

# Citizen Participation and Public Petitions Committee

6th Meeting, 2021 (Session 6), Wednesday 3  
November 2021

## PE1888: Full Legal Protection for Hedgehogs and Moles

### Note by the Clerk

<b>Petitioner</b>	Joseph Allan
<b>Petition summary</b>	Calling on the Scottish Parliament to urge the Scottish Government to grant full legal protection to hedgehogs and moles.
<b>Webpage</b>	<a href="https://petitions.parliament.scot/petitions/PE1888">https://petitions.parliament.scot/petitions/PE1888</a>

### Introduction

1. This is a new petition that has been under consideration since 27 July 2021.
2. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe A**.
3. While not a formal requirement, petitioners have the option to collect signatures on their petition. On this occasion, the petitioner elected not to collect signatures.
4. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe B** of this paper.
5. The Petitioner's views were sought in relation to the Scottish Government response. The Petitioner elected to correspond by post and as yet a submission has not been received from the petitioner.

## Scottish Government submission

6. The Scottish Government submission confirms its commitment to enhancing biodiversity and to protecting vulnerable species in Scotland. It explains Schedule 5 of the Wildlife and Countryside Act 1981 offers various levels of protection for species but neither hedgehogs nor moles are on the list.
7. The hedgehog is, however, listed on Appendix III of the Bern Convention and Schedule 6 of the 1981 Act which makes it illegal to kill or capture them using specified methods such as self-locking snares and bows.
8. The submission confirms that there are no plans to extend the legal protection for hedgehogs. The Scottish Government feels this course of action would not address the key issues affecting the hedgehog population such as urbanisation and loss of natural habitat. It also notes that while there is a decline in hedgehog numbers, there is no evidence to suggest the threat of extinction.
9. The submission details a number of steps being taken to slow down the decline in hedgehog numbers namely:
  - promotion of green spaces and networks through the Green Infrastructure Strategic Intervention;
  - Scottish Planning Policy highlights that new developments should seek benefits for biodiversity where possible;
  - the restoration and avoidance of further fragmentation of habitats;
  - Planning authorities and public bodies have a duty to reflect in their development plans how they will further conservation of biodiversity.
10. The Scottish Government submission also queries why the petitioner has chosen to include moles in the petition.
11. At present, moles do not have specific legal protection in Scotland. They are protected from unnecessary harm by the Wild Mammals (Protection) Act 1996. This makes it an offence to harm a wild mammal with intent to inflict unnecessary suffering such as kicking or beating. The Scottish Government submission explains that it does not hold any information to suggest mole numbers are declining and so asks the petitioner to explain the issues he wishes them to address.

12. The submission concludes by giving an undertaking to consider the recommendations made by the Joint Nature Conservation Committee (JNCC) in its seventh Quinquennial Review of the animals and plants listed under schedules 5 and 8 of the Wildlife and Countryside Act 1981. The JNCC are due to present their findings to the UK Government and the devolved administrations in early 2022.

## Action

13. The Committee is invited to consider what action it wishes to take on this petition.

### **Clerk to the Committee**

# PE1888: FULL LEGAL PROTECTION FOR HEDGEHOGS AND MOLES

## Petitioner

Joseph Allan

## Date Lodged

27 July 2021

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to grant full legal protection to hedgehogs and moles.

## Previous action

I have written to my local MSP, Collette Stevenson requesting that she contact the Environment Secretary on my behalf. She did not grant that request.

## Background information

Hedgehogs have some protection in law but more is required. Numbers have decreased throughout the United Kingdom in recent years and extinction is not impossible. Moles have no protection in law whatsoever and are now at significant risk from construction of housing and other premises, and wind turbines.

**SPICe**

**The Information Centre**  
An t-Ionad Fiosrachaidh

**Briefing for the Citizen Participation and Public Petitions  
Committee on petition [PE1888](#): Full legal protection for  
hedgehogs and moles, lodged by Joseph Allan**

**Background**

Hedgehogs occur across most of mainland Scotland and on a few islands such as Skye and Mull. They were introduced to the Western Isles in the 1970s. Hedgehogs live in a range of rural and urban habitats, including woodland, farmland, parks and gardens. Hedgehogs are natural predators of the eggs of ground-nesting birds, with the [non-native hedgehog population linked with the decline of wading birds in Uist](#).

