

# Net Zero, Energy and Transport Committee 9th Meeting, 2022 (session 6), Tuesday, 15 March 2022

## Consideration of petitions referred to the Committee

### Note by the Clerk

#### Public Petitions

1. Petitions are a way to ask the Parliament to do something. [Find out more about the petition process](#). The Scottish Parliament's Standing Orders (rules 15.4 to 15.8) set out the procedures to follow from lodging of a petition to closing and notifying a petitioner. [Read the Standing Orders relating to petitions](#).
2. Under Standing Orders rules 15.4 to 15.8, the Committee may take such action as it considers appropriate in relation to any petition. This may include—
  - (a) referring the petition to the Scottish Ministers, any other committee of the Parliament or any other person or body for them to take such action as they consider appropriate;
  - (b) reporting to the Parliamentary Bureau or to the Parliament;
  - (c) taking any other action which the Committee considers appropriate; or
  - (d) closing the petition. If a petition is closed, the petitioner must be notified of the reasons for this. It is good practice for the Committee to agree in its public discussion of any petition it intends to close, the reason(s) why it is being closed.
3. There are three petitions currently before the NZET Committee, and more information on each is set out below. The Committee is invited to consider its approach to each petition.

## PE1750: Independent Monitoring of Satellite tags fitted to raptors

- Purpose: Calling on the Scottish Parliament to urge the Scottish Government to introduce independent monitoring of satellite tags fitted to raptor species, to assist the police and courts in potential wildlife crime cases and to provide data transparency.
- Petitioner: Alex Hogg, on behalf of Scottish Gamekeepers Association
- Date published: 14 August 2019
- Webpage: [The full petition PE1750 can be viewed here.](#)

### Prior consideration of the petition

4. On 10 October 2019, the Session 5 Public Petitions Committee considered the petition. [A paper by the Scottish Parliament Information Centre \(SPICe\) was published](#) ahead of the consideration by the Public Petitions Committee.
5. The Public Petitions Committee agreed to refer the petition to the Session 5 Environment, Climate Change and Land Reform (ECCLR) Committee suggesting it be taken into account as part of its ongoing work on wildlife crime. [Read the Official Report of the meeting on 10 October 2019.](#)
6. The ECCLR Committee received five submissions during the time it was considering the petition. [The submissions can be found on ECCLR's legacy webpages.](#)
7. On 23 February 2021, the ECCLR Committee agreed to keep the petition open and include it in its legacy report to its successor committee. [Read the Official Report of the meeting on 23 February 2021.](#) It agreed to do so because it said there remained doubts as to the robustness of the data gathered by the tags.
8. [At its meeting on 23 June 2021,](#) the Citizen Participation and Public Petitions Committee agreed to refer the petition to the Net Zero, Energy and Transport Committee under Rule 15.6.2 of Standing Orders, to ensure that consideration can continue.
9. This is the first time this petition is being considered by this Committee.

## Updates on the petition

10. Satellite-tagging as a mechanism of detecting wildlife crime was considered by the Independent Grouse Moor Review Group, chaired by Alan Werritty.
11. The [report published in November 2019](#) recommended “more thorough regulation of the fitting and use of satellite tags coupled with more expeditious sharing of information”. It also recommended that Scottish Natural Heritage (now NatureScot) should ensure that the licences issued for satellite-tracking of tagged raptors include a condition that commits the data holder (a) to be listed on a register of data holders; and (b) to cooperate expeditiously with Police Scotland and SNH in sharing data regarding tagged birds found dead or missing in suspicious circumstances. (The report noted that SNH could do this directly or through its licensing agent; the British Trust for Ornithology.)
12. The Werritty report also recommended that, on receipt of relevant data, Police Scotland should expeditiously determine whether it warrants referral to the Crown Office and Procurator Fiscal Service.
13. The Scottish Government said in its [response](#) to the review in November 2020 that NatureScot has agreed new data-sharing protocols for all permit holders who wish to employ satellite-based tracking of tagged raptors birds under licence with BTO, and that these protocols would be in place for the start of the 2021 tagging season, implementing the Werritty recommendations.
14. On 9 March 2022, the petitioner sent an update on his original petition to the Net Zero, Energy and Transport Committee. This is available in **Annexe A**.

## Decision on the petition

15. The Committee is invited to consider the petition and may wish to:
  - Keep the petition open and write to key stakeholders such as NatureScot and Police Scotland to gather views on the implementation of new data-sharing protocols in the first year. The predecessor Committee kept the petition open on the basis there were still concerns about the robustness of the data. This Committee, in considering this issue for the first time, may wish to consider whether action taken by the Scottish Government following the Werritty report has assuaged these concerns. Once responses are received, the Committee could then consider next steps, including whether to keep the petition open.

