance has objected to Labour’s proposal to introduce a recklessness provision into the Hunting Act. Recklessness was an issue discussed extensively at the time the legislation was going through Parliament with all sides recognising that it would potentially leave anyone walking or working any dog in an area where wild mammals could be present liable for an offence of hunting, even when they had no intention that their dog should pursue a wild mammal. When Parliament prohibited traditional hunting, it did so subject to exemptions to allow for legitimate activities such as pest control. Making the main offence one of recklessness would make it impossible for anyone to use the exemptions under the Act without fear of prosecution. Those proposing recklessness do not accept the need for fox control and therefore would like to make the Hunting Act exemptions largely redundant.
- There are those who would like to introduce a vicarious liability offence into English law in respect of wildlife crime. It should be noted that English law does not recognise vicarious criminal liability. Similarly, English law does not criminalise people for failing to prevent other people from committing offences. In the context of the Hunting Act, Section 3 already provides that: “A person commits an offence if he knowingly permits land which belongs to him to be entered or used in the course of the commission of an offence under section 1” and that “A person commits an offence if he knowingly permits a dog which belongs to him to be used in the course of the commission of an offence under section 1”. Creating an offence of vicarious liability is unnecessary.
- We have also objected to Labour’s proposal to introduce custodial sentences for Hunting Act offences. Such a move is extremely difficult to justify on grounds of public interest given the costs involved. We have urged Labour to focus on efforts to address proven

wildlife crimes such as illegal hare coursing and deer poaching, and related rural crimes such as sheep worrying and fly tipping, where there is far greater public interest in taking action.

Hares:

- Illegal hare coursing, more correctly called poaching, is a huge problem in some parts of the countryside. It is closely connected to the criminal underworld and involves enormous sums of money. The damage illegal coursers cause to land and property and the intimidation and violence faced by those on whose land they operate should not be underestimated. The problem is widely recognised by government and the police, with the new National Rural Crime Strategy identifying hare poaching as a priority, and a recent rural crime survey highlighting it as one of the top concerns of farmers and land managers.
- Most illegal hare coursing is prosecuted as a poaching offence under the game laws and sometimes as a hunting offence under section 1 of the Hunting Act. Section 5 of the Hunting Act, which bans hare coursing ‘events’ is rarely, if ever, used because of the very tight definition of what constitutes an ‘event’. Section 5 was designed to ban the traditional sport of hare coursing, mostly conducted under the strict National Coursing Club rules, and not to be confused with illegal coursing. Illegal hare coursing is nothing new and was a problem before the Hunting Act, and remains so.
- There is a growing consensus as to some of the measures which the Government could take to strengthen the position of the police and courts in tackling this rural crime. The Countryside Alliance has produced a [policy document](#) which calls on the Government to:
 - Amend the law to give the police and courts full seizure and forfeiture powers in all cases of poaching under the game laws, in relation to dogs and vehicles.
 - Amend the law to enable the police to recover kennelling costs from convicted persons.
 - Extend criminal behaviour orders to enable courts to impose these over wider geographical areas, across police force areas.
 - Revise sentencing guidelines and ensure magistrates understand the full gravity of the offence.
 - Ensure that in recording crime statistics hare poaching prosecutions and convictions are identifiable, enabling a proper understanding of the scale of the problem and where resources need to be focussed.
- If the Government is not willing to introduce legislation then the changes could be achieved by private member’s legislation, with the backing of the Government and parliamentary time. We hope this is something you will consider supporting. The Control of Horses Act 2015 was passed in this way and exemplifies what can be achieved with Government support and the positive action of MPs.

Mountain hares

- Many land managers have a legitimate interest in controlling hares, and this has arguably become more important since the hunting laws in England, Wales and Scotland were passed which prohibited traditional hunting.
- Recent media coverage has focused on the publication in the Journal of Applied Ecology of a paper by Adam Watson from the Centre of Ecology and Hydrology and Jeremy D. Wilson (RSPB) entitled “Seven decades of mountain hare counts show severe declines where high-yield recreational game bird hunting is practised”. However, closer examination of the study would suggest that the issue is not as simple as that.

