

Citizen Participation and Public Petitions Committee

19th Meeting, 2022 (Session 6), Wednesday
21 December 2022

PE1859: Retain falconers' rights to practice upland falconry in Scotland

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| Lodged on | 24 March 2021 |
| Petitioner | Barry Blyther |
| Petition summary | Calling on the Scottish Parliament to urge the Scottish Government to amend the Animals and Wildlife Act 2020 to allow mountain hares to be hunted for the purposes of falconry. |
| Webpage | https://petitions.parliament.scot/petitions/PE1859 |

Introduction

1. The Committee last considered this petition at its meeting on 7 December 2022. At that meeting the Committee agreed to consider the evidence it heard at a future meeting.
2. At its meeting on 21 December the Committee will take evidence from the Minister for Environment and Land Reform and Stan Whitaker, Wildlife Management Manager, NatureScot.
3. 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**.
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's initial position on this petition can be found on the [petition's webpage](#).

Action

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

Clerk to the Committee

Annexe A

PE1859: Retain falconers' rights to practice upland falconry in Scotland

Petitioner

Barry Blyther

Date lodged

24 March 2021

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to amend the Animals and Wildlife Act 2020 to allow mountain hares to be hunted for the purposes of falconry.

Previous action

I have written to MSPs Murdo Fraser, Andy Wightman and Alison Johnstone.

Background information

The heritage art of falconry has been practised around the world for at least 4000 years and is recognised by UNESCO as an intangible cultural heritage of humanity. The wider concept of falconry has many disciplines within its scope, and these are in many ways controlled by both the species of bird of prey being flown, and the land that you have permission to fly it over.

For example, the spectacular Golden Eagle, one of only two species of eagle native to Scotland, needs extraordinarily vast, wide open spaces to be allowed to express itself and its flying style in a natural way.

To be conducive to the very high soaring flight in strong winds and among its natural home of the mountains, vast mountainous regions are where this bird can be flown at its very best. Bouncing backwards and forwards in field is really not what this species has evolved for millions of years to do.

Eagles are apex predators, and the result of flying them in these areas is that they will hunt their natural quarry. In the Scottish mountains, that quarry base is the mountain hare (*Lepus Timidus*), that has evolved side by side with eagles for millions of years. The predator will be successful in its attempt at hunting hares just frequently enough to survive, and the hare almost always evades the predator, assuring its survival and the proliferation of the species.

People and falconers travel to Scotland from around the country and the world to witness this age-old wild dynamic play out in front of them.

A captive bred Golden Eagle, enjoying the safety net of Veterinary care when illness or injury arises (that would likely lead to the death of its wild counterpart) can live to 50 years old. Many, if not most, in this country are bred, kept and trained with the ultimate aim to be flown over those high mountains each winter, and perhaps catch a mountain hare. In doing so, it fully expresses its nature and purpose and helps to keep the eagle stimulated, balanced, and ensures that it is a better contributor to captive breeding projects – It fully understands that it is an eagle and not an ornament.

New legislation comes in to force on March the 1st (with no mechanism for licensing), that makes it illegal for these birds with their falconers to continue to exhibit their natural instincts and behaviour within the reasonable framework of the law and principles of sustainable hunting as they have through time immemorial. The sustainable use of wild species is a key and proven strategy upheld by the International Union for the Conservation of Nature (IUCN) in order to promote the preservation and restoration of endangered species.

The purpose of the legislation was to prevent mass culls of tens of thousands of hares in Scotland each year on organised shoots. This petition is NOT aimed at this, rather its aim is to allow the continued practice of falconry in Scotland and her mountainous places, without risk of prosecution.

It seems unfair and unjustifiable that a piece of legislation brought into law to address a totally different issue, has the side effect of making the sustainable and legitimate branch of falconry illegal.

Unaddressed, this legislation will condemn hundreds upon hundreds of trained birds of prey to enclosed aviaries for the rest of their long lives, and therefore, I believe, presents an intolerable animal welfare issue of itself which the government does not appear to have anticipated.

