

Citizen Participation and Public Petitions Committee
Wednesday 19 March 2025
5th Meeting, 2025 (Session 6)

PE2021: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

Introduction

Petitioner David Peter Buckland and Graham Charlesworth

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to clarify the definition of protected animals contained in the Animal Health and Welfare (Scotland) Act 2006, and associated guidance, to ensure the feral sheep on St Kilda are covered by this legislation, enabling interventions to reduce the risk of winter starvation and the consequential suffering of the sheep.

Webpage <https://petitions.parliament.scot/petitions/PE2021>

1. [The Committee last considered this petition at its meeting on 1 May 2024.](#) At that meeting, the Committee agreed to write to the Scottish Government.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new written submissions from the Scottish Government, and the Petitioners, which are set out in **Annexe C**.
4. [Written submissions received prior to the Committee's last consideration can be found on the petition's webpage.](#)
5. [Further background information about this petition can be found in the SPICe briefing](#) for this petition.
6. [The Scottish Government gave its initial position on this petition on 9 May 2023.](#)
7. Every petition collects signatures while it remains under consideration. At the time of writing, 1,854 signatures have been received on this petition.

Action

8. The Committee is invited to consider what action it wishes to take.

Clerks to the Committee
March 2025

Annexe A: Summary of petition

PE2021: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

Petitioner

David Peter Buckland and Graham Charlesworth

Date Lodged

12 April 2023

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to clarify the definition of protected animals contained in the Animal Health and Welfare (Scotland) Act 2006, and associated guidance, to ensure the feral sheep on St Kilda are covered by this legislation, enabling interventions to reduce the risk of winter starvation and the consequential suffering of the sheep.

Previous action

We have written to and received responses from the Minister for Rural Affairs and Natural Environment and the Chief Veterinary Officer, which state that the sheep are not protected by the 2006 Act and that the Scottish Government's position on this has been consistent for many years.

We have also received a response from Roseanna Cunningham, then Cabinet Secretary for Environment, Climate Change and Land Reform, which confirmed that NatureScot view sheep as livestock but would defer to advice provided by the Chief Veterinary Officer.

We also contacted [Mark Ruskell MSP](#) and [Alasdair Allan MSP](#) who have raised parliamentary questions on this matter. We are now raising this petition following advice from Dr Allan.

Angus MacNeil MP has also written to the Minister for Rural Affairs and Natural Environment, but it remains unclear why the Scottish Government are ignoring the guidance accompanying the 2006 Act.

We have also received a letter from the National Trust for Scotland (NTS) noting their refusal to manage the sheep on St Kilda.

Background information

The St Kilda sheep have been feral since 1930, but millennia of domestication have altered their physiology, making them unsuited to life unmanaged.

Information suggests overpopulation contributes to a yearly average of 600 sheep dying of starvation each winter on Hirta alone.

NatureScot and NTS were unaware of the Scottish Government's position that the sheep are not protected under the 2006 Act, and had, before May 2020, viewed the sheep as livestock. This confusion means researchers have potentially committed multiple offences under the Wildlife and Natural Environment (Scotland) Act 2011 by releasing non-native "wild" animals without a licence between 2012 and 2020.

The Scottish Government position appears contrary to its own guidance on the Act, which includes all feral sheep as protected animals because domestication has left them reliant on man.

The consequence of allowing this confusion to persist will be to weaken the Act and allow unnecessary suffering, not only on St Kilda but potentially elsewhere in Scotland.

Annexe B: Extract from Official Report of last consideration of PE2021 on 1 May 2024

The Convener: My voice has been a little shaky today and I now have a lot to say about sheep. Please bear with me.

Our next continued petition, PE2021, on ensuring that the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda, was lodged by David Peter Buckland and Graham Charlesworth. The petition calls on the Scottish Parliament to urge the Scottish Government to clarify the definition of protected animals, as contained in the Animal Health and Welfare (Scotland) Act 2006 and the associated guidance, to ensure that the feral sheep on St Kilda are covered by that legislation, enabling interventions to reduce the risk of winter starvation and the consequential suffering of the sheep.

We last considered the petition at our meeting on 28 June 2023, when we agreed to write to the National Trust for Scotland, the St Kilda Soay sheep research project, NatureScot and OneKind. I am pleased to say that we have received responses from all those organisations, copies of which are included in our papers for today's meeting.

