

Do you agree that common pheasant and red-legged partridge should be added to Part 1 of Schedule 9 of the Wildlife and Countryside Act 1981 in Wales?

This change would mean that releasing those species in Wales would need to be carried out under licence. Please give reasons for your views. - Adding to Schedule 9

Yes, [REDACTED] believes strongly that adding Pheasant and Red-legged Partridge to Schedule 9 Part 1 of the W&CA 1981, thus requiring licensing of any releases. This is a logical, appropriate and justified response to the review undertaken by NRW.

We believe that the proposals will play an important role in tackling the decline in nature in Wales, which the Welsh Government has committed to address and is central to the vision in NRW's plan to 2030 . A specific licensing scheme for sensitive sites is consistent with Welsh Government's 30x30 objective agreed at the recent UN Biodiversity Conference (COP 15) in Montreal, Canada.

We concur that the voluntary approach to self-regulation, which continues to be advocated as the preferred approach by the shooting industry, has failed to demonstrate that it can meet effectively the challenges raised by emerging evidence of environmental impacts of releases and associated management.

Since Welsh Government and Natural Resources Wales must meet the requirements of the Habitat Regulations and the Environment (Wales) Act 2016, it cannot rely on self-regulation, especially given the paucity of data on the scale and distribution of releases in Wales. This is highlighted in Evidence Report 680 (Madden 2023a), which describes current practices as "lightly regulated" and we would contend that this is especially true relative to other land-uses, such as agriculture and forestry.

We note NRW's assessment that the OLDSI consents process is insufficient to regulate releases on Sites of Special Scientific Interest, not least because of variable inclusion as features of those species and habitats that may be impacted by releases. We also consider that a more consistent approach to the application of licences is likely through a dedicated national scheme.

We support Schedule 9 as the most suitable legal mechanism by which Welsh Government should meet its duties under the 2016 Act and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

Schedule 9 "lists non-native species that are already established in the wild, which continue to pose a conservation threat to native biodiversity and habitats, so that further releases should be regulated." Associated guidance, Preventing the release into the wild of certain plants and animals: guidance (Welsh Government and Defra 2011), attempts to address the question of 'wild' in relation to animals in enclosures, which becomes more pertinent with the addition of the two non-native gamebirds to the Schedule. There are inconsistent definitions of 'wild' in wildlife, agricultural and biosecurity legislation, and while we suggest that Welsh Government should take the opportunity to align these so far as possible, this should not delay the proposed amendments to Schedule 9.

If these species are added to Schedule 9, please give us your views on whether our proposed licensing approach would be effective and proportionate? - Views on proposed licensing approach

██████████ broadly supports the proposals for licensing, but with some important reservations that we ask to be considered in implementation. We strongly believe that a strict regime is necessary in relation to the protected sites network and support the decision to include all SSSIs for consideration on a precautionary basis, not solely SPAs and SACs. We support the precautionary approach being adopted to sensitivity to impact in the selection of these sites.

Although not within the scope of this consultation, ██████████ also has concerns about the threat that releases of Mallard pose to wild bird populations during the ongoing outbreak of Highly Pathogenic Avian Influenza. Captive-reared ducklings may have contact with wild species in open pens and contract HPAI. Ducks shed high viral loads for longer durations than other species while asymptomatic. Once released, these pose a risk to other wild bird species using waterbodies, including at designated sites. The release of captive-reared Mallards therefore should be included in a licensing approach to be able to control such an activity during disease outbreaks.

Use of General Licences

We believe that all releases should be subject to bespoke licenses (perhaps with some lighter-touch mechanism for smaller releases) and note that this option remains open for the longer-term. We are of this view because we consider that General Licences in relation to the Wildlife & Countryside Act 1981 are not fit for purpose, as we stated in our response to the NRW's approach to regulating the shooting and trapping of wild birds in Wales (November 2021). In reality, unless significant efforts are made in relation to enforcement, we suspect that a General Licence is viewed as authorisation to continue 'business as usual', giving a false perception of regulation.