It will end the dreams of hundreds of falconers and rob us of our heritage and right to properly fly our birds.

Business too will suffer. Substantial fees are paid by falconers to rent ranges to fly over, cottages to stay in, restaurants to eat in etc.

Film and production companies come to Scotland to film this wild behaviour (using trained birds of prey so wild eagles are not disturbed) for movies, documentaries and science.

The filming and broadcast of natural history documentaries showcasing the natural hunting behaviour of eagles and other birds of prey in Scotland is key to helping both a whole generation of youths and the public as a whole to value, cherish and understand nature. Additionally, such filming of eagles and other birds of prey hunting in their native habitat portrays some of Scotland's most unique and beautiful facets and thus contributes to the promotion of the truly unique ecological heritage of Scotland to a domestic and international audience. These film makers will now have to go elsewhere and thus promote other destinations.

Falconry based companies eke out an income during their lean winters by taking guests out to see this amazing spectacle. Those companies' futures are jeopardised by the sudden and unjustified loss of income and trade.

Finally, licences are to be made available to land owners to shoot the hares in a bid to protect habitat, crops and forestry. Currently, many estates do not shoot hares to ensure there is a realistic population to attract falconers trade to their doors. If falconry is to be lost as a legitimate pastime in the mountains, I believe, the hares will almost certainly be shot on many estates in far greater numbers than would be accounted for in falconry.

This petition requests an amendment to the legislation, exempting the taking of mountain hares in the practice of Falconry.

Annexe B

Extract from Official Report of last consideration of PE1859 on 7th December 2022

The Convener: Our third evidence session is on PE1859, on retaining falconers' rights to practise upland falconry in Scotland, which was lodged by Barry Blyther.

The petition calls on the Scottish Parliament to urge the Scottish Government to amend the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 to allow mountain hares to be hunted for the purposes of falconry. We are joined by the petitioner, Barry Blyther— good morning, and welcome to our deliberations. We have managed to consider the petition from time to time along the way, and it has provoked some quite interesting discussion among committee members. We have a number of questions that we would like to put to you, but, before we get to that, I understand that you would like to say a few words to us and I invite you so to do.

Barry Blyther: I understand that Dr Fox has not been able to get an internet connection so that he can create a remote link into the committee meeting, which is unfortunate. However, I believe that you have an outline of the opening statement that he was going to deliver. I do not have a copy of that in front of me, but I am sure that the committee will have considered it.

I will make a few extra points before the question and answer session. I have prepared a short opening statement. If it is okay, I will read that out just now.

The Convener: Please do.

Barry Blyther: My name is Barry Blyther and I am the petitioner for the matter at hand. I thank the convener and committee members for inviting me here. I also thank everyone from the public and the wider falconry community who have contributed to the petition so far.

Falconry has been my passion all my life. In 1996, I decided to make it my full-time profession. I moved to Scotland, made it my home and have never looked back. Falconry has become more of a way of life to me over the years, which is why I am in front of you today. The Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020, some parts of which came into force on 1 March 2021 and which amends the Wildlife and Countryside Act 1981, is, quite simply, flawed.

From the conservation, animal welfare and democratic angles, it is a little bit of a travesty.

I need committee members to consider what they have read from Dr Fox at this point, but, as a minor add-on to his submission, I note that, on a number of occasions, the Scottish Government has mentioned that it has consulted NatureScot and the Scottish Hawk Board about the legislation. Although the Government consulted both bodies, we have been presented with an illusion that suggests that

that consultation happened in advance of the legislation being passed into law. However, it was not; consultation took place after the legislation was enacted, and it was to discuss only the shaping of licensing.

The result of the licensing makes a mockery of the Scottish Government's claim that the protection that is being offered to the mountain hare does not impede falconers' ability to meet their legal and moral obligations to allow their birds the freedom to demonstrate behaviour that is natural to the species. It absolutely stymies that option.