- The [Game and Wildlife Conservation Trust](#) has questioned the strong emphasis placed by the authors on hare culls on grouse moors being the reason for the decline, pointing out that their research has found the opposite findings to this latest paper. According to the paper the 80 per cent reduction in the mountain hare's population between 1954 and 1999 was due to a change in upland management from grouse moors to conifer plantations and more intensive agriculture. The predator control and heather burning that are part of moorland management was to the benefit of the mountain hare. If it wasn't for this management, the species would be in a far more perilous position now. This view is widely agreed on.
- As the GWCT states, the authors fail properly to recognise their Game Bag Census work that shows no significant decline or increase in numbers shot during this time period. The authors have also failed to appreciate the range of views and evidence on the topic as the Breeding Bird Survey found a non-significant decline of mountain hares between 1995-2015 ([Harris et al. 2017](#)), and the losses that have been recorded have been on the edge of their range ([Patton et al. 2010](#)).
- The highest densities of hares are found on grouse moors and the regions where hare numbers have decreased are where there is no heather management and predator control. As the study states: "a study of this kind cannot prove the cause of the recent rapid declines on moorland sites". The Countryside Alliance was also concerned that the authors felt it necessary to discuss the 'rising public debate', parliamentary questions and political petitions, within a peer-reviewed scientific paper that is ostensibly about counting hares.
- Science is required to further our understanding of the unknown but must not be stretched to fit a line of argument. The RSPB driven reporting around the study is misleading and points the finger at moor owners unjustifiably. The Countryside Alliance recognises that there is rising concern of over hare culls, and that it is therefore the responsibility of those undertaking them that they do so in a way that can be shown to have no impact on the species population. At the same time an action plan should be enacted to increase the range of hares across our uplands and away from their hubs on grouse moors that account for just one fifth of the uplands of England and Wales. There is an equal responsibility on everyone undertaking research in this area to do so with the utmost regard for neutrality, and to ensure findings are fairly and accurately presented. Conservation is more important than headlines and ideological agendas against grouse shooting.

Birds of prey:

- All wild birds are protected by law. The main law applying to the management of wild birds is the Wildlife and Countryside Act 1981 which transposes the requirements of the EU Birds Directive as well as a number of international agreements relating to conservation, such as the Bern Convention. The 1981 Act protects all wild birds, their eggs and nests, and states that they cannot be killed or taken except in certain circumstances, for example, during the open seasons for game species or under the authority of a General or Individual licence.
- Some species have additional protection during the breeding season, and the 1981 Act makes it an offence to disturb the nest or chicks of any Schedule 1 bird, which includes all species of harriers, peregrine falcons, golden eagles, white-tailed (sea) eagles, ospreys and many other moorland birds. Any person who breaks the law commits an offence and is liable to a level 5 fine on the standard scale and/or six months imprisonment.

