

# **NRW's approach to regulating the shooting and trapping of wild birds and the destruction of eggs and nests**

## **Consultation Document**

**August 2021**

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# PART A: About this consultation and how to respond

**Consultation closes: 11 November 2021**

**Consultation opened: 19 August 2021**

## Overview

All wild birds in Wales have legal protection. Natural Resources Wales (NRW) has a number of powers under which we can authorise others to kill or take particular species of wild birds, eggs and nests for certain purposes, for example in order to prevent serious damage to crops, livestock or fisheries, to protect public health or safety or to conserve other species of wildlife.

We are undertaking a review of how we exercise these powers.

This review is looking at the different types of permissions that we offer and the processes used to deliver these activities to seek to make improvements.

## Why are we consulting?

We want to hear your views on our proposals.

The findings of the consultation will help shape our future approach to the permissions we give for shooting and trapping wild birds in Wales and the destruction of their eggs and nests.

## What are we consulting on?

This consultation seeks your views on proposals for NRW's approach to regulating the shooting and trapping of wild birds in Wales and the destruction of eggs and nests. The detail of our proposals is set out in this document. Links to a number of other relevant documents are given below.

**Please read the information in this document before responding to the consultation questions.**

## How to respond

Please submit your consultation response by using the online survey available on the NRW Consultation Hub, which uses the 'Citizen Space' online consultation tool. Start by clicking on the link below, which will take you to the consultation questions. From each set of questions you will be able to access this consultation document.

If you are unable to respond online please email us at [Wildbird.Review@cyfoethnaturiolcymru.gov.uk](mailto:Wildbird.Review@cyfoethnaturiolcymru.gov.uk) or write to Wild Bird Review Consultation, Natural Resources Wales, Maes y Ffynnon, Bangor LL57 2DW.

**By submitting a response to this consultation by whatever means, you give us permission to analyse and include your response in our results. After you have submitted your response to us, you will no longer be able to change any of your answers. If you respond using the online consultation tool and provide an email address you will be sent a receipt and you can also request a PDF copy of your response. If you respond by email you will only receive only an automated acknowledgement.**

We consult because your input helps us to improve our ideas and to shape our work. It enables us to be more effective in the work we do. We consult on new or change to policy and strategy, projects such as proposed flood schemes and also certain types of permit applications.

We want our consultation process to improve our work and be more accessible to you. If you would like to comment on our approach, please feel free to contact us.

Email [enquiries@naturalresourceswales.gov.uk](mailto:enquiries@naturalresourceswales.gov.uk) or call 0300 065 3000 (Mon-Fri, 9am - 5pm)

## **Give us your views**

Click [HERE](#) to go to the online consultation questions in English.

Cliciwch [YMA](#) i fynd i'r cwestiynau ymgynghori ar-lein yn Gymraeg.

## **Other relevant NRW documents**

2019 NRW General Licence review report, available [HERE](#).

Report on our Call for Evidence, available [HERE](#).

Specific licences to control wild birds: NRW application forms and reporting forms (available [HERE](#))

General licences (available [HERE](#))

## Confidentiality and Data Protection

1. Would you like your response to be kept confidential? (Required)

1.1. Yes / No

1.2. If you answered Yes to this question please give your reasons

A summary of responses to this consultation will be published on our website. That summary will include a list of all organisations that responded but will not include the names of private individuals, addresses or other contact details.

Read NRW's privacy and data protection information [HERE](#).

## About you

We are asking you to provide your contact details so that we can contact you if we have any queries about your response or if we wish to ask you to provide further information to add to the response you have given. You must complete this section in order for us to take account of your response.

2. What is your name? (Required)

3. What is your contact e-mail or postal address? (Required)

4. Are you responding as an individual or on behalf of an organisation? (Required)

4.1. Individual / Organisation

4.2. If you are responding on behalf of an organisation, please tell us which one:

5. What is the main reason for your interest in the shooting and trapping of wild birds in Wales? (Please tick the one that best applies to you): (Required)

- Academic/scientific/research
- Animal welfare
- Falconry
- Farming – arable
- Farming – livestock
- Fishery or fish stock management
- Gamebirds
- Landowner/occupier/manager
- Pest control
- Recreation
- Wildfowling
- Wildlife conservation
- Other. If other, please specify:

6. Your location (Required)

6.1. If you are based in the UK, please tell us the first part of your postcode (for example LL57)

6.2. If you are based outside the UK, please tell us which country

# **PART B: Background to the review**

## **1. Outline of the legal framework**

The Wildlife and Countryside Act 1981 provides the legal framework in Wales for the protection of wild birds, their eggs and nests. The Act also establishes the framework under which NRW may issue licences allowing the killing or taking of wild birds.

A wild bird is defined in the Act as “any bird of a species which is ordinarily resident in or is a visitor to the United Kingdom or the European territory of any member State in a wild state but does not include poultry or, except in sections 5 and 16, any game bird.”

Under section 1 of the Act, intentionally taking of the following types of actions is generally an offence:

- killing, injuring or taking any wild bird;
- taking, damaging or destroying the nest of any wild bird while that nest is in use or being built;
- taking, damaging or destroying the nest of a species of wild bird included in Schedule ZA1 of the Act as being species which re-use their nests;
- taking or destroying an egg of any wild bird;
- disturbing any wild bird included in Schedule 1 of the Act while it is building a nest or is in, on or near a nest containing eggs or young, or disturbing the dependent young of such a bird (Schedule 1 being a list of species considered particularly sensitive to the impacts of disturbance while they are nesting).

The offences defined in section 1 do not apply where the action of killing or taking is of birds of any species listed in Schedule 2 of the Act, which is a list of species which may be lawfully killed outside the close season for the species (which is typically between February and August). Schedule 2 includes a number of waterfowl and game bird species.

Under section 5 of the Act, it is generally an offence to use certain types of method to kill or take wild birds, including for example traps, nets, bows or crossbows, explosives (other than ammunition for a firearm), semi-automatic weapons, poisonous or stupefying substances and dazzling devices.

Under section 16(1) of the Act, NRW may grant licences authorising activities which would otherwise be offences under section 1 and/or section 5. Licences may only be granted for the particular purposes listed in section 16(1) and may be, to any degree, general or specific. Before granting a licence for any purpose listed in section 16(1) NRW must be satisfied that, as regards that purpose, there is no other satisfactory solution.

## 2. What we do now: Licences granted under section 16(1) of the Wildlife and Countryside Act 1981

NRW currently grants two types of licences under section 16(1) of the Wildlife and Countryside Act 1981 (the Act), allowing the killing or taking of wild birds and/or destruction of eggs and nests: specific licences and general licences.

**Specific licences** require individuals to apply to NRW using one of our application forms. The application must identify the individuals seeking authorisation, the purpose of the action (which must correspond to one of the purposes listed in section 16(1)), the species concerned and what, if any, efforts have been made to address the problem or meet the need using alternatives to lethal means. Specific licences identify the named individuals who may use the licence, the species of wild birds which may be killed or taken, by what method(s), for what purpose, when and in which location(s). All specific licences to take or kill wild birds include a condition requiring the licensee to provide a report to NRW on all activity undertaken under the licence. Specific licences may also be subject to a range of further conditions including in relation to animal welfare. Applications are determined on a case by case basis. In 2020 we received 164 applications for licences to carry out lethal control of wild birds, of which 109 were granted.

**General licences** are granted to all “authorised persons” in Wales and do not require applications to be submitted. “Authorised person” is defined as including any landowner or occupier in Wales, any person acting on their behalf, and a number of other categories of person including individuals authorised in writing by NRW or by local authorities.

We currently have four general licences authorising lethal control of wild birds:

- **General Licence 001** (GL001), which authorises the control of six species of wild bird (carrion crow, jackdaw, magpie, feral pigeon, woodpigeon, Canada goose) for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables or fruit or to prevent the spread of disease to livestock, foodstuffs for livestock, crops, vegetables or fruit;
- **General Licence 002** (GL002) which authorises the control of feral pigeon for the purpose of preserving public health and preventing the spread of disease;
- **General Licence 004** (GL004) which authorises the control of four species of wild bird (carrion crow, jackdaw, jay, magpie) for the purpose of conserving wild birds;
- **General Licence 005** (GL005) which authorises the control of ruddy duck for the purpose of conserving fauna or flora.

We issue a number of other general licences allowing actions affecting wild birds that would otherwise be offences, but they do not authorise lethal action and are outside the scope of this review.

NRW’s Species Permitting Team, part of our Permitting Service, receives and determines applications for specific licences and is also responsible for the decisions to grant general licences, consulting with internal specialists as required. Our current standard of service is to determine all wild bird control licence applications within 40 working days.



NRW's general licences are granted annually from 1 January to 31 December each year and are published on the NRW website. Application forms for specific licences and related guidance is also published on the website. Specific licences are issued to named persons and are not normally published, since any personal information contained in specific licences and licence applications must be handled in accordance with data protection legislation.

### 3. Our approach to carrying out the review

We are reviewing our approach to the permissions we give for the shooting and trapping of wild birds in Wales and the destruction of their nests and eggs. This is a broad review, which builds on the earlier work we carried out in 2019 which resulted in some significant changes to some of our general licences, including reducing the number of species which may be controlled under the licences and changing the conditions relating to use of the licences within statutory protected sites in Wales.

The 2019 changes were an interim measure. When the outcome of the 2019 review was made public (report available [HERE](#)), along with issuing the revised general licences, we committed to carry out a more comprehensive review of our approach to regulating the lethal control of wild birds.

The review is being carried out by staff within NRW, but an important element has been to gather evidence and test our developing ideas and proposals with a wide range of external stakeholders. We carried out a call for evidence between December 2020 and January 2021, the report of which is available [HERE](#). We have also taken account of the approaches to wild bird control licensing in other parts of the UK, met regularly with other UK licensing authorities and with Welsh Government. In addition we have had a number of informal discussions with key stakeholder groups in Wales to share and test our developing thinking.

We have not changed our approach to licensing while the review is underway. Any changes we decide to make, including any further changes to the terms and conditions of our general licences, will be implemented only after we have fully considered the responses to this consultation.

### Legal challenge against NRW general licences

During the course of this review, three general licences (GL001, GL002 and GL004) which we had issued in 2020, being identical general licences to those we had previously issued in October 2019, were subject to a legal challenge alleging that in granting the licences NRW had failed to comply with a number of statutory requirements.

The three grounds of challenge were that NRW had:

- failed to specify the circumstances in which the licences may be used;
- failed to establish that there were no other satisfactory solutions as regard the purposes for which the licences were granted;
- taken an improper approach to considering the evidence base when deciding to allow derogations from the statutory protection of wild birds.

The legal challenge failed on all three grounds and the licences were declared lawful in the High Court in January 2021. In light of that outcome, we have not made any changes to the licences concerned and they remain in place until they expire on 31 December 2021.

## What is not part of this consultation

Although the following matters may relate to the control, management or use of wild birds, they are **not** within the scope of this consultation:

- **The legal framework** itself, which establishes the statutory protection of wild birds and under which we grant licences for actions affecting wild birds, including the relevant sections and schedules of the Wildlife and Countryside Act 1981 (the Act).
- Our approach to granting licences allowing actions against **species other than wild birds**. A number of species of plants and animals other than birds are subject to statutory protection under the Act and other legislation, and for which NRW may grant licences authorising actions which would otherwise be offences, including capture and killing.
- Our approach to granting licences allowing the **non-lethal handling or use** of wild birds, eggs or nests (such as temporary capture followed by release unharmed). However, some of the changes we are proposing to the standard terms and conditions of our general licences which allow lethal action against wild birds (see section 4) may be relevant to other licences.
- Our approach to regulating the **killing or taking of wild birds on Sites of Special Scientific Interest (SSSIs)** through the SSSI consenting process, where the activity is not subject to licensing under section 16(1) of the Act.
- NRW's policy on the **use of firearms on land managed by NRW**. We carried out a comprehensive review of this in 2018 and at this point we are not repeating any of that work or revisiting its conclusions, which are available [HERE](#).
- **Lethal control of wild birds by NRW itself**.
- **Charging for licences**. All our wild bird control licensing is carried out free of charge to users. NRW is separately conducting a comprehensive strategic review of our approach to charging across all our regulatory and advisory functions, including species licensing.
- Activity which is **not subject to any regulation by NRW**, including the killing and taking of species of birds listed on Schedule 2 of the Act outside protected sites, and the impact of this activity on the target species or on other wildlife.
- Regulating the **release of captive reared gamebirds**. The scope and timetable for a review of whether and how the practice of gamebird release should be regulated in Wales is currently under consideration by Welsh Government.

# **PART C: Proposals concerning our overall approach to licensing the lethal control of wild birds**

## **4. General licences**

### **Summary**

This section sets out our proposals for the following:

- a set of principles for determining when it is and is not appropriate to grant general licences;
- whether in light of those principles, magpie and any other species should be included on general licences;
- arrangements for the review and re-issue of general licences;
- the form in which general licences are issued;
- standard terms and conditions for general licences;
- complying with protected sites requirements when granting general licences.

This section deals with our overall approach to general licences. Proposals relating to particular general licences, including those for conservation, public health and safety and preventing serious damage are covered later in this consultation document.

### **Background**

A general licence is a type of licence that sits in contrast to a specific licence granted to an individual or organisation on application. A general licence requires no application, authorises the taking of otherwise unlawful action by anyone who falls within the definition of an authorised person, and is issued simply by being published. This overall approach to licensing the lethal control of wild birds is allowed for under section 16(1) of the Wildlife and Countryside Act 1981 (the Act).

NRW inherited a number of general licences from our predecessor bodies and from Welsh Government, and we have continued to make them available annually on our website. As with any other form of statutory authorisation, anyone relying on a general licence must comply with terms and conditions, and failure to do so is an offence under the Act. All the general licences currently in place in Wales are available on the NRW website [HERE](#). Four general licences (GL001, GL002, GL004 and GL005) authorise lethal control of wild birds (taking and killing of birds and taking and destruction of eggs and nests).

General licences are a light-touch approach to regulation, intended to cover situations which are common and widespread, and where the activity which the licence authorises is low risk (to the species concerned) and thus a proportionate regulatory approach. The terms of general licences are widely framed and they place a significant degree of responsibility on licence users to determine what action may lawfully be taken under the

licence. The lawfulness of this approach to licensing was confirmed by the High Court's decision in January 2021 to dismiss a legal challenge made against three of our general licences (GL001, GL002 and GL004).

There is no requirement to register in order to use a general licence to carry out lethal control of wild birds and in most cases no requirement to provide reports on activity undertaken under general licences for lethal control. The only exception to this is GL005 for the control of ruddy duck, which is considered further in section 14.

NRW does not monitor the extent to which general licences are used. However, we are aware from surveys carried out by membership organisations including the British Association for Shooting and Conservation, Game and Wildlife Conservation Trust and farming unions that general licences are widely used by members of those organisations as a basis for undertaking wild bird control in Wales.

In Wales responsibility for enforcement of protected species legislation lies with police forces across Wales, including in relation to compliance with the terms and conditions of any section 16 licences. NRW's role is to support and advise the police in any enforcement proceedings.

NRW's general licences currently do not apply in or near 198 of the 1,078 Sites of Special Scientific Interest in Wales, a number of which are also European sites (Special Areas of Conservation and Special Protection Areas). These are sites where the designated features might be impacted by disturbance caused by shooting carried out under general licences. The exclusion of these protected sites from the general licences is a precautionary measure to ensure, in line with protected sites legislation, that no activity authorised under general licences could affect the designated features of the sites. This does not mean that wild bird control may not take place in these areas, rather it means that anyone wishing to control wild birds must apply for a specific licence. Any such applications are considered in light of any potential risks (and benefits) to the protected site concerned.

The legal framework for licensing the control of wild birds in England, Scotland and Northern Ireland is similar to Wales. General licences for the control of wild birds are also granted by the licensing authorities in England, Scotland and Northern Ireland.

## Our proposals

### Principles for deciding when general licences are appropriate

**We propose to adopt a set of principles which we will apply for deciding in which situations the grant of a general licence is appropriate.**

As a licensing authority for Wales under section 16 of the Act, NRW is empowered to exercise discretion in whether to grant licences for the control of wild birds in specific or general terms. We think there should be a transparent basis on which we decide that a general licence is appropriate rather than requiring persons wishing to control wild birds to submit applications for specific licences. Accordingly, we propose to apply the principles below for determining whether a general licence is appropriate. Unless all of these principles are satisfied, we do not consider it appropriate to allow the killing or taking of a

species under general licence. We would apply these principles to any species of wild birds and any section 16 licensing purposes which might be considered for inclusion on a general licence. Applying these principles when deciding on the appropriateness of a general licence will require the exercise of judgement based on available evidence.

**Principle 1: There is an apparent and genuine need to allow the killing or taking of the species of wild bird in question, or to take or destroy their eggs or nests, in order to further one or more of the purposes outlined in section 16 of the Act.** All wild birds are protected by law, and derogations from that protective regime may only be granted for particular purposes.

**Principle 2: Allowing the lethal control of birds of the species concerned under general licence can reasonably be expected to contribute to resolving the problem or meeting the need.** Even if Principle 1 is satisfied, we consider lethal control of wild birds should only be authorised if, on the basis of available evidence, it is reasonable to consider that such action will contribute to meeting the need or resolving the problem concerned.

**Principle 3: There are no satisfactory solutions that would resolve that problem or address the need in question, other than to grant a general licence allowing the killing or taking of the wild bird species concerned.** NRW is permitted by the legislation to authorise lethal control of wild birds for specified purposes but only where we are satisfied as regards those purposes that there is no other satisfactory solution. Therefore, we need to be satisfied that granting a general licence is the only satisfactory way to address the problem or satisfy the purpose in question, and that the purpose cannot satisfactorily be addressed by using only non-lethal methods, or through granting specific licences on application.