I will expand on that. We have to remember that, under the guidelines that are provided by the Government and are based on the Government-provided Joint Nature Conservation Committee range map for mountain hares, falconers should now fly their birds only on 2.5 per cent of Scotland's landmass, and that land is mostly in built-up areas, where their birds have no chance of seeing a hare and catching it. That means that falconers can no longer provide a school talk or a flying demonstration at a game fair or a village gala. They cannot do bird deterrent work to prevent bird strikes with aircraft and subsequent aviation disasters, nor can they keep pest species away from food-producing plants in any part of the remaining 97.5 per cent of the country's landmass. Under the Wildlife and Countryside Act 1981, falconers would face prosecution if their birds sought and took a hare in those locations.

We must remember that one of the ways that NatureScot says that pest controllers should keep gulls away from undesirable or dangerous locations before they may apply for a licence to remove gull nests is by using falconry—the very practice that now places the falconer at risk of prosecution across a huge part of the country. Unfortunately, the Scottish Government has no understanding of upland falconry, which might be, in part, why falconry has been snagged as an unintended bycatch of the legislation. However, when the Scottish Parliament information centre's briefing is focused on a completely separate falconry discipline, it is not surprising that the Scottish Government's judgments are a little flawed.

I will not bore the committee with a long repetition of the information that it has at hand from the submissions and the information that has already been provided. However, I will make a final point. The legislation was brought in as a quick exploitation through the corruptions of the suggestions that were put forward about grouse moor management in the Werritty report. You must remember that that report, just like the brief parliamentary debate about it, does not mention falconry at all. The aim of the legislation was to prevent the mass culling of hares by shooting, which many people find to be intolerable and unpalatable. The report suggests that data was missing, and that, if, in five years, hare numbers were deemed to be unfavourable following more accurate counting, the licensing of shooting should be considered. The data on hare numbers has already been exposed as flawed. The numbers are likely to be between two and six times greater than those that were used to justify the amendment. Indeed, on managed land, their numbers are likely to be 35 times greater than those on unmanaged land. However, the counts were largely undertaken on unmanaged land.

It has been suggested that hare numbers cannot sustain the pressure of falconry. Let me correct that. Hares have sustained the pressure of shooting. The lowest number of hares that are cited as killed by shooting each year is 26,000 and the highest number is 50,000. However, based on the most optimistic number of hares that are taken by falconers in a given season, it would take between 26 and 50 years for falconry to account for the number of hares that are taken by shooting in one year.

I am just wrapping up; you will be glad to hear that I am nearly done. The pressure of falconry is so infinitesimally small—NatureScot agrees with this—that that cannot be considered to be relevant. When we look at the Wildlife and Countryside Act 1981, we note that, for the very same reason, there is an exemption from the legislation that protects birds “for the purposes of falconry”.

NatureScot has suggested that it does not understand why the same derogation has not been applied in the legislation that is relevant to mammals, and, indeed, it does not support such an omission. All that is required to correct that is a small amendment to the legislation to bring mammal and bird legislation into line. Such an amendment would be far less complicated than that which has already been imposed, and it would not require any change to primary legislation.

The change that we require to allow the 40,000-year-old art of falconry to continue, and to keep the welfare, education, conservation and commercial benefits that it brings with it, is simply to amend the line in the legislation that gives an exception “for the purposes of falconry”. That is all that I have got, guys. Thank you very much.

The Convener: Thank you for that comprehensive statement in support of the aims of the petition. It touched on issues that we have tried to address as a committee, and it underpins the reason why we have you with us this morning. You are correct: we hoped to be joined by Dr Nick Fox, who was due to achieve a parliamentary first by joining us from an international flight. Unfortunately, however, he is not in the 2.5 per cent of airspace that would allow a connection to be made.

We will touch on the issues that you have raised as we develop the discussion. However, as this is the first opportunity that there has been for the discipline of falconry to be aired in a parliamentary discussion, it might be useful if, in the first instance, you give us an overview of what the practice entails, and its cultural and social significance to Scotland.

