

To: Wildbird.Review@cyfoethnaturiolcy.mru.gov.uk

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Dafydd Jarrett/Rachel Lewis-Davies

Contact:

Tel:

Email:

NFU Cymru Response

– NRW Consultation Regulating the shooting and trapping of wild birds

NFU Cymru welcomes the opportunity to respond to the NRW consultation on its approach to regulating the shooting and trapping of wild birds and the destruction of eggs and nests.

NFU Cymru's vision is for a productive, profitable, and progressive farming sector producing world renowned climate-friendly food in an environment and landscape that provides habitats for our nature to thrive. Welsh food and farming delivering economic, environmental, cultural, and social benefits for all the people of Wales whilst meeting our ambition for net zero agriculture by 2040.

The importance of the farming industry in rural Wales cannot be overstated. Welsh farming businesses are the backbone of the Welsh rural economy and the axis around which rural communities turn. The raw ingredients produced on Welsh farms are the cornerstone of the £7.5 billion Welsh food and drink supply chain employing 229,000 people.

The Welsh public associate Welsh farmers, first and foremost, with providing safe, high quality and traceable food. Welsh farmers also look after 80% of the land area of Wales, maintaining and enhancing our natural environment – Wales's key asset. Farming activity supports a diverse range of species and habitats, provides a range of ecosystem services including carbon sequestration, flood alleviation; also delivering the significant backdrop – our iconic Welsh landscapes – for Wales's tourism and recreation sector worth an estimated £3 billion annually.

Welsh farmers are also key promoters and protectors of our culture, heritage, and language with the highest proportion of Welsh speakers of any sector.

General Licences

NRW is seeking views on its proposed approach to regulating the shooting and trapping of wild birds in Wales and the destruction of eggs and nests. We note NRW proposes to adopt a set of principles which they will apply for deciding in which situations the grant of a general licence is appropriate.

Firstly, NFU Cymru would highlight General Licences are an essential tool for farmers to prevent serious damage to livestock and crops. From NFU Cymru's perspective, it is vital that any changes to General Licences are sufficiently certain, clear, and unambiguous given that non-compliance may lead to a criminal prosecution. It is also imperative that the licence conditions are sufficiently proportionate and balanced to enable effective wild bird control to be implemented for the purposes identified in the Wildlife and Countryside Act 1981.

We identify that including a set of principles would appear a sensible way for NRW, as the responsible authority for granting General Licences, to determine whether a General Licence is appropriate. The principles cover the legal requirements which NRW must comply with before granting General Licences.

We note that Principle 6 states that *“No action authorised by a general licence will adversely affect the conservation status of any species other than the target species”*. We believe further detail and clarification in relation to Principle 6 would be useful, including examples of which species fall under this, what evidence will be collected and what conditions may be added.

In respect of other principles or tests that should be applied before deciding to grant a General Licence, NFU Cymru believes that the impact to farm businesses and public health of not granting a General Licence or excluding a species from General Licence should also be analysed and considered by NRW.

NRW is seeking views on whether the magpie is suitable for inclusion on General Licences in Wales in the light of evidence of decline of their population in Wales. NFU Cymru strongly believes that magpie should continue to be included within General Licences in Wales. Control under General Licence continues to be vitally important for farmers because of the harm that magpies do to crops and livestock. Clear indications from members who work and live in the Welsh Countryside would indicate there is no decline in population within Wales and must be considered in the context of a longer-term increase in population across the UK and in areas of Wales where there is little or no control. There is no clear evidence of any threat at all to this species which does have impact on farm livestock.

In terms of other species that may be suitable for inclusion on the general licence, NFU Cymru believes all species listed on the General Licence 001 should remain. Based on the damage done to crops NFU Cymru believes rook should also be included.

NFU Cymru notes that NRW propose to regularly review General Licences to decide whether any changes are needed in the light of new evidence. NFU Cymru would support this proposal. We agree that General Licences should be reviewed, assessed, and monitored in order to update and make any changes needed to ensure they remain in compliance with the legal requirements. We believe the review should be undertaken on a five-yearly basis.