Moles are also found across most of mainland Scotland and on a few islands. Moles live in a range of environments including woodland and agricultural land.

***Hedgehog and mole populations and their decline***

In 1995, [the total UK hedgehog population was estimated at 1.55 million](#) (of which 310,000 were in Scotland). [A study published in 2018 estimates](#) the UK hedgehog population in the region of 600,000 – 3.2 million and on average suggests a decline from the 1995 estimate of 1.55 million. Both the 1995 and 2018 estimates represent a significant decline from a 1950s UK estimate of 36 million (although it is acknowledged that this was based on limited data and probably an overestimate). Specific figures for the decline in hedgehogs in Scotland do not exist, however [there is evidence that UK-wide hedgehogs are most abundant in Scotland](#), along with the North and East of England. This study estimated some of [the highest UK hedgehog population densities across Perth and Kinross and Stirling](#).

In 1995, [there were an estimated 31 million moles in the UK](#). [A study in 2018 placed the UK mole population between 3 – 61 million](#), which did not represent a statistically significant difference from the 1995 value. There are currently no estimates for the Scottish population of moles.

***Drivers of hedgehog decline***

There are three key reasons thought to contribute to hedgehog decline across the UK: [agriculture intensification, road casualties and predation](#). The intensification of agriculture results in the loss of hedgerows and permanent grasslands, increased field sizes and the use of pesticides. This reduces the number of nesting sites, protective areas, and prey available to hedgehogs. Road casualties have been suggested to contribute to the decline in the

hedgehog population, [accounting for approximately 100,000 hedgehog deaths annually across Great Britain. The effect of badger populations \(predators of hedgehogs\) on hedgehog decline remains an active area of research.](#)

### **Conservation status**

Hedgehogs are on the [Scottish Biodiversity List](#): which identifies habitats and species in Scotland in most need of conservation action. Hedgehogs are listed as 'Watching Brief Only' meaning that there is considered to be low concern for the conservation of the species and they only require monitoring for now. Moles are not listed on the Scottish Biodiversity List. Several habitats known to be of importance to hedgehogs and moles (e.g. hedgerows, arable field margins, sand dune systems) are listed on the Scottish Biodiversity List. Woodlands and sand dune systems which are important habitats for moles, are listed as 'Conservation Action Needed' and 'Avoid Negative Impacts'.

Current legal protection for hedgehogs is based on general animal welfare and wildlife offences relating to unnecessary or cruel harm, rather than targeting drivers of hedgehog decline. There are also Scottish Government policies in place (for instance, [Scottish Planning Policy](#)) which aim to protect wildlife interests during planning and developments.

There are different levels of protection set out for species in the [Wildlife and Countryside Act 1981](#). Hedgehogs in the UK are currently protected in Scotland under Schedule 6 of the Act, making it illegal to kill or capture them using certain methods (e.g. self-locking snares, and bows). There [have been previous calls in the UK for hedgehogs to be listed as a Schedule 5 species](#) under the 1981 Act, which affords additional protections.

Moles do not have specific legal protection in Scotland. They are however protected from unnecessary harm by the [Wild Mammals \(Protection\) Act 1996](#). This makes it an offence to harm a wild mammal with intent to inflict unnecessary suffering (e.g. kicking or beating).

### **Scottish Government Action**

The Scottish Government is not currently undertaking any of its own action to change the legal protection of hedgehogs or moles.

However, [Nature Scot](#) (the public body responsible for Scotland's Natural Heritage) is currently working jointly with other devolved nature conservation bodies through the UK Joint Nature Conservation Committee (JNCC) in the [Seventh Quinquennial Review of Species](#). The review is undertaken every five years and is a collaborative process which identifies persecution of, or reckless damage to, a species at risk, and the benefits gained from subsequent listing under Schedule 5 and 8 of the [Wildlife and Countryside Act 1981](#). Schedule 5 lists animals (other than birds) which are specially protected. The seventh review will undergo engagement and consultation with stakeholders between October – December 2021 and the review is expected to be signed off Chief Scientists and the JNCC after external peer review by February 2022.