Barry Blyther: With respect, I cannot give you in the time that is available a detailed overview of the whole practice of falconry as a pastime or sport. However, I can narrow it down and, I hope, bring some focus to your consideration of the discipline of upland falconry, especially with large buzzard-type species and eagles.

I have heard several mentions in the committee of birds catching grouse, rabbits and stoats. No one would want to catch a stoat with any type of bird of prey, but you can take a falcon on to a grouse moor to hunt for grouse. You can take the same falcon on to lowland to hunt partridge. You can take a hawk on to farmland or even into more urban environments to use them for pest control, such as to catch rabbits, although they are vanishing and becoming rare these days.

The focus of the petition is upland falconry. I can imagine that the committee has a picture of a falconer as someone wearing a glove who carries a medium-sized bird of prey on their fist around the countryside while looking for a quarry item. When they find it, they release the bird, which chases the quarry for a few moments before catching it. However, that has nothing to do with upland falconry; it is in no way connected to that. That is where we are caught out.

I will rent an estate of perhaps 10,000, 20,000 or 30,000 acres with a group of friends. That is so that we can afford it—to be frank, it is bloody expensive. We will make our way on to the hill in either Land Rovers or Argocats. I am talking about proper Cairngorm mountain upland countryside. We will look to get on to a ridge that is 2,500 feet above sea level as a minimum, but it might be 3,000 or 3,500 feet, before we even start. We look for a ridge that has a windward-facing side and, when we get to that position, the eagle is prepared and then released. At that point, in the screaming gale, the eagle gets to be an eagle and to demonstrate behaviour that is natural to the species.

As an aside, the highest wind speed on the ground where I have flown an eagle has been 87mph. The wind speed at altitude was probably closer to 140mph. We release the eagle and, as the wind hits the hill, it is pushed upwards. The bird's enormous wings—the very wings that make it unsuitable for it to fly in woodlands, near fences, in towns or in enclosed spaces—suddenly give it the opportunity to rise and soar to 2,000, 3,000 or 4,000 feet. The bird may not touch ground again for four hours: it is up there busily being an eagle.

If we are actively hunting, our job on the ground will be to drop off the side of the hill, move through the countryside or heather moorland and see if a hare has been flushed. However, if we are just exercising the eagle, we will stay on the ridge, where there may not be game, and move backwards and forwards. Because the eagle is being trained, it has been led to believe that all the good things in life happen with, near or around us, so the bird, while it is at altitude, will track our position from the sky.

In that situation, given the environment that we are in, a trained eagle will not see a rabbit, as rabbits cannot live at high altitudes or in that weather and those conditions. If grouse are around, the eagles will avoid them. I make sure that all the training that our birds receive is designed to have them do that because, if they did not do it, it would get us kicked off the moor. Realistically, grouse are not a legitimate quarry for eagles because they are too expensive, and that hunting is not what we are there to do. In a hunting environment, we are aiming to have the eagle behave and fly in the same style as, and as well or better than, its wild counterparts.

That is why we get called on to create footage for natural history documentaries, including bluechip films for National Geographic and Netflix at one end of the scale and more light-hearted programmes such as “Countryfile”, “Landward” and “Winterwatch” at the other end. We are called on to make those programmes because the birds' behaviour is entirely natural.

If the eagle sees a hare, it will follow its natural instinct and put in a devastating near vertical stoop back to ground in a bid to catch it. On around 15 per cent of occasions, the eagle will be successful. Evolution has shaped the predator and the prey, and on most occasions the hare will, to be frank, make the eagle look quite foolish, outmanoeuvring it and trotting off up the hill largely unconcerned.

It is worth noting that the proposals for using falconry as a pest control method for hares in order to protect crops, trees and so on are unworkable. We simply cannot fly an eagle in forestry because it cannot see the ground. As it will fly at altitude, it cannot get between the trees—an eagle is 7 feet wide, and most of the gaps between the trees will be just a few feet. Also, the forest is surrounded by fences, and if an eagle hits a fence, it will be killed.

