

Finlay Carson  
Convener  
Rural Affairs and Islands Committee

June 2023

Dear Convener

### **Wildlife Management and Muirburn (Scotland) Bill (“the Bill”)**

Please find below further information regarding raptor persecution data, wildlife traps, muirburn on peatlands and ECHR issues raised during the evidence session with Scottish Government Officials on 31 May 2023.

#### **Raptor persecution data**

Rachael Hamilton MSP asked for evidence that associates raptor persecution with grouse moors.

#### Werritty Report

The scientific evidence of raptor persecution is summarised in chapter 4 (pages 29-33) of the Werritty Report: [grouse-moor-management-review-group-report-scottish-government.pdf](https://www.gov.scot/resources/consultation-papers/collections/documents/grouse-moor-management-review-group-report-scottish-government.pdf) ([www.gov.scot](http://www.gov.scot))

#### Analyses of the fates of satellite tracked golden eagles in Scotland

The report commissioned by Scottish Natural Heritage (now NatureScot) by Whitfield and Fielding investigated the fates of satellite tagged raptors. The report provides a major review of the movements and fates of golden eagles satellite tagged during 2004 - 2016. This was following concerns that up to 31% of satellite tagged eagles disappeared in suspicious circumstances. The review concluded, “*that a relatively large number of the satellite tagged golden eagles were probably killed, mostly on or near some grouse moors where there is recent, independent evidence of illegal persecution*”.

The report can be found here: [SNH Commissioned Report 982: Analyses of the fates of satellite tracked golden eagles in Scotland](https://www.naturescot.gov.scot/~/media/137884/137884main.pdf) ([nature.scot](http://nature.scot))

#### Wildlife Crime Information

In the 9 years of annual wildlife crime reports from 2012/13 – 2020/21 Police Scotland recorded 164 crimes against birds of prey. This data is provided in the table below.

## Recorded Bird of Prey Crimes in Scotland

Year	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Total	13	19	18	26	11	24	17	25	11

Information provided by the National Wildlife Crime Unit shows the land use category most associated with raptor persecution incidents is grouse moors.

As stated by Police Scotland during the evidence session on 21 June 2023, since the publication of the Werritty report in 2019 there have been 11 crimes against birds of prey recorded on or near grouse shooting estates. These can be broken down in to; 4 poisoning cases, 6 cases of raptor shooting, 1 other type of crime (muirburn resulting in nest disturbance).

Alongside the above cases, there have been 20 suspicious cases where there was insufficient evidence to conclude a crime had definitely been committed. These including sudden stop satellite tags, birds of prey carcasses found which are still awaiting toxicology results (which may lead to additional crimes being recorded), trapping offences and reports of bird carcasses, which by the time police arrived had been removed.

### **You asked for clarity on whether raptor persecution has increased or decreased (since 2017).**

The table in the section above shows that the number of raptor persecution incidents recorded by Police Scotland varies from year to year.

### **Rhoda Grant MSP asked for a map showing the disappearance of golden eagles.**

A map showing the disappearance of golden eagles can be seen on page 22 of the Analyses of the fates of satellite tracked golden eagles in Scotland report: [SNH Commissioned Report 982: Analyses of the fates of satellite tracked golden eagles in Scotland \(nature.scot\)](#)

## **Wildlife Traps**

You asked for clarification on the offences that are applicable in regards to trap tampering. Interference with traps are capable of being prosecuted as a statutory offence of vandalism under the Criminal Law (Consolidation) (Scotland) Act 1995. It is also capable of being prosecuted as a common law malicious mischief.

In our evidence session we committed to discussing with Police Scotland and the Crown Office and Procurator Fiscal Service, whether the current legislation was sufficient to enable them to investigate and prosecute claims of trap tampering or whether they felt that a specific offence was needed. Those discussions are ongoing.

## **Muirburn on peatlands**

*Climate Change Committee report*

Rachael Hamilton MSP asked to see the latest copy of the Climate Change Committee report. The most recent CCC report is a UK wide “Progress in adapting to climate change” report and was published in March 2023. The report can be found here: [WEB-Progress-in-adapting-to-climate-change-2023-Report-to-Parliament.pdf \(theccc.org.uk\)](https://www.theccc.org.uk/wp-content/uploads/2023/03/WEB-Progress-in-adapting-to-climate-change-2023-Report-to-Parliament.pdf)

The “Updates in peatland policy” section on page 70 sets out:

- *In 2021, regulations were introduced in England requiring a license to practice burning management on protected sites with deep peat soils. This leaves most English peatlands vulnerable to burning, a potentially damaging process that impacts the resilience of peat systems.*
  - *The CCC is in the process of reviewing its previous recommendations on the practice of rotational burning as a land management technique.*

The most recent CCC annual assessment of UK progress in reducing carbon emissions report was published in June 2022. This report can be found here: [2022 Progress Report to Parliament - Climate Change Committee \(theccc.org.uk\)](https://www.theccc.org.uk/wp-content/uploads/2022/06/2022-Progress-Report-to-Parliament-Climate-Change-Committee.pdf).

The report contains recommendations to each country within the UK. On page 603 there is a recommendation to the Scottish Government to “Introduce policy to end rotational burning on peatland before the start of the 2022 burn season.”

The Scottish Government published its response to that report on 20 June 2023, the Scottish Government partially accepted that recommendation, on that basis that it would not be possible to bring forward a ban within the timeframe set out by the Committee. The full Scottish Government response to the report can be found here: [Scotland’s response to the Climate Change Committee’s \(CCC\) Annual Progress Report 2022 Recommendations \(www.gov.scot\)](https://www.gov.scot/publications/scotland-s-response-to-the-climate-change-committee-s-ccc-annual-progress-report-2022-recommendations/pages/1-10.aspx)

## Methodology for determining peatland

Rachael Hamilton MSP asked to see a current methodology for determining whether an area is peatland. Peatland depth survey guidance/methodology is currently being utilised for work undertaken for the Peatland Code. The methodology for assessing depth can be found on the NatureScot webpages here: [Guidance-Peatland-Action-Peat-depth-survey-2017-18-A2210297.pdf \(nature.scot\)](https://www.naturescot.gov.uk/media/12210297/Guidance-Peatland-Action-Peat-depth-survey-2017-18-A2210297.pdf)

## ECHR compatibility

You asked for more clarification on how the suspension or revocation of a grouse moor licence would be compliant with the European Convention on Human Rights (“ECHR”). The Scottish Government has considered the ECHR implications of the provisions of the Bill very carefully. The approach taken for the provisions has been influenced by the need to ensure they strike the correct balance between the rights of individuals and the general public interest. The Scottish Government considers that the provisions are proportionate in ECHR terms and are therefore within the legislative competence of the Scottish Parliament.

The Scottish Government is of the view that Article 1 Protocol 1 (the right to peaceful enjoyment of property) to the ECHR would be engaged by the suspension or revocation of a

licence. However, any such interference is justifiable and proportionate to the aims sought to be achieved.

Nature conservation is a legitimate purpose which the Bill seeks to address, and the ability to suspend or revoke a licence in certain circumstances is a necessary part of any licensing scheme and as such the Scottish Government is of the view that the proposals strike a fair balance between the general interests of the community and the protection of the individual's right to peaceful enjoyment of the property.

Yours Sincerely

Hugh Dignon

Head of Wildlife Management Unit – Scottish Government