The animal welfare charity OneKind expressed concern about the welfare of the sheep on St Kilda and suggested that it is necessary to clarify the status of the sheep in order to establish what level of protection they should be afforded, and by whom. OneKind's response also suggests that, given that there is no option for the sheep population to disperse, there is a moral obligation to address the high levels of winter starvation but cautions that any proposals to reduce levels of winter starvation should be subject to animal welfare impact assessments.

Researchers from the Soay sheep research project state that there is no clear biological evidence that the sheep are meaningfully different from other wild mammal populations and go on to note that wild animals often die in large numbers as a result of natural processes, including starvation and exposure to harsh weather, but that, in most cases, those deaths are unseen. The researchers also suggest that measures to manage winter mortality, for example through a large-scale regular cull, could have welfare implications for the remaining sheep.

The response from the National Trust for Scotland highlights the fact that the retention of wild traits in the Soay sheep population has allowed for their survival in the often harsh conditions of the archipelago. The trust follows Scottish Government advice that the sheep should be regarded in the same way as unowned and unmanaged animal populations such as wild deer. Although there is a presumption against intervention, the trust notes that it might consider intervention in exceptional circumstances in response to animal welfare needs.

Although NatureScot's remit does not specifically cover animal welfare, its response notes that any change to the guidance on the Animal Health and Welfare (Scotland) Act 2006 would be likely also to apply to feral goats and feral cats, potentially leading to unintended consequences if landowners decided to remove populations of feral livestock from their land rather than taking on the burden of their welfare.

Those are the responses from the organisations to which we wrote.

We have also received two submissions from the petitioners, the first of which addresses the responses that we have received—and to which I have just referred—and notes the importance of clarifying whether the Soay sheep are to be considered wild or feral. The petitioners also make a comparison with the winter starvation of cattle and horses in Oostvaardersplassen in the Netherlands, where, similar to the situation on St Kilda, the feral animals have no predators and cannot disperse or migrate. In that case, images of starving animals led to public outrage and welfare interventions were rapidly introduced.

The petitioners' most recent submission disputes the validity of the information that has been provided by the National Trust for Scotland and invites us to request sight of the correspondence between the trust and the Scottish Government in relation to the status of the Soay sheep.

We have also received a submission from Dr Mary Harman, offering further information on the history of the sheep on St Kilda, noting accounts by the archipelago's inhabitants of the sheep being used for food and suggesting that a number of ram lambs would have been castrated to reduce fighting and to limit the population.

We have a fairly comprehensive set of responses, including two challenging additional responses from the petitioners, on an issue of major concern about wildlife conservation on St Kilda. In the light of all that, do members have any comments or suggestions for action?

David Torrance: I wonder whether the committee would consider keeping the petition open and writing to the Scottish Government to highlight the evidence that the committee has received and to ask whether it will review the existing legislation and guidance and consider using the provisions in the Animal Health and Welfare (Scotland) Act 2006 to introduce regulations and updated guidance to ensure the welfare of the unique sheep population on St Kilda. We could also request that the Scottish Government provides the full text of its June 2009 communication with the National Trust for Scotland or that it clearly sets out the reasons for not releasing that correspondence in full.

The Convener: That seems very sensible and consistent with the suggestions that have been made by the petitioners. Are committee members content to keep the petition open and proceed with it on that basis?

Members *indicated agreement.*

The Convener: I am not sure whether one of the petitioners is with us today—I wondered whether I recognised him. Yes, he is in the gallery. Forgive my eyesight—you are as far away from me as it is possible to be, but I thought that you might be here. I hope that you are pleased that we have decided to keep the petition open. In the light of your responses, we will pursue the actions that you have suggested.

Annexe C: Written submissions

Scottish Government written submission, 19 June 2024

PE2021/L: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

Thank you for letter of 7 May 2024 regarding the Citizen Participation and Public Petitions Committee's consideration of the above petition and highlighting the evidence it has received.

Having reviewed the evidence provided as part of the Committee's consideration of this petition, the Scottish Government does not consider there is a need to clarify the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 and associated guidance. As detailed in our response to the Committee dated 9 May 2023, the Scottish Government considers this unique historical flock to be protected by the Wild Mammals (Protection) Act 1996, in the same way as any unowned and unmanaged population of wild deer.

The Scottish Government does however recognise the point raised by OneKind which was highlighted at the Committee's meeting on 1 May 2024: that there could be a moral duty for the landowners or others to safeguard the welfare of the sheep in this unique and historically associated flock.