Leaving all that aside, however, the aim is to have the bird fly in an entirely natural style. If it catches a hare, we need to remember that, unlike other methods of pest control, that is a nonwounding activity. If the eagle puts in a stoop and catches a hare, it will effectively be switched off as quickly as it would have been had it been shot, because of the enormous power of the eagle's feet. The hare will never get away wounded. We do not leave an injured hare such as one that has been shot in the leg or foot, for example. It is either caught, or it is not.

The Convener: I will bring in Fergus Ewing in a second but, for the purposes of our understanding, from an editorial point of view, how many people do you estimate are involved in the falconry business? Is the employment that underpins the practice of falconry quantifiable?

Barry Blyther: I will not pretend that I understand how many falconry businesses there are. There are lots of microbusinesses that serve local areas with village galas, educational and school talks, and so on. There are larger businesses such as visitor attractions. There are also medium-sized businesses such as mine, which has six people working for it. We also run a breeding for conservation programme, which is entirely self-funded. There is no support for it, so we rely on the business doing well in order to continue with it.

Any business such as ours that operates outdoors in Scotland is always going to have a tough time in winter, when the scope of what we can do to maintain turnover and cash flow is limited. The ability to take guests out into the mountains to see an eagle doing its thing—regardless of whether it is hunting—makes a contribution, although it is a modest one. Some guests who come to us want to see an eagle doing its thing, but they are not sure whether they want to see it hunting. However, to see an eagle doing its thing, we have to go into the same place. We therefore have to be completely honest with the guests that, although we will endeavour not to move a hare, if an eagle or any other large bird of prey is at altitude and it sees a hare, its instinct is going to kick in, so it might take the hare regardless.

Returning to your point, I note that there are a number of businesses all over the country, but I cannot give you a number, unfortunately. I just do not have that. My understanding is that the number of active falconries in Scotland that are interested

in flying in areas where there are hares, excluding tourist falconers who come here, stands at 120 or 121.

The Convener: That is helpful. Thank you.

Fergus Ewing: Good morning and thank you for the petition. Your evidence is that you had no opportunity whatsoever to contribute to or be consulted on the law prior to its passage. Is that correct?

Barry Blyther: Absolutely. That did not happen at any point.

Fergus Ewing: I think that that is completely wrong. I will not dwell on that, but I wanted to make that point.

Now that the law is the law—it has been passed—what is the impact of the 2020 act on falconry?

Barry Blyther: We must remember that, when we talk specifically about the practice of hunting hares in the uplands, we are talking about a niche area of falconry. It is a small and modest part of the falconry community that wants to do that and is in the position of having suitable birds to do it.

I touched on the bigger issue that affects falconry more broadly in my opening statement. The Government suggested that, if a falconer is going to put himself or herself in a position where they will eliminate the possibility of being prosecuted because their bird has caught a hare, they must endeavour to ensure that any free flying that they do with their birds takes place in an area where they will definitely not see a hare, or are highly unlikely to see one. As I mentioned, the JNCC map that the Government provided to give us the range that hares are known to inhabit in Scotland precludes 97.5 per cent of the country from being a safe zone.

I will quantify that by describing a real-world scenario. I do pest control that involves keeping gulls away from a vast area on a big property in Forfar, which sits right at the edge of the bottom of the Angus glens. I sit on the roof with a bird of prey that I fly backwards and forwards to disperse adult gulls early in the season in order to prevent them from building nests. Using binoculars, I can see hares that are just changing their colour and even, as we go into May, the very first leverets hopping around about half to three quarters of a mile from where I am.

If I go to that site to try to deter gulls with a bird of prey, it opens up legitimacy for me to apply for a licence later in the season that will make it legal for me to remove gull eggs and nests in order to protect the site. However, if preventative measures—falconry is one of those—are not followed and I cannot evidence that I have followed them, I can no longer get the licence.

If I release the hawk and it flies up to a high point on the building and sees a hare a quarter or half a mile away, it might fly off the roof and catch it. It is a predator and it will just be following its instinct. There is an infinitesimally small chance that that will happen, but it is nonetheless a very real chance. The world that we are now in means that, if that happens, I am open to prosecution. The Government tells me that

I have to do that work before I can get a licence to continue my programme, but if I do it and the bird catches a hare, I will be prosecuted anyway.