- Consider the issues raised by the petition in future work on wildlife crime in Scotland, including consideration of the Scottish Government wildlife crime annual reports. The 2021 report is expected shortly. If considering the issues as part of other work, there is the option to keep the petition open until that work is done or close the petition on the ground that the issues it raises are being taken forward through scrutiny.

## Petition PE1815: Translocate protected beavers to reduce licensed killing

- Purpose: Calling on the Scottish Parliament to urge the Scottish Government to initiate a programme to translocate protected beavers to suitable habitat outside existing beaver range, to minimise the need to kill animals adversely impacting arable farmland.
- Petitioner: Steve Micklewright on behalf of Trees for Life
- Date published: 27 August 2020
- Webpage: [The full petition PE1815 can be viewed here.](#)

### Prior consideration of the petition

16. In Session 5, the petition was referred to the Environment, Climate Change and Land Reform Committee. There was ongoing legal action directly relevant to the petition, so the Committee took no substantive action on it. At the end of the session, it agreed to refer the petition back to the Public Petitions Committee, with a view to it being referred to its successor committee in Session 6.

17. [Read the Official report of the Committee meeting on 23 February 2021.](#)

18. The petition calls for action by NatureScot. This is one of the public bodies listed as being within the remit of the Cabinet Secretary for Net Zero, Energy and Transport. It was accordingly referred to this Committee.

### Background information

19. Beavers received protected species status on 1st May 2019. In the two following years, 202 beavers were killed under license to prevent damage to farmland, whilst 47 were translocated, nearly all to flood mitigation and biodiversity enhancement schemes in England. Trees for Life consider that killing should only be used as last resort where translocation is not possible. They challenged NatureScot in court over its approach to licensing. The judgement was rendered on 21 October 2021. [The full judgement is available here.](#)

20. NatureScot lost on one of five issues raised in the judicial review by Trees for Life. The court ruled that NatureScot ought to have set out the reasons why it was issuing management licences. [Trees for Life's statement on the court ruling is available here.](#) [NatureScot's statement on the ruling is available here.](#)

21. On 24 November 2021, the Scottish Government announced new measures to support the expansion of the beaver population and promote translocation: The Scottish Government said it would work with NatureScot and other partners to look for future release sites in new areas of Scotland, to help increase beaver numbers. [The announcement can be read here.](#)

22. Trees for Life previously told the Committee this announcement was “a hugely welcome development”. It said it would welcome the following:

- “A streamlined application process for translocation licensing which sets clear guidance for applicants and consultees on open, constructive stakeholder engagement in the process;
- Funding will be required to support the translocation process from consultation through to delivery. Given beavers' importance as a keystone species for restoring biodiversity, we believe that this would be highly relevant to the aims of the new Nature Restoration Fund; and
- Farmers need meaningful financial support for adaptation and mitigation when beavers have negative impacts on farmland and this should be built into the coming changes to agri-environment support funding.”

23. In response to the Scottish Government announcement, NatureScot told the Committee they “will work with Scottish Government to take this work forward”.

## Consideration by this Committee

24. This Committee considered the petition at [its meeting on 30 November 2021](#). [Read the official report for the meeting on 30 November 2021.](#)

25. The Committee noted the recent developments in relation to the petition, as outlined above. Following the meeting, the Committee decided to request more information from NatureScot to inform its consideration. The Committee [wrote to NatureScot on 20 December 2021](#), posing questions about matters including:

- Whether and how translocation could be funded;
- NatureScot’s review of beaver management - more information on this;
- Implications of the court case - for instance, does it in effect require NatureScot to prioritise translocation over lethal management going forward?

26. The Committee received [a response from NatureScot on 21 January 2022](#).

27. The Committee also requested broadly similar [information from the Minister for Green Skills, Circular Economy and Biodiversity on 20 December 2021](#) and received a [response from the Minister on 18 January 2022](#). In it the Minister stated:

“The main issue under consideration was whether NatureScot are required to consider whether trapping and translocation was a satisfactory solution to prevent beavers causing serious damage before agreeing to issue a licence permitting lethal control, given that both actions would require a derogation from the provisions of the Habitats Regulations. The court found that NatureScot are not required to do so – in other words there is no hierarchy of derogations which require to be considered before a licence for lethal control is granted. [...]