With regards to the correspondence between the Scottish Government and the National Trust for Scotland of June 2009, the Scottish Government has been unable to locate the document. The Scottish Government operates an electronic record and document management system (eRDM) which is used to store and manage our official documents and records. It also links to other Scottish Government systems, for example, to back up the documents from ministerial correspondence systems. These systems are subject to the Scottish Government's retention and disposal policy. Information and records are retained only as long as they are required to support Scottish Government in its business requirements and legal obligations. At the end of that time, the records are either destroyed or transferred to the National Records of Scotland for permanent preservation. The policy sets out periods for which particular classes of records are retained in accordance with legal, audit and operational requirements.

Searches have been conducted of Scottish Government systems, but we have been unable to find the letter referred to above. After checking with our Records Management Team, they have informed us that the relevant 2009 correspondence folder in eRDM in which a copy of the letter would have been kept was deleted in 2019 as part of the routine disposal cycle of the system. We are therefore unable to provide it in whole or in part.

Yours sincerely,

Animal Welfare Policy Team

Petitioner written submission, 14 August 2024

PE2021/M: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

We thank the Petitions Committee for the opportunity to respond to the most recent submissions by the National Trust for Scotland and Scottish Government.

National Trust for Scotland submission (PE2021/K)

The National Trust for Scotland state that the correspondence received from Scottish Government in 2009, 2020 and 2022 all confirm that the Soay sheep on St Kilda (no mention of the Boreray sheep again!) are, outwith periods while gathered, not covered by the Animal Health and Welfare (Scotland) Act 2006 (AHWA). Yet we must point out to the Committee that [the extract from the 2009 letter from the Cabinet Secretary for the Environment and Rural Affairs, quoted in submission PE2021/F](#), makes no mention of the AHWA and in light of the Trust's offer (in the same submission):

“we would be pleased to provide the Committee with further written or oral evidence as needed”

may we respectfully urge the Committee to request all their communications pertinent to the extract they quoted.

Scottish Government submission (PE2021/L)

We welcome the suggestion from Scottish Government that:

“...there could be a moral duty for the landowners or others to safeguard the welfare of the sheep...”

However, we should advise the Committee that we wrote to the National Trust for Scotland and the other signatories to the St Kilda Management Plan in January 2020 to ask them, specifically on moral grounds, to manage the sheep to reduce the suffering caused by starvation, but they refused to comply, offering instead their insistence that they are following Scottish Government legislation¹. Even if they were now to introduce humane management on ‘moral grounds’ it would not allay our concerns vis-à-vis Scottish Government's interpretation of the AHWA and its guidance. In any case, should not Government policy and advice be guided by moral direction?

To return this matter to the essence and spirit of what Parliamentary members were aspiring to build in 2005, it is worth looking back to stage 1 of the Animal Health and Welfare Bill, when Mike Radford, lecturer in Animal Welfare Law, stated:

¹ Skinner, S, CEO National Trust for Scotland: Letter 10 February 2020

“It is absolutely essential that the meaning of "protected animal" is clear. If it is not, those to whom the bill is addressed, the enforcement authorities and the courts will have difficulty.”²

It was recognised that the phrase “of a kind commonly domesticated in the British Islands” is vague and easily misinterpreted. This is why detailed guidance to the AHWA was provided and 532 words devoted to explaining exactly which animals (including feral sheep) are protected and why. The key requirement is that animals or their ‘progenitors’ have been domesticated for multiple generations. Like all breeds of sheep in the UK, the ancestors of the Boreray and Soay sheep have been subject to artificial selection by man for thousands of years. They have been feral and subject to (an ersatz version of) natural selection for 90 years; to expect them to revert to their ‘wild type’, if it ever were to happen or even be possible on a small oceanic island, may take hundreds of years.

It seems perverse that, of all people, it is the animal welfare division of the Scottish Government that would ignore their own guidance and manipulate the phrase to say that two breeds of domesticated sheep (*Ovis aries*):

“... through an accident of history can now be considered distinct kinds and not commonly domesticated in the British Islands.”³

Those charged with enforcing the Act: Police Scotland, the Local Authority and the SSPCA have all deferred to the Scottish Government position so that this interpretation of the law cannot be tested in court. Thus, any embarrassment to the National Trust for Scotland (as owners and managers of the sheep) from being prosecuted for causing unnecessary suffering has been avoided; but a precedent will have been set, with possible consequences both for rare breeds of sheep and for other feral livestock.