**Principle 4: Allowing lethal control of the species in question under general licence, rather than only under specific licences subject to individual applications, is a proportionate response, given the frequency, scale and severity of the problem or need.** We propose that general licences are appropriate only where it would be impractical or disproportionately burdensome on users, and on NRW, to regulate the killing or taking of birds or destruction of eggs and nests for that purpose, through requiring specific licences. For example a general licence may be appropriate where NRW would otherwise receive a very large number of applications for specific licences, all seeking authorisation to carry out the same types of actions against the same species for the same purposes.

**Principle 5: Allowing lethal control of a ‘target’ species under a general licence will not risk putting it into an unfavourable conservation status.** General licences do not specify limits on the number of birds that may be taken, and do not require licence users to report how many birds they have taken under the licence. In order to ensure that allowing the lethal control of a species under a general licence does not jeopardise its conservation status, there are limited circumstances under which a species can be included on a general licence. We consider that the only species suitable for inclusion on a general licence are those which are not of conservation concern. We propose to use the ‘Birds of Conservation Concern’ (BoCC) green/amber/red listings for Wales, to inform our assessment of which target species of wild bird are of conservation concern. Specifically:

(i) We propose that a species will only satisfy this principle for potential inclusion on a general licence if it is ‘green listed’ in the most recently published BoCC assessment for

Wales, or if it is classed as an invasive non-native species. If a species is ‘amber listed’ or ‘red listed’, it means that on the basis of available evidence it is undergoing significant long-term decline in breeding population or breeding range. We do not believe that including such species on general licences, which specify no limits on the numbers which may be killed or taken, can provide sufficient confidence that licensed control will not cause or contribute to further breeding population decline.

(ii) We further propose that since updated BoCC assessments are normally published every six years, as well as reviewing a species’ inclusion on general licences following publication of updated BoCC lists for Wales, we will also consider the conservation status of any general licence listed species at the three year mid-way point between publication of the updated BoCC lists. A species would be considered for removal from general licences if, at that mid-way point, in light of annual breeding bird survey data, it would meet the criteria for BoCC red or amber listing. Further proposals concerning the regular review of general licences are set out below.

**Principle 6: No action authorised by a general licence will adversely affect the conservation status of any species other than the target species.** In addition to considering the impact of a general licence on the target species (under Principle 5 above), we propose that NRW should not grant a general licence if we consider that any action taken under that licence would place the conservation of other species at risk. It may be necessary to include conditions in a general licence in order to satisfy this principle, including in particular in relation to the potential impact on protected sites, as considered further below.

**Principle 7: The general licence can be framed in terms which are clear to all users, compliant with all relevant legal requirements, and enforceable.** We propose that NRW should not issue a general licence unless we are satisfied that the purpose or purposes for which the licence may be used, and the circumstances and conditions under which it may be used, can be set out sufficiently clearly for all users to understand.

## Consultation questions

7. Do you agree with the principles we are proposing to apply for deciding whether to grant a general licence?

7.1. Yes / No

7.2. Please give your reasons

8. Do you think there are other principles or tests we should apply before deciding whether to grant a general licence?

8.1. Yes / No

8.2. Please give your reasons

## Target species on general licences

**We consider that magpie may not be suitable for inclusion on general licences in light of evidence of decline in their Welsh population.**

Under our proposed principle 5 above, a species should only be included on general licence allowing lethal control if doing so will not lead to deterioration in its conservation status.

Magpie have the potential to cause damage to livestock and negative impacts on other species, and have been listed on a number of general licences in Wales for many years. It is apparent from the evidence provided in response to our call for evidence by membership organisations including the British Association for Shooting and Conservation and the Game and Wildlife Conservation Trust, that magpie are subject to widespread lethal control. However, given that control carried out under general licences is not subject to any requirement for recording or reporting, the actual levels of control of magpie taking place each year is unknown. The species is experiencing significant population decline in Wales.

As part of the review of our general licences in 2019, we considered whether magpie was a suitable species for inclusion on general licences given its population status. Data from the annual breeding bird survey at that time indicated that magpie in Wales had declined by 27% over the 22 year period 1995 to 2017. At the time we decided to retain magpie on general licences for the prevention of serious damage to livestock, and conservation of wild birds.

According to the most recent breeding bird survey assessment for Wales (available [HERE](#)), between the period 1995 to 2018, Welsh populations of the majority of general licence listed species - namely Canada goose, feral pigeon, wood pigeon, jay, jackdaw and carrion crow – have been relatively stable or significantly increasing. However, over that period the Welsh magpie population has declined by 43%. The reasons for this are not fully understood, but may be partly driven by poor breeding success: average clutch size and brood size for breeding magpie have declined over this period.

We are concerned about the observed population trend for magpie, and in light of our proposed principles for general licences, in particular principle 5, we need to consider whether magpie is a suitable species to be subject to lethal control under general licences. However, we appreciate that requiring any lethal control of magpie to be authorised under specific licences could have significant implications. Therefore, we would welcome views on the approach that we should take.

## Consultation questions

9. Do you think that magpie is suitable for inclusion on general licences in Wales in light of evidence of decline in their population in Wales?

9.1. Yes / No

9.2. Please give your reasons

9.3. If you answered No to this question, do you think we should:

9.3.1. Not include magpie on general licences straight away, so that they would not be included on any general licences we grant in 2022?

9.3.2. Wait until the next published BoCC Wales assessment before making the decision?

9.3.3. Take another approach?

9.4. Please give your reasons

10. Do you think there are other species which may be suitable for inclusion on a general licence?

10.1. Yes / No

10.2. If you answered Yes to this question please tell us which species and give your reasons

## Reviewing and reissuing general licences

**We propose to regularly review general licences, to decide whether any changes are needed in light of new evidence, and further propose that the review is supported by an external advisory panel.**

We propose to carry out a regular review of any general licences which authorise the lethal control of wild birds. The purpose of the review will be to consider whether there is any new evidence or other factors which justify making any changes. We envisage that this will be a light touch process, in that unless there is a good reason to make any changes based



on new evidence, the default position will be that a general licence will be renewed on the same terms without any substantive changes.

We propose that the review would be carried out every three years. We consider three years to be an appropriate timescale, which ties in with our proposed interval for considering the population status of the species listed on the general licences, as described above in relation to principle 5. As well as reviewing the inclusion of species on general licences in the context of principle 5 above, these three-yearly reviews will also be the opportunity to consider any new evidence that has become available, which is relevant to assessing a general licence against any of the other principles to determine whether any changes are warranted.

In principle, the following would be within the scope of the proposed three-yearly review:

- whether or not a particular general licence should be reissued at all;
- whether any new general licences should be granted;
- whether there should be any changes to the species included on a general licence (additions or removals), and/or to the definition of the purpose(s) for which those species may be controlled;
- whether there should be any changes to the terms and conditions of a general licence, including the methods of control that may be used, seasonal or spatial limits to the applicability of the licence (if any), measures relating to protected sites, animal welfare considerations, and any changes to guidance or advice contained in a general licence or issued alongside it.

New evidence or other factors to be taken into account in the review could be related to any of the following:

- population status/trend of the target species (as described above);
- nature, severity, seasonality or geographic location of the harms or problems caused by the target species (which must relate to one of more of the purposes in section 16(1) of the Act);
- effectiveness of lethal control and non-lethal alternatives;
- any relevant changes in legislation, case law or government policy.

We also propose that for each review an advisory panel, comprising representatives of NRW, user stakeholder bodies and non-user stakeholder bodies, would be convened to consider any new evidence and any proposed changes to any of the general licences. The advisory panel would seek to make formal recommendations to NRW. Those recommendations would be made public on the NRW website, and would be considered by NRW in reaching its decision, as the licensing authority, on the granting of the following year's general licences.

In the medium to longer term we anticipate that the review process itself may evolve from year to year, depending how well it works in practice.

Notwithstanding our proposal for a regular three-yearly review, as the licensing authority for Wales we may need to change a general licence at any time, for example if a critical

piece of evidence emerged in light of which there could be significant risks in continuing with a general licence in its current form. However, any such changes would be carefully considered so as to ensure that they were properly justified and effectively communicated to licence users and other stakeholders.

**We propose to continue to grant general licences on an annual basis.**

The granting of a general licence is a regulatory decision by NRW and must be made in accordance with all relevant legal requirements. When a general licence expires, NRW must decide whether and under what terms to grant a new one. In particular, each time we grant a general licence, we must be satisfied that there is no other satisfactory solution as regards the purpose for which the licence is granted. As outlined above, keeping the evidence base for general licences under review will inform these decisions.

General licences are currently issued annually and are valid from 1 January until 31 December. We propose to continue with this approach. Matching the period of a general licence to the calendar year is clear, logical and familiar to users in Wales, and we are not aware of any evidence to suggest that from a user perspective it would be preferable for licences to begin or end at a different time of year.

We also propose to retain annual general licences, rather than moving to granting general licences for two years, which is the maximum term allowed under the Act for a licence to control wild birds. This is in order to ensure that in those years when a three-year review has been carried out (see above), any changes arising from that review can be implemented for the following year. If we issued two-year general licences, any changes arising from a review might have to be put on hold for an extra year before they could be implemented, or a general licence might need to be revoked before it expired.

**Consultation questions**

11. Do you agree that general licences should be subject to regular review?

11.1. Yes / No

11.2. Please give your reasons

12. Do you agree with the way in which we propose to carry out a regular review of general licences?

12.1. Yes / No

12.2. Please give your reasons

13. Do you agree that general licences should continue to be issued for one year, and run from January to December?

13.1. Yes / No

13.2. Please give your reasons

14. Do you have any other suggestions concerning the regular review and reissue of general licences?

14.1. Yes / No

14.2. If you answered Yes to this question please tell us your suggestions

## The form in which general licences are published

General licences are currently published as PDF documents on the NRW website [HERE](#). However, in line with our statutory duties under the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018, we are reviewing all information published on our website to improve its accessibility. Wherever possible we are publishing information as HTML text, which is more accessible as well as being more efficient in terms of ensuring information is kept up to date. We therefore intend to discontinue the practice of publishing general licences in PDF form, and to issue them as HTML pages in future.

To support and encourage the use of the Welsh language in all areas of NRW's remit, we will also continue to publish general licences bilingually in Welsh and English.

## Consultation question

15. Do you have any comments on the format of general licences or any suggestions on how we could improve them in terms of presentation?

15.1. Yes / No

15.2. If you answered Yes to this question please tell us your comments or suggestions

## Standard terms and conditions for general licences

We are proposing some changes to standard terms and conditions to be included in general licences:

- meaning of “authorised persons” who may use a general licence;
- a requirement on general licence users to try using non-lethal alternatives;
- advice on record keeping by general licence users.

Many of the standard terms and conditions included in general licences were drafted many years ago and have been successively carried forward in annually re-issued general licences. We are reviewing the standard terms and conditions in the context of the specific legal requirements in section 16 of the Act, the legal challenge brought in 2020 against three of our general licences, and our wider responsibilities as a regulator, and propose the following:

### Authorised persons

Our general licences currently authorise action by any “authorised person”, which is defined as:

“(a) the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken;

(b) any person authorised in writing by the local authority for the area within which the action authorised is taken;

(c) as respects anything done in relation to wild birds, any person authorised in writing by

i) the Welsh Ministers, in relation to things done for purposes relating to fishing or fisheries in the Welsh inshore region (within the meaning of the Marine and Coastal Access Act 2009);

ii) any of the following bodies, that is to say, any of the GB conservation bodies, a district board for a fishery district within the meaning of the Salmon Fisheries (Scotland) Act 1862 or an inshore fisheries and conservation authority

d) any person authorised in writing by Natural Resources Wales.”

We consider that this definition is appropriate in scope. Where we have decided to grant a general licence in accordance with our proposed principles as described above, it needs to be available to any authorised person as defined above who may need to take action to control wild birds. We do not consider there is any basis on which the definition of authorised person within a general licence should be defined more narrowly.

However, as a change from current practice, we propose to require that a person authorised by a landowner or occupier to take action under the licence, be authorised in writing by that landowner or occupier. This would be consistent with the other categories of authorised person included in the definition, who must be authorised in writing by the public body concerned. We think it reasonable for anyone carrying out control of wild birds

who is not the owner or occupier of the land where the action is being taken, to be able to show that they are acting with the express authorisation of the owner or occupier.

### **Using non-lethal means to address problems caused by wild birds**

Any decision NRW makes to grant a general licence will be on the basis that, along with meeting the other general licence principles described above, NRW is satisfied that, as regards the statutory purposes, there is no satisfactory alternative other than to grant a general licence. However, because by their very nature general licences authorise operations in a range of different circumstances and settings, there may be particular situations falling within the scope of what is authorised by a general licence, where alternative non-lethal action could be taken to address the problem or need. In his ruling on the lawfulness of NRW's general licences in January 2021, His Honour Judge Jarman QC noted that a similar condition is included in a number of Defra's general licences, and stated that it may be helpful for NRW to consider whether to include such a condition in any of our general licences in future. Therefore, we propose to introduce a new requirement that anyone intending to take action under a general licence should first have made reasonable efforts to deal with the problem through other non-lethal means, and to continue to make such efforts. We also propose that any such condition would be subject to a qualification that it would not require the taking of any action which is impractical, disproportionate or ineffective.

### **Record keeping by general licence users**

Keeping records of actions taken under a general licence should assist licence users in being able to demonstrate that they have acted lawfully, if ever they are asked by a police officer or member of NRW staff to provide information about licensed action they have taken. We propose that a general licence should include advice to the licence user that they maintain a record of actions taken under the licence, and are able to produce that record on request.

We have also considered whether general licence users should be required to provide reports to NRW on the action they have taken. By definition, having followed the principles described above, a general licence should only be issued where the problems that particular wild birds are causing are well established and there is a clear and widespread need to control wild birds, where licensed activity is carried out by large numbers of users and where it presents a low risk to the conservation status of the target species. In most situations, we do not think that the value of the information we might obtain from a reporting system would be justified by the costs, practicalities and burden on users of introducing and administering such arrangements.

## Consultation questions

16. Do you agree 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?

16.1. Yes / No

16.2. Please give your reasons

17. Do you agree that general licences should include a condition requiring users to first try to address the problem using alternative non-lethal methods, and to continue to make reasonable efforts to do so?

17.1. Yes / No

17.2. Please give your reasons

18. Do you agree that general licence users should be advised to keep records of the actions they have taken under the licences?

18.1. Yes / No

18.2. Please give your reasons

## Complying with protected site requirements when granting general licences

**We are proposing to continue to exclude from the scope of applicability of general licences, any SSSI notified for one or more species which is potentially sensitive to incidental disturbance from the shooting of wild birds.**

We propose that any general licences we issue for the lethal control of wild birds for the purposes of preventing serious damage, conservation of wild birds or preservation of public health or public safety, should include a condition that they cannot be relied upon to undertake control of wild birds in, or within a defined buffer zone around, potentially sensitive protected sites (SSSIs and European sites). This condition was first introduced into a number of general licences in October 2019, and included in general licences issued for 2020 and 2021.

The purpose of this condition is to avoid the risk of activities authorised by general licences impacting on features of designated sites, specifically those which could be subject to significant levels of disturbance from shooting. NRW is required, when issuing any form of statutory authorisation, to consider the potential implications for features of designated sites. Under the Conservation of Habitats and Species Regulations 2017 in particular, we must apply a precautionary approach to these decisions.

Excluding certain protected sites from the scope of general licences, does not mean that wild bird control may not take place under any circumstances – it simply means that anyone wishing carry out lethal control of wild birds in these areas must apply for a specific licence, to which specific conditions may be applied, if required, to avoid risk to protected site features.

The detailed process for identifying the sites to be excluded from the scope of general licences is set out in Annex 1 of this consultation paper. It closely follows the process we applied when reissuing a number of general licences in October 2019, January 2020 and January 2021. We have revisited the methodology applied at that time and consider it to be a pragmatic and suitably precautionary approach. It results in the exclusion of 198 SSSIs (and any co-located European sites) from the scope of applicability of general licences, out of a total of 1,078 SSSIs in Wales, and in doing so removes any foreseeable risk to protected site features from the licensed operations. Annex 1 includes a list of these sites.

Also, prior to October 2019 our general licences included a standard condition requiring anyone intending to use the licence in any SSSI in Wales, to first obtain written consent from NRW. We removed that condition in 2019 and we do not intend to reinstate it, as we think that the approach we are proposing makes the requirement to also obtain SSSI consent an unnecessary additional regulatory burden. This means that an operation which is authorised by a general licence granted by NRW under section 16 of the Act, would not require SSSI consent in addition to the general licence, even where it takes place within an SSSI. Similarly in any of the SSSIs where general licences do not apply, operations authorised under a specific licence for the control of wild birds also would not require SSSI consent. However, any ancillary activity carried out in an SSSI in connection with licensed wild bird control, which is not expressly authorised by either a general or specific section 16 licence and which is an SSSI notifiable operation (for example the use of a vehicle), will continue to be subject to SSSI consenting requirements.

## Consultation questions

19. Do you agree with our proposed approach to addressing protected site requirements when granting general licences?

19.1. Yes / No

19.2. Please give your reasons

20. Do you agree with the list of sites and buffer zones where we are proposing that general licences should not apply?

20.1. Yes / No

20.2. If you answered No to this question please tell us what changes you think should be made to the list, and give your reasons



## 5. Specific licences

### Summary

We are reviewing our processes for receiving and determining applications for specific licences to kill or take wild birds, eggs and nests, and welcome views from stakeholders on how the specific licensing process might be improved.

### Background

As part of our review, as well as considering the approach we take to granting general licences, we are also reviewing the process by which specific licences to carry out lethal control of wild birds are applied for, and how we work internally to process and determine applications. In 2020 we received 164 specific licence applications for the lethal control of wild birds. Our standard of service is to determine applications with 40 working days.