The Scottish Government is expected to publish a number of strategies which are pertinent to protecting Scottish biodiversity as whole:

**Biodiversity strategy:** The Scottish Government announced in [its Scottish biodiversity strategy post-2020: statement of intent](#) its intention to publish a new Scottish Biodiversity Strategy no later than 12 months after CoP15 (an international biodiversity conference expected to take place in 2022).

[National Planning Framework \(NPF\):](#) Scotland's long-term plan for Scotland that sets out where development and infrastructure is needed to support sustainable and inclusive growth. During its consultation on the forthcoming NPF4, which incorporates a review of Scottish Planning Policy, the Scottish Government received responses from organisations [as well as members of the public that had an interest in protecting wildlife](#).

### **Scottish Parliament Action**

There are currently no proposed bills designed to increase protection of hedgehogs or moles.

The [Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020](#) increased the maximum penalty for the most serious animal welfare and wildlife crimes to five years imprisonment and unlimited fines.

In the last 18 months, the Scottish Government has been asked twice about its position on the legal protection of hedgehogs, in both instances stating that it 'has no plans to change the legal protection for hedgehogs or their breeding sites':

On 10<sup>th</sup> December 2020, the Scottish Government was asked what the Scottish Government's position is on granting protected status to (a) hedgehogs and (b) hedgehog breeding sites from property developers ([Question ref. S5W-33972](#)):

"As set out in the [response to S5W-27518 answered on 28 February 2020](#), hedgehogs are listed on schedule 6 of the Wildlife and Countryside Act (1981), which makes it illegal to kill or capture them using specified methods.

One of the principles in Scottish Planning Policy is that the planning system should seek benefits for biodiversity from new development where possible, including the restoration of degraded habitats and the avoidance of further fragmentation or isolation of habitats. Scottish public bodies, including planning authorities, have a duty under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity. This duty must be reflected in development plans and development management decisions. While there is some evidence of a decline in hedgehog numbers, the available information is not sufficient to suggest that the species is in danger of extinction in

Scotland. Steps being taken to halt the decline of hedgehogs in our towns and cities include the promotion of greenspace and green networks, for example through the Green Infrastructure Strategic Intervention managed by NatureScot. **The Scottish Government has no plans to change the legal protection for hedgehogs or their breeding sites.**” (emphasis added)

On 19 February 2020, the Scottish Government was asked about what action it is taking to protect endangered native hedgehog populations from new housing developments ([Question ref. S5W-27518](#)). On 28<sup>th</sup> February, Rosanna Cunningham answered:

“Hedgehogs are listed on schedule 6 of the Wildlife and Countryside Act (1981), which makes it illegal to kill or capture them with certain methods. One of the principles in Scottish Planning Policy is that the planning system should seek benefits for biodiversity from new development where possible, including the restoration of degraded habitats and the avoidance of further fragmentation or isolation of habitats. Planning authorities, and all public bodies, have a duty under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity. This duty must be reflected in development plans and development management decisions. While there is some evidence of a decline in hedgehog numbers, the available information is not sufficient to suggest that the species is in danger of extinction in Scotland. Steps being taken to halt the decline of hedgehogs in our towns and cities include the promotion of green space and green networks, for example through the Green Infrastructure Strategic Intervention managed by Scottish Natural Heritage.”

## **UK Parliament and Government action**

On 5<sup>th</sup> July 2021, [the UK Parliament debated whether to move hedgehogs to schedule 5 of the Wildlife & Countryside Act 1981 to allow them greater protection](#). The UK government responded that:

“There are currently no plans to give hedgehogs further legal protection. An evidence-based review of Schedule 5 of the Act is in progress and we will consider any recommendations arising from this.”