England’s Animal Welfare Act 2006 is very similar to Scotland’s Animal Health and Welfare Act. Their definition of ‘protected animal’ is the same, using the phrase “... of a kind commonly domesticated in the British Islands”. And yet in the opinion of the office of the UK’s Chief Veterinary Officer (CVO), Professor Middlemiss:

“...animals protected under the Act include “feral animals... on the basis that they originated from domestic stock.” We are not aware of any limits of time which, when passed, would mean these animals become treated as ‘wild’ rather than ‘feral’ and lose a level of their welfare protection afforded by the Animal Welfare Act.”⁴

Thus, the Soay sheep on the island of Lundy, feral since 1942 (just 7 years later than those on Hirta), are ‘protected animals’ under the Animal Welfare Act 2006. Incidentally, Lundy is owned by the National Trust and the sheep are censused every year and the sward measured, and the population is controlled by humane cull

² [Animal Health and Welfare \(Scotland\) Bill: Stage 1: Environment and Rural Development Committee 23 November 2005](#)

³ Voas, S, Chief Veterinary Officer Scotland: Letter 28 February 2020

⁴ Bagshaw, N: Letter written on behalf of Prof C Middlemiss, Chief Veterinary Officer UK. 4 July 2024

(with the meat sold for human consumption) to avoid overgrazing and consequent starvation.

We realise that animal welfare is a devolved issue, but we would hope that MSPs would aspire to equal (or higher) animal welfare standards than their neighbours, not lower.

Scottish Government has distanced itself from the decision to exclude the St Kilda sheep from AHWA protection, maintaining that it was taken many years ago by the Scottish Executive, and yet no documents appear to exist to support this claim.

The scale of the starvation on St Kilda and the prolonged period that this has been allowed to continue is unprecedented for a domesticated ungulate, certainly in Western Europe and Scottish Government is complicit in allowing the suffering of the sheep to continue. At a recent meeting, the Minister for Agriculture and Connectivity made it very clear that he did not share our concerns and refused to countenance any review of government policy⁵. Yet pertinent questions remain unanswered:

- Where is the corroboration for the CVO(Scotland)'s 'understanding' that Scottish Government's 'position' was taken many years ago?
- Where is the evidence of any consultation with stakeholders?
- Why has there been no proper consideration of the guidance?
- Why does the Scottish Government still maintain that the St Kilda sheep are 'unowned', given the evidence from the St Kilda Bequest?
- Why is the interpretation of 'protected animal' by Scotland's CVO so very different to that of the UK CVO?

Given Scottish Government's intransigence in the face of so many unanswered questions, may we respectfully urge the Petitions Committee to refer this matter to the appropriate rural affairs committee so that MSPs, in consultation with experts in animal welfare law, can review the animal welfare division's interpretation of the legislation.

Petitioner written submission, 7 March 2025

PE2021/N: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

We wish to respectfully draw the Committee's attention to two recent developments of significance:

A: An FOI request to Historic Environment Scotland (HES) has revealed that in March 2024 the Director of the Culture Sector at UNESCO's World Heritage Centre, aware of our animal welfare concerns, wrote to the UK Ambassador in Paris regarding the '**mismanagement**' of the sheep population on St Kilda adversely

⁵ Fairle, J, Minister for Agriculture and Connectivity (Scotland): Meeting with petitioner 19 June 2024

affecting the Outstanding Universal Value (OUV) of the World Heritage property. This is the second time that UNESCO has raised this animal welfare issue regarding the St Kilda sheep, having written to the Department for Culture, Media and Sport (DCMS) in 2019 ([see EIRS 202100253172](#)).

Both letters constitute relatively rare 'Paragraph 174' notifications requesting comment from member states:

“... when the Secretariat receives information that a property inscribed has seriously deteriorated, or that necessary corrective measures have not been taken within the time proposed” ([see Operational Guidelines for the Implementation of the 1972 World Heritage Convention](#)).

UNESCO's 2024 letter⁶ was forwarded via DCMS and Historic England to Historic Environment Scotland (HES), Scottish Natural Heritage (SNH) and National Trust for Scotland (NTS) to collate a response that included a population graph for the Soay sheep on Hirta since World Heritage Site inscription in 1986 to the most recent count. The population in 1986 was 710 sheep, a total more than trebled in the years 2009, 2011 and 2021, when it stood at 2132. Whilst this may be comparing trough with peak in a wildly oscillating population graph (due to rapid population increases followed by winter starvation 'crashes') the fact remains that, when the Soay sheep were included in the OUV at World Heritage Site designation, the population was at a size when there would have been no starvation. If we analyse the data for the underlying trend, averaging out the oscillations, we can see that the average population count has almost doubled between 1986 and 2023 (from c1100 to c2000).