Anyone wishing to apply for a specific licence to carry out lethal control of wild birds for any purpose must do so using one of the application forms available on our website. All specific licences include a standard condition requiring the licensee provide a report to NRW within four weeks of the expiry of the licence, detailing what actions which have been carried out under the licence. The application forms and reporting forms are available on our website [HERE](#).

At present, most of the application and reporting forms are made available to be downloaded and either emailed or posted back to NRW. We are in the process of moving the forms for both applications and reports to HTML format and to enable them to be filled in and submitted online. For example, application form AFB-01 is now available for online completion and submission [HERE](#), as well as still being available to download.

### Our proposals

We wish to make our forms as easy to use as possible while ensuring that they ask for all the information necessary to enable applications to be processed efficiently. The move to online forms is a key part of our approach.

We are also looking internally at how we process licence applications for the lethal control of wild birds. We would welcome views from stakeholders based on their experiences of the specific licensing process, including the forms themselves and the availability of guidance about wild bird licensing and making licence applications.

## Consultation questions

21. Do you have any suggestions on how the process of applying for a specific licence, including the application forms, could be improved?

21.1. Yes / No

21.2. If you answered Yes to this question, please tell us your suggestions

22. Do you have any suggestions on how the requirement to provide reports on activity carried out under specific licences, including the reporting forms, could be improved?

22.1. Yes / No

22.2. If you answered Yes to this question, please tell us your suggestions

## 6. Licensing the use of lethal methods

### Summary

We propose that:

- as a general principle, licences allowing the lethal control of wild birds should only authorise the use of methods which are not prohibited under the Wildlife and Countryside Act 1981, unless there are good reasons why a prohibited method should also be authorised.
- any general licences we grant should allow the use of all methods which are not prohibited by section 5 of the Act, and where appropriate should also allow the use of the use of semi-automatic weapons and cage traps.
- a method applied for under specific licences should be authorised, provided it is (i) a non-prohibited method, (ii) one of the prohibited methods we authorise under general licences, or (iii) another prohibited method for which sufficient justification is provided by the applicant.

### Background

Under section 5 of the Act, it is an offence to use any of the following methods to kill, injure or take wild birds:

- a springe, trap, gin, snare or hook and line;
- an electrical device for killing, stunning or frightening;
- a poisonous, poisoned or stupefying substance;
- a net;
- a baited board;
- bird-lime or similar substance;
- a bow or crossbow;
- an explosive other than ammunition for a firearm;
- an automatic or semi-automatic weapon;
- a shot-gun with a barrel diameter more than one and three-quarter inches;
- a device for illuminating a target or any sighting device for night shooting;
- any form of artificial lighting or any mirror or other dazzling device;
- gas or smoke;
- a chemical wetting agent;
- a sound recording used as a decoy;
- a tethered live bird or other animal used as a decoy;
- a live bird or other animal which is blind, maimed or injured;
- a mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking it.

Section 5 of the Act does not prohibit the use of any particular methods for the taking or destruction of eggs or nests of wild birds.

When granting any licence under section 16 of the Act to kill or take wild birds or to take or destroy nests or eggs, NRW may specify in the licence the methods which may or may not

be used, and may authorise the use of one or more of the prohibited methods listed above. A method which is prohibited by section 5 of the Act may not be used for the purpose of killing or taking wild birds unless expressly authorised under the terms and conditions of a section 16 licence.

Our current approach when granting either specific or general licences, is to specify the methods which may be used. In general, we authorise the use of any method not prohibited under section 5 of the Act. In addition, we also authorise in some cases the use of methods which are otherwise prohibited, including traps, semi-automatic weapons and hand held or hand propelled nets to take birds whilst not in flight.

Anyone carrying out activities involving the control of wild birds under any form of licence granted by NRW is subject to the relevant provisions of the Animal Welfare Act 2006. Under that Act it is an offence to knowingly cause, or to fail to take appropriate steps to prevent, unnecessary suffering of a “protected animal.” Much of the Animal Welfare Act is concerned with the welfare and humane treatment of domesticated animals, but certain provisions can also apply to wildlife, including birds or animals of species which are commonly domesticated (such as feral pigeon) and normally wild birds or animals while they are under the control of a person, which includes live wild birds caught by hand or in traps or nets, and live decoy birds used in some types of trap. NRW licences for controlling wild birds contain a number of conditions intended to avoid unnecessary suffering of target birds and, where relevant, decoy birds used in traps.

## Our proposals

### Overarching principles for deciding which lethal methods should be allowed

**We propose 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 also be authorised.**

We are proposing to apply the following approach in deciding which methods should be allowed to be used under licences authorising the killing or taking of birds or the destruction of eggs or nests.

### Use of prohibited methods

We consider that all licences we grant for the lethal control of wild birds (general or specific licences) should only allow the use of methods which are not prohibited under section 5 of the Act, unless the use of a prohibited method is justified.

We believe that section 16 licences should authorise otherwise unlawful actions only to the extent necessary to achieve the purpose of the licence. In authorising the use of a prohibited method to kill or take wild birds, NRW is derogating from a statutory prohibition on the use of that method. We believe that any such derogation should be clearly justified.

In the case of granting general licences we will take into account relevant evidence on the necessity for the use of prohibited methods. We will authorise use of methods prohibited by section 5 of the Act if the purpose of the licence cannot satisfactorily be achieved using

only non-prohibited methods and provided that any adverse consequences that might arise from the use of a particular method can be avoided or sufficiently mitigated, including in relation to animal welfare and incidental impacts on other wildlife, the environment or people.

In the case of granting specific licences, anyone wishing to use one or more prohibited methods to kill or take wild birds will, unless that method is authorised for use under our general licences, be expected to demonstrate why that method is necessary, and why the purpose cannot be achieved using non-prohibited methods.

## Use of non-prohibited methods

We see no reason to unnecessarily restrict the use of lawful methods under general licences. Therefore, we propose that any general licences we grant for the lethal control of wild birds should allow the use of any and all methods which are not prohibited by section 5 of the Act. Unless the use of a non-prohibited method would cause unacceptable harm to, for example non-target species of birds, other fauna or flora, other environmental receptors, or human health or safety, we believe general licence users should be entitled to use any non-prohibited method.

Likewise, in relation to specific licences, we propose to continue to authorise any non-prohibited method applied for, unless in relation a particular application there is a particular reason why we should not do so.

## Consultation questions

23. Do you agree with the overarching principles we have set out for deciding which methods should, and should not, be licensed for the killing or taking of wild birds?

23.1. Yes / No

23.2. Please give your reasons

24. Do you think there are other matters we should take into account in deciding which methods should and should not be licensed?

24.1. Yes / No

24.2. If you answered Yes to this question please tell us what else you think we should consider

## The lethal methods we propose to allow

**We propose that any general licences we grant should allow the use of all methods which are not prohibited by section 5 of the Act. We also propose that general licences should allow, in addition to the use of all non-prohibited methods, the use of semi-automatic weapons and cage traps.**

In applying the above principles, we are not aware of any evidence indicating that the use of any particular non-prohibited means should be excluded from general licences, for example due to unacceptable impacts on animal welfare, non target species, public amenity or the environment. Therefore, we propose that any general licences we grant should allow the use of any method which is not prohibited by section 5 of the Act.

In addition to the use of any non-prohibited methods, we further propose that general licences should where appropriate allow the use of semi-automatic weapons and cage traps to take wild birds. We understand that semi-automatic weapons are a widely used and effective means for the killing of wild birds. We are not aware of any evidence that they compare unfavourably with other types of firearm which are not prohibited by section 5 of the Act, in terms of their effectiveness, the need for humane killing, public safety or other considerations.

As with semi-automatic weapons, cage traps are widely used and are considered by users to be an effective means of catching some species of wild bird, particularly corvids. However, the live capture of birds prior to killing them does create potential concerns about animal welfare, both in relation to the captured birds and any live decoy birds used in the trap. Cage traps also have the potential for accidental by catch of non-target species of birds or other animals. To address these issues we have considered our approach to regulating the use of cage traps in particular, and our proposals are set out in section 7 below.

Although we propose to continue to allow the use of cage traps in some circumstances, we propose to no longer allow their use for the control of ruddy duck. More information about our proposals in relation to the control of ruddy duck and other invasive non-native species of birds are addressed in section 14.

Some of our current general licences allow the use of hand held or hand propelled nets to take birds while not in flight. Using any form of net to take wild birds is prohibited under section 5 of the Act and we are not aware of evidence that would justify allowing the use of nets, including hand/hand propelled nets, under general licences. Therefore, we propose to no longer allow the use of nets under any general licences we grant. Anyone wishing to use any form of net to take wild birds would therefore need to apply for a specific licence.

Two of our current general licences allow the shooting of feral pigeon with the use of dazzling devices and artificial lighting or sighting devices for night shooting. These are prohibited methods under section 5 of the Act and we are not aware of evidence justifying their use. Therefore, we propose to not allow these methods to be used under any general licences we grant

In terms of specific licences, we think it is important that when authorising the use of lethal methods, we take an approach that is consistent with general licences. The starting point for considering which methods should be authorised under a specific licence is the method

or methods which the applicant intends to use and which they must state in their application. We see no reason to authorise the use of any method which an applicant has not applied for. Where an applicant has applied to use a particular method, we propose that it should be authorised provided it is either a non-prohibited means, or is one of the prohibited means that we have authorised under general licences. Applications to use any other prohibited means should be considered on a case by case basis, and authorisation given only where clearly justified.

## Consultation questions

25. Do you agree that general licences granted by NRW for the 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?

25.1. Yes / No

25.2. If you answered No to this question please set out which non-prohibited methods you think should not be allowed under general licences and give your reasons

26. Do you agree that any general licences granted by NRW should continue to allow the use of semi-automatic weapons and cage traps?

26.1. Yes / No

26.2. Please give your reasons

**Please note that the next section of this consultation document contains further detailed questions about the use of cage traps.**

27. Do you agree that any method which is allowed under general licences should also be allowed, if applied for, under specific licences?

27.1. Yes / No

27.2. If you answered No to this question please tell us which methods you think should not be allowed and give your reasons.

## 7. Regulating the use of cage traps

### Summary

This section looks at how we regulate the use of cage traps for the purpose of lethal control of wild birds and the areas where we consider there may be a need to change our approach. Our main proposals are to:

- specify the types of cage traps that may be used;
- restrict the use of meat based baits;
- require captured birds to be killed out of sight of other birds;
- include clearer conditions concerning regular inspection of traps;
- issue a dedicated general licence for the use of cage traps, containing standard terms and conditions.

### Background

#### Legal Position

Section 5 of the Wildlife and Countryside Act 1981 (the Act) makes it an offence to use or set in place any trap to kill, injure, or take wild birds. Furthermore, section 8(1) makes it an offence to keep or confine a bird in any cage that is not big enough to allow the bird to stretch its wings freely (with some specific exceptions). These offences are distinct from section 1 of the Act under which it is an offence to kill, injure or take a wild bird.

Section 16(1) provides that in Wales no offence is committed under sections 1, 5 or 8(1) if the activity is carried out under licence from NRW. Therefore, any licence we grant under section 16 for the control of wild birds which allows the use of cage traps represents a derogation from both section 1 and section 5 of the Act and, in the case of many commonly used trap types, a derogation from section 8(1) as well.

#### The current approach in Wales and other parts of the UK

A number of NRW's current 2021 general licences in Wales authorise the trapping of wild birds for lethal control. The licensing authorities in other parts of the UK also grant general licences that allow the use of cage traps for lethal control of wild birds.

In England, the use of cage traps is regulated under GL33 (available [HERE](#)) which contains standard terms and conditions specific to the use of cage traps. This is intended to be used in conjunction with other purpose-specific general licences that authorise cage trapping. GL33 can also be referenced in individual licences authorising cage trapping as an alternative to drafting those conditions and including them in each individual licence. Matters that are primarily dictated by the purpose of the licence, such as which birds may be taken or used as decoys, are not addressed in GL33 but are dealt with in the purpose-specific licences.

Licensing authorities in England and Scotland have carried out evidence-based reviews in recent years and each has commissioned research to inform that work.



In Wales, most situations where cage trapping is used for the lethal control of wild birds are covered by general licences. As a result, NRW grants only a small number of specific licences which allow cage trapping. Terms and conditions for the use of cage traps under specific licences are drafted on a case by case basis.

## Our proposals

### Types of cage trap that may be used

**We propose to specify the types of cage traps that may be used under general licences and that anyone wishing to use a different type would need to apply for a specific licence.**

Trap design can have implications for effectiveness, selectivity, welfare of decoys and trapped birds, and the risk of injury to target and non-target species. The current general licences in Wales do not specify the types or design of trap that may be used.

We propose that any general licences we grant should permit only the use of the following established types and designs of traps, which will bring them closer in line with general licences in Scotland and England:

- walk-in multi-catch cage traps;
- Larsen traps (with some restrictions explained below);
- Larsen mate traps (also known as clam traps);
- Larsen pod traps.

We propose to include similar specifications to those already set out in the Scottish and English licences, in particular to exclude from the definition of Larsen traps, any traps where the capture compartment is mounted directly above the decoy compartment. This design is sometimes referred to as a 'hawk trap' or 'owl trap' and whilst they may be effective for legitimate control of corvids, they may also be used to deliberately target raptors.

We also propose including a requirement that Larsen mate and Larsen pod traps be secured in place to mitigate the risk of them being dragged away if non-target species become caught.

Whilst there may be some exceptional circumstances where designs other than those above need to be considered, for example where a new design is being trialled, we believe that this can be more appropriately managed through specific licensing. Where new designs are proven to be effective and safe, they can be added to the list of approved designs.

## Consultation questions

28. Do you agree that NRW general and specific licences should specify the types of cage trap that may be used?

28.1. Yes / No

28.2. Please give your reasons

29. Do you agree with the types and specifications of cage trap which we propose to authorise for use under any general licences we grant?

29.1. Yes / No

29.2. Please give your reasons

## Use of meat-based bait in cage traps under our general licences

**We propose that any general licences we grant will not allow the use of meat-based bait in cage traps, that anyone wishing to use meat-based bait would need to apply for a specific licence, and that if meat food is used for decoy birds it should be diced.**

Evidence indicates that the use of meat-based bait increases the risk of catching non-target species in cage traps. We consider that the unrestricted authorisation of meat-based bait under general licence would make it difficult to identify, and act against, the intentional targeting of raptors. We unfortunately see a small number of cases where raptors are targeted illegally each year.

Evidence indicates that, in most cases, the use of decoy birds or alternatives to meat-based baits such as eggs are both more effective and more selective than the use of meat-based bait in catching target species. We do not therefore expect that this restriction will have a significant impact on licence users. We accept that in some limited circumstances the use of meat-based bait may be justified, and therefore we propose to continue to consider its authorisation on a case-by-case basis under specific licences. This will allow us to monitor its use and require reporting where necessary.

For welfare reasons, we propose to continue to allow the provision of meat-based food for decoy birds for whom it is the most appropriate feed. However, we also propose to require that any meat provided as food for the decoy bird, including if it is derived from carrion, is diced. This is because carrion that is substantially intact, even if provided as food for the decoy rather than as bait, is likely to be particularly attractive to raptors and may increase the risk of bycatch.

## Consultation questions

30. Do you agree with the proposal not to allow the use of meat-based baits under any general licences granted by NRW?

30.1. Yes / No

30.2. Please give your reasons

31. Do you agree that continuing to allow the use of diced meat as feed for decoy birds achieves the right balance between mitigating the risk of catching non-target species and the welfare of decoy birds?

31.1. Yes / No

31.2. Please give your reasons

## Method of dispatching captured birds

**We propose that the use of cage traps for lethal control should be subject to a condition requiring captured birds to be killed out of sight of other birds, except in relation to multi-catch traps. We also propose to require users to dispatch captured birds as soon as practicable after discovery.**

We are not aware of clear evidence showing whether or not birds suffer particular distress when witnessing the killing of other birds, and whether this varies according to the 'witness' species and/or the species being killed. However, we consider that that it is reasonable to expect that a bird confined in a cage and witnessing the killing of other birds, which might often include birds of the same species, is likely to experience distress over and above the distress experienced by being confined. Therefore, we believe it is reasonable to require that, unless there are extenuating circumstances, captured birds should be killed out of sight of other trapped birds and decoys.

We believe that in most situations it will be practical and not unduly onerous to comply with this condition. The main exception would be situations where a number of birds are caught in a multi-catch trap, where removing each bird from the trap, moving out of sight of remaining birds before killing it, and returning to remove the next bird, would prolong the period over which the trapped birds are subjected to repeated close human proximity. In those circumstances we believe – again in the absence of having clear evidence either way - that it is reasonable to expect that the distress caused by the additional handling and delay may outweigh any additional distress caused by witnessing the killing of other birds. Therefore, we propose allowing operators of multi-catch traps discretion to decide how to

best manage the killing of the captured birds in order to minimise distress to them and to any decoy bird.

Lastly, in relation to the dispatch of captured birds, our current general licences do not include any requirements concerning when the trapped birds of the target species should be removed and killed. In the interests of minimising the level of distress caused, we propose to include a condition requiring that they be removed from the trap and killed as soon as is reasonably practicable after discovery.

## Consultation questions

32. Do you agree that licences should include a condition requiring captured birds of the target species to be killed out of sight of other captured birds and decoys, except in relation to multi-catch traps?

32.1. Yes / No

32.2. Please give your reasons

33. Do you agree with the proposal to allow users of multi-catch traps discretion to kill trapped birds within sight of other birds where they consider that the additional delay and handling caused by moving out of sight to kill each bird would cause more distress?

33.1. Yes / No

33.2. Please give your reasons

34. Do you agree that trap users should be required to kill trapped birds (of the target species) as soon as reasonably practicable after discovery?