“However, NatureScot is working with land managers to actively promote the use of trapping for translocation rather than lethal control. Further to this and as stated in response to the first question, NatureScot is looking to help out with funding where necessary to make translocation a more viable solution for land managers. NatureScot is clear that translocation is the preferred option where this is feasible and this is highlighted in the Code of Practice issued with every licence that permits the use of lethal control”

## Updates on the petition

28. On 9 March 2022, the petitioner sent an update to the Committee: see **Annexe B**. It discusses the current situation with licenses issued following the court case. The petitioners confirm that they are not considering any further legal action on this issue because of the “potential for positive progress through NatureScot’s current development of a National Beaver Strategy”. However, they add that “we are very concerned about both the legal rationale NatureScot are applying to the Judicial Review verdict and the fact that beavers appear to be treated with less care than other protected species.”

## Decision on the petition

29. The Committee is invited to consider the petition following receipt of the responses from NatureScot and the Scottish Government and may wish to:

- Write to NatureScot and/ or the Scottish Government seeking more information or clarification on any issue raised in their letters. The Committee could also ask NatureScot to respond to the petitioner’s claim that “NatureScot continue to rely on their argument that “once they [NatureScot] have decided to issue a licence, the law does not require them to licence the least harmful activity, such as translocation before lethal control. As far as we know, beavers are the only protected species they treat in this way.”
- Write to the Rural Affairs, Islands and Natural Environment Committee to ask whether beaver management (ecosystem benefits vs damage to agricultural land) is something that could be addressed through their future consideration of new rural support schemes which they will consider in due course. Alternatively or additionally, the Committee could write in similar terms to the Cabinet Secretary for Rural Affairs and Islands;
- If the Committee were minded to consider work on environmental fiscal reform, they could undertake specifically to consider payments for ecosystem

services. (This, in itself, might not be a reason for keeping the petition open, as any such work is likely to be long-term and go beyond the terms of the petition.);

- Close the petition on the basis of developments since the court case, as outlined in the January letters from NatureScot and the Scottish Government.



## Petition PE1872: Improve the reliability of island ferry services

- Purpose: Calling on the Scottish Parliament to urge the Scottish Government to urgently ensure that all Islanders have access to reliable ferry services.
- Petitioner: Liz McNicol
- Date published: 24 May 2021
- Webpage: [The full petition PE1872 can be viewed here.](#)

### Prior Consideration of the petition

30. On 22 September 2021, the Citizen Participation and Public Petitions committee agreed to refer the petition under Rule 15.6.2 of Standing Orders to the Net Zero, Energy and Transport Committee.
31. [A paper by the Scottish Parliament Information Centre \(SPICe\) was published on 31 August 2021](#) ahead of the consideration by the Citizen Participation and Public Petitions Committee.

### Consideration by the Net Zero, Energy and Transport Committee

32. The Net Zero, Energy and Transport Committee considered the petition at [its meeting on 30 November 2022](#). [Read the official report for the meeting on 30 November 2022](#).
33. Following the meeting, the Net Zero, Energy and Transport Committee decided to request more information from Caledonian MacBrayne to inform its consideration. The Committee [wrote to Duncan Mackison, Chief Executive Officer on 16 December 2021](#) and received [a response from Mr Mackison on 26 January 2022](#).
34. The Committee also [requested information from the Minister for Transport on 16 December 2021](#) and received a [response from the Minister on 21 January 2022](#).

### Background information

35. The petitioner highlights how the unreliability of ferries has resulted in losses to island economies relying on tourism and travel restrictions for island residents dependent on regular ferries.
36. The petitioner gives the example of the island they live on, Uist. The island relies on visits by holidaymakers for employment and income and received no revenue from tourism for 18 months during the pandemic. The petitioner says that in 2021 islanders are still being impacted by regular cancellation of ferry bookings by

Calmac, putting tourists off planning visits to the island and preventing residents from travelling to the mainland.

37. There is mention of the importance of ferries to island communities in the [National Islands Plan](#), and [the subsequent National Islands Plan survey](#). During the consultation on the draft National Islands Plan in 2019, the most common issues people raised related to transport.
38. The SPICe paper linked to in paragraph 31 provides background information on Scotland's ferry fleet, relevant management structures and ferry procurement. It also discusses the then Rural Economy and Connectivity (REC) Committee's 2020 report to the Parliament on the construction and procurement of ferry vessels in Scotland. It concluded that there had been "a catastrophic failure" in the management of the procurement of two recent vessels (801 and 802), leading the Committee to conclude that "processes and structures are no longer fit for purpose." It asked the Scottish Government to commission an independent external review of the processes for public procurement of ferries to ensure appropriate lessons are learned for the future and to keep the Committee updated of its progress and conclusions.<sup>1</sup>
39. [Audit Scotland's report on the constructions of vessels 801 and 802 is available here](#). Audit Scotland have indicated that [another report will be published later this month](#). The report will include a review of the initial arrangements, consider the learning that has been applied and make recommendations to improve the management of similar projects. The Public Audit Committee will have first opportunity to consider the report.
40. As the successor Committee to the REC Committee on transport issues, the NZET Committee receives periodic updates from the Scottish Government and from Fergusons Marine Ltd on issues related to ferry procurement and ferry services generally. These can be found on the Committee's correspondence webpage. The most recent update from Fergusons Marine [can be found here](#).