Annex 1 of the proposal describes why NRW dismissed 'class licensing' as an alternative to bespoke licensing on SSSIs, but it fails to explain why 'class licensing' would not have been an appropriate alternative to a General Licence to derogate from Schedule 9 Part I.

Absence of a reporting requirement prevents understanding of future trends

We believe that the fundamental flaw in NRW's proposals is the absence of any requirement to resolve the evidence gaps highlighted repeatedly in the two reports commissioned for this review (Madden 2023a and 2023b). These make clear that efforts to determine the ecological impact of released gamebirds in Wales are significantly handicapped by the lack of spatial information, data on scale and information on post-release management. The NRW proposals contain nothing to address these gaps, save for a rather weak statement about seeking to improve compliance with the APHA poultry register. Madden (2023a) remarks, rightly, that the purpose of the poultry register is not to inform understanding of ecological impact and describes the lengths he had to go in order to interpret that dataset, which still resulted in considerable uncertainty. It may be that online gamebird release reporting could align with the APHA poultry register (to avoid duplication of entry), but NRW must recognise that the data it will require to assess the environmental impact of releases is not best served by the poultry register and we believe that it should not rely for its decision-making on a scheme designed for the poultry farming industry. We believe that NRW's ambition to gather more information over the next five years is undermined by the absence of data collection. A condition of all licensing should require information, as a minimum on numbers and locations of each species released, to be provided to NRW annually by all who operate under a licence, whether it is bespoke, class or general. Mandatory reporting of releases would enable NRW to understand the trends in gamebird management following the interruptions of Covid-19 and HPAI, forecast to be unpredictable by Madden (2023a). One possible scenario is that tighter regulation of releases in

SSSIs has a displacement effect to land outside the designated area network, which would need to be understood in reviewing future licensing needs.

Releases away from SSSIs

The evidence reviews on which the proposals are based highlight a strong relationship between the densities of released birds and environmental impact. While accepting the lack of definitive data on the scale and distribution of releases, if Fig.1d in Madden (2023a) is taken as representative [depending on the extent to which the graphic has been 'jittered'], we are concerned that NRW will rely on a General Licence – which assumes no damage will result - for sites in Powys that are quite possibly releasing birds in densities far higher than the proposed licences would permit. Our rudimentary alignment of Fig.1d with SSSIs (with a 500m buffer) suggests that many of the biggest releases are away from SSSIs. However, some appear close to sites shown on NRW's Ancient Woodland Inventory (https://datamap.gov.wales/layers/inspire-nrw:NRW_ANCIENT_WOODLAND_INVENTORY_2021), which includes Ancient Semi Natural Woodland (ASNW). There is good evidence, including from research by the GWCT (Sage et al. 2005. *Biological Conservation*, 122: 243-252.

<https://www.sciencedirect.com/science/article/abs/pii/S0006320704003350>) that these habitats are particularly sensitive to damage by large numbers of released gamebirds, especially the ground flora in ASNW. The consultation proposals admit that only 9% of ASNW lie within the protected area network and we detect uneasiness among NRW species experts about the effectiveness of a General Licence, especially in relation to vascular plants, lichens and bryophytes. Since many undesignated ASNW are small, the impact of high-density releases could be disproportionately large, and we do not believe that NRW has taken sufficient account of this in its proposals. On a precautionary basis, we would like to see the Ancient Woodland Inventory and a buffer included within bespoke licensing.