34.1. Yes / No

34.2. Please give your reasons

## Inspection of cage traps

**We propose to make clearer the requirements concerning the nature of cage trap inspections, and to set a maximum interval between inspections of 25 hours.**

NRW's current general licences only specify that the inspection of a cage trap should be "physical" and "sufficient to determine whether any live or dead birds or other animals are in the trap". We think that there may be benefit in being more prescriptive about the nature of cage trap inspections, in the interests of animal welfare and minimising distress to captured birds and decoys.

We propose to specify as a licence condition the activities that should take place at each inspection, in addition to determining whether anything has been caught, such as checking the health of any decoy, ensuring there is sufficient food and water in the trap (if applicable), and ensuring that the trap is operating correctly. Failing to attend to these matters would be likely to breach other conditions and animal welfare legislation. We would expect that responsible trap users will already address these matters as part of any inspection, but we think there is merit in clarifying this in the licence conditions. Broadly similar prescriptions are contained in general licences granted in England and Scotland.

Our current general licences require traps to be inspected at least daily. Most require that the interval between inspections is no more than 25 hours but in one case a maximum interval of 24 hours is specified. For clarity and consistency, we propose to apply 25 hours as the maximum allowed interval for cage trap inspection.

## Consultation questions

35. Do you agree that NRW licences should specify, as a licence condition, the matters that must be addressed at each cage trap inspection?

35.1. Yes / No

35.2. Please give your reasons

36. Do you agree with our proposal to specify a maximum interval between inspections of 25 hours?

36.1. Yes / No

36.2. Please give your reasons

## Use of wing-clipped decoy birds

**We propose to prohibit the use of wing-clipped birds as cage trap decoys.**

Organisations representing trap users generally dissuade their members from clipping the wings of decoy birds. We consider that this practice does not increase the effectiveness of cage trapping involving use of decoy birds, while presenting a significant welfare concern if decoys escape or are released. We therefore propose including a condition that wing-clipped birds may not be used as cage trap decoys.

### Consultation question

37. Do you agree with our proposal to include a condition prohibiting the use of wing-clipped birds as cage trap decoys?

37.1. Yes / No

37.2. Please give your reasons

## Administration of licences which allow use of cage traps

**We propose to grant a dedicated general licence which sets the standard conditions relating to use of cage traps, such that where the use of cage traps is authorised under any other licences (general or specific), users would be subject to the standard terms and condition in the dedicated cage traps general licence.**

We wish to improve and maintain consistency in how we regulate cage trap use across all licensing purposes, and between general licences and specific licences.

As well as reviewing our own practice in this respect, we have considered the approach taken in England, and the use of GL33 (available [HERE](#)) which sets out standard conditions for the use of cage traps and applies to anyone using cage traps under other licences. We consider that being able to defer to a dedicated general licence for standard trapping conditions will help ensure consistent approach to cage trap use for different licensing purposes, and will make it easier to review and update those conditions in the future if required. It should also speed up the granting of any individual licences where cage traps are to be used, while also enabling us to remove any cage trap related conditions from licences where cage trapping is not required as a method.

We appreciate that there may be some licence users who would prefer to have all the terms and conditions under which they carry out lethal control of wild birds to be contained in a single licence. However, we do not believe that it would be overly onerous or unreasonable to require users of cage traps to comply with the provisions of two licences rather than one, especially if our proposed approach provides an opportunity to present the detailed conditions for cage trap use more clearly.

In addition, while we expect that the standard conditions will meet the needs of most licensees intending to use cage traps, we would retain the option to use our discretion to specify bespoke cage trapping conditions in general or specific licences, where the situation justifies a departure from the standard conditions.

### Consultation question

38. Do you agree that we should introduce a dedicated general licence containing standard terms and conditions for the use of cage traps?

38.1. Yes / No

38.2. Please give your reasons

### Mandatory registration or tagging of cage traps

**Registration or tagging of cage traps does not form part of our proposals at this stage. We intend to maintain a watching brief on the trap registration scheme in Scotland and we may reconsider trap registration in future.**

Until recently, general licences in Wales included a recommendation (rather than a condition) that operators should contact their local police wildlife officer to obtain a unique identification code and attach tags to traps bearing code and the wildlife officer's contact details. In practice, there appears to have been very little demand for this and we are not aware that any of the police forces in Wales have an operational scheme in place. The recommendation was removed from most of the licences in 2019. In Scotland, where registration is mandatory, cage traps used under a general licence must be fitted with a tag bearing the registration number of the operator. This allows any lawfully operated trap to be traced to the owner and makes it easier to identify traps that are being operated unlawfully. There have been calls for a similar approach to be adopted in England and in Wales in the interests of accountability and transparency.

At this time, we are not proposing to introduce a requirement for registration or tagging of cage traps. However, we intend to maintain a watching brief on how well the trap registration scheme operates in Scotland and in light of that evidence we may reconsider the question of trap registration at a later date.

## Consultation questions

39. Do you have any views on whether a mandatory scheme of trap registration and tagging in Wales would be beneficial?

39.1. Yes / No

39.2. If you answered Yes to this question please tell us your views

40. Do you have any additional views on the approach that NRW should take towards regulating the use of cage traps for lethal control of wild birds?

40.1. Yes / No

40.2. If you answered Yes to this question please set out your views



## 8. Considering other regulatory approaches

### Summary

The Wildlife and Countryside Act 1981 (the Act) gives NRW discretion in terms of the types of licence we may grant. We currently grant two types of licence – general licences and specific licences. In addition to reviewing our approach to granting general licences and specific licences, we have explored a range of regulatory approaches including the concept of ‘class licences’. We are not proposing to introduce any class licences at this time, but we may consider doing so in future if evidence emerges that they could provide a useful basis for licensing wild bird control in particular contexts.

### Background

Under section 16(1) of the Act, licences may be, to any degree, general or specific. As outlined in section 2 above, NRW currently grants two types of licences authorising the lethal control of wild birds, general licences and specific licences, but it is clear from the legislation that other forms of licence could be used.

In the course of our review we have considered the concept of ‘class licences’. We refer to class licences as a form of licence which, unlike specific licences, does not require applications to be submitted, but which authorises action by a more limited range of users - or ‘class’ of persons - than a general licence, and which may include additional conditions or restrictions that are not included in general licences.

The Act does not identify or define any particular categories or types of licence. If a class licence were to be considered for one or more of the purposes listed in section 16(1) of the Act, various approaches or options would be possible:

- The class of persons entitled to use the licence for the relevant purpose could be more narrowly defined than the scope of “authorised persons” under general licences. For example class licence users could in principle be defined as persons carrying out particular types of activity or operation, persons working in particular sectors or locations, or persons with particular skills or qualifications.
- Users would not need to submit applications but could be required to register before they are entitled to rely on a class licence, by providing their name and contact details and potentially also information about which species of wild bird they intend to control, for which purpose, where and when.
- Again without any requirement to apply to use the licence, users could be required to provide reports detailing what activity they have carried out under the licence.
- Entitlement to use a class licence for a particular purpose could be limited to persons who can demonstrate, through a registration process, particular skills, qualifications or experience.

In England, the lethal control of wild birds for air safety purposes is authorised under a class licence which can be seen [HERE](#).

## Our proposals

We are not currently proposing to introduce any new types of licence such as class licences, but to continue to authorise lethal control of wild birds through a mixture of specific licences and general licences. We intend to keep this position under review and may consider the use of class licences in future

## Consultation question

41. Do you have any views on areas of wild bird control licensing where the use of an alternative approach to specific and general licences could be beneficial?

41.1. Yes / No

41.2. If you answered Yes to this question please tell us your views

## **PART D: Proposals concerning our approach to licensing the lethal control of wild birds in specific contexts**

### **9. Preventing serious damage or spread of disease to livestock, foodstuffs, crops, vegetables or fruit**

#### **Summary**

We consider that a general licence for this purpose satisfies our proposed principles for the granting of a general licence and we are therefore proposing to continue to grant a general licence for this purpose. We further propose that the general licence will specify which species of wild bird may be killed or taken to prevent which type of serious damage, and to retain our current approach to defining what may constitute livestock.

#### **Background**

Under section 16(1)(k) of the Wildlife and Countryside Act 1981 (the Act) NRW may grant licences “for the purposes of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, fisheries or inland waters.” Under section 16(1)(j) NRW may grant licences “for the purpose of preventing the spread of disease.”

GL001, granted on 1 January 2021, allows authorised persons to carry out lethal control of six species of wild birds (carrion crow, jackdaw, magpie, feral pigeon, woodpigeon and Canada goose) for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables or fruit, or to prevent the spread of disease to livestock, foodstuffs for livestock, crops, vegetables or fruit. GL001 was recently subject to a legal challenge, which found that it was lawful and that NRW had acted lawfully in granting it.

The Act does not define what constitutes “serious damage” but in the context of licensing the lethal control of wild birds we consider that it means an impact which is more than mere nuisance to an individual or organisation.

Specific licences are required for the lethal control of any other species of wild bird for the purpose of preventing any type of serious damage. In particular, see section 13 below in relation to licensing the control of fish-eating birds in order to prevent serious damage to fisheries.

In 2019 we reviewed evidence base for inclusion of species on a number of our general licences. The report of that review is available [HERE](#). Following that review we made some changes to GL001, including clarifying the purpose for which the licence authorises lethal control of wild birds, reducing the number of species listed on the licence and amending the definition of “livestock” for the purpose of GL001 to include some captive reared animals that are unconstrained but remain dependent on people.

## Our proposals

### Appropriateness of a general licensing approach for preventing serious damage or spread of disease

**We propose to continue to grant a single general licence for the purpose of preventing serious damage or spread of disease to livestock, foodstuffs for livestock, crops, vegetables or fruit.**

In the context of a general licence for the purpose of preventing serious damage, the main question for NRW in our role as the licensing authority is: for which species-damage combinations do we have sufficient evidence of the seriousness of the harm caused, and sufficient evidence of the likely effectiveness of lethal control, such that a general licence, rather than specific licensing, is a proportionate and effective approach?

We believe that, subject to addressing detailed questions about which particular species cause which particular types of harm, a general licence for the purpose of preventing serious damage can satisfy the principles we are proposing to adopt for deciding when a general licence is appropriate. The principles are set out in section 4 above. We are also aware from discussions with stakeholders and from the responses to our call for evidence that there is a substantial and widespread need in the farming industry in Wales for the continuation of a general licence for the prevention of serious damage.

There is very little peer reviewed published evidence demonstrating that lethal control of wild birds is effective as an overall approach to preventing serious damage or disease to livestock, crops and agricultural foodstuffs. However, it is possible that this is an evidence gap, rather than an indication that wild bird control is ineffective at preventing such damage. Meanwhile anecdotal evidence from landowners and land managers who carry out wild bird control, including evidence provided in response to our call for evidence and other surveys, indicates that wild bird control is seen as an effective means of preventing serious damage. On this basis, and again subject to consideration of particular species and particular harms, we think a general licence can reasonably be expected to contribute effectively to addressing a range of types of serious damage caused by wild birds.

There is evidence indicating that the damage caused by some species of wild birds to a range of agricultural and horticultural interests is common and widespread across Wales. In principle, it would be possible for all control of wild birds for the purpose of preventing serious damage to be regulated under specific licences, but we believe that would be likely to entail a very significant number of licence applications being made to NRW, to deal with commonly occurring, widespread and persistent problems. NRW would potentially grant the majority of such applications and in all likelihood the majority of licences would be subject to similar or even identical conditions. We do not consider that the additional regulatory burden this would place on both licence users and on NRW would represent a satisfactory or proportionate approach.

We are not aware of any evidence to suggest that a general licence allowing lethal control of wild birds for the purpose of preventing the types of harms listed in section 16(1)(j) and (k) of the Act, would threaten the conservation status of any other species of birds, animals or plants. In particular, as set out in section 4, we are proposing to retain a condition in any

general licences we issue that the licences do not apply within protected sites designated for species which might be vulnerable to impacts of activity authorised by the licences.

Given the number of different types of harm or damage covered by sections 16(1)(j) and (k) of the Act, we have also considered whether we should grant a series of separate general licences, with each one specific to a particular type of damage and listing the species which may be controlled to address that damage. However, that would lead to a proliferation in the number of licences with consequently increased complexity for users. Instead we propose to retain a single general licence for the purpose of preventing serious damage or spread of disease, but which makes clear which species may be controlled to prevent which types of harm.

## **Defining which species may be killed for which purpose**

**We propose to be more specific about the ‘species to purpose’ combinations for which lethal control of wild birds is allowed under a general licence for preventing serious damage or spread of disease.**

GL001 currently authorises the lethal control of six species of wild birds (carrion crow, jackdaw, magpie, woodpigeon, feral pigeon, Canada goose) for the purposes of preventing a number of different kinds of harm listed in section 16(1)(j) and (k) of the Act (serious damage or disease to crops, livestock, livestock foodstuffs, vegetables, fruit). However, not all of these six species cause all of these types of harm.

We propose that GL001 should set out the particular ‘species to purpose’ combinations for which lethal control of wild birds is authorised. In other words, we propose that the licence should specify for which of the individual purposes listed in section 16(1)(j) and (k) of the Act, each species listed on the licence may be subject to lethal control. We consider that refining the licence in this way represents a significant improvement. It will help ensure that lethal control of wild birds for the purpose of preventing serious damage is authorised only where justified by the evidence that the species concerned cause the type of damage concerned, and make clearer to licence users the circumstances when killing or taking or wild birds is lawful.

We are satisfied that there is sufficient evidence that some species of wild birds cause one or more of the types of harm identified in section 16(1)(j) and (k) of the Act. Our consideration of which particular species cause which particular types of harm is based on contemporary evidence set out in the report of a review carried out by the Animal and Plant Health Agency (APHA) in 2020 (available [HERE](#)). Annex 2 sets out in more detail the approach we have taken to defining a ‘species to purpose matrix’ which we propose to include in GL001. A broadly similar approach is taken by Defra in their general licence for the prevention of serious damage.

## **Times of year when a general licence for preventing serious damage may be used**

**We propose to continue not restricting the times of year when GL001 can be used.**

We have considered whether a general licence for the prevention of serious damage should specify particular times of year when lethal control may be carried out, based on

the times of year when the risk of harm caused by wild birds is likely to arise. However, damage caused by wild birds to livestock foodstuffs and spread of disease can happen at any time of year. Similarly, although lambing normally occurs from late winter until the end of spring, other livestock can be vulnerable to attack throughout the year, for example poultry and pigs which can breed at any time of year. Whilst for some species-purpose combinations it might be possible in principle to define the particular times of year when the problems are likely to occur, on balance we do not think that a general licence for the prevention of serious damage or spread of disease to crops, livestock and foodstuffs should restrict action to particular times of year. Including such restrictions would greatly increase the complexity of the licence.

## Definition of “livestock”

**We propose to continue to define livestock in the context of a general licence for preventing serious damage, as including captive reared animals or birds that are unconstrained but remain significantly dependent on people.**

Under section 27 of the Act “livestock” includes any animal which is kept:

- (a) for provision of food, wool, skins or fur;
- (b) for the purpose of its use in the carrying on of any agricultural activity; or
- (c) for the provision or improvement of shooting or fishing.

The term “kept” is not defined in the Act. For the purposes of a general licence for the prevention of serious damage, we propose to continue to define “kept” as including animals falling into one or more of (a), (b) or (c) above, that are either physically constrained (for example within fences or a pen), or which are unconstrained but remain significantly dependent on people. For example, where a captive reared gamebird remains in close proximity to a release pen and will often return to it for shelter or to roost at night, and is dependent on food put out by a gamekeeper, then it may be regarded as livestock even if it is free-living.

## Consultation questions

42. Do you agree that we should continue to grant a single general licence for the prevention of serious damage?

42.1. Yes / No

42.2. Please give your reasons

43. Do you agree that a general licence for the prevention of serious damage should specify which particular 'species to purpose' combinations are authorised for lethal control?

43.1. Yes / No

43.2. Please give your reasons

44. Do you have any comments on the particular species to purpose combinations we are proposing should be authorised for lethal control for the prevention of serious damage?

44.1. Yes / No

44.2. If you answered Yes to this question please set out your comments and give your reasons

45. Do you agree that a general licence for the prevention of serious damage should not specify limits on the times of year when the licence can be used?

45.1. Yes / No

45.2. Please give your reasons

46. Do you agree with the way in which we propose to continue to define livestock?

46.1. Yes / No

46.2. Please give your reasons

## 10. Conservation of wild birds, animals or plants

### Summary

We are proposing some principles for how we should approach decisions on whether to grant licences for conservation purposes. “Conservation” is not defined in the Wildlife and Countryside Act 1981, but we propose that NRW should licence the lethal control of wild birds for this purpose only where there is a genuine and apparent conservation purpose for the control of wild birds. We set out some options relating to the future issuing of a general licence for the conservation of wild birds, and an approach to deciding which species should be included on such a general licence.

### Background

Under section 16(1)(c) of the Act, NRW may grant licences for the purpose of conserving wild birds, and under section 16(1)(cb) for the purpose of conserving flora or fauna.

We currently grant two general licences for the purpose of conserving wild birds or flora or fauna. General Licence 004 (GL004) allows an authorised person, defined in the licence as including any landowner or occupier in Wales and any person acting on their behalf, to kill or take four species of wild birds (carrion crow, jay, jackdaw or magpie) for the purpose of conserving other species of wild birds which are of conservation concern. The species of conservation concern which are intended to benefit from action taken under GL004 are listed in the Annex to the licence. They are any species which is currently included in either the red or amber lists of Birds of Conservation Concern in Wales 3 (BoCCW3), available [HERE](#).

GL004 was recently subject to a legal challenge, which found that it was lawful and that NRW had acted lawfully in granting it.