Fergus Ewing: Is it too dramatic or too generalised a statement to say that the effect of the law is to make every falconer a potential criminal if they carry out the practice of falconry?

Barry Blyther: That is absolutely the effect of the law. Whether we are doing a school talk, a gala or a film job—it does not matter what we are doing—if we are free flying a bird of prey in 97.5 per cent of Scotland and the bird sees a hare and catches it, we are at risk of prosecution. It makes everything that we do a potential criminal offence.

Fergus Ewing: It is a matter of record that falconry was not mentioned in the 2020 debate. It is fair to say that, when Parliament creates a criminal offence, it is essential that proper consideration is given to any conceivable circumstances of prosecution. That simply did not happen here, which is quite shocking. I think that you are owed an apology from the Scottish Government for that.

I move on to solutions. One solution would be a change in the law, which you have said would not require primary legislation. Will you explain exactly how, in practice, your solution could be implemented? I had thought that primary legislation would be required—namely, an amendment to the 2020 act. Are you saying that subordinate legislation could be used as a means of solving that, or is some other solution possible, such as a general licence? I think that Dr Fox states in his evidence that that is possible.

Barry Blyther: Licensing is viable, but I see it being onerous for falconers. In relation to pest control, we already have to fly birds of prey to get a licence to enable us to remove gulls' nests. Pest control falconers would have to justify the application for a licence and then apply for it. NatureScot would have to issue the licence, and we would have to practice that part of our pest control programme for the summer and then apply for another licence to remove the gulls' nests. Everybody would be bombarding NatureScot with cycles of licence applications, and that is just from the pest control angle.

We also have the number of active falconers that I mentioned, who are looking to hunt hares, so that would be another 121 people applying for a licence. We then have national and international tourists coming from other parts of the UK and Europe, all of whom, potentially, want to hunt the hare in Scotland. Even if they did not want to hunt a hare, they would have to apply for a licence anyway because of the risk that now exists under the legislation, whereby they could be prosecuted if they catch one as a by-product.

For that reason, we now have Belgian, Dutch, Czech Republic and French falconers all applying for licences, not because they want to catch a hare—they want to see whether they can hunt a rabbit—but because they might catch one and they do not want to be prosecuted. All those issues around licensing would make it complicated for people on the ground who had to apply for them and, indeed, for the people who issue the licences.

My belief is that an amendment could be made. Please forgive me if I am wrong—I am not a parliamentary person or the right kind of person to make an exact comment on this—but I have been led to believe that, in the same way that an amendment was made to the protection of wild mammals legislation, an amendment to make an omission for the purposes of falconry would not require primary legislation. If that is not correct, I apologise.

Fergus Ewing: We will consider that. I think that it is fair to say that it is within our purview.

On the point about impacts, is there any way in which falconers could maintain their work without impacting on protected species? In other words, is there not some way in which you can carry on with falconry despite the problem of facing a potential prosecution?

Barry Blyther: I could potentially fly my eagle in the car park at Harthill services, around the docks at Aberdeen harbour or perhaps on some of the rigs that are being repaired off the coast at Aberdeen.

The reality is that the answer is no. There is currently no way to absolutely eliminate the chance of upland falconers being prosecuted. It is important to be honest. As I mentioned, the risk that doing an educational talk at a school in the Cairngorms or the Grampian region will lead to a hawk flying over a fence and catching a hare is limited, but it is real. That has happened to me. I have been in a situation where I was providing a flying demonstration at a venue and the hawk left the arena and caught a hare nearby.

We must remember that birds of prey are naturally wide ranging and free flying. Another viable situation would be a flying demonstration on the Highland games field at Braemar at the edge of the Invermark estate. We can imagine a bird flying around and doing its thing when, all of a sudden, a fire engine comes into the arena as part of a separate display. The eagle might not like the look of that and it might drift out two or three miles on to the hill. We now have an eagle flying around on the edge of the hill, where hares live. It is a predator and it could catch one. I would not be there to catch a hare, but there is a real risk that the bird would do that.