We further support NRW proposals that the review process is to be supported by an external advisory panel. This would provide an opportunity for stakeholder input at each review phase. We believe it is vitally important that NFU Cymru which represents farm businesses across Wales and across all farming sectors is invited to participate in the advisory panel for each review to consider and provide feedback on NRW's proposed changes on behalf of our members. We seek clarification on the exact structure and procedures as stakeholders must feel that their views can be fairly heard.

NFU Cymru agrees that General Licences should continue to be issued for one year and run from January to December. We believe this seems a sensible approach that our members are already familiar with and given that General Licences may only be issued for a maximum of two years under the relevant legislation.

In terms of the format in which General Licences are published we do not support NRW proposals to publish information as HTML text and believe the PDF format should be retained. We emphasise that it is important that the General Licences are easily accessible and in a suitable format because it is the responsibility of the licence user to read and comply with licence conditions. It is also important that an approach is developed that supports the digitally excluded. We refer NRW to Welsh Government's [Digital Strategy](#) published earlier this year which states that *“For people who cannot, or decide not to, participate digitally, we will continue to apply the principles of user centred design so that there are alternative ways to access public services in Wales. The alternative access routes will be as good as those offered online”*.

NFU Cymru does not support NRW proposals that a person authorised by a landowner or occupier to carry out actions under a General Licence should be authorised in writing by the landowner or occupier. This would add unnecessary additional regulatory burden. If the person is found to be unauthorised then, they would not be covered by the General Licence and action taken against them.

With respect to NRW proposals to include a condition requiring users to first try to address the problem using alternative non-lethal methods, we believe this to be unnecessary and highlight that NRW must be satisfied that there are no alternative methods to lethal control before issuing General Licences. It is also important to recognise that all too often all alternative non-lethal methods do is move a problem elsewhere. An example would be this autumn where there was severe corvid damage to permanent pastures as they dug up the ground looking for Chafer Grubs and Leatherjackets. All that scaring would do is to move birds on mass to other areas.

Further it must be recognised that NRW were subject to Judicial Review for not including this as an obligation within the General Licences and the Court found that there was no express requirement.

We also highlight that General Licences have been in place for many years and users understand how they operate. As a result, any significant changes to licence conditions, such as an express requirement to try non-lethal methods first should not be included.

NFU Cymru would be supportive of advising users to keep records as part of a best practice approach, however, we do not believe this should be compulsory.

In terms of NRW's proposed approach to addressing protected site requirements when granting General Licences, we note the proposed approach is largely unchanged from previous General Licences i.e., they may not be used on or near to protected sites with a 300m buffer zone.

Specific licences

NFU Cymru notes NRW's review of the processes for receiving and determining applications for specific licences. We support NRW proposals to make application forms as easy to use as possible. Comments relating to digital exclusion are included above. The current application process for specific licence, specifically the 40 working days to determine applications only serves to reinforce the need for the General Licence regime. Damage is all too often severe and short term and necessitates prompt action within hours not days if it is to be effective.

Licensing the use of lethal methods

We note that NRW proposes that licences allowing the lethal control of wild birds should only authorise the use of methods which are not prohibited under the Act, unless there are good reasons why a prohibited method should be authorised.

In deciding which methods should and should not be licenced, NFU Cymru believes it is important to ensure that the methods selected are practical and workable for licence users on the ground, as well as being lawful. We agree that General Licences granted by NRW for lethal control of wild birds should allow the use of all methods which are not prohibited by section 5 of the Wildlife and Countryside Act 1981. We believe this would appear sensible and would allow the use of existing lethal control methods which would be known to current users and would have a clear legislative basis. Guidance should highlight the methods that are permitted and remind users of their responsibilities and obligations under animal welfare legislation.

With respect to continuing to allow the use of semi-automatic weapons and cage traps, we highlight that these methods were deemed appropriate and lawful during the Judicial Review earlier this year.

Non-target species can be released unharmed from a cage trap. There is absolutely no reason why this should change.

Regulating the use of cage traps

NFU Cymru identifies that there must be clarity for licence users on which cage traps they may use to prevent liability on behalf of the user. As above, we highlight the use of cage traps was deemed lawful by the Court in January 2021.

NFU Cymru would want to see information on permitted cage traps included in the relevant General Licences and not licenced separately. Any general licence conditions relating to cage traps must be developed in conjunction with stakeholders.