GL005 allows the taking or killing of ruddy duck, which is classed as an invasive non-native species, for conservation purposes. Our proposals in relation to licencing the control of invasive non-native species of birds are covered in section 14.

Anyone intending to kill or take wild birds of species which are not listed on GL004 or GL005 (or take or destroy their eggs or nests), for the purpose of conserving any wild birds must apply to NRW for a specific licence. Similarly anyone intending to carry out lethal control of wild birds for the purpose of conserving any species of plants or animals other than wild birds, may only do so subject to a specific licence.

### Our proposals

As part of our review we have been considering how we should approach licensing lethal action against some species of wild birds, for the purpose of conserving other species of wild birds or other species of plants and animals. Our proposals are set out under three headings:

- principles for conservation licensing;



- whether we should continue to grant a general licence for the purpose of conserving wild birds, and how and when we should make that decision;
- if we do continue to grant a general licence, which species it should allow to be killed or taken, and for the conservation benefit of which other species.

## Principles for conservation licensing

**We propose a set of principles to guide our decisions on whether to grant licences (general licences or specific licences) allowing the lethal control of any wild bird species for the purposes of conserving wild birds or other species of animals or plants.**

“Conservation” is not defined in the Act, but as the licensing authority under section 16 of the Act, we believe that NRW should have a clear and transparent approach to deciding when the lethal control of wild birds is justified on conservation grounds, since all wild birds are protected under the Act.

### **Principle 1: Only species which are of conservation concern should be the intended ‘beneficiaries’ of lethal wild bird control**

We believe that the first question that needs to be addressed in considering licensing the control of wild birds for conservation purposes is: Which species, or which particular population of a species, is intended to benefit from the licensed action? More specifically, we need to establish that the beneficiary species or population is one that is in need of such intervention. If a species of bird, other animal or plant is in a favourable conservation status or is otherwise not of conservation concern, despite potentially being subject to predation or other impacts by one or more species of wild birds, then as a general principle we do not believe that intervention in the form of wild bird control is justified on conservation grounds.

Therefore, we propose that a beneficiary species of any wild bird control licences granted for conservation purposes under the Act should be one of the following:

- If it’s a species of wild bird, it should be red or amber listed on the current list of Birds of Conservation Concern (BoCC) for Wales. BoCC red and amber lists are updated approximately every six years, and we recognise that it is possible that a green listed species could undergo significant decline within that period. However our proposed triennial review of the evidence base for general licences (see section 4), would provide the opportunity to identify, in light of available evidence, any currently green listed species of wild birds which are undergoing significant population decline. Such species might then be considered as being of conservation concern in the context of licences to control wild birds for conservation purposes.
- If it’s a species other than a wild bird, it should demonstrably be of conservation concern. Since all licences granted for this purpose are specific licences, the licence application needs to demonstrate that there is a genuine conservation purpose which requires the lethal control of wild birds.
- Any species which constitutes one of the features for which a protected site has been designated, could also be the beneficiary of a licence to control wild birds,

since such action may be necessary or desirable in order to further the conservation objectives of the protected site concerned. Protected sites in this context include Sites of Special Scientific Interest (SSSIs), European sites (Special Areas of Conservation and Special Protection Areas) and designated wetlands of international importance (Ramsar sites).

**Principle 2: Lethal control of wild birds for conservation purposes should only take place where such action is considered necessary to maintain or improve the conservation status of a 'beneficiary species'**

Wild birds in Wales, and indeed wild birds anywhere, exist as part of an ecosystem, consisting of plants and animals together with the habitats they depend upon. Predation by some species on others is a natural and essential part of the healthy functioning of ecosystems.

Therefore, the existence of predation by one species of wild bird on another species of bird or animal does not imply the predator species should be controlled. We propose that intervention in the form of wild bird control should be licenced only where it is considered necessary in order to improve the conservation status of one or more beneficiary species (for example to increase its abundance or range), or to prevent a decline in the population of a beneficiary species.

**Principle 3: The intended conservation benefit of lethal wild bird control can be defined at different geographic scales**

The conservation status of the beneficiary species of a licence for the control of wild birds for conservation purposes can legitimately be considered at different spatial scales. For example, benefit to a local population can in principle be a legitimate conservation purpose justifying wild bird control, as well as improving the conservation status of a species considered at a national or international scale. Similarly improvement in the conservation status of a designated species feature of an individual protected site can in principle constitute a legitimate conservation purpose justifying wild bird control.

**Principle 4: There should be sufficient evidence that lethal control of a 'target' species is likely to further a conservation purpose**

Interactions between species are complex, and our knowledge of predator-prey relationships is imperfect, including in relation to relatively well-studied species of wild birds. Understanding the impacts of an individual predator species on a given prey species is difficult, since the prey species will often be subject to a range of other pressures, including predation by other species, competition with other species, various forms of disturbance from human activity and changes in the quality of its habitat.

Against this background we have considered what is the appropriate level of evidence we should apply when deciding whether the lethal control of wild birds will genuinely further a conservation purpose. We do not consider that wild bird control should be licensed only where it is possible to 'prove' that the lethal control of target species X will result in a corresponding improvement in the conservation status of beneficiary species Y. We think that setting such a high standard of evidence is impractical and would make it difficult if not impossible to grant licences for conservation purposes.

We consider that it should be reasonable to conclude that controlling a particular wild bird species is likely, on the balance of available evidence, to contribute to either an improvement in the local or national conservation status of another species (which, following principle 1 above, should be a species of conservation concern), or is likely to contribute to the achievement of the conservation objectives of one or more protected sites.

**Principle 5: Lethal control of wild birds is more likely to deliver a conservation benefit if deployed alongside other conservation measures**

We believe that wherever possible wild bird control should be considered as part of the solution to addressing a defined conservation purpose, alongside dealing with other factors which may be affecting the intended beneficiary species, including other predators, other (non-predation) pressures and habitat management.

**Consultation questions**

47. Do you agree with our proposed principles for licensing the lethal control of wild birds for conservation purposes?

47.1. Yes / No

47.2. Please give your reasons

48. Do you think there are any other principles we should follow when deciding whether to grant licences for conservation purposes?

48.1. Yes / No

48.2. If you answered Yes to this question please set these out and give your reasons

**Conservation licensing: general or specific licences?**

**We have identified a number of options concerning the future granting of a general licence for the purpose of conserving wild birds**

NRW currently grants two types of licence to control wild birds, including for conservation purposes. Specific licences are granted to individuals on application, with the applications themselves being an essential source of evidence informing the decision on whether to grant the licence. All licensing of the lethal control of wild birds for the purpose of conserving species other than birds is delivered through specific licensing. Similarly, the

control of any species of wild bird not listed on GL004 (i.e. any species other than carrion crow, jackdaw, jay and magpie) is regulated under specific licensing.

In contrast, general licences, including GL004, authorise lethal control of the species listed on the licence, throughout Wales, by any landowner or occupier (and other “authorised persons”), in a range of circumstances. General licences are granted by NRW, on the basis of the evidence available to us, and do not require any applications to be submitted.

In following the principles above, the main question which arises for us in our role as the licensing authority is: for which predator-prey relationships do we have sufficient evidence of a conservation purpose, and sufficient evidence of the likely effectiveness of lethal control, such that a general licence, rather than specific licensing, is a proportionate and effective approach to addressing that conservation purpose? We have identified three options:

**Option 1.** Retain a general licence for those predator-prey combinations where there is sufficient evidence of conservation purpose and of effectiveness of wild bird control (as per the principles set out above) to justify inclusion on a general licence, and where moving to specific licensing would be disproportionately burdensome on users and on NRW, or could risk harming the conservation status of beneficiary species. More detail on how this option might be applied in practice is set out below.

**Option 2.** Not grant a general licence for the purpose of conserving wild birds, so that all lethal control of wild birds for this purpose is regulated through specific licences. Under this option, licence applications would need to identify the target species of lethal control, identify the species or populations intended to benefit, provide evidence of conservation purpose and that lawful non-lethal alternatives will not satisfactorily address that purpose.

**Option 3.** Before deciding between the above options, seek to gain a better understanding of the extent to which GL004 is actually used, to control which species and for the intended benefit of which species. As with our other general licences, we do not currently collect any information on the extent and circumstances under which the four species listed on GL004 are subject to lethal control, and we are not required to do so. A possible approach might be to retain GL004 for the time being but with the addition of a new requirement for users to register before being able to rely on the licence, and to provide a report to NRW on what activity they have carried out under the licence. Entitlement to use the licence could be automatic upon completion of a simple registration process. We could then review that evidence, for example as part of our first proposed triennial review of general licences (see section 4) and then reconsider options 1 and 2 above.

## Consultation question

49. Do you think we should (1) retain a general licence for conservation of wild birds where the evidence indicates that a general licence is appropriate, (2) not grant a general licence for conservation of wild birds, (3) gather evidence on the extent to which GL004 is used before making that decision (4) adopt another approach?

49.1. [Select one option]

Option 1: Retain a general licence for conservation purposes

Option 2: Not grant a general licence for conservation purposes

Option 3: Gather evidence on use of GL004 prior to making any changes

Option 4: Adopt another approach

49.2. Please give your reasons

## Deciding the beneficiary species and the target species of a general licence for conservation

**We are seeking your views on a number of approaches for deciding which species are suitable for inclusion on a general licence for the purpose of conserving wild birds.**

Given the possibility of continuing to grant a general licence for the purpose of conserving wild birds (Options 1 and 3 above), we have also considered what approach we should take to defining which species are suitable for inclusion on such a general licence, in a series of steps as set out below.

GL004 currently allows control of carrion crow, jay, jackdaw and magpie (which we refer to here as the target species), for the purpose of conserving the chicks or eggs of any red or amber listed species, listed in the Annex to the licence (which we refer to as the beneficiary species).

### **Step 1: What should be the beneficiary species of a general licence to control wild birds?**

The wild bird species intended to benefit from GL004 as currently issued are any species occurring in Wales which is red or amber listed using the most recent assessment of Birds of Conservation Concern (BoCC) for Wales, published in 2016 (available [HERE](#)). In light of the principles set out above, and if a general licence for the purpose of conserving wild birds is to be retained, we have identified some different potential approaches to defining the beneficiary species of the licence:

(i) Any red or amber listed species **occurring** in Wales (in other words, retain the Annex to GL004 in its current form).

(ii) Any red or amber listed species which **regularly breeds** in Wales.

(iii) Any red or amber listed species which regularly breeds in Wales **and which is considered likely to be vulnerable to predation by one or more of the target species**, based on the known feeding behaviour of the target species, whether the nests of the beneficiary species are exposed or enclosed/hidden, and the degree to which the breeding habitats of the target species and the beneficiary species overlap.

We prefer the third of these approaches, because we think that it complies best with our proposed principles for conservation licensing, especially in terms of authorising lethal control of wild birds only where it is reasonable to consider that such action will further a conservation purpose.

### **Step 2: Should we limit the purpose to conserving eggs and chicks of the beneficiary species?**

GL004 may currently only be used in order to conserve the eggs or chicks of the beneficiary species. We have limited it in this way because the available scientific peer-reviewed evidence shows predation by each of the four species of corvid listed on GL004 on other species of wild birds is generally limited to predation of eggs and chicks. There is little evidence that any of these four species of corvid prey upon live healthy adult wild birds of any species. If we retain a general licence for the purpose of conserving wild birds, we propose to continue to restrict its use to the purpose of conserving the chicks of eggs of the beneficiary species.

### **Step 3: Should licensed action be limited to particular times of year?**

We are considering whether a general licence for the purpose of conserving wild birds should be limited to particular times of year. GL004 currently authorises action between January and December. Restricting the use of a general licence for the purpose of conserving wild birds to particular times of year, for example the wild bird breeding season, presents some challenges, including the practical difficulty of defining 'breeding season', which may vary between species, between different parts of Wales and from one year to the next. Restricting the time of year to the breeding season may also increase animal welfare issues related to the dependent young of the target species, and may not allow action to be taken at the most effective time in particular circumstances.

### **Step 4: Is there sufficient evidence that the target species harms the conservation status of any other species of wild birds to justify inclusion on a general licence for the purpose of conserving wild birds?**

Nest predation is an important natural process that has shaped a number of wild bird species' reproductive strategies, including clutch size, length of nesting period and nest site selection. Nest predation by corvids and other generalist predators has been implicated in the declines of a number of bird species. For example, peer-reviewed scientific studies and evidence reviews in Scotland and England together with recent calls for evidence requests in England and Wales, suggest there is well established evidence that the eggs and chicks of wild birds form a substantial part of carrion crow diet and that

high densities of carrion crows can reduce the productivity of wild birds, particularly breeding waders, gamebirds and seabirds.

Where wild bird populations are small or restricted in range and vulnerable to nest predation, there have been calls for increased predator control and/or the application of other conservation measures, such as habitat modification, to mitigate impacts of predation on eggs and chicks.

In the 2019 review of the evidence base for inclusion of species on NRW's general licences (report available [HERE](#)), we identified that further assessment was required of the evidence for inclusion in particular of magpie, jackdaw and jay on a general licence for the purpose of conserving wild birds. We have now carried out that assessment in light of contemporary evidence set out in the report of a review carried out by the Animal and Plant Health Agency (APHA) in 2020 (available [HERE](#)), and our main conclusions are as follows:

**Carrion crow:** We consider that there remains a **high-medium** strength of evidence of a **moderate likelihood** of a **high effect** of predation by carrion crow on wild bird populations. We consider that this supports the inclusion of carrion crow on a general licence for the purpose of conserving wild birds in Wales.

**Jay:** Jay is widely recognised as an opportunistic species for which the eggs and chicks of breeding wild birds form part of a mixed diet. We consider that there is a **medium-high** strength of evidence of **some likelihood** of a **high effect** of predation by jay on wild bird populations. There is strong evidence that nest predation by jay is likely to be greatest for open-nesting birds in scrub or woodland habitats. On this basis we believe that it is appropriate to include jay on a general licence for the purpose of conserving wild birds, but that the beneficiary species of such control should be restricted to breeding wild bird species of scrub and woodland habitats.

**Jackdaw:** The available evidence suggests that jackdaw has a mixed diet, mainly feeding on invertebrates, fruit, seeds and carrion, and on occasions the eggs and young of wild birds. We consider that there is a **medium-low** strength of evidence of **some likelihood** of **some effect** of predation by jackdaw on wild bird populations. This suggests that it is unlikely that jackdaw predation has a significant impact on other species of wild birds. Therefore, we do not think that the evidence supports the inclusion of jackdaw on a general licence for the purpose of conserving wild birds in Wales. We propose that anyone intending to control jackdaw for the purpose of conserving wild birds should be required to apply for a specific licence, providing evidence of harm and the anticipated benefit to the conservation of the beneficiary species. Defra reached a similar conclusion when reviewing which species should be included on their equivalent general licence for conservation purposes in England.

**Magpie:** As with jay, it is widely recognised that magpie is an opportunistic species, for which the eggs and chicks of breeding wild birds form part of a mixed diet. We consider that there is a **medium-high** strength of evidence of **some likelihood** of a **high effect** of predation by magpie on populations of wild birds. On this basis the inclusion of magpie on a general licence for the purpose of conserving wild birds may be justified. However, the conservation status of magpie itself as a licence target species also needs to be considered, as set out in the next step.

## Step 5: Is the target species suitable for inclusion on general licences, based on its own conservation status?

Available evidence on population trend changes suggests that populations of carrion crow and jay (and also jackdaw) in Wales are either stable or increasing. They have been included on general licences for several decades. Therefore, in the context of their own conservation status, we believe that these species are in principle suitable for inclusion on general licences.

In relation to magpie, as explained in section 4 above, we are considering whether or not it should be included as a target species on any general licences we issue, including a general licence for the purpose of conserving wild birds, because of the significant decline in the magpie population in Wales over the past two decades. If magpie were not included on any general licences, the lethal control of magpie for the purpose of conserving wild birds would need to be carried out only under specific licences. Specific licences enable us to set limits on numbers of birds which may be killed or taken, and require licensees provide reports on what action they have taken and the number of birds actually killed under the licence.

### Consultation questions

50. Do you agree that the most appropriate basis for identifying the beneficiary species of a general licence for conservation of wild birds is: red or amber listed species which regularly breed in Wales and which are considered vulnerable to predation by one or more of the corvid species concerned?

50.1. Yes / No

50.2. Please give your reasons

51. Do you agree that a general licence for the purpose of conserving wild birds should continue to be limited to conserving only the chicks or eggs of the beneficiary species?

51.1. Yes / No

51.2. Please give your reasons



52. Do you think that a general licence for the purpose of conserving wild birds should include restrictions on the time of year when the licence can be relied upon?

52.1. Yes / No

52.2. Please give your reasons

53. Do you agree that carrion crow should continue to be included on a general licence for the purpose of conserving wild birds?

53.1. Yes / No

53.2. Please give your reasons

54. Do you agree that jay should continue be included on a general licence for the purpose of conserving wild birds, but only in relation to the conservation of woodland bird species?

54.1. Yes / No

54.2. Please give your reasons

55. Do you agree that jackdaw should no longer be included on a general licence for the purpose of conserving wild birds?

55.1. Yes / No

55.2. Please give your reasons

56. Do you think that Magpie is suitable for inclusion on a general licence for the purpose of conserving wild birds in light of the evidence of its impact?

56.1. Yes / No

56.2. Please give your reasons

# 11. Preserving public health or public safety and preventing the spread of disease

## Summary

We propose to:

- continue to grant a general licence for lethal control of feral pigeon for the purpose of preserving public health or safety and preventing the spread of disease;
- continue to licence the lethal control of any other species for these purposes through specific licensing rather than under a general licence;
- require applications to control gulls in urban settings to include a gull management plan.