Fergus Ewing: In that situation, any falconry at all could lead to a falconer facing prosecution.

Barry Blyther: Absolutely.

Fergus Ewing: Earlier in your evidence, you spoke about mountain hares being taken by birds that are used in falconry. I want to make sure that I understood the issue properly. It was your evidence that those numbers are very small compared with those accounted for by shooting. You gave some figures, but will you clarify what your view is on the overall impact of falconry on the number of mountain hares that are killed in relation to the overall statistics regarding hares? I know that there is a lot of controversy about the numbers, because those on the country sports side think that hares are not under threat at all and that there is a lack of evidence, which

they want to sort. What is your view about the impact of falconry on the number of hares that are killed in Scotland?

Barry Blyther: As I mentioned in my opening statement, it depends on which figures you believe, and, as you mentioned, there is huge disparity between them. The lowest number of hares that I have seen quoted as being killed by shooting annually in Scotland is 26,000. The general range that I have seen quoted is between 26,000 and 38,000, and the highest number is 50,000.

I go on to managed moorlands, and despite what you read in the press about those being big barren wastelands and monocultures, those stories are largely not true. On those managed estates, the hare populations are absolutely burgeoning—there are tens of thousands of them. It can get to the point where whole hillsides seem to be moving with hares, and for that reason I do not have an issue with shooting. It is not my bag at all, but I do not have any problem with shooting whatsoever.

We are not here to talk about shooting; we are here to talk about the impact of falconry. However, a comparison will always come into play. I refer again to the 121 falconers who are interested in practising falconry in the UK and the statistics that were kindly put together for us by A Future With Falconry. Bear in mind that falconry is a winter activity; it takes place in October at a push, but most of it happens November through to January and into February, which is the core of the historical season for hares. The statistics suggest that, if every one of those falconers went on to the hill for the maximum amount of available time each year, were never affected by weather and the hawk was successful enough that they reached the maximum number of hares that they would ever want to take in a day, the maximum number of hares that would be accounted for in Scotland would be just over 2,800.

However, in a real-world scenario, when you are flying in those upland places, you lose days because of heavy snow, because you cannot see, and because of rain and flood—sometimes you cannot get across the ford to get on to the hill. Fog and low cloud are the biggest issues. We probably lose around 50 or 60 per cent of days that we are on the hill to weather or conditions on the ground. The reality is that falconers in Scotland probably account for an absolute real-world maximum of 1,000 hares.

Fergus Ewing: In terms of the overall hare population, despite the controversy over the counting methods, around 1,000 is de minimis; it is negligible. Is that accurate?

Barry Blyther: The number is infinitesimally small; NatureScot has already said that it considers the number so infinitesimally small that it cannot be quantified.

On that point, I would like to say that the legislation has devalued the hare; it has gone from being a game species to being a pest species. A game species has a commercial value to the estates. An estate is there to make money. Whether you are a supporter of field sports such as shooting or any of the others, it does not change the fact that estates cover vast areas of Scotland. They are well managed for the desired animals, which are those that bring revenue to the estate.

When you move a hare from being a game species to a pest species, you are taking an animal that is a nuisance. It eats the same food as game species that bring you money—it competes with grouse. It carries a tick that carries a sheep-borne disease called louping ill. Although the hare itself cannot carry louping ill, it can transfer the tick from sheep or deer to grouse, which kills the grouse.

Historically, the risk of damage to the wider activity of the estate would have been mitigated by people going to the estate and paying money to shoot hares. Indeed, falconers such as I would pay money to fly our eagles over them. Now that we cannot do that, and the only way that you can take a hare is where it is considered to be a pest that is damaging crops, forestry and so on, the hare has no value to the estate. That means that the estate will become less tolerant of hares, and it will not be managed in a way that will support them. The estate will do everything that can be done in the realms of what is possible within the law to try to move them on.

