

British Association for Shooting and Conservation submission to the Defra call for evidence on the recent withdrawal of the three general licences (GL04, GL05 and GL06) for the management of wild birds.

BASC recommendation

- BASC strongly recommends that Defra reinstates the three general licences (GL04, GL05 and GL06) that were revoked by Natural England (NE) on 25 April as a matter of absolute urgency and no later than 21 May 2019.
- Defra revokes general licences GL26, GL28 and GL31 on 21 May 2019 as part of the process of reinstating general licences GL04, G05 and GL06.
- Following the reinstatement of (GL04, GL05 and GL06) that Defra ensures that a consultation is undertaken in 2019, which aims to allow Defra or another competent authority to issue a light touch, legally-sound general licence in 2020.
- In accordance with the law the authority issuing the licence should satisfy itself that alternative solutions are not satisfactory rather than placing that burden on the user.
- The purpose of a general licence is to prevent serious damage, therefore no general licence should specify that serious damage must have already occurred before control can take place.
- This recommendation is based on advice from our team of experts; a review of scientific evidence; 29,657 responses to an online BASC survey and in excess of 10,000 member enquiries received since 23 April 2019.

Executive summary

It is clear that the decision to revoke GL04, GL05 and GL06 by Natural England and replace with a combination of granting individual licences or relying on one of the proposed 31 new general licences has severely restricted the ability to protect livestock, crops and public health through bird pest control in England.

BASC's survey showed that 96% of respondents had stopped all or some of their bird pest control (82% all; 14% some) as a result of the revocation, with a minimum estimated financial impact of £1,200 per respondent who was able to estimate economic loss (median). This shows the severity of the issue on the management of livestock, crops and wildlife in the last couple of weeks as a direct result of the approach taken by Natural England in revoking GL04, GL05 and GL06 without notice, consultation or a transition period.

BASC has witnessed widespread confusion by those who either undertake or need to undertake bird pest control in England. The organisation has had in excess of 10,000 member enquiries and the dedicated BASC general licence web page has received in excess of 95,000 views since the revocation.

BASC strongly recommends that Defra reinstates the three general licences (GL04, GL05 and GL06) as a matter of absolute urgency and no later than 21 May 2019 and at the same time Defra revokes general licences GL26, GL28 and GL31.

This should be followed by a consultation in 2019, which aims to allow Defra or another competent authority to issue a light touch, legally-sound general licence in 2020.

The chaos caused by Natural England's sudden revocation of the three general licences validate BASC's opinion that a properly structured period of transition and notification for users from 2019 general licences to any revised 2020 general licences is essential as well as conforming to the Principals of Good Regulation.

BASC key evidential points

BASC views on the alternatives to killing or taking a specific bird species

- Alternatives to killing or taking birds do not reduce the overall level of damage at a landscape scale, but simply redistribute that damage. Therefore, the alternatives are neither effective nor practicable.
- For control measures to be effective in the long term they need to represent an actual, rather than perceived threat. Without any actual threat to the birds they will quickly habituate and resume causing damage.
- Lethal control, through shooting and trapping, is an essential part of an overall control strategy and shooting helps to reinforce the effectiveness of non-lethal methods by providing a degree of threat to the birds.

BASC experience or evidence of any benefits that were delivered by the three revoked general licences

- The revoked general licenses were simple and unambiguous in how they should be applied by individuals undertaking bird pest control.
- The revoked general licenses made it entirely clear that the end user was to consider all other solutions, and that lethal control was a last resort.
- BASC's report on the benefits of general licences in England ([BASC 2019](#)), clearly demonstrates the threat of damage, disease and public health and safety. The revocation of the three general licences and their replacement by ineffective new general licences has removed these public benefits and the ability to help deliver on the 25 year environment plan.
- Respondents to the BASC survey clearly showed the benefits of the revoked general licences were as follows – which are not offered by the three new general licences published at the time of writing:
 - **89%** felt it allowed the control of problem species at any time of the year, including those times when damage was most likely to occur.
 - **81%** felt it allowed population control of problem species wherever they occurred.
 - **80%** felt it offered them the ability to proactively prevent damage by wild birds occurring.