## Background

Under section 16(1)(i) of the Wildlife and Countryside Act 1981, NRW may grant licences to carry out lethal control of wild birds “for the purposes of preserving public health or public or air safety” and under section 16(1)(j) “for the purpose of preventing the spread of disease.” Licensing for air safety purposes is covered in section 12 below.

In Wales, most licensed control of wild birds that is necessary for public health or safety purposes, including preventing the spread of disease, concerns feral pigeon and certain species of gull.

We currently issue a general licence (GL002) which authorises the killing and taking of feral pigeon and the destruction of their eggs and nests for the purpose of preserving public health and preventing the spread of disease.

Prior to October 2019, GL002 authorised the lethal control of a number of species in addition to feral pigeon, including collared dove, woodpigeon and several species of corvid. It did not allow the killing or taking of any species of gull but it did allow the destruction of the eggs and nests of lesser black-backed gull, great black-backed gull and herring gull, along with the nests and eggs of Canada goose. Following our 2019 review of general licences, we decided that these three species of gull were not suitable for inclusion on general licences because they were either red or amber listed on Birds of Conservation Concern in Wales 3 (BoCCW3), available [HERE](#). GL002 was accordingly withdrawn and re-issued in October 2019 with only feral pigeon listed. That position was maintained when GL002 was reissued in January 2020 and again in January 2021.

Anyone wishing to carry out lethal control of any species of gull, or any other species of wild bird other than feral pigeon (including through the destruction of eggs or nests), must apply to NRW for a specific licence.

## Our proposals

### General licence for feral pigeon

**We propose to continue to grant a general licence allowing lethal control of feral pigeon for the purpose of preserving public health or safety and preventing the spread of disease.**

In following our proposed principles for general licences as set out in section 4, the main question which arises for us in relation to licences for public health or safety purposes is: for which species-purpose combinations do we have sufficient evidence of the harm caused, and sufficient evidence of the likely effectiveness of lethal control, such that a general licence, rather than specific licensing, is a proportionate and effective approach to addressing the problem?

We believe that a general licence for this purpose can satisfy the principles we are proposing to adopt for deciding when a general licence is appropriate. We are also aware from discussions with stakeholders and from the responses to our call for evidence, and an earlier call for evidence carried out by Defra in England, that there is a substantial need for the continuation of a general licence to control feral pigeon in the interests of public health and safety.

There is well established evidence indicating that feral pigeons can pose a risk to human health. Studies have demonstrated that feral pigeons are reservoirs and potential vectors of pathogens that can be transmitted to humans by pigeon excreta, secretions or dust from feathers. In addition, feral pigeon roosting and breeding areas host a number of biting arthropods, such as mites, fleas and ticks that may cause infections and allergic diseases in humans. Large accumulations of pigeon excreta may form on pedestrian walkways, where they may pose a slip hazard. Feral pigeon nests can block drains, chimneys and ventilation systems.

These problems can occur in a wide variety of settings, such as hospitals, schools, food premises and other areas where feral pigeons and their nests and droppings occur in close proximity to people. Furthermore, the problems are persistent and widespread throughout Wales rather than occurring only in particular locations. In principle, it would be possible for control of feral pigeons for public health and safety purposes to be regulated under specific licences, but we believe that would be likely to mean a large number of licence applications to NRW, to deal with commonly occurring, widespread and persistent problems. NRW would probably grant the majority of such applications and in all likelihood the majority of licences would be subject to similar or even identical conditions. We do not consider that the additional regulatory burden this would place on both licence users and on NRW would represent a satisfactory or proportionate approach.

In light of published and anecdotal evidence we propose to continue to grant a general licence for the control of feral pigeon for the purpose of preserving public health and preventing spread of disease. We further propose to specify that the licence may be used to address the three particular types of hazard associated with the risk caused by feral pigeons to public health and safety, namely spread of disease to humans, slips and falls, and issues caused by nesting and roosting birds.

## Consideration of inclusion of other species on a general licence for public health purposes

**We do not propose to include any other species on a general licence for public health/safety purposes.**

Following our review in 2019 (report available [HERE](#)) the list of species included on GL002 was reduced to one species, feral pigeon. All other species previously included on GL002 were removed, either because we concluded that there was insufficient evidence of the public health risks they pose to justify their inclusion on a general licence for this purpose, or because they were amber or red listed in BoCCW3, available [HERE](#).

We are not aware of new evidence to suggest that other species are suitable for inclusion on a general licence for the purpose of preserving public health and preventing the spread of disease. Therefore, we are not proposing to include any other species on GL002. For public health purposes we propose to continue to licence the lethal control of any species other than feral pigeon, including gulls and corvids, through specific licensing.

## Approach to licensing the control of gulls

**We propose to require a gull management plan to be included as part of any licence application to control gulls in an urban situation.**

In October 2019, NRW revised the then GL002 to, amongst other changes, remove the three listed gull species (lesser black-backed gull, great black-backed gull and herring gull). Since then, we have required anyone wishing to control gulls to apply to NRW for a specific licence. For those applying for a licence in an urban situation (defined in this context as nesting by gulls in the built environment including on roofs) we have advised that the licence application should be accompanied by a gull management plan.

The purpose of the gull management plan is for the applicant to set out the non-licensable measures that have been undertaken and would continue to be undertaken alongside the licensable measures requested in the licence application. This provides evidence and information to assist NRW in our determination of whether the non-lethal solutions and satisfactory alternatives tests have been met. The aim is that urban gull management should start with and focus on deploying long-term and effective alternatives to lethal control, to reduce or avoid gull-related issues by removing or reducing opportunities for gulls to nest and feed, with the ultimate aim of encouraging gull populations to relocate to more rural settings which are generally less problematic in terms of risks to public health or public safety. The geographic scale of any gull management plan depends on the scale of the issue in the locality in question.

A range of alternative measures could be deployed, depending on the circumstances. These include using visual or acoustic scaring devices, reducing the number of sites offering feeding opportunities, 'gull-proofing' of sites through netting of potential or previously used gull nesting sites and installing spikes on chimneys and ledges.

Our proposal to move to requiring licence applications to control gulls in the urban environment to be accompanied by a gull management plan, is made on the basis that with time, it should reduce the need for licence applications for lethal control to be made.

However, we recognise that lethal control of gulls may continue to be required to address certain public health and public safety situations.

## Consultation questions

57. Do you agree that we should continue to grant a general licence allowing lethal control of feral pigeon for the purpose of preserving public health?

57.1. Yes / No

57.2. Please give your reasons

58. Do you agree that we should not grant a general licence for public health purposes allowing lethal control of any species other than feral pigeon?

58.1. Yes / No

58.2. Please give your reasons

59. Do you agree that NRW should require a gull management plan as part of any licence application to control gulls in an urban situation?

59.1. Yes / No

59.2. Please give your reasons

## 12. Preserving air safety

### Summary

We propose to:

- continue to grant specific licences for the lethal control of wild birds for air safety purposes, rather than revert to a general licence;
- continue to require air safety licensees to provide annual reports on all wild bird control activity carried out under the licence;
- require licence applications to include plans for how wildlife risks will be managed.

### Background

Under section 16(1)(i) of the Wildlife and Countryside Act 1981, NRW may grant licences to carry out lethal control of wild birds “for the purposes of preserving public health or public or air safety”. This section deals only with air safety. Our approach to licensing for the purpose of preserving public and health and public safety is covered in section 11 above.

Prior to 2019, each year we granted a general licence for the purpose of air safety. In 2019 as part of a review of a number of our general licences allowing lethal control of wild birds, we took the view that a general licence for air safety purposes was not necessary, given the small number of airports and airfields in Wales where wild bird control is necessary and the different requirements for wild bird control at each site. We accordingly withdrew the general licence for air safety and moved to requiring specific licence applications to be submitted to NRW for this purpose.

### Our proposals

**We propose to continue to authorise lethal control of wild birds for air safety purposes under specific licences rather than under a general licence, and to require licence applications for air safety purposes to include an appropriate management plan for how wildlife risks at the aerodrome site will be managed.**

We do not believe that a general licence, allowing action by any “authorised person” throughout Wales, is a necessary or proportionate approach in relation to air safety. Under our proposed principles for general licensing (described in section 4) a general licence is appropriate only where the licensing purpose cannot be satisfactorily achieved in any other way, and where requiring specific licences would represent a disproportionate burden on licence users and on NRW.

There are only a small number of aerodromes in Wales where lethal control of wild birds for air safety purposes needs to be carried out. In addition, the locations of the sites vary considerably in terms of their geographic and ecological characteristics, and hence the species of birds that are likely to occur and need to be controlled. A general licence would need to include every species which might need to be controlled at each site and allow any

user to kill to take any listed species. For that reason we remain of the view that specific licensing is a more appropriate approach.

Aerodrome managers have told us that all civilian facilities are subject to robust public safety requirements and follow Civil Aviation Authority (CAA) guidelines, which include a requirement to have in place a wildlife hazard management plan. Equivalent requirements apply to military airfields operating under the Ministry of Defence. These plans set how the risks posed by wild birds are managed, including through the application of a range of non-lethal preventive and mitigatory measures alongside lethal control where required.

We consider it essential that all aerodrome operators in Wales are able to lawfully carry out any control of wild birds which is necessary in order to address the serious and potentially catastrophic safety risks posed by aircraft bird strike.

We also know, based on reports submitted by air safety licensees to date that the numbers of birds, eggs and nests of any species actually killed or taken by for air safety purposes are very small indeed. This is partly because operators are required under their wildlife management plans to take a range of other, preventive measures to address the potential risks from wild birds.

We therefore propose to require that a management plan is submitted as part of each licence application. We also propose that licensees continue to be required to submit annual reports detailing the numbers of birds/eggs/nests of each species killed or taken.

## Consultation questions

60. Do you agree that NRW should continue to licence lethal control of wild birds for the purpose of preserving air safety through specific licences?

60.1. Yes / No

60.2. Please give your reasons

61. Do you agree that applications to control birds for air safety purposes should be required to include an appropriate management plan for how wildlife risks at the aerodrome site will be managed?

61.1. Yes / No

61.2. Please give your reasons



## 13. Fish-eating birds

### Summary

In 2018 NRW established a Fish-eating Birds Advisory Group in response to concerns about the impact of fish-eating birds – specifically cormorant and goosander – on the natural and stocked fisheries in Wales as well as on the conservation status of designated species. The purpose of the Advisory Group is to review relevant evidence and develop recommendations concerning the control and management of fish-eating birds and to contribute to the actions of an NRW plan of action to address pressures on salmon and sea trout populations in Welsh rivers. The work of the Advisory Group is ongoing and forms an important part of the review of NRW's approach to regulating the lethal control of wild birds.

In summary we are proposing that any lethal control of cormorant and goosander for the purposes of preventing serious damage to fisheries and for the conservation of flora and fauna should continue to be regulated under specific licensing.

In addition, to help inform the ongoing work of the Advisory Group, we are also seeking views on:

- developing and using a population viability analysis modelling tool to predict the impact of different levels of licenced lethal control on cormorant and goosander populations in Wales;
- applying a licensing threshold which sets a limit on the number of cormorant and goosander that may be licensed to be controlled in Wales, informed by the population modelling;
- applying area or catchment-based licences for the lethal control of cormorant and goosander;
- the efficacy of non-lethal and lethal methods for control of cormorant and goosander;
- the need for a management plan to support licence applications for any lethal control of cormorant and goosander to mitigate the impact of predation by fish-eating birds on fisheries in Wales.

### Background

#### Legal context

Like other species of wild birds, fish-eating birds such as cormorant and goosander are protected under the Wildlife and Countryside Act 1981 (the Act). Under section 16(1) of the Act, NRW may grant licences to carry out lethal control of wild birds for a range of purposes. Any licences granted for the control of fish eating birds must be for one or more of the purposes listed in the Act, which include conserving flora or fauna and preventing serious damage to fisheries.

## Current position

Fish stocks in the rivers and still waters of Wales are an important natural resource and a key part of our freshwater ecosystems that also provide for the enjoyment of recreational angling. However, the current status of Atlantic salmon and sea trout populations in Welsh rivers is of conservation concern, with Atlantic salmon in particular now considered 'At Risk' or 'Probably at Risk' in all of Wales' 23 principal salmon rivers. The situation is little better for sea trout, with both species generally in ongoing decline. The reasons for this include factors operating during the marine phase of their life cycle, but also a range of factors adversely affecting them in freshwaters, including habitat quality, water quality and the impact of predatory birds.

There has been significant research in the UK and internationally into the impacts of fish-eating birds (particularly cormorants) on fisheries, and potential strategies for mitigating and managing these impacts. Whilst predation is natural, prey choice is dependent on many things, including availability and size (of predator and prey). It is recognised that conflicts between fish-eating birds, fish populations and fisheries are complex and affect a range of fishery sectors across a broad spectrum of natural and human made aquatic habitats. They are subject to change due to factors such as the population dynamics of birds and fish, variations in external factors, particularly climatic conditions, and stakeholder perceptions.

The management of potential impacts of three fish-eating species of birds (cormorant, goosander and red-breasted merganser) on wild fish populations and stocked fisheries have been the focus of policy reviews in England and in Scotland. In Wales, the majority of licences issued for the purpose of conserving fish populations or for preventing serious damage to fisheries are for the lethal control of cormorant and goosander.

## NRW Fish-eating Birds Advisory Group

NRW has a commitment to implement its plan of action to address pressures on salmonid populations, including catch control regulations, river habitat restoration, a renewed focus on water quality management, and a review of predation by fish-eating birds, principally cormorant and goosander. This commitment, together with concerns expressed by the fishing sector in relation to the impact of fish-eating birds on wild and stocked fisheries, led NRW to establish in 2018 an NRW-led Fish-eating Birds Advisory Group (the FEB Advisory Group) to assess the position in Wales and make recommendations to NRW. In June 2020 the FEB Advisory Group was reconvened to support the development of a fish-eating birds licensing policy for Wales. The membership of the group comprises: Welsh Government, NRW, Royal Society for the Protection of Birds, British Trust for Ornithology, Welsh Ornithological Society, Afonydd Cymru, Salmon and Trout Conservation Cymru, Angling Trust, Game and Wildlife Conservation Trust, Natural England, NatureScot and two independent science advisors.

The FEB Advisory Group has commissioned a range of evidence reports including:

- a 2020/21 winter census of cormorant and goosander in ten river catchments in Wales;
- a 2021 spring census of cormorants and goosander on the River Usk;

- an appraisal of the effectiveness of non-lethal and lethal control of fish-eating birds in preventing serious damage to natural and stocked fisheries;
- a synopsis of cormorant and goosander dietary studies;
- an appraisal of the potential for using catchment or area-based licences to reduce the impact of fish-eating birds on Welsh freshwater fisheries.

## Our proposals

### Specific licences for cormorant and goosander

**We propose that any lethal control of cormorant and goosander for the purposes of preventing serious damage to fisheries and for the conservation of flora and fauna should continue to be regulated under specific licensing.**

It is a widely accepted ecological theory that for predation to have an impact at the population level it must represent additive mortality for the prey species that cannot simply be compensated for by increased survival rate or productivity of the remaining individuals, or reduced mortality rates arising from other factors. There is no simple way to identify the severity of the impact of fish-eating birds on fish populations. Seas, lakes and rivers are complex systems, and it is difficult to separate the effects of bird predation from other factors affecting fish populations.

Whilst predation by fish-eating birds is natural, prey choice is dependent on many things, including availability and size (of predator and prey) and predator preference. However, the difficulties of collecting robust evidence to assess reduction in productivity of preyed fish species has hindered attempts to interpret the real level of impact of fish predation by fish-eating birds.

The question of whether lethal control of cormorant and goosander in Wales should be authorised under specific licences or a general licence in Wales is outside the scope of the FEB Advisory Group, for the following reasons:

- Fish-eating birds have been the focus of Defra led policy reviews in England, most recently in 2013, and two evidence reviews in Scotland by Scottish Natural Heritage (now NatureScot), most recently in 2016. These reviews did not recommend a move to a general licence or a national cull of cormorants or other fish-eating birds, as the balance of evidence for moving to a significantly less precautionary approach, such as a general licence, was not strong enough.
- Article 13 of the Wild Birds Directive states “Application of the measures taken pursuant to this Directive may not lead to deterioration in the present situation as regards the conservation of the species of birds referred to in Article 1.” Since general licences do not specify limits on numbers of birds that may be killed or taken and users are not required to provide reports, and since neither cormorant nor goosander have previously been listed on general licences in Wales, it would be difficult to determine that authorising lethal control under a general licence regime would not adversely affect the conservation status of either species.

In light of these reasons, we consider that it would not be appropriate to authorise the lethal control of cormorant or goosander under a general licence, and that we should continue to regulate the control of these species through specific licensing.

## **Cormorant and goosander population modelling tool and setting of lethal control thresholds**

**We are seeking views to help inform the ongoing work of the Fish-eating Birds Advisory Group on:**

- **developing and applying a population viability analysis modelling tool to predict the impact of different levels of licensed lethal control on cormorant and goosander populations in Wales;**
- **applying a licensing threshold that sets a limit on the number of cormorant and goosander that may be licensed to be controlled in Wales, informed by population modelling.**

Population-level impacts of licensed control of cormorant and goosander in Wales are not currently well understood, partly due to uncertainty around the population estimates of these two species. A reasonable balance needs to be struck between protecting Welsh fisheries, including salmon conservation, without posing a risk to the conservation status of the Welsh cormorant and goosander population. Population modelling would enable the prediction of population impacts of licensed control of cormorant and goosander for a range of licensed control scenarios in Wales.

Therefore, NRW needs to determine, with relatively high precision, Welsh cormorant and goosander population estimates and develop and apply tools such as predictive models to assess population effects of licensed control.