An example is peat hags. Hares love to sit in a peat hag. They have got the peat behind them, which offers protection as a predator cannot see them coming. They can look out over the open moor; they can get water; and they can step over to take a bite of heather, then come back in and they are protected. They love peat hags, and there is not really anything else on the hill that likes a peat hag. When you are walking on the hills, they are awful, because you fall over in them and end up going up to your neck in peat and boggy water.

What will the estate do now that it cannot shoot the hare? It will get rid of the peat hags. What happens then? The hares will move off—the habitat that keeps them protected from the natural predators that live there is being depleted, so hare numbers go down.

The legislation is an absolute own goal for the conservation of hares; it will see their numbers collapse. If their numbers are allowed to explode without control, the issue for them is disease. If their numbers do not explode, their numbers will deplete because estates have no motivation and no appetite to protect the species, given that hares no longer bring revenue.

The Convener: I am keen to bring in David Torrance, who would like to ask a question.

David Torrance: Good morning. Since the legislation came into force, birds have been restricted in doing what they naturally do and your captive birds are not allowed to hunt mountain hares. How has that affected their welfare?

Barry Blyther: The easy way to answer that is probably to talk about just two birds as an example, to keep it simple.

Our collection, including the conservation programme, is around 70 birds. Some are unaffected because they are here for breeding for conservation from various locations around the world. However, I have two golden eagles: an unnamed female that was bred in captivity in Scotland in the year 2000, and a male, whom you will meet this afternoon, called Stanley, who is about 15 years old and was bred—I believe, although I might be wrong—in the Czech Republic. Throughout their lives,

the birds have been trained to fly in exactly the discipline that I described earlier. They fly out on the open hill, in a screaming gale, over wide open spaces where there are no fences to be seen in 30 miles. That is what they do.

I will describe what happens if we take those eagles to fly them in a different discipline within falconry. For example, we might take them out to a flat field where there is broccoli or something similar growing and there are brown hares. We hold the eagle up in the air and somebody flushes a brown hare. That is taking the eagle outside its skill set. It looks at the hare then looks at me as if to say, "What exactly the hell do you expect me to do with that?" There is no understanding. It just lifts its foot, has a little rouse, preens its feathers and goes back to doing nothing.

Since the legislation was brought into force, those two eagles have both been sitting in an aviary and have not flown more than 20 feet in two and a half years. Their entire lives have followed a cycle of being picked up for retraining, exercise and management of their condition, to get their cardiovascular system up to top form and to get them flying and active. We then take them out on to the hill and we fly them in those environments for a minimum of six weeks and up to nine weeks, as block-booked days out on the hill, and on extended days elsewhere where we can snatch a day here and there. It is all they know how to do, and, quite simply, they do not understand how to do anything else.

The 15-year-old male eagle will probably live to be about 40; under the current legislation, he will not fly again. The 23-year-old female eagle will probably live to be closer to 50; under the current legislation, she will probably never fly again.

The Convener: Thank you. This morning's discussion has been fascinating and compelling. As you said, you have brought a golden eagle with you today; we are looking forward to meeting Stanley.

As you said in your evidence, if Stanley were flying above Harthill station, he would apparently have to understand the precincts of it better than most motorists who go through it do.

Barry Blyther: Absolutely.

The Convener: If he were to stray beyond the precincts of Harthill station, he would survive with impunity, but you would be prosecuted for anything that he might then do.

Barry Blyther: That is exactly right.

The Convener: I said that Stanley was not here to give evidence, but he is here in evidence. The absurd thing is that we are almost in a situation whereby the legislation would require us to ask Stanley if he understands the perimeters within which he is entitled to hunt, which I think illustrates the nonsensical nature of it all.

Thank you, Mr Blyther—your evidence has been incredibly helpful. The petition has identified—as I think that the committee is aware—a real issue that we will want to find a way to pursue, and we look forward to meeting you and Stanley again in a short while.

I will suspend the meeting briefly.