- **75%** felt it enabled control of problem species when they were causing damage that was not purely economic in nature.
- **68%** felt it enabled land and wildlife managers to use their previous experience and current knowledge of wild bird populations and local issues.
- The survey showed that, of 26,944 respondents:
 - **97%** used GL04 to prevent serious damage or disease.
 - **62%** used GL05 to preserve public health and safety.
 - **90%** used GL06 to conserve wild birds, flora and fauna.
- The total days reported using the licences in a typical year were:
 - **1,415,351 days** spent annually by respondents on bird pest control to prevent serious damage or prevent the spread of disease (GL04).
 - **666,354 days** spent annually by respondents to on bird pest control to preserve public health and safety (GL05).
 - **1,288,043 days** spent annually by respondents on bird pest control for conservation (GL06).
- In total, this amounts to **3,369,748** days reported to be spent annually controlling bird pests by respondents.
- On average, before the revocation respondents spent:
 - **30** days each annually on bird pest control to prevent serious damage or prevent the spread of disease (GL04).
 - **10** days each annually to preserve public health and safety (GL05).
 - **20** days each annually on bird pest control for conservation (GL06).

BASC experience or evidence of any problems with or caused by the three revoked general licences

BASC's legal team has reviewed the legal arguments which led to Natural England's decision. Our legal advisers are of the view that there were good grounds to defend the challenge made on the *ultra vires* status of the general licences GL04, GL05 and GL06.

The competent authority should satisfy themselves before issuing general licence; this could be done by underpinning the general licence process with a regular assessment of pest bird populations and evidence on the ineffective use of non-lethal alternatives compared to lethal management.

- General licences continue to be at risk of revocation without notice and were revoked without notification (revocation should not be permitted without a period of grace to protect users).

- A lack of public awareness for issuing general licences and the law behind them.
- There should be an agreed timetable for review.

Are there any conditions, in your view, that could be attached to general licences to address these issues?

General licences must not be revoked or amended without notification and sensible transition provisions in place when general licences are amended.

Defra reinstates the biannual appropriate assessments to underpin the tests required to issue a general licence.

Defra puts in place an agreed timetable for review.

BASC experience or evidence of any problems caused by the revocation of the three revoked general licences

- Respondents to the online BASC survey clearly showed the adverse effect of revoking the three general licenses:
 - **96%** had stopped all or some of their wild bird pest control as a result of the revocation (82% had stopped all wild bird pest control; 14% had stopped some).
 - **86%** reported damage/loss of crops.
 - **81%** reported financial or economic impacts.
 - **79%** reported damage/loss of wild birds like songbirds or waders (e.g. through predation of eggs or chicks by corvids).
 - **59%** reported damage/loss of foodstuffs for livestock.
 - **52%** reported damage/loss of livestock.
- Respondents who had not been able to resume their activity at the time of the survey stated this was for the following reasons:
 - **70%** were waiting for new general licences to be published that covered their usual activity.
 - **58%** were prevented from using the new general licences as they were too impractical or onerous.
 - **8%** had applied for an individual licence(s) and were waiting for approval from Natural England.

The previous general licences collectively covered 155 circumstances where individual species could be controlled if they were causing a problem. The new general licence proposals cover only 31 circumstances for individual species control.

This means that there are now 124 circumstances where control of species will no longer be permitted under general licence. To put it another way, according to Natural England's proposals, 80% of control circumstances for individual species have been

removed. In addition, control has been lost in relation to fisheries, inland water, and growing timber (previously GL04) and conservation of flora and non-bird fauna.

The fact that control of some problem species has been missed out of the new general licence proposals could cause problems in a number of areas including agriculture, public health and safety and conservation.

BASC's view as to why the three new general licences are unworkable

- BASC and other rural organisations have described the new general licences as unworkable and not fit for purpose. Wording within the licences is unclear and contradictory which makes it extremely difficult, if not impossible, to follow what is required.
- To make things even more complicated Natural England also published on 26 April no fewer than three other documents associated with the new licences. These are GL33, WML-GU01 and WML-GU02.
- Far from allowing control, as claimed to carry on 'much as before,' the three new general licences include many additional restrictions and conditions than their revoked predecessors.
- The temporary solution that an individual licence could be applied for in the absence of the proposed 31 new general licences left end users vulnerable to prosecution. Natural England suggested that applying for an individual licence may allow people to carry out control, while waiting for their application to be assessed, under what is being called the section 4 defence. This refers to part of Wildlife and Countryside Act 1981. However, this is a defence which is not the same as acting under the authority of a licence issued to carry out control.
- Section 4 is only a valid defence if specific conditions are met such as being able to show there was no other satisfactory solution and includes a reporting requirement. It also does not apply to all areas i.e. it is not valid in relation to lethal action for the purposes of conserving flora and fauna.
- Having received legal advice BASC advised its members not to rely on this defence.

