

Citizen Participation and Public Petitions Committee  
Wednesday 11 December 2024  
19th Meeting, 2024 (Session 6)

## PE2119: Help protect the Black Grouse by reviewing how new forestry schemes are regulated and implemented

### Introduction

**Petitioner** Calum Campbell

**Petition summary** Calling on the Scottish Parliament to urge the Scottish Government to review the operation of the Woodland Creation scheme and:

- make it mandatory that all new deer fencing is marked with wooden droppers where necessary as it is erected to help prevent bird strike
- require all work on these schemes to be stopped or paused by the end of March to protect ground nesting birds
- require NatureScot to carry out initial and annual Environmental Impact Assessments (EIA) to consider what effects woodland creation is having on resident wildlife
- ensure any recipient of a forestry grant who then puts the forest up for sale must return the grant in full when sold.

**Webpage** <https://petitions.parliament.scot/petitions/PE2119>

1. This is a new petition that was lodged on 24 September 2024.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. Every petition can collect signatures while it remains under consideration. At the time of writing, 706 signatures have been received on this petition.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered.
6. The Committee has received submissions from the Scottish Government and the Petitioner, which are set out in **Annexe C** of this paper.

## **Action**

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

**Clerks to the Committee**  
**December 2024**

## **Annexe A: Summary of petition**

### **PE2119: Help protect the Black Grouse by reviewing how new forestry schemes are regulated and implemented**

#### **Petitioner**

Calum Campbell

#### **Date Lodged**

24 September 2024

#### **Petition summary**

Calling on the Scottish Parliament to urge the Scottish Government to review the operation of the Woodland Creation scheme and:

- make it mandatory that all new deer fencing is marked with wooden droppers where necessary as it is erected to help prevent bird strike
- require all work on these schemes to be stopped or paused by the end of March to protect ground nesting birds
- require NatureScot to carry out initial and annual Environmental Impact Assessments (EIA) to consider what effects woodland creation is having on resident wildlife
- ensure any recipient of a forestry grant who then puts the forest up for sale must return the grant in full when sold.

#### **Background information**

A new Woodland Creation Scheme received a grant of over £2.5m from Scottish Forestry within the Cairngorms National Park. At planning stage the agents stated that wooden droppers will be used to mark the new 27km deer fence, which help prevent birds being killed if they fly into the fence. However, bamboo canes, which are cheaper and less effective, were used resulting in black grouse being killed by flying into this fence.

Black grouse are a red-listed bird of serious conservation concern, numbers are declining rapidly.

Scottish Forestry are the regulators for this scheme but do not enforce certain issues which were agreed upon at planning stage. Work was supposed to stop by the end of March to save ground nesting birds from disturbance, but in 2023 and 2024 work continued into May. The list of non-compliance issues with this scheme is considerable, but there's not enough room to list them all here.

## Annexe B: SPICe briefing on petition PE2119



### Black Grouse in Scotland

A [2008 study published in the Journal of the British Trust for Ornithology](#) was the last UK-wide survey of black grouse. The study estimated that the UK population of Black Grouse was 5,100 males - the greatest proportion of which were in Scotland at 3,400. This Scottish-based population showed a significant decline of 29% since the prior study which was carried out in 1995-96.

In 2020, the [Avian Population Estimates Panel \(APEP\) published their most recent estimates for birds in the UK](#). They estimated that there were 4,850 male black grouse in the UK. However, there was no breakdown by each nation.

As these numbers suggest, the Black Grouse is a rare and endangered bird. In 2021, it remained on the [red list for birds of conservation concern](#). The list is compiled by a coalition of the UK's leading bird conservation and monitoring organisations.

There has been work within Scotland to increase numbers of Black Grouse. For example, at their site in Corrimony, [the Royal Society for the Protection of Birds \(RSPB\) reported an increase from 16 lekking \(breeding\) males in 1997 to 59 lekking males in 2018](#).

In 2024, a new [community-focused programme of black grouse surveys](#) was launched by Affric Highlands rewilding and RSPB Scotland in collaboration with Forestry and Land Scotland and local landowners. Whilst the survey results are yet to be published in full, they have reported that between April and May 2024, 14 sites in the Beaully area were assessed. The 2024 survey recorded 405 lekking males, which was an increase compared to the 2007 survey where 250 lekking males were counted.

### Threats to the Black Grouse in Scotland

[The handbook for species management in Scotland \(2007 – 2012\)](#) states that Black grouse are birds of transitional habitats, generally preferring the moorland/woodland edge in north Scotland and the moorland/farmland fringe in the south. Within these areas they are largely dependent on a mosaic of scrub and an understory of heather and blaeberry.