We also feel that Annex 3, the rapid assessment of potential impacts against Section 7 species and habitats, underplays some important aspects. For example, it does not address the fact that a large, but unquantified, proportion of the Welsh Curlew population breeds outside designated areas. The species is the subject of intensive recovery effort, guided by the Wales Action Plan for the Recovery of Curlew (2021), focusing effort on Important Curlew Areas (ICA). Several ICAs are poorly covered by SSSI designation, especially in Powys which has significant releases of gamebirds. The Curlew Recovery Plan contains a critical medium-term action for NRW to “advocate any ICA that qualifies as a site of international or national importance for breeding curlew are protected under the Conservation and Habitat and Species (Amendment) (EU Exit) Regulations 2019 and/or Wildlife & Countryside Act 1981”. In the absence of such enactment, it would seem wise to minimise the risks posed from disease transfer and mesopredator abundance, especially since foxes roam far more widely than the 500-1000m travelled by Pheasants (see our comments on buffer areas). We are greatly concerned that the Annex 3 assessment considers lethal and costly control of mesopredators as a preferable alternative to managing releases of potential prey through bespoke licensing.

Licence charges

We believe the licensing system should be neutral to the public purse and that costs should be covered by licensees. Given the nature of General Licences, we agree that if NRW proceeds as proposed, there could be no charge. However, we believe that it is reasonable to charge for specific licences, especially as assessing the likely impact at a given site will take staff time to determine. Charging should be in line with the recent NRW Strategic Review of Charging which explicitly proposes that charges should be made for the release of species listed on Schedule 9 of the Wildlife

& Countryside Act (we note that the proposals for 2023/24 are on hold pending a Ministerial decision). The waivers stipulated in Appendix 6 (Species Licensing) of the 2023/24 charges on regulatory fees would not apply to the release of non-native gamebirds, and so to propose a zero-charge licensing system immediately undermines NRW's own proposed policy.

Buffer around sensitive sites

We do not consider the proposed buffer of 500m around SSSIs to be sufficient. Based on the evidence provided in Annex 2, a minimum distance of 1000m would seem more likely to mitigate the risk of damage to SSSIs being caused by released gamebirds. Of the three studies cited in the review, the largest sample was that in Turner (2007), which showed the average maximum distance moved during the three months after release was 913m and average home ranges were 45ha (males) and 97ha (females). Many birds will move farther than the average and critical, of course, is the location of the release pen within the buffer. We note that neither Turner nor, for Red-legged Partridge, Hesford (2012) analysed data throughout the year and so it is not known how changes in seasonal food supply or weather may affect movements.

Under the proposed licence conditions, a buffer site with 30ha of woodland could release 7,000-10,000 gamebirds from 10ha of pens. Since NRW does not hold spatial information on the location of release pens adjacent to SSSIs, and since the largest studies show a sizeable proportion of both Pheasant and Red legged Partridges will move more than 500m from release pens during the first 3-6 months after release, the likelihood of movement of so many birds from the buffer onto the protected site is high, so we consider a 500m buffer to be inadequate.

In relation to Natura 2000 sites, in a pre-action protocol letter from Wild Justice in July 2019 it was accepted by UK government "that in principle the annual release of non-native gamebirds on, or affecting, Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) is capable of constituting a 'plan or project' requiring appropriate assessment within the meaning of the Habitats Directive." Since the legislation is identical in Wales, we agree that this is equally applicable here as is the guidance on the Habitat Regulations Assessment (<https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>), which states that "Any proposal that might have an impact on a European site is likely to be a plan or project... You should give the terms 'plan' and 'project' a very broad meaning to cover a wide range of activities."

We consider that NRW has not adequately considered the scope of releases as a plan or project in its proposals for specific licensing. Appropriate assessment should also incorporate (a) the potential impacts of disease transfer to wild birds (in SPAs) and (b) mesopredator abundance resulting from gamebird releases in SACs and SPAs.

(a) Highly Pathogenic Avian Influenza highlights the need to consider the risk of disease transfer in releases as a plan or project. The risk posed by released Pheasants to wild birds was highlighted by a Defra risk assessment published in December 2022, on which the joint Mitigation Strategy for England and Wales is based. Pheasants in open-topped pens and being fed in high densities after release increase the risk of viral re-assortment and direct risk of transmission to wild birds, including those for which Welsh Government has a particular responsibility in Special Protection Areas.