Population viability analysis (PVA) has become a commonly used modelling tool in conservation biology and in the management of threatened or endangered species. PVA is a general term for demographic models which predict the resilience of a population to different impacts, by comparing the population trajectories predicted to arise from different levels of impact (in this case licensed removal of birds) against an un-impacted baseline. Comparisons can be undertaken using a range of population metrics, including first year survival, age at first breeding and population size itself.

The outputs of PVA can then be used to develop thresholds or limits for licensed control of cormorant and goosander in Wales, which are evidenced based and would provide confidence that levels of licenced control will not lead to deterioration in the species' conservation status.

## **Area or catchment-based licence application**

**We seek views on applying area or catchment-based licences for lethal control of cormorant and goosander in Wales to help inform the ongoing work of the Fish-eating Birds Advisory Group.**

The majority of specific licences issued in Wales to permit lethal control of fish-eating birds currently apply to discrete individual sites, such as a still water fishery, or cover a limited geographic area, such as a specific stretch of river. All specific licences apply limits on the numbers of birds that can be killed or taken and are issued only as an aid to scaring through the use of other non-lethal measures.

There is currently no formalised arrangement in Wales for prospective licence applicants to consider the management and control of fish-eating birds across multiple fisheries within a catchment or over a larger defined spatial area. However, some local ad hoc provisions have been permitted to enable streamlining of licensing arrangements within certain river catchments. For example, a Management Advisory Group was established by the National Rivers Authority on the River Wye in 1995. That group dealt with a range of catchment-based challenges (not only fisheries) and potential solutions. As part of the work of the group, catchment-based licences for fish-eating birds were identified as a means of reducing the overall number of licence applications, improving operational efficiency and facilitating evaluation of bird mobility through catchment-scale surveys.

Similar arrangements have been negotiated on some other Welsh rivers, although they have only been applied to identified stretches of river and have excluded control of fish-eating birds on still water fisheries located within the catchments concerned. The uptake and management of these licences has depended on active participation by local volunteer coordinators, but their introduction has been regarded as a success by local stakeholders in enabling a more joined-up approach to fishery protection.

NRW annually assesses the status of Wales' salmon stocks, and almost all river populations are performing poorly. All 23 salmon stocks in Wales' principal salmon rivers and the majority of sea trout stocks in the main sea trout rivers are either 'At Risk' or 'Probably at Risk' of failing to achieve their management targets for 2024. In winter 2020/21, NRW commissioned the British Trust for Ornithology to undertake a census of cormorant and goosander on ten of the most important salmon rivers in Wales: the Wye, Usk, Tywi, Cleddau, Teifi, Dyfi, Mawddach, Conwy, Clwyd and Dee. Now that we have robust population estimates for both cormorant and goosander on each of these important salmon rivers, they could be suitable candidates for which to develop area or catchment-based licences for the control of fish-eating birds.

## **Efficacy of non-lethal and lethal methods**

**We seek views on the efficacy of non-lethal and lethal methods for control of cormorant and goosander to help inform the ongoing work of the Fish-eating Birds Advisory Group.**

NRW may only grant a licence for a particular purpose where, among other considerations, we are satisfied that there are no other satisfactory solutions as regards that purpose. In other words, before granting a licence authorising lethal control, we must be satisfied that doing so is the only satisfactory solution to addressing the problem or need in question.

The interaction between fish-eating birds and fish can be managed in a number of ways, each falling into one of four broad categories of action:

- scaring birds away from a fishery with high predation risk;
- protecting the fish by the use of exclusion techniques;
- reducing fish availability to birds through fish stock management techniques or making a fishery less attractive as a foraging site;
- reducing bird numbers through lethal control.

There are few techniques which on their own offer potential one-off solutions that might be effective in the long-term, and these are inevitably restricted to smaller sites, for example netting of a water body. While there is a range of lawful non-lethal alternatives that can be effective at deterring birds, their impact is likely to diminish with time, since habituation tends to occur. To be effective over longer periods, measures to limit bird numbers at a site are likely to require combinations of deterrent techniques and lethal control, with application of different methods being changed over space and time, as part of an integrated management strategy. Techniques that require human presence are commonly regarded as the most effective deterrents for cormorant and goosander, and those that carry biological significance and mimic threats known to birds tend to prove more effective and longer-lived than other devices.

## Management plans

**We seek views on the need for management plans to support specific licence applications for any lethal control of cormorant and goosander to help inform the ongoing work of the Fish-eating Birds Advisory Group.**

An important development with the introduction of area or catchment-based licences for fish-eating bird control in England was the need for applicants to develop a management plan as part of the licence application process. The rationale for this was setting out how participating fisheries would work together to manage fish predation by fish-eating birds.

The FEB Advisory Group is considering the potential role of management plans in the context of encouraging a more strategic approach to fish-eating birds licensing in Wales, which could include:

- assessing licence applications on an area basis;
- deploying management measures to start when birds first arrive at a site, before they establish feeding habits at water bodies to be protected (for example, on waters that typically experience cormorant predation in winter, a scaring programme should aim to start in the autumn);
- co-ordination and deployment of lawful non-lethal alternatives over wider spatial and temporal scales;
- co-ordinated management actions to address the concern that birds which are moved from a particular stretch of river may simply relocate a short distance up or downstream with little, if any, overall benefit for fish stocks;
- a strategic implementation of licensed control of fish-eating birds targeted at identified predation 'hot spots', such as during the smolt run or around barriers to fish migration.

A management plan approach, in combination with area-based licensing, could improve coordination of scaring techniques to deter cormorant and goosander from using the same areas repeatedly, for example by allocating the total allowable take of fish-eating birds between certain fisheries in order to more effectively target lethal control at particular problem locations. This may in turn provide opportunities for fishery managers to work together through sharing resources (including staff, vehicles and deterrent devices), and sharing experiences and best practice about what has and has not worked well.

## Consultation questions

62. Do you agree that any lethal control of cormorant or goosander for the purposes of preventing serious damage to fisheries or for conserving flora or fauna should continue to be subject to specific licensing?

62.1. Yes / No

62.2. Please give your reasons

63. Do you have any views on the development and application of a population viability analysis modelling tool to predict the impact of different levels of licenced lethal control on cormorant and goosander populations in Wales?

63.1. Yes / No

63.2. If you answered Yes to this question, please tell us your views

64. Do you have any views on the application of a licensing threshold that sets a limit on the number of cormorant and goosander that may be licensed to be controlled in Wales, informed by population modelling?

64.1. Yes/No

64.2. If you answered Yes to this question, please tell us your views

65. Do you have any views on the application of area or catchment-based licences for lethal control of cormorant and goosander in Wales?

65.1. Yes/No

65.2. If you answered Yes to this question please tell us your views

66. Do you have any views on the efficacy of non-lethal and lethal methods for control of cormorant and goosander?

66.1. Yes/No

66.2. If you answered Yes to this question please tell us your views

67. Do you have any views on the need for management plans to support specific licence applications for any lethal control of cormorant or goosander?

67.1. Yes/No

67.2. If you answered Yes to this question please tell us your views



## 14. Invasive non-native species of birds

### Summary

This section sets out our proposed approach to licensing the killing or taking of invasive non-native species of birds under section 16 of the Wildlife and Countryside Act 1981.

Lethal control of invasive non-native species in the wild normally represents only part of a wider set of measures concerned with the prevention, rapid response, management or eradication of such species, and/or mitigation of their negative impacts. More information about the strategy in Great Britain for non-native species, which covers Wales, is available from the GB Non-native Species Secretariat [HERE](#). In this consultation we only address the specific issue of whether and how NRW should grant licences allowing the lethal control of invasive non-native species of birds.

We propose to continue to grant general licences allowing the lethal control of ruddy duck and Canada goose, but that general licences for the control of other invasive non-native species of birds are not currently necessary in Wales.

### Background

There are many non-native species in Great Britain, but only some of them are considered to be invasive. An invasive non-native species is any non-native animal or plant species that has the ability to spread, causing damage to the environment, the economy or to people's health or way of life. Thus a non-native species may be present, but if it is not considered to have the ability to spread or to cause damage, it is not considered to be invasive.

Invasive non-native species can be any type of plant or animal, including birds. If a non-native species of bird becomes ordinarily resident in, or a regular visitor to, the UK in a wild state, it falls within the definition of "wild bird" under the Wildlife and Countryside Act 1981 (the Act). This means that it is an offence to deliberately kill, injure or take birds of that species or to destroy their eggs or nests, unless permitted to do under a licence, or unless the species is listed in Schedule 2 of the Act (birds which may be taken without a licence).

Allowing the lethal control of an invasive non-native species of wild bird under a licence does not itself constitute a strategic approach to management, but it does provide a necessary legal basis for carrying out any lethal control required as part of the wider management response to a particular species.

In Wales, we currently have two non-native species of wild bird included on general licences which allow lethal control.

GL005 allows the lethal control of ruddy duck for the purpose of conserving fauna or flora. Ruddy duck is native to North America but became established in the wild in Britain from the 1950s, from where it spread rapidly to other European countries, posing a threat to other species. A large scale and long term eradication programme led by the UK government has been largely successful in eradicating this species from Great Britain, although small populations remain in England and it is possible that the species could reappear in Wales.

GL001 allows the lethal control of Canada goose, among other species, for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables or fruit. Canada goose was first introduced into Britain over 300 years ago and is now widespread and well-established.

A number of further bird species have been identified as being of potential concern in this context.

Egyptian goose (*Alopochen aegyptiacus*) was first introduced to Britain in the late 17<sup>th</sup> century and is now widespread in England and parts of Wales and Scotland. At time of writing neither Welsh Government nor NRW have received reports that the species is causing problems in Wales.

As part of actions to be taken under the GB non-native species strategy (available [HERE](#)), Welsh Government and NRW are preparing a 'Generic contingency plan for Invasive Non-native Terrestrial Vertebrates (Wales)'. This draft document includes a list of species which are not yet recorded as present Wales but which are either species which Welsh Government has a legal obligation to control should they arrive in Wales, or species to which the legal obligation does not apply but which are nevertheless of concern. The list includes four species of birds:

- common myna, *Acridotheres tristis*;
- Indian house crow, *Corvus splendens*;
- sacred ibis, *Threskiornis aethiopicus*;
- monk parakeet, *Myiopsitta monachus*.

When finalised and adopted, the contingency plan will be the basis for deciding how Welsh Government and Natural Resources Wales expect to respond to a new incursion of an invasive non-native terrestrial vertebrate species in Wales, which may include eradication. Similar plans are in place for England and Scotland.

## Our proposals

**We propose to continue to grant general licences allowing the killing or taking of ruddy duck and Canada goose. We propose that general licences allowing the lethal control of any other non-native species of wild birds should be considered as and when the need arises.**

We propose to continue to grant GL005 on an annual basis, allowing authorised persons to carry out lethal control of ruddy duck for conservation purposes. The ruddy duck eradication programme has been largely successful across Great Britain but until the species is finally confirmed as no longer present, we consider that a general licence should remain in place. We have also reviewed the detailed terms and conditions of GL005 and intend to make some technical amendments to update it, and to improve its clarity and consistency with other general licences.

We propose to continue to authorise the control of Canada goose under GL001 for the prevention of serious damage. Our detailed proposals concerning GL001, including in relation to Canada goose, are set out in section 9 above.

At this point, we do not think it is appropriate to grant a general licence authorising lethal control of any invasive non-native wild bird species other than Canada goose and ruddy duck. This includes monk parakeet and a number of species of non-native wild bird which are classed as “species of special concern” under retained EU law (common myna, Egyptian goose, Indian house crow, and sacred ibis). Currently these species are either not yet recorded as present in Wales, or are recorded as present in Wales but for which there are no reports of significant damage or harm being received by Welsh Government or NRW. Four of the above named species (excluding Egyptian goose) are covered by the draft contingency plan for invasive non-native terrestrial vertebrate species, under which future action to control any of these species would be considered in light of the contingency plan process and/or general licencing as necessary.

We are therefore not proposing at this point to grant a general licence for the lethal control of any non-native species of wild bird other than ruddy duck and Canada goose as outlined above. However, we acknowledge that lethal control by authorised persons acting under a general licence may form an important part of the management response to incursion of further invasive non-native species, so we intend to keep this position under ongoing review, in light of evidence about the occurrence of any of these species in Wales and evidence of any harm they may be causing. Once it is decided under the invasive non-native species contingency plan process that management action involving lethal control is required in response to incursion of species in Wales, it is possible that swift action will be needed. We are confident that should a general licence be required to allow lethal control to take place lawfully, it can be issued in a timely manner.

## Consultation questions

68. Do you agree that we should continue to authorise the control of ruddy duck and Canada goose under general licences?

68.1. Yes / No

68.2. Please give your reasons

69. Do you agree with the approach we propose to take in relation to other invasive non-native species of wild birds?

69.1. Yes / No

69.2. If you answered No to this question please give your reasons

## 15. Other matters relating to how NRW regulates the lethal control of wild birds

If you have any other views about how we regulate the lethal control of wild birds in Wales, which you would like to share with us but which you have not provided in response to any of the previous consultation questions, please do so here.

### Consultation question

70. Do you have any other views or information which you think may be relevant to this consultation and which you would like to share with us?

70.1. Yes / No

70.2. If you answered Yes to this question please set out your views

# Annex 1: General licences: consideration of statutory protected sites

This Annex describes the approach we propose to take to addressing our obligations towards statutory protected sites, when granting general licences allowing the lethal control of wild birds. In particular, it sets out how we propose to comply with section 28I of the Wildlife and Countryside Act 1981 (the Act), and Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), when granting such licences.

The proposed approach set out below is largely unchanged from the approach we took in relation to statutory protected site considerations when we reissued a number of general licences in October 2019, January 2020 and January 2021. In other words, we are proposing to continue with the approach of disapplying the general licences in and around certain types of protected site, meaning that in those areas any lethal control of wild birds would continue to be subject to specific licences.

## Outline of the legal framework

A licence, including a general licence, issued under section 16(1) of the Act, is a form of statutory authorisation to carry out operations which would otherwise be unlawful. A section 16 licence, including a general licence, also constitutes an authorisation for a “plan or project” within the meaning of the Habitats Regulations.

Under section 28I of the Act, before authorising an operation likely to damage the special interest of a Site of Special Scientific Interest (SSSI), a “section 28G authority” must give notice of the proposed operation to NRW and take into account any advice provided by NRW in deciding whether to issue the authorisation and subject to what conditions.

Similarly, under Regulation 63 of the Habitats Regulations a “competent authority”, before deciding whether to issue an authorisation for a plan or project which is likely to have a significant effect on a European site, must carry out an appropriate assessment of the implications of the plan or project, and must for that purpose consult NRW (as the appropriate nature conservation body) and have regard to NRW’s advice. European sites are Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). As a matter of Welsh Government policy, designated wetlands of international importance (Ramsar sites) are to be subject to similar protections as European sites.

## Proposed approach

General licences provide a legal basis for authorised persons to carry out a range of activities for the killing or taking of wild birds, eggs and nests. Authorised persons include landowners and occupiers and any person authorised by the owner or occupier of the land where the action authorised is taken. A key factor in considering the potential implications of NRW’s general licences for protected sites is that they authorise the carrying out of certain operations for a particular purpose as per the Act, without identifying a specific location where the licence applies (other than the whole of Wales) and without prescribing limits on the extent of action that may be carried out under the licence. Meanwhile the

location, scale, intensity and duration of an operation are normally the primary determinants of the significance of its potential impact.

In the absence of any geographic restriction on the scope of applicability of a general licence within Wales or any conditions or restrictions limiting the extent or nature of the licensed operations in or around protected sites, we do not believe that it would be possible to rule out with sufficient certainty, the risk of negative impacts on the designated features of all SSSIs and European sites in Wales. When issuing general licences for the control of wild birds, NRW cannot assume that the licensed operations will take place on a limited scale or only in certain locations and with limited or minimal impact on other wildlife. Therefore, when considering the potential impact of operations authorised under the general licences on sites designated to protect other species of wildlife, a precautionary approach is required to the identification of credible potential impact pathways.

Our proposal is to continue with the approach of ‘designing out’ the potential for any activities authorised by the general licences to have a significant effect on any SSSI or European site, by incorporating into the licences a number of geographic exclusions, based on identifying which types of protected sites have the potential to be impacted by activity authorised under general licences.

### Process for identifying sites where general licences would not apply

1. The process aims to identify those SSSIs in Wales which would need to be excluded from the scope of application of general licences in order for NRW determine, without undertaking an individual site by site assessment, that the issue of general licences would not pose a risk of damage to any SSSIs. Since all European sites in Wales (above mean low water mark) are also SSSIs, the same exercise can also identify the particular European sites which, if excluded from the scope of applicability of the general licences, would enable it to be concluded that the granting of the general licences is not likely to have a significant effect on any European sites.
2. In any area where as a result of this process the general licences would not apply, anyone wishing carry out lethal control of wild birds will need to apply for a specific licence, following the normal licence application process. In other words the outcome of this exercise is to identify areas where wild bird control would require a specific licence, not to define areas where wild bird control cannot take place.
3. In relation to **SSSIs notified only for one or more habitat feature and/or geological feature (i.e. without any notified species features)**, we do not believe that there is a credible possibility of any activity authorised by any general licences to significantly affect such sites, since none of the activities authorised by general licences are considered realistically capable of significantly impacting on habitats or geological features. Therefore, we propose that the general licences should **continue to apply** in these SSSIs. In taking this approach, we have regard to the fact that a general licence only constitutes an authorisation to carry out the operations specified in the licence for the particular purpose for which the licence is granted under section 16 of the Act. A general licence does not, for example, authorise a person to carry out other associated operations which might take place in connection with the licenced activity/purpose, such as use of vehicles to access land, or removal or damage to vegetation. Any such ‘ancillary’ operations carried out within an SSSI or European site would – irrespective of the terms of a general licence allowing

lethal control of wild birds - be subject to separate regulation through the SSSI consenting process.