[In the full response](#) the UK Government stated:

“Whilst the reasons for the decline in numbers of this native species are complex, the Government has not previously moved to protect this species under Schedule 5 as it is not clear that such protection would be of benefit to the species, in so far that:

- we have no evidence that intentionally killing, taking or injuring hedgehogs is currently an issue; and



- it would not address the main threat of habitat loss.

The Joint Nature Conservation Committee (JNCC) has, however, recently commenced the seventh Quinquennial Review of Schedules 5 and 8 of the Wildlife and Countryside Act 1981. The JNCC will make evidence-based recommendations to the Secretary of State as to which species warrant additional legal protections to secure their future conservation. The Government will therefore consider any recommendations to add species to Schedule 5 of the Act once these recommendations have been submitted.”

Further [details about the seventh quinquennial review can be found on the JNCC website](#). The JNCC have also [produced an information pack about the review](#).

**Roxana Shafiee**  
**Researcher**  
[18/08/2021]

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# Scottish Government submission of 18 October 2021

## PE1888/A – Full legal protection for hedgehogs and moles

I refer to your email of 29 July 2021 regarding Petition PE1888 – Full Legal Protection for Hedgehogs and Moles, lodged by Joseph Allan, seeking the Scottish Government's views on the action called for in the petition, namely calling on the Scottish Parliament to urge the Scottish Government to grant full legal protection to hedgehogs and moles. I apologise for the delay in responding.

The Scottish Government is committed to enhancing biodiversity and to protecting vulnerable species in Scotland.

Neither hedgehog nor mole are on Schedule 5 of the Wildlife and Countryside Act 1981. However, the hedgehog is listed on Appendix III of the Bern Convention and Schedule 6 of the 1981 Act which makes it illegal to kill or capture them using specified methods.

There are currently no plans to extend the legal protection for hedgehogs, or to their breeding sites, and as such measures are not considered likely to address the issues thought to be affecting the Scottish hedgehog population. These include agricultural intensification in rural areas and loss of suitable habitat in urban/suburban areas, where many housing developments lack easily permeable fences between gardens and the gardens themselves often lack sufficient cover and overgrown areas for use by hedgehogs.

While there is some evidence of a decline in hedgehog numbers, the available information is not sufficient to suggest that the species is in danger of extinction in Scotland. Steps being taken to halt the decline of hedgehogs in our towns and cities include the promotion of green space and green networks, for example through the Green Infrastructure Strategic Intervention managed by NatureScot.

One of the principles in Scottish Planning Policy is that the planning system should seek benefits for biodiversity from new development where possible, including the restoration of degraded habitats and the avoidance of further fragmentation or isolation of habitats.

Planning authorities, and all public bodies, have a duty under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity. This duty must be reflected in development plans and development

management decisions.

We are not sure why the petitioner has requested full protection for moles in Scotland. The Scottish Government does not have any definitive data which shows that mole populations are declining. It would be helpful to have the views of the petitioner, Mr Allan, on why he thinks moles should be protected, as we would be interested to hear more about the issues he is looking for the Scottish Government to address and what his evidence base is.

As you may be aware, every five years GB's Statutory Nature Conservation Organisations (NatureScot, Natural England and Natural Resources Wales) working through the Joint Nature Conservation Committee (JNCC), review Schedules 5 and 8 of the Wildlife & Countryside Act 1981 (as amended) through a legislative process known as the Quinquennial Review (QQR). This process is required under the 1981 Act aiming to help ensure the list of protected species is up to date.

The JNCC are currently considering the responses to their consultation. Following the conclusion of the seventh Quinquennial Review the JNCC will submit recommendations for potential changes to the animals and plants listed under schedules 5 and 8 of the Wildlife and Countryside Act 1981, to the UK Government and the devolved administrations.

The Scottish Government will carefully consider any recommendations made by the JNCC and will also undertake a full public consultation before deciding whether to make any changes to the animals listed under the Wildlife and Countryside Act.

We would have to be satisfied that in doing so there would be no detrimental impact to either the individual species or to the wider biodiversity and environmental landscape in Scotland.