HES, SNH and NTS entirely miss the (animal welfare) point of the 'Paragraph 174' notice, justifying non-management by claiming the average population size is

“...on a slight upward trend, indicating that the population is doing well...”

This goes to the heart of our concern: we argue that this “*doing well*” condemns an increasing number of sheep to dying each year in a *manner* that is unjustifiable and unnecessary, and therefore inhumane. Analysis of the yearly average number of sheep dying of starvation shows an increasing trend from just over 500 adults in 2001 to well over 700 by 2020.

Note that the letter from UNESCO came from their Director of their **Culture** Sector: the sheep are cited in the OUV for the site for their cultural importance, not as wildlife. They a living reminder of the way the St Kildans **kept** their sheep and there is no evidence that this involved winter starvation. It would appear that the current '**mismanagement**' of the sheep by NTS may be jeopardising St Kilda's World Heritage Site status.

B: The [Scottish Information Commissioner's Decision Notice 177/2024: Welfare of sheep on St Kilda has been published](#), following an investigation of all Scottish

⁶ A copy of this letter was provided in response to FOI requests to HES and Nature Scot but have not yet been published.

Government communications relating to the sheep on St Kilda between 2006 and August 2021 (Scottish Government Case Reference: 202100253172).

The Commissioner's Decision Notice offers the following elements relevant to our petition:

1. The Commissioner's instruction to disclose the precise dates of all the withheld documents has now been complied with by Scottish Government and this information allows us to demonstrate to the Committee that, from the time of the passage of the 2006 AHW Act until the 19 November 2019, there is **NO** record of **ANY** government communications pertaining to the St Kilda sheep.

We argue that this makes a mockery of the claim in a 22 November 2019 Government email that:

The issue of whether sheep on the St Kilda archipelago are considered as wild, feral or domesticated animals **has been raised with the Scottish Government several times previously, as you might expect.** [our emphasis]

Contrary to this statement, the Scottish Government clearly has no record of this "issue" being "raised" with them "several times previously".

This unsubstantiated claim was repeated as recently as March 2022; in a letter to Alasdair Allan MSP, Cabinet Secretary Mairi Gougeon MSP, states:

"... that, for the purposes of welfare legislation, the St Kilda sheep should be regarded in the same way as an unmanaged population of wild deer or other wild animals. **This has been the consistent position of the Scottish Government and the previous Scottish Executive for many years.**" [our emphasis]

2. Notwithstanding that the Commissioner considered the balance of the competing public interest lay in maintaining the 'in-built' confidentiality of some communications identified as being subject to legal privilege, paragraph 53 of Decision Notice 177/2024 states:

"The Commissioner finds the Applicant's [our] public interest arguments compelling and he agrees that there is significant public interest in examining whether the Authority's decision-making is based in law. He finds this to be a case where the public interest is finely balanced."

Therefore, in light of the "compelling" "public interest arguments" identified by the Commissioner, we urge the Committee to ask the Government to waive their right to confidentiality and release all their withheld communications for the public interest.

3. Paragraph 39 of Decision Notice 177/2024, highlighted our concern that the release of sheep on Hirta (following capture for research purposes) –

“... would have constituted a breach or offence of the [AHW] 2006 Act or if not, a breach or offence of the Wildlife and Countryside Act 1981.”

As no offence regarding this clear 'Morton's fork' has been reported to the Procurator Fiscal Office, we now suspect that at no point has this 'legal failure' been discussed within Scottish Government prior to 30 August 2021 (for had any legal discussion on this point been recorded, we feel sure that the Commissioner would have viewed it as misfeasance and ordered release of 'legal advice').

We argue that a thorough consideration of all the legal connotations, including ownership, should have been comprehensively assessed by the Scottish Government. Yet evidence suggests that their position regarding the populations of sheep on St Kilda archipelago has not benefited from the "fully informed legal context" the Scottish Government implied to the Commissioner in Paragraph 34 of Decision Notice 177/2024. Therefore, unless the Government provide, to the Committee, evidence of any legal advice requested and/or received; when that was; and whether it involved any third party, we would urge the Committee to have Parliament fully assess all aspects of the predicament that the St Kilda sheep face.