4. In relation to **all SSSIs with at least one notified species feature**, we propose the following:

- **SSSIs notified only for plant or fungi species and/or invertebrate species and/or reptile species and/or amphibian species**: we think it is reasonable to conclude the no activity authorised by the general licences would give rise to any significant impact, therefore we propose that general licences should **continue to apply** in these SSSIs.
- **SSSIs notified for mammalian features, namely bats (any species), otters, water voles, dormice, harvest mice, grey seals** (whether or not also notified for other types of feature): there is a potential for adverse impact, primarily due to disturbance from shooting and connected human presence, therefore we consider that general licences should **continue not to apply** in these sites. This would also have the effect of excluding from the scope of applicability of the general licences all SACs in Wales designated for otters, lesser horseshoe bats, greater horseshoe bats and grey seals.

5. In relation to **SSSIs notified for avian features** (whether or not also notified for other types of feature):

- **SSSIs notified for breeding seabirds, breeding herons or any bird species listed on Schedule 1 of the Act**: there is a potential for adverse impact, particularly through disturbance from shooting, therefore we consider that general licences should **continue not to apply** in these areas. This would also have the effect of excluding from the scope of applicability of the general licences all SPAs in Wales lying above mean low water mark.
- The following avian SSSI features are considered not to be sensitive to the effects of operations authorised by the general licences. Therefore, we think that in any SSSI notified for these features, unless it is also notified for one or more of the species of mammals or birds listed above, general licences should **continue to apply**:
  - individually qualifying non-breeding birds which are not on schedule 1 of the Act;
  - breeding bird assemblage of upland moorland and grassland without water bodies;
  - breeding bird assemblage of lowland open waters and their margins;
  - breeding bird assemblage of sand-dunes and saltmarshes;
  - breeding bird assemblage of lowland damp grasslands;
  - breeding bird assemblage of woodlands.

6. In order to avoid the risk of operations authorised by general licences which take place outside SSSI boundaries, significantly affecting notified species features inside SSSIs, principally through disturbance from shooting, we propose that general licences should not apply within 300 metres of any of the excluded protected sites. In relation to one site - the Dyfi Estuary SSSI/SPA - we consider that a 300m 'buffer' is not sufficient to ensure the avoidance of disturbance of the European white fronted geese population for which the

SSSI/SPA is designated, caused by shooting which may be carried out under general licences on land adjacent to the SSSI/SPA. Therefore, to ensure that such disturbance is avoided, we propose that general licences should not apply within 500m of the Dyfi Estuary SSSI/SPA.

## **Outcome: which sites we are proposing to continue to exclude from general licences**

Applying the process described above identifies 198 SSSIs which would continue to be excluded from the scope of general licences, out of a total of 1,078 SSSIs in Wales. These areas also include 19 SPAs (out of a total of 21 SPAs in Wales) and 24 SACs (out of a total of 95 SACs in Wales). In these areas, killing or taking of wild birds would require applying to NRW for a specific licence. The sites are listed below.

In order to give effect to these exclusions, general licences would continue to include a condition similar to that included in a number of general licences granted in 2019, 2020 and 2021, stating that the licence does not authorise any action within any of the excluded sites listed in an Annex to the licence, or within 300 metres of any such site (500m in the case of the Dyfi SSSI). Licensees would continue to be directed to information about the boundaries of the excluded sites and buffers around them, which are publicly available on the Welsh Government's 'Lle' website [HERE](#).

### **Sites of Special Scientific Interest**

Aber Mawddach/Mawddach Estuary  
Aber Taf / Taf Estuary  
Aberarth - Carreg Wylan  
Aberdunant  
Afon Cleddau Dwyreiniol/Eastern Cleddau River  
Afon Cleddau Gorllewinol/Western Cleddau River  
Afon Dyfrdwy (River Dee)  
Afon Eden - Cors Goch Trawsfynydd  
Afon Gwyrfai a Llyn Cwellyn  
Afon Irfon  
Afon Llynfi  
Afon Teifi  
Afon Tywi  
Afon Wysg (Isafonydd) / River Usk (Tributaries)  
Allt Wen a Traeth Tanybwlech  
Allt y Main Mine  
Arfordir Abereiddi  
Arfordir Marros-Pentywyn / Marros-Pendine Coast  
Arfordir Pen-bre / Pembrey Coast  
Arfordir Saundersfoot-Telpyn/Saundersfoor -Telpyn Coast  
Bach Howey Gorge  
Baron Hill Park  
Beddmanarch-Cymyran  
Beech Cottage, Waterwynch  
Benarth Wood  
Berwyn



Borth - Clarach  
Broomhill Burrows  
Bryn y Gwin Isaf  
Bryngwyn Hall Stables and Coach House  
Buckland Coach House & Ice House  
Burry Inlet & Loughor Estuary  
Cadair Idris  
Caeau Cnwch a Ty'n-y-graig  
Caeau Coed Mawr (Coedmawr Fields)  
Caeau Troed-Rhiw-Drain (Troed-Rhiw-Drain Meadows)  
Cae'r Meirch  
Carew Castle  
Carmel Head  
Carn Gafallt  
Carreg y Llam  
Castell y Waun a'i Barcdir/Chirk Castle and Parkland  
Castlemartin Range  
Cemlyn Bay  
Cerrig-gwalch  
Ceunant a Thyrrau Trefgarn/Treffgarne Gorge and Tors  
Chwarel Cambrian/Cambrian Quarry, Gwernymynydd  
Cilcenni Dingle  
Ciliau  
Coed Aberdulas  
Coed Aberedw  
Coed Bryn-Person  
Coed Dyrysiog  
Coed Nant Menascin  
Coed y Ciliau  
Coed y Crychydd  
Coed y Gopa  
Coed Ynys-Faen  
Coed yr Allt-goch  
Coedydd a Cheunant Rheidol (Rheidol Woods & Gorge)  
Coedydd ac Ogofau Elwy a Meirchion  
Coedydd Beddgelert a Cheunant Aberglaslyn  
Coedydd De Dyffryn Maentwrog  
Coedydd Dyffryn Alwen  
Coedydd Dyffryn Ffestiniog (Gogleddol)  
Coedydd Glannau a Cwm Coel  
Coedydd Nanmor  
Colwyn Brook Marshes (North & South)  
Cors Caron  
Corsydd Llangloffan  
Craig yr Aderyn (Bird's rock)  
Creigiau Pen y graig  
Creigiau Rhiwledyn/Little Ormes Head  
Cwm Cynfal  
Cwm Doethie - Mynydd Mallaen  
Cwm Gwynllyn

Dale and South Marloes Coast  
De Porth Sain Ffraidd / St Bride's Bay South  
Dee Estuary / Aber Afon Dyfrdwy  
Dolorgan Barn  
Duhonw  
Dyfi  
Elenydd  
Erwood Dingle  
Felin Llwyngwair  
Fenn's, Whixall, Bettisfield, Wem and Cadney Mosses  
Ffynnon Beuno and Cae Gwyn Caves  
Foxwood  
Ganllwyd  
Garth-eryr  
Glannau Aberdaron  
Glannau Penmon - Biwmares  
Glannau Rhoscolyn  
Glannau Ynys Gybi/ Holy Island Coast  
Glascoed, Meifod  
Glaslyn  
Glyn Cywarch  
Glynllifon  
Gower Coast: Rhossili to Porteynon  
Graig Fawr  
Grassholm / Ynys Gwales  
Gronant Dunes and Talacre Warren  
Gweunydd Esgairdraenllwyn (Esgairdraenllwyn Pastures)  
Gweunydd Nant y Derno  
Gweunydd Ty'n-y-Llidiart  
Gwlyptiroedd Casnewydd/Newport Wetlands  
Henborth  
Hendre, Llangedwyn  
Inner Marsh Farm  
Ithon Valley Woodlands  
Leighton Bat Roosts  
Little Hoyle and Hoyle's Mouth Caves & Woodlands  
Llanbadrig - Dinas Gynfor  
Llanddulas Limestone and Gwrych Castle Wood  
Llangovan Church  
Llwyn-Cus  
Llymwynt Brook Pastures  
Llyn Eiddwen  
Llynoedd Ieuan  
Malltraeth Marsh/Cors Ddyga  
Marcheini Uplands, Gilfach Farm & Gamallt  
Migneint-Arenig-Dduallt  
Milford Haven Waterway  
Morfa Harlech  
Mwyngloddfa Cwmystwyth  
Mwyngloddfa Mynydd-Bach

Mwyngloddiau a Chreigiau Gwydyr  
Mwyngloddiau Llanfrothen  
Mwyngloddiau Wnion a Eglwys Sant Marc  
Mynydd Llangatwg (Mynydd Llangattock)  
Mynydd Penarfynnydd  
Newborough Warren - Ynys Llanddwyn  
Newton Court Stable Block  
Orierton Stable Block and Cellars  
Park House Outbuildings, Stackpole  
Pen y Gogarth / Great Ormes Head  
Penarth Coast  
Penggelli Forest and Pant-teg Wood  
Penllwyn-yr-Hendy  
Penmaenuchaf Hall  
Penrhynoedd Llangadwaladr  
Penrice Stables and Underhill Cottage  
Penygarnedd Mine  
Pistyll Rhaeadr  
Plas Maenan  
Porth Ceiriad, Porth Neigwl ac Ynysoedd Sant Tudwal  
Pwll-y-wrach  
Ramsey / Ynys Dewi  
Rhagnentydd Gwy Uchaf / Upper Wye Tributaries  
Rhos Llawr Cwrt  
Rhos Penrhiw  
Rhos yr Hafod  
Rhosneigr  
Rhosneigr Reefs  
Rhosydd Llanwrthwl  
River Ithon  
River Lugg  
River Teme  
River Usk (Lower Usk)/Afon Wysg (Wysg Isaf)  
River Usk (Upper Usk) / Afon Wysg (Wysg Uchaf)  
River Wye (Lower Wye) / Afon Gwy (Gwy Isaf)  
River Wye (Tributaries)/Afon Gwy (Isafonydd)  
River Wye (Upper Wye) / Afon Gwy (Gwy Uchaf)  
Rose Cottage, Llethrid  
Ruabon/Llantysilio Mountains and Minera  
Ruperra Castle and Woodlands  
Severn Estuary  
Shotton Lagoons and Reedbeds  
Siambre Ddu  
Skokholm  
Skomer Island and Middleholm  
Slebech Stable Yard Loft, Cellars & Tunnels  
St. David's Peninsula Coast  
St. Margaret's Island  
Stackpole  
Stackpole Courtyard Flats and Walled Garden

Sully Island  
The Offshore Islets of Pembrokeshire / Ynysoedd Glannau Penfro  
The Skerries  
Tiroedd a Glannau Rhwng Cricieth ac Afon Glaslyn  
Traeth Lafan  
Traeth Lligwy  
Tre Wilmot  
Trwyn Dwlban  
Twyni Chwitffordd, Morfa Landimor a Bae Brychdwn/Whiteford Burrows etc  
Twyni Lacharn - Pentywyn / Laugharne - Pendine Burrows  
Ty Bach Ystlumod  
Ty Croes  
Tywyn Aberffraw  
Vicarage Meadows  
Waen Rydd  
Waterwynch Bay to Saundersfoot Harbour  
West Llangynog Slate Mine  
Wye Valley Lesser Horseshoe Bat Site  
Ynys Enlli  
Ynys Feurig  
Ynysoedd y Gwylanod, Gwylan Islands  
Yr Eifl

### **Special Protection Areas**

Anglesey Terns / Morwenoliaid Ynys Môn  
Berwyn  
Burry Inlet  
Castlemartin Coast  
Craig yr Aderyn (Bird's Rock)  
Dyfi Estuary / Aber Dyfi  
Elenydd-Mallaen  
Glannau Aberdaron ac Ynys Enlli / Aberdaron Coast and Bardsey Island  
Glannau Ynys Gybi / Holy Island Coast  
Grassholm  
Liverpool Bay / Bae Lerpwl  
Migneint-Arenig-Dduallt  
Mynydd Cilan, Trwyn y Wylfa ac Ynysoedd Sant Tudwal  
Ramsey and St David's Peninsula Coast  
Severn Estuary  
Skomer, Skokholm and the seas off Pembrokeshire / Sgomer, Sgogwm a Moroedd Penfro  
The Dee Estuary  
Traeth Lafan / Lavan Sands, Conway Bay  
Ynys Seiriol / Puffin Island

### **Special Areas of Conservation**

Afon Eden-Cors Goch Trawsfynydd  
Afon Gwyrfai a Llyn Gwellyn  
Afon Teifi / River Teifi

Afon Tywi / River Tywi  
Afonydd Cleddau / Cleddau Rivers  
Cardigan Bay / Bae Ceredigion  
Carmarthen Bay and Estuaries / Bae Caerfyrddin ac Aberoedd  
Coedydd Derw a Safleoedd Ystlumod Meirion / Meirionnydd Oakwoods and Bat Sites  
Cors Caron  
Dee Estuary / Aber Dyfrydwy  
Glynllifon  
Limestone Coast of South West Wales / Afordir Calchfaen De Orllewin Cymr  
Mwyngloddiau Fforest Gwydir / Gwydyr Forest Mines  
North Pembrokeshire Woodlands / Coedydd Gogledd Sir Benfro  
Pembrokeshire Bat Sites and Bosherton Lakes/ Safleoedd Ystlum Sir Benfro a Llynnoedd  
Bosherton  
Pembrokeshire Marine / Sir Benfro Forol  
Pen Llŷn ar Sarnau / Lleyn Peninsula and the Sarnau  
River Dee and Bala Lake / Afon Dyfrydwy a Llyn Tegid  
River Usk / Afon Wysg  
River Wye / Afon Gwy  
Tanat and Vyrnwy Bat Sites / Safleoedd Ystlumod Tanat Ac Efyrrwy  
Usk Bat Sites / Safleoedd Ystlumod Wysg  
Wye Valley and Forest of Dean Bat Sites / Safleoedd Ystlumod Dyffryn Gwy  
Wye Valley Woodlands / Coetiroedd Dyffryn Gwy

## Annex 2: General licence for preventing serious damage and preventing the spread of disease: Proposed approach to defining a species-purpose matrix

Determining whether species X causes harm Y is inherently challenging in circumstances where there is little or no peer-reviewed scientific literature. For example, there is an absence of scientific evidence as to whether carrion crow and magpie cause harm to livestock, by either direct physical attack or through transmission of disease from faeces. We cannot rule out the possibility that this represents an evidence gap rather than evidence of no impact. There is a considerable volume of anecdotal evidence (that is, evidence from the personal testimony of individuals) indicating that these species can cause widespread and serious levels of harm.

The evidence available to NRW to address the key questions in relation to assessing species-to-purpose interactions under our proposed general licence for the purpose of preventing serious damage, is based on a mixture of published scientific evidence and anecdotal information.

We assessed the evidence reviews of Newson et al. (2019) and APHA (2020), combined with anecdotal evidence submitted to calls for evidence in England (Defra, 2019) and Wales (NRW, 2021). It is clear from the responses to both of these calls for evidence there is strong anecdotal evidence supporting the control of some species in order to prevent some types of harm, for example magpie predation on new-born livestock. However, in other cases a precautionary approach may be appropriate: in situations where there is an absence of both scientific evidence and well-established anecdotal evidence, we have applied a logical ecological interpretation of the harm a target species may cause. For example, anecdotal evidence suggests carrion crow cause serious damage to ewes and lambs through predation. In the absence of published or anecdotal evidence about carrion crow attacking other bovids, we believe that it is reasonable to consider that carrion crow may cause serious damage to other bovids that are farmed in Wales.

Following assessment of the evidence review by APHA in 2020 and anecdotal evidence supplied by stakeholders to the recent requests for a call for evidence in England and Wales, we propose to include in GL001 the species-purpose matrix below. Where a cell contains Yes, the licence would authorise the lethal control of that species for that purpose. Where a cell contains No, the lethal control of that species for the prevention of that type of harm would require applying to NRW for a specific licence.

	Prevent serious damage to livestock through direct attack	Prevent serious damage to livestock foodstuffs	Prevent serious damage to crops, vegetables or fruit	Prevent spread of disease to livestock or livestock foodstuffs
<b>Canada goose</b>	No	No	Yes	No

<b>Feral pigeon</b>	No	Yes	Yes	Yes
<b>Woodpigeon</b>	No	No	Yes	Yes
<b>Magpie</b> (see note 1)	Yes	No	No	Yes (see note 2)
<b>Jackdaw</b>	No	Yes	Yes	Yes (see note 2)
<b>Carrion crow</b>	Yes	Yes	No	Yes (see note 2)

1. The suitability of magpie as a target species on any general licences, owing to its declining population status in Wales, is considered separately in section 4 of this consultation document.

2. We propose to authorise lethal control for these particular species-to-purpose combinations, on the basis that these species are known to carry harmful pathogens that are potentially harmful to livestock.

## References

**APHA (2020)** Review of the evidence base for inclusion of avian species on General Licences GL34, GL35 and GL36 in England. National Wildlife Management Centre, Animal and Plant Health Agency, 6 August 2020. Available [HERE](#)

**Defra (2019)** Use of general licences for the management of certain wild birds: Government response to the call for evidence, July 2019. Department for Environment, Food and Rural Affairs. Available [HERE](#)

**Newson, S.E., Calladine, J. & Wernham, C. (2019)** Literature review of the evidence base for inclusion of bird species listed on General Licences 1, 2 and 3. Research Report No.1136. Scottish Natural Heritage. Available [HERE](#)

**NRW (2021)** Review of NRW's approach to regulating the shooting and trapping of wild birds: Report on the call for evidence. NRW Evidence Report, Report No: 564, 45pp, Natural Resources Wales, Bangor. Available [HERE](#)