## Updates on the petition

41. The Committee has received correspondence referring directly to the petition from [Mr Trythall, a resident of Tiree](#), and from [Mr Reade, Chair of the Mull and Iona Ferry Committee](#).

## Decision on the petition

42. The Committee is invited to consider the petition following receipt of the responses from Caledonian MacBrayne and the Scottish Government. Options include:

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<sup>1</sup> Pages 1 and 2 of report

- Taking evidence from the three organisations directly responsible for specifying, funding and operating Clyde and Hebrides ferry services: Transport Scotland, Caledonian Maritime Assets Ltd and CalMac Ferries, to establish what short-term plans they have in place to improve ferry service reliability and resilience. Unless there were any unexpected delay to publication, this would take place after publication of the Audit Scotland report.
- There would be the option to follow up with evidence from island resident and ferry user groups. The results of these sessions could inform possible future work on the provision of ferry services in Scotland.
- If the Committee were to agree to undertake significant scrutiny work on ferries (including the impact on island communities), now or at a future meeting, there would be the option to close the petition on the ground that issues it raises are included in that scrutiny work.

## ANNEXE A

### Petitioner update - Petition PE1750, 08 March 2022

Dear Committee members,

Here is a short update in support of petition PE1750.

Where raptors are fitted with satellite tags as part of official scientific projects, the transparency offered when, for example, a tag loses signal is refreshing. This, in turn, builds trust and conservation is the winner.

Here is an update from Natural England on their tagging work as part of the Hen Harrier Brood Management project:  
<https://naturalengland.blog.gov.uk/2021/12/15/hen-harrier-monitoring-tagging-and-satellite-tracking-latest-data-published/>

This is an example where independent monitoring is advantageous for a species, for building trust and for people, too.

There is no such obligation for charities or campaign organisations, who fit tags, to offer the same level of transparency and the outcome can often be that interpretations are given to the media which cannot be proven to be accurate or otherwise. This 'weaponisation' of tags has severely damaged trust and has, in some cases, tarnished the reputation of key sectors and influenced public opinion/policy.

Persecution exists, of course. We do not want it to continue. However, tag failure for other reasons are fairly common, as independent projects have shown, and there is a need for independence when it comes to assessing what has happened to a bird. Raptor persecution is a wildlife crime priority in Scotland, today, and transparency should be part of the approach to the problem.

Alex Hogg, MBE  
Chairman. The Scottish Gamekeepers Association.

## ANNEXE B

### Petitioner Update - Petition PE1815, 09 March 2022

Consideration of petition PE1815: translocate protected beavers to reduce licensed killing

When the committee last considered this petition, we had submitted an Environmental Information Request to NatureScot to understand how they are accommodating the October 2021 verdict of the Judicial Review in their ongoing licensing of beaver management. Our lawyers have just finished considering the large amount of material provided and this note provides a short summary of their early thoughts.

- Over 30 licences have been issued since the Judicial Review quashed all existing licences last October.
- Not all these new licences permit lethal control, some are only for other beaver management, but a significant number do license lethal control.
- NatureScot has sought to comply with the Judicial Review verdict by issuing a Statement of Reasons with each licence.
- The same template Statement of Reasons is used for each licence. The only text specific to each licence application is a description of the evidence of damage at each property.
- In many cases, this text has simply been cut and paste directly from the applicants' own description of the situation. It is not clear whether NatureScot has visited the locations or assessed each situation themselves.
- NatureScot continue to rely on their argument that, once they have decided to issue a licence, the law does not require them to licence the least harmful activity, such as translocation before lethal control. As far as we know, beavers are the only protected species they treat in this way.
- Given the potential for positive progress through NatureScot's current development of a National Beaver Strategy, Trees for Life does not intend to take further legal action based on this new information.
- However, we are very concerned about both the legal rationale NatureScot are applying to the Judicial Review verdict and the fact that beavers appear to be treated with less care than other protected species.