[Forestry Commission Scotland's Action for Black Grouse research note](#) found that there are many threats to black grouse including habitat loss and degradation, predation, weather and disease. As well as both overgrazing and undergrazing.

Another threat identified is deer and stock fences due to bird strike. Scottish charity [Trees for Life have identified that the black grouse fly at a low level when startled](#), meaning that they often do not see fences and collide with them.

## Fencing and Black Grouse

Two quantified studies in the Scottish Highlands have been carried out on bird collision rates with fences. The study by Catt et al (1994) reported mean collision rates for capercaillie and black grouse of 0.4, whereas Baines and Summers (1997) found a 0.6 collision rate per kilometre, identifying such a rate as potentially damaging to the population.

A [2003 study published in Biological Conservation](#) found that from April 1995 to May 1997, significantly fewer birds collided with sections of deer fence marked with orange netting than the unmarked control sections. Collision rates in marked sections were 91% lower for black grouse.

In 2012, [the Forestry Commission commented on that study](#) suggesting that there were much more effective prevention methods to netting, including the attachment of sawn wooden droppers (posts) to fences at relatively close intervals. However, other materials, such as use of bamboo in fencing, scored lower than barrier netting. The study commented that bamboo canes only provide a limited visual area, only at around 25% of other materials. They suggest that bamboo should only be used as a last resort to mark fencing on extremely high-exposure sites.

## Forestry disturbance and Black Grouse

[The Woodland Trust state that the breeding season for grouse usually takes place from early April to mid-May](#). Nests are built on the ground in May.

[Forest operations and birds in Scottish forests \(the law and good practice\)](#) states that operations or recreational activities should be avoided within 1km of known capercaillie or black grouse lek sites between 1 March and 15 May. [Nature Scot have also published guidance](#) stating that nesting females need 100-150m buffer zone and have a medium likely sensitivity to disturbance.

## Forestry Grant Scheme

The [Forestry Grant Scheme](#) (FGS), overseen by Scottish Forestry, offers financial support for the creation of new woodland and the sustainable management of existing woodland. Within the scheme, there are a range of support options covering planting, woodland protection, harvesting and more. As an example, under the FGS [Small Woodland Loan Scheme](#), there are [multiple documents outlining benefits, advice and guidance](#) in relation to planting on a variety of landscapes / habitats.

Further information is available on the [Scottish Government Rural Payments and Services webpages](#).

**Euan Ross, Senior Researcher, SPICe**  
4 December 2024

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at [spice@parliament.scot](mailto:spice@parliament.scot) Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

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## Annexe C: Written submissions

### Scottish Government written submission, 22 October 2024

#### PE2119/A: Help protect the Black Grouse by reviewing how new forestry schemes are regulated and implemented

##### Background

Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation. Scottish Forestry is the regulatory authority for the assessment of the potential environmental impact of woodland creation projects under [the Environmental Impact Assessment \(Scotland\) Regulations 2017](#).

Scottish Forestry manages the Forestry Grant Scheme (FGS) on behalf of Scottish Ministers. [The Forestry Grant Scheme provides grants for a range of sustainable forest management work including the creation of new woodlands](#).

##### Marking of deer fencing to help prevent bird strike

Deer fences are often necessary to protect young trees from herbivore pressures in areas where other species, such as grouse, are present. Often, an appropriate mitigation to avoid bird strike are fence markers in the top section of the fence. Generally, Scottish Forestry requires such marking within 2km of known black grouse leks.

The choice of marking material and position will require consideration on the visibility of the marker, the proximity of the fence to grouse activity and the durability of the material with particular focus on the exposure of the site and what this means for the longevity of the material. To meet the variety of circumstances presented in different sites there are a number of marking materials available, as set out in the technical guidance on marking deer fences, Forest Research publication "*Fence marking to reduce grouse collisions, 2012*."

For the referenced new woodland creation scheme in the Cairngorms, the entire fence was marked with bamboo canes rather than wooden droppers because of the high exposure conditions on site which would mean that wooden droppers would increase the wind loading of the fence and could cause it to fail in extreme weather conditions such as high wind and heavy snowfall.

However, to further reduce the impacts on black grouse, Scottish Forestry have engaged with the forestry agents, the Cairngorms National Park Authority, and the RSPB to install sawn softwood fence droppers in areas that are most sensitive to bird strike. The use of bamboo is described in the Forest Research publication as appropriate for use in high exposure conditions. We therefore believe that the process for identifying and requiring the marking of deer fences has been appropriate.