- Within the UK, 334 offences against wild bird legislation were reported to the RSPB in 2017. The reported incidents of shooting, trapping and destruction of birds of prey (referred to as persecution offences) accounted for 199 of those, with 68 of those incidents being confirmed by the RSPB. In other words, 20 per cent of offences reported to the RSPB in 2017 turned out to be confirmed cases of persecution. Those 68 confirmed cases of persecution is the lowest figure in the last five years, and well below the five year average of 91 confirmed cases. The UK breakdown of the incidents in 2017 is below:
 - **England:** 285 reported incidents of which 55 were confirmed cases of persecution (19 per cent)
 - **Scotland:** 24 reported incidents of which 5 were confirmed cases of persecution (21 per cent)
 - **Wales:** 15 reported incidents, 3 of which were confirmed cases of persecution (20 per cent)
 - **Northern Ireland:** 9 reported incidents of which 5 were confirmed cases of persecution (56 per cent)
- The RSPB report that there were 25 prosecutions for wild bird offences in 2017, involving a total of 53 charges. 42 (79 per cent) of these charges resulted in a guilty verdict. Of those 25 prosecutions, four involved cases of persecution, all of which were in Scotland, with one conviction. The four prosecutions for persecution in 2017 is a reduction of 75 per cent since 2016 when there were 12, and significantly lower than the previous five year average of 27 prosecutions.
- The Countryside Alliance has warned for many years that there is a significant risk that evidence collected by covert surveillance for the purpose of prosecutions without authorisation might be rejected by the courts. The RSPB has, however, continued to act unlawfully on occasion, and its refusal to submit surveillance activity to proper regulation has created continued uncertainty. We share the RSPB's frustration that people who have illegally killed birds of prey may not be convicted, but in that frustration it needs to be honest that its own failure to address such an obvious anomaly in the evidence gathering process could be helping criminals avoid prosecution.
- The illegal persecution of birds of prey can never be justified, and any incident of illegal persecution is one too many. More can be done to help red-listed species such as the hen harrier but the best results are achieved through stakeholders working together. The Countryside Alliance fully supports Defra's [Joint Hen Harrier Action Plan](#) which was published in January 2016 with the support of the RSPB. This Plan provides us with the best opportunity to understand and reverse the decline of the hen harrier in England, and all its component parts have a vital role to play. Although the approach needs to be one that is both collective and collaborative, the RSPB withdrew its support for the Plan just six months after it had been published, and before any brood management schemes had been trialled. The RSPB are the only conservation group to have withdrawn their support. Earlier this month, a legal challenge brought by the RSPB and Mark Avery against the decision of Natural England to grant licences for trial brood management schemes was dismissed on all seven grounds by a High Court judge.
- The Countryside Alliance is a member of both the Partnership for Action Against Wildlife Crime, and the Raptor Persecution Priority Delivery Group (RPPDG), which seek practical measures to tackle wildlife crime. The [RPPDG](#) is a group of organisations run by the National Wildlife Crime Unit to stamp out the illegal killing of birds of prey. The organisations involved come from Government, charities, land owners and game shooting groups and all are committed to ending illegal raptor killing. Contrary to some recent media reports, the Countryside Alliance has not resigned from the Group. We remain committed

to the eradication of bird of prey persecution and hope to attend the next meeting of the RPPDG.

- As ground nesting birds, the eggs and chicks of grouse are vulnerable to predation (being killed by predators), and along with poor weather during the nesting season, this can often lead to fluctuating population numbers. The lawful control of predators such as foxes, crows, stoats and weasels, is therefore essential, and benefits not just the grouse, but also the many other species of ground nesting birds which share the moorland habitat. These include red-listed species of the highest conservation concern, such as black grouse, lapwing, skylark, curlew, grey partridge, and the UK's smallest bird of prey, the merlin. [Research by Penny Anderson Associates](#) has shown that merlin numbers have doubled on grouse moors in the last 20 years, compared to elsewhere where their numbers have more than halved.
- In Scotland, the Angus Glens Moorland Group has recently launched the #WeHaveWildlife campaign to raise awareness of the range of wildlife thriving on Scottish moorland and counter the misconceptions that nature reserves and wildlife centres are the only places to find wildlife. Wildlife Estates Scotland's latest annual report showed that eleven accredited estates reported the presence of golden eagles, with seven of these reporting 19 pairs. Eleven estates also recorded sightings of hen harriers with four reporting 18 breeding pairs. Buzzards were also reported on 20 estates, with a total estimated population of over 920 birds.
- The James Hutton Institute and Scotland's Rural College were jointly commissioned by the Scottish Government to investigate the socio-economic and biodiversity impacts of grouse shooting in Scotland. Their report, published earlier this month, demonstrates the importance of the sector to rural areas of the country and the scale of what would be lost if investment in grouse shooting was discouraged by over-regulation. The [report](#) notes that 2,500 full time equivalent jobs are reliant on the grouse shooting sector in Scotland and it contributed £23 million to the Scottish economy.

