

Gamebird Regulation Project
Natural Resources Wales
Email: gamebirds@cyfoethnaturiolcymru.gov.uk
(sent via email)

23rd June 2023

Important information regarding policy rational for gamebird regulation proposal.

Dear Project Team

On the 22nd May 2023, [REDACTED] submitted a freedom of information request to the Welsh Government requesting the following information:

- 1. Any information regarding the policy considerations that formed the basis for the Welsh Government's request to NRW to prepare and consult on an approach to regulate gamebird releases in Wales.**
- 2. Any communication between members of the Welsh Government on this issue, particularly but not exclusively, communication involving the Minister for Climate Change, Julie James MS and the Minister for Rural Affairs and North Wales, and Trefnydd, Lesley Griffiths MS.**

The response we received on the 21st June 2023, revealed that one fundamental driver for NRW's gamebird regulation proposal was the 2019 litigation between Wild Justice and DEFRA on this topic, in which [REDACTED] was an interested party throughout its duration.

In relation to this we note that the Welsh Government seems to be under the wrong impression that DEFRA's approach prior to the legal challenge, i.e. not to list common pheasants and red-legged partridge to Schedule 9 in relation to the release in and around European Protected Sites, was unlawful.

This is a highly important misrepresentation of the outcome of the 2019 litigation, which seems to have influenced the proposed regulatory approach significantly.

[REDACTED] would like to draw your attention to the ruling of costs of the 16th November 2020, in which Mr Justice Holgate highlighted repeatedly that **considering all the material**, which includes the Rapid Evidence Assessment on the ecological impact of gamebirds by Joah Madden and Rufus Sage, **he was not of the view that Wild Justice would have been successful with their claim.**

Below is an extract of the relevant paragraphs of the ruling:

At para 4: It is important to bear in mind that the court is being asked to order costs in respect of the claim that has been brought. An important issue is whether the C [Wild Justice] has been successful, and if so to what extent (...).

At para 10: Plainly it cannot be said that C [Wild Justice] has been wholly or even substantially successful in relation to its original claim.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

At para 14: I do not accept that C has been successful, wholly or even mainly in relation to its claim as amended.

At para 16: it does not appear to me from the material before me (which includes the results of the review) that C would have been successful on the issue identified by Kerr J.

This clearly shows that there is no legal reason to implement any licensing framework that regulates the release of gamebirds further and certainly not a far-reaching proposal as the one subject to the consultation.

Unfortunately, we received the FOI response only on the 21st of June, a day after the consultation closed. We would therefore be grateful if we could submit the above information as an addendum to our original response and request the project team to duly consider its content and its relevance in relation to the legal implications of the proposed framework.

Best wishes,