## **Adherence to the FGS contract**

Scottish Forestry can enforce adherence to approved FGS contracts. Inspection of the implementation of this scheme identified several issues requiring remedial action and these are being undertaken through a remedial plan agreed with the landowner's forestry agents.

## **Conditioning the timing of operations to protect breeding birds**

As part of the woodland creation application process undertaken by the agent, the potential for the proposal or operations to deliver it to impact on breeding birds, including ground nesting birds is considered through specialist stakeholder engagement and professional surveys. These identify how ground nesting and other breeding birds use the land as well as appropriate mitigation measures. For many ground nesting bird species, a recommended approach to minimise likely negative effect is to stop all operations at the start of the relevant breeding season.

In some cases, it is not necessary to avoid the breeding season entirely and professional advice or surveys is sought to check what operational activity would not cause disturbance. This advice should seek to understand other relevant mitigation measures such as prudent working distances from nests/leks, utilising natural screening opportunities or specific timing constraints.

Appropriate operational disturbance distances and timings are well understood.

Regarding the referenced new woodland creation scheme in the Cairngorms, in the approved FGS application, the applicant committed to undertaking operations outwith the breeding and lekking season, mid-April to mid-August for black grouse. This is in line with the guidance in the "*Forest Operations and Birds in Scottish Forests*" guidance (FCS Guidance Note 32).

For operational reasons, some cultivation continued into early May but this was only a very small (less than 1 hectare) area of land at the edge of the 300 metre buffer zone and deemed not likely to cause disturbance.

## **Environmental Impact Assessments of woodland creation**

As part of their regulatory function, Scottish Forestry has a statutory duty to screen (assess) afforestation, deforestation, forest road and forest quarry projects to decide if the proposal is likely to have significant (negative) effect on the environment. This is carried out by the agency's regional conservancy teams and all afforestation projects above the EIA threshold (20 hectares, or 2 hectares in a National Scenic Area) or within a sensitive area such as a National Park will undergo EIA screening.

The screening process considers the potential impacts of a forestry project on environmental sensitivities within or near the project boundary. These are: population and human health; soil; water; landscape; land use change; air; climate change; cultural heritage; biodiversity and material assets.

As part of the woodland creation application process, any issues that are identified will be investigated further by undertaking appropriate survey work, carrying out local stakeholder engagement with neighbours, community councils and specialist interest



groups and by engaging with relevant regulatory authorities and organisations (e.g. NatureScot, the Scottish Environmental Protection Agency, Historic Environment Scotland, the local planning authority,) to quantify the issue and identify suitable mitigation or avoidance measures to reduce or negate significant impacts.

The screening process is used to determine whether a project is likely to have significant effect on the environment. If at screening, a project is found to have likely significant effect(s) on the environment, which have not been adequately mitigated, then consent will be required, and the project will move to EIA Scoping to agree the scope of the full EIA Report for further investigation, consultation, and determination. At determination, Scottish Forestry can refuse the project, approve it, or approve it with conditions.

If at Screening, Scottish Forestry conclude that the project is unlikely to have a significant effect on the environment, they will give a 'Consent Not Required' Opinion which will allow the project to commence. The opinion is valid for five years to commence and ten years to conclude the project.

We believe that this is a robust process for identifying and mitigating any likely significant effects from a change of land use for woodland and that in this case, the appropriate mitigation was identified and delivered to protect black grouse.

### **Sale of land subject to an FGS grant**

Landowners who are recipients of an FGS grant must inform Scottish Forestry if there is a change of occupancy/sale during the contract period of undertakings. This process is called "Succession" and ensures that the incoming landowner takes on the obligations of the grant contract and follows the approved design for the project.

### **Scottish Forestry**

### **Petitioner written submission, 25 November 2024**

#### **PE2119/B: Help protect the Black Grouse by reviewing how new forestry schemes are regulated and implemented**

Scottish Forestry failed to comment on some of the points raised, let alone address them.

### **Forestry Grant Scheme**

ScotGov have set a target of 18,000ha of new forestry per year to reduce the impact of climate change. Cairngorm National Park has set a target of 35,000ha of new forestry before 2045 so potentially a lot of new forestry and fencing.

There is no scientific evidence to prove planting more trees will always mitigate climate change.