We are aware that Natural England advises "that there is likely to be a risk or possibility of a significant adverse effect (the mortality of SPA birds reducing population abundance), additional to the prevalent background risk, to the designated features within SPAs from HPAIV transmission both local to gamebird release sites and potentially at sites remote from release sites via bridging species of bird." In its advice to Defra (27 January 2023), NE advised that "this distance of 500m is a limiting

factor to addressing and buffering this new and particular risk, given the evidence relating to the typical and maximum foraging and/or dispersal distances of both SPA species and gamebird species and their potential for interaction at some distance from SPAs” and that expanding the buffer zone would be an additional mitigation measure. We have not seen an equivalent assessment for Wales and believe that this is essential in determining the extent of the buffer that should apply to Special Protection Areas.

In addition, we believe that this assessment should consider whether it is appropriate, on a precautionary basis, to suspend licences during a disease outbreak when an Avian Influenza Prevention Zone (with or without housing measures) is in place. The [REDACTED] has called for such a moratorium on gamebird releases in 2023 based on the risk to populations of wild birds. We suggest that as a minimum there should be a mechanism to prevent releases in 3km disease prevention zones, to align with the rule to house all poultry. We see no reason for gamebird management to be treated differently to poultry management. A licencing system and associated data will help enforce this.

(b) We are concerned that the availability of prey through winter influences mesopredator populations around release sites. These predator species (e.g. foxes) have home ranges spanning several kilometres, so are highly likely to range into adjacent protected sites and cause negative effects (e.g. to productivity of ground nesting birds) even if the gamebirds themselves do not disperse so far. The estimates given in Annex 2 for numbers of birds/ha in February at different distances from release pens are based partly on survival estimates of gamebirds, a large part of which is driven by predation. Thus, a 500m buffer is inadequate given the wider mesopredator implications of releasing (highlighted in Madden 2023a).

Finally, we suggest that the policy for buffers should be explicit that where a ‘non-sensitive’ site occurs within the buffer of a ‘sensitive’ site, the buffer zone would apply to the distance agreed.

Enforcement

A regulatory system is only as good as its enforcement, both to deal with deliberate contravention and as a deterrent to others who may feel tempted not to follow licence conditions. The consultation paper recognises that self-regulation is ineffective and notes the poor levels of compliance with statutory registration on the GB Poultry Register, but is worryingly light on describing how it intends to monitor and check on licence compliance. Determining whether the quantitative conditions of licences have been met (i.e. thresholds not breached) in the field will not be straightforward. We believe that from the outset of administering a licensing scheme, NRW should be clear about how it will do this and what the penalties will be for failing to follow the conditions. To that end, a requirement by the licensee to report the number and location of releases each year will be important, both to inform the foci of enforcement and because the act of knowingly providing false records may act as a deterrent to breaking the conditions in the first place.

Periodic review

We support the proposal to review the licensing scheme in five years, by which time it is hoped that the implications of research currently underway will be understood. We urge NRW to make a formal commitment to that review, with sufficient resources available ahead of that to assess both the effectiveness of licensing and new data on the environmental impacts of releases. As stated above, we do not believe that it will be possible to evaluate the former without mandatory reporting on the scale and distribution of all releases, and spot-checks of releases under both the General Licence and bespoke licences.

We have based the proposed general licence conditions for pheasant release on the recommendations in the GWCT guidelines for sustainable gamebird releasing. However, the guidelines do not include specific density thresholds for red-legged partridge and there appears to be less evidence on which to base conditions relating to partridge. We have used what evidence is available, and expert opinion, to propose conditions for partridge releases. These are either based on a density threshold linked to the area of cover crop provided, or on density per hectare of release pen (as with pheasants), depending on how the birds are released. We would welcome views on whether these proposals are appropriate and workable and whether they could they be improved. - Views on conditions for partridge release

We recognise that there is minimal research into the impact of Red-legged Partridges at different release densities and understand that evidence is insufficient because release methods vary considerably between estates. The threshold of “1000 birds per ha of dedicated cover crop provided” seems, to us, arbitrary. 1000 partridges/ha may be fine in arable landscapes but we do not believe there is any knowledge of impacts of those numbers on semi-natural habitats, e.g. grassland on moorland edge, where it may not be possible to provide a cover crop. This is a significant evidence gap. We suggest that until it is addressed and a maximum of 1000 birds/ha can be shown not to cause damage to biodiversity, a more precautionary approach should be taken to assessing the threshold.