We do not support NRW's proposal not to allow the use of meat-based baits under General Licence. We identify the use of meat-based baits is essential to trap corvids causing serious damage at certain times of the year. Allowing the use of diced meat as feed for decoy birds strikes the right balance between mitigating the risk of catching non-target species and the welfare of decoy birds. In any case, non-target species can be released unharmed.

In terms of proposals to include a condition requiring captured birds of the target species to be killed out of sight of other captured birds and decoys, we ask NRW to provide the evidence that this is necessary so long as disposal is quick and instantaneous. NRW must ensure that General Licences are worded clearly and include conditions to assist licence users comply with animal welfare legislation and their obligations. NRW correctly identify, through question 33, that in the case of multi-catch traps more distress could result through having to move out of site to kill each bird.

With respect to the inspection of cage traps with a maximum time between inspections of 25 hours NFU Cymru believes it is important to make users aware of their obligations in relation to cage traps. The maximum interval between inspections needs to be practical and workable for users. It is also important to assist users with meeting animal welfare obligations. We support NRW in its proposals to prohibit the use of wing-clipped boards as cage trap decoys.

NFU Cymru would not support the introduction of a dedicated General Licence for the use of cage traps. We believe this would add an unnecessary level of complexity. Similarly, we believe that a mandatory scheme of cage trap registration and tagging in Wales would place an unnecessary regulatory burden and cost on licence users. Overall, NFU Cymru believes the General Licence needs to be as clear and concise as possible so that licence users fully aware of their obligations with respect to the use of cage traps.

Other regulatory approaches

NFU Cymru notes that the Wildlife and Countryside Act 1981 gives NRW discretion in terms of the licence they may grant. In addition to the granting of general licences and specific licences, NRW have explored a range of regulatory approaches including the concept of 'class licences. Unlike specific licences, class licences would not require an application to be submitted, however, a class licence would authorise action by a more limited range of users - or 'class' of persons - than a general licence and may include additional conditions or restrictions.

We note that NRW are not proposing to introduce any class licences at this time, however, NFU Cymru would like NRW to keep this position under review as there could be benefits in some circumstances. We identify that class licences may be useful, for example, to control starlings which are a significant issue spreading disease within housed livestock often due to the sheer numbers of migrant not resident birds.

Preventing serious damage or spread of disease to livestock, foodstuffs, crops, vegetables, or fruit

NFU Cymru would highlight that farmers in Wales are reliant on General Licence 001 in order to prevent serious damage caused to livestock and crops to prevent loss and harm to their farming businesses. NRW should continue to grant GL001, the current approach has been found to be lawful and is understood by users.

It is important to ensure that General Licences are lawful, workable on the ground and fulfil the purpose of preventing serious damage caused by certain species of wild bird. NFU Cymru would not support specifying 'species to purpose' combinations authorised as this would limit the circumstances when certain species may be controlled. We are concerned that this, in addition to potentially specifying limits on the times of year when the licence can be used add additional layers of complexity when NRW's approach has already been tested and deemed lawful by the Courts.

Practically, we believe it would be difficult if not impossible to determine limits on times of year when General Licences may be used due to the huge number of differing farming systems we have here in Wales and topographical and climate differences between different parts of the country. It would create confusion. It is also important to recognise that serious damage is caused by certain wild birds to livestock and crops all year round so farmers need General Licences on an annual basis to protect their farming businesses.

With regards to the definition of livestock, it is suggested that NRW considers putting together guidance explaining the definition of 'kept' and factors which determine that, such as in relation to management, feeding and control.

Invasive non-native species of birds

NFU Cymru would support NRW proposals to continue to authorise the control of ruddy duck and Canada goose under general licences. The ability to control Canada goose under GL001 is particularly important for our members because of the serious damage they cause to crops and the real risk their droppings and presence on land grazed by livestock have on disease transmission and in high numbers in particular they are a biosecurity risk. Including them within the General Licence regime allows for immediate and prompt action essential to prevent damage and reduce disease transmission risk. Find it fast and take prompt action is rightly highlighted by the Office of the Chief Vet in Wales in dealing with disease control.

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