Natural England have failed to meet the principles of good regulation

Principles of Good Regulation¹	Why Natural England have failed to meet these principles
<p><u>Proportionality</u> Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.</p>	<ul style="list-style-type: none"> • Proposed processes are over-prescriptive and disproportionate to the risks. • Unnecessary restrictions have been added. • Costs of revoking and reissuing licences have not been identified and/or minimised.
<p><u>Accountability</u> Regulators must be able to justify decisions, and be subject to public scrutiny.</p>	<ul style="list-style-type: none"> • Natural England have not published details of the legal justification for revocation. • New and proposed general licences do not appear to be evidence-led and are unworkable.
<p><u>Consistency</u> Government rules and standards must be joined-up and implemented fairly.</p>	<ul style="list-style-type: none"> • Current regulations are being unfairly and intermittently rolled out causing economic problems, damage, loss and distress for farmers, landowners and pest controllers. • The revocation and changes to general licences were implemented without a proper notice period and left many in danger of prosecution if they did not see online notifications.
<p><u>Transparency</u> Regulators should be open, and keep regulations simple and user-friendly.</p>	<ul style="list-style-type: none"> • It is unclear how specific licences have been selected, especially as 66% of control circumstances for problem species that were available under GL04-06 are now unavailable under the new proposals. • The new proposals create a high level of bureaucratic burden for the regulator (e.g. checks of non-lethal methods implemented) and for the user (e.g. keeping records of non-lethal methods). • The terms of the new general licences are confusing, complicated, impractical and onerous for users.
<p><u>Targeting</u> Regulation should be focused on the problem, and minimise side-effects.</p>	<ul style="list-style-type: none"> • The burden remains with the licence user: pest control activity has been restricted to compensate for an issue with the regulators' process. • The new system requires suspension of pest control while non-lethal methods are assessed, yet the economic, environmental and social side effects of a drop in pest control have not been considered – and non-lethal methods are proven to be ineffective in many cases.

¹ As per the Legislative and Regulatory Reform Act 2006

British Association of Shooting and Conservation (BASC)

BASC is the representative body for sustainable shooting sports in the UK and with a membership of over 155,000 is the UK's largest shooting organisation.

BASC's vision is to ensure a guaranteed future for sustainable shooting sports in all their diversity as a widely enjoyed and important part of the environment, economy and culture.

BASC's mission is:

- To promote and protect sporting shooting and advocate the benefits it brings to the natural environment throughout the United Kingdom, Great Britain and Northern Ireland.
- To represent members' interests by providing an effective and unified voice for sustainable shooting sports and individual services.
- To act for the benefit of the community through education, the promotion of scientific research and best practice in firearms licensing, habitat conservation and wildlife and game management.
- To promote the benefits of game as food.

BASC's response to the four questions outlined in the call for evidence terms of reference is below.

1. BASC assessment of the alternatives to killing or taking a specific bird species for conserving flora and fauna, preserving public health or safety, and preventing serious damage or disease, and how effective and practicable these alternatives are.

1.1 Overview

Alternatives to killing or taking bird species for conserving flora and fauna, preserving public health or safety, and preventing serious damage or disease, do not reduce the overall level of damage at a landscape scale, but simply redistribute that damage. Therefore, the alternatives are neither effective nor practicable to killing or taking bird species.

It should also be pointed out that the general licenses are intended to prevent issues and damage. EU guidance on the Birds Directive makes it clear that it is not a response to already have proven damage, but of the strong likelihood that this will take place in the absence of action.

For control measures to be effective in the long term they need to represent an actual, rather than perceived threat. Without any actual threat to the birds they will quickly habituate and resume causing damage. Lethal control, through shooting, is an essential part of an overall control strategy and helps to reinforce the effectiveness of non-lethal methods by providing a degree of threat to the birds.

Table 1. Assessment of alternatives to killing or taking bird species for conserving flora and fauna, preserving public health or safety, and preventing serious damage or disease.

	Non-lethal method/deterrent				
	Visual	Auditory	Chemical	Exclusion	Habitat modification
Conserving flora and fauna	-	-	-	-	o
Preserving public health or safety	+/o	o	-	+	+
Preventing serious damage or disease	+/o	+/o	+	+	o

+ can be effective; o limited effectiveness or difficult to implement; - ineffective or impossible to implement

For a number of situations there is simply no effective alternative to lethal control. For example, visual, auditory and chemical deterrents could not be used to prevent corvid predation on threatened bird species as the deterrents are as likely to scare away the protected bird as they are to scare the corvids. Additionally, lethal control is often used to control pigeons to preserve public health and safety around ports by reducing the local population at times when, or in places where, members of the public aren't present. Exclusion techniques tend not to work as netting becomes fouled by the birds creating a larger hazard and is impractical over large areas, auditory deterrents can't be used due to the proximity of members of the public and birds quickly habituate to visual deterrents.