The GWCT guidelines include a recommendation that no more than one third of woodland with game interest should be used for release pens. This is to ensure sufficient woodland remains that can benefit from habitat management activities. We would like to include this recommendation in our proposed general licence. However, we would prefer to be able to define what can be included in the calculation. Do you have suggestions for how this might be achieved? - View on including a limit on woodland used for pens

We believe it is important to set a limit on the total area that release pens can cover. Our understanding is that the “one third of woodland” guideline is an arbitrary threshold suggested by GWCT, hoping that benefits of woodland management on a shoot outweigh negative impacts of release pens. It is important to recognise that this figure is not based on any evidence, but we believe that it is sensible to include it as a condition on the precautionary basis on which GWCT included it.

In its application in a licensing context, we would draw attention to the GWCT guidelines that state that the area being licensed “should include any woodland whether or not it has existing nature conservation interest. The ‘total woodland area’ used in this calculation includes scrub patches, substantial hedgerows with trees, shelter belts and new woodland plantings, but not the central part of large woodland blocks where there is no game interest.”

This is critical, and illustrates the weakness of taking a General Licence approach away from designated areas. An adequate derogation of Schedule 9 listing requires a spatial assessment, which is not within the NRW proposals. For licensing to be effective, NRW has to be clear about what areas can and cannot be included in the definition. Even away from SSSIs, there will be pockets and networks of sensitive habitats that risk being degraded by high-density releases of large numbers of gamebirds. There may be cumulative impact of multiple release locations in the same area.

An online licensing system with a mapping utility of pre-loaded layers showing protected areas, woodland and other priority habitats (e.g. an extension of DataMapWales) would enable licensees to draw on the boundaries of their landholding and of proposed/existing release pens, enabling them to calculate the maximum area of release pen permitted based on the 30%. Such a mapping utility would be valuable for licence reporting as it would allow licensees to indicate spatially where releases are occurring, which as stated above is data that we recommend NRW needs to collect.

Location and density appear to be the main factors influencing the environmental impact of releases, but we recognise that smaller releases in less sensitive areas are likely to present reduced risks. It may be appropriate that small gamebird releases taking place away from sensitive protected sites and their buffer zones are not subject to the same general licence conditions that apply to larger releases. Do you think this is something we should consider? Please give reasons - Views on taking a lighter touch approach for small releases

We recognise that the smaller the number of gamebirds released, the lower is the risk of environmental damage. Our concern is particularly about the high density release of large numbers of birds, and the cumulative impact across sensitive habitats. Thus we would not be averse to different conditions, depending on the definition of “small”, but only if there is a satisfactory response to the concerns we have raised about sensitive habitats, such as Ancient Semi-natural Woodland, outside SSSIs and the need for mandatory reporting by licensees.

Could the proposals affect opportunities for people to use the Welsh language?

- Welsh language considerations

Welsh culture, heritage and language are also important to our organisation. We have not seen any evidence to indicate that opportunities to use the Welsh language would be either increased or affected negatively by these proposals.

Is there a way we can increase the use of Welsh or provide more opportunities for people to use the Welsh language? - If yes, please explain in the box below

Are there any aspects of the proposals that could disadvantage people in using the Welsh language? - If yes, please explain the effects and how they could be mitigated

Do you believe the proposals treats the Welsh language less favourably than the English language? - If yes, please explain in the box below