There is scientific evidence through the James Hutton Institute and the Friggens et al report proving planting trees on heather moorland does not achieve the expected carbon capture. Peatland stores more carbon than trees. Plots measured on heather moorland which had no trees stored more carbon than plots with planted trees.

Mounding to plant trees releases even more carbon into the atmosphere, so why would you make 1 million mounds on this one site, releasing all that carbon into the atmosphere now if there is a climate emergency? These mounds are also a fire risk if ever there is a fire, mounds are nearly impossible to put out, they can smoulder for days, further destroying the peat.

### **Marking of Deer Fences**

Reference was made in the Environmental Impact Assessment (EIA) to check forest research publication “Fence Marking to Reduce Grouse Collisions 2012”, which states –

“Bamboo provides a limited visual area, only 25% of other materials. Bamboo should only be used as a last resort for fence marking on extremely high exposure sites.”

The majority of fencing at the Cairngorms site is not a high exposure area, did Scottish Forestry ever check? As a comparison, 2 neighbouring properties have used wooden droppers as fence markers.

### **Timing of operations to protect breeding birds**

Scottish Forestry say the referenced woodland creation applicant “committed to undertaking operations outwith ... mid-April to mid-August”.

This is untrue.

The ecologist who did the EIA recommended “all operations on site be stopped by mid-March, end of March at the latest to protect ground nesting birds”.

A local resident complained to Scottish Forestry about machines working on site into May 2023. Scottish Forestry replied, “operations taking place are in line with the approved operational plan and have confirmed the mitigations are in place”. Did Scottish Forestry check on site?

Machines were also witnessed and filmed working into May 2024 on site.

5th April 2024, a woodcock nest with 4 eggs was photographed. On 11th April, two machines were working in close proximity to this nest, one passed within 60cm of the nest and made a mound resulting in the hen bird abandoning the nest. Under the Wildlife & Countryside Act 1981 **all** bird nests are protected by law from any disturbance.

The forestry agents say there is no locational data and the photograph taken of the nest could not be taken that day as there was snow. Time and date are recorded on the photograph.

Scottish Forestry say “only a very small area (less than 1 hectare) area of land was being worked on”. This is untrue, to which year do they refer and did Scottish Forestry as regulator check?

When reminded the forestry agents were to contact NatureScot to ask for expert advice if they were to be working later than end of March, in case of bird disturbance, they answered “the team overlooked this commitment” and apologised.

### **Adherence to the FGS contract**

After a complaint was made, Scottish Forestry did a site visit noting many failures, some were –

- Areas of natural regeneration of young trees had been mounded and planted.
- A Black grouse lekking site where birds gather at mating time had been mounded over and planted with trees.
- A hill track had been worked on with a digger without planning consent.
- Areas claimed for had no trees planted.
- It was noted by the site inspectors that bamboo canes had been used to mark fencing instead of the agreed wooden droppers.

The forestry agents were given until 31/10/2024 to have all remedial work done to sort the mistakes, there was no further mention of bamboo canes.

I checked the site on 10/11/2024, none of this work has taken place.

The site inspectors failed to notice or comment on a further 2 hill tracks that have been made on this site.

### **Environmental Impact Assessments of woodland creation (EIA)**

It is the landowner’s responsibility to employ an ecologist to do an EIA on proposed new forestry sites.

This ecologist can be a student from a university with no experience, there is no accountability if wrong.

The ecologist who did the EIA stated “there are no Protected Species on site”. This is wrong, they failed to record hen harrier and merlin nesting sites, they failed to record mountain hares or adders, all of which are protected species. The ecologist failed to notice a black grouse lekking site which was then mounded over and planted with trees.

The ecologist did recommend marking the fence with wooden droppers. The ecologist did recommend work on site be stopped no later than March to avoid disturbing ground nesting birds, but these recommendations were ignored.

The EIA also covers the making of forest roads and their impact on site. The forest agent’s state there will be no tracks made on site, but there are at least 3 new ones made. Scottish Forestry believes this is “a robust process and appropriate mitigation was identified and delivered to protect black grouse”.

**CPPP/S6/24/19/10**

Sadly reports are coming in this is happening in other areas of Scotland.

Scottish Forestry as Regulator has failed.

**Sale of land subject to an FGS grant**

Scottish Forestry talk about "Succession".

This has nothing to do with "clawback" where a landowner, who has received an FGS grant with taxpayers money to establish woodland, then puts his woodland on the market for sale at an increased value, they should be made to return any grants given.

There needs to be an inquiry/review to protect our already vulnerable wildlife.