Hen harriers

- The latest national hen harrier survey revealed a UK population of 545 territorial pairs. This is a decline of 13 per cent in territorial pairs since the previous survey was undertaken in 2010. The recent decline is disappointing, but it should be placed in context as 100 years ago there were no hen harriers on mainland UK.
- Although Natural England's report into [A Future for the Hen Harrier in England](#) identified six causes of hen harrier nest failure: wildfire, predation, lack of food, poor weather, infertility and illegal killing, the decline in hen harriers is frequently attributed to illegal killing alone. However, new data on the cyclical nature of breeding in England and the decline in breeding numbers across areas with no shooting interests show that the situation is not so easily explained. Using figures provided by Natural England, we have [produced a table](#) which shows a clear cyclical nature for hen harrier breeding success in England over a 30 year period from 1986 - 2015. The number of breeding attempts, successful nests, and number of chicks fledged during each of those years, and the peaks and lows, show a distinct pattern. As illegal killing does not tend to be cyclical, other factors must be contributing to this.
- There is no driven grouse shooting on the Isle of Man, yet the hen harrier population on the island declined by 47 per cent between 2004 and 2016. There is also no driven grouse shooting on Skye, where hen harrier breeding success was studied between 2000 and 2012. There were 88 breeding attempts in this time, 47 of which resulted in nest failures.

Further evidence and post-mortem examinations showed that between 2009 and 2012, 65 per cent of nest failures had been due to predation by foxes.

- Contrary to those that wish to restrict shooting, grouse moors are awash with wildlife and are essential breeding grounds for many red listed species. A [survey](#) conducted on Invermark Estate, in the Angus Glens, by the upland ecologists from Taylor Wildlife to identify and catalogue moorland bird species found 81 different bird species either breeding or feeding on the estate. This included 10 species of birds of prey, including merlin, peregrine, golden eagle, white-tailed eagle, the short-eared owl, and the hen harrier.
- In response to a recent Parliamentary Question, the Government produced breeding data showing the number of hen harrier nests both on RSPB and non-RSPB reserves in each of the last six years; how many of those nests failed to have any chicks fledged; and what the causes of each of those nest failures were ([PQ 203413](#)). The data showed that on sites controlled by the RSPB, there had been 13 nests over the last six years, of which six failed. A total of 24 chicks fledged from the seven successful nests. On those sites primarily controlled by other bodies, including shooting estates, there had been 29 nests in the last six years, of which 11 failed, with 61 hen harrier chicks fledged from the 18 successful nests. The principle cause for failed nests on both sites was predation and desertion. Despite these success rates, the RSPB continues to blame other land managers for the decline of the species.
- The interests of grouse moor managers and birds of prey are more interdependent than opponents of grouse shooting would like to admit. A study carried out by the Game and Wildlife Conservation Trust at [Langholm Moor](#) showed that hen harrier numbers went from a high of 20 in 1997, when the moor was managed by gamekeepers, to only four in 2006 after management had ceased, due to increasing fox predation, and dwindling food supply. In contrast, the number of carrion crows, a common predator species culled on most grouse moors, increased four times following the end of gamekeeper management. To maintain their population, the hen harrier needed the gamekeeper just as much as the grouse.

Deer:

- Deer poaching remains a big problem for many rural communities, particularly in some of our most remote locations. Poaching methods vary across the country, depending on the terrain, the species of deer and their availability. What is common to all is their total disrespect for the welfare of deer. Deer poaching in the remote areas of Scotland is more likely to be done with rifles, either from the vehicle or by the poachers taking to the hill on foot. They are opportunists who know that in such areas they are difficult to detect, owing to the vastness and isolation of the landscape. It is not uncommon for six or seven deer to be taken per night by this method from one estate, with all gralloching and carcass preparation done elsewhere.
- It is difficult to estimate the scale of the problem and the cost to rural communities, but some figures show that 50,000 deer a year are illegally killed on private land and the market for stolen venison is worth an estimated £5 million.
- The Countryside Alliance is an active member of the [Deer Initiative](#) who work with enforcement bodies to reduce the impact from deer poaching and are committed to increasing the awareness of the act as a serious wildlife crime.

- On the back of growing concern about poaching, an app called Project Poacher has been developed in coordination with countryside organisations, to offer advice and support on the topic, as well as the reporting of incidents. To effectively deal with poaching it is require to input resources into prevention, intelligence, enforcement and reassurance. The Countryside Alliance welcomes any and all efforts by the National Wildlife Crime Unit to combat deer poaching.

For more information please contact:

James Somerville-Meikle
Political Relations Manager
James-sm@countryside-alliance.org
0207 840 9260

Sarah Lee
Head of Policy
sarah-lee@countryside-alliance.org
0207 840 9250