In the scientific literature on bird deterrents lethal shooting is often described as effective, but expensive. However, this cost is invariably borne by the individual shooter, not by the farmer, countryside manager or society. This cost is borne willingly on the understanding that the shooter often receives favourable access to other shooting opportunities on the land (for example game shooting or deer stalking), provides a community benefit and also that the shooter will not have to bear unnecessary or burdensome restrictions while working for the public good. By introducing additional requirements there is a risk that shooters will no longer willingly bear the costs and that the burden will be passed to others. In the case of conserving flora and fauna it could be the public that are required to bear this cost either through loss of biodiversity and ecosystem functions or through paying for professional bird scarers/controllers, and with protecting crops society is likely to face increased food costs.

Ultimately, any non-lethal method does not reduce the overall level of damage at a landscape scale, but simply redistributes it. Lethal control can significantly reduce local damage through small scale population control, but without impacting on the overall population. For species in favourable conservation status, such as woodpigeon and corvids, lethal control, as has been practiced in the UK until recently, was a cost-effective effective method that did not compromise the conservation status of the species being controlled, and allowed farmers and countryside managers to target control where the issue was greatest. Additionally it complied with the Birds Directive provisions including that there be “no other satisfactory solution” as shooting is required to supplement the effectiveness of non-lethal solutions and prevent birds’ habituation. Natural England has recognised that most visual scarers require the presence of lethal control alongside them to prolong their period of effectiveness.

Some literature also suggests that it is possible that once birds habituate to a scaring device, it could then work as a cue indicating the presence of available food ([Conover & Perito 1981](#)). Under these circumstances, it would attract birds to the crop as they have learned that food is available when the cue is present. Therefore as well as being ineffective, scaring may actually escalate damage levels.

1.2 Deterrent techniques

Each of the main categories of non-lethal control are discussed in turn below. Each section begins with the relevant paragraph from the executive summary of an extensive 2003 Defra review on the effectiveness of these techniques ([Bishop et al. \(2003\)](#)). This review covers a lot of the techniques in significant detail and so no attempt is made to replicate their review of the literature.

1.2.1 Visual deterrent techniques

“Visual techniques range from extremely effective (human disturbance) to ineffective (most scarecrows). Effectiveness depends on how real a threat they are perceived to be (predators and their models) or how much they are perceived to interfere with movement (tapes and wires).”

The most common visual deterrent is a scarecrow, but modern techniques include laser fences or grids, inflatable mannequins and raptor-like kites. Lasers have been trialled to reduce goose damage, but are of limited use for preventing woodpigeon or crow damage as these birds feed in daylight and laser deterrents are most effective at night. Additionally, there are human health concerns associated with these devices which has prevented their widespread use.

Scarecrows are generally ineffective at deterring birds and at best provide only short term protection, even if they are realistic and regularly moved. Real humans, however, can be very effective scarers, though obviously, the effect is short-lived and relies on a more or less continuous human presence.

Other predator mimicking techniques such as inflatable mannequins and raptor-like kites can have short-term deterrent effects but do not appear to be universally effective. These techniques also seem to only work over very restricted areas and so are not practical to implement at a farm scale.

Drones have been trialled in Scotland to deter geese from arable fields. Although these have proved effective in some circumstances they have not led to significant long-term reductions in damage, are costly to buy and run (as they require an operator) and birds still rapidly habituate to them.

1.2.2 Auditory deterrent techniques

“Auditory techniques in general are thought to be relatively effective, although subject to habituation and hence of short-term benefit. Much of the information on noise is unpublished and not generally available. Artificial noises, ultrasonics and high intensity sound are either ineffective or unsafe.”

Auditory deterrents can include ultrasonic emitters, predator or distress calls and gas cannons. Clearly, almost all auditory deterrents are non-selective and have the potential to deter all birds from an area, regardless of their conservation status; this limits their use in conserving fauna. Furthermore there are significant public nuisance issues associated with the use of gas cannons and an increase in their use is likely to generate significant public concern. This also restricts their use in protecting public health and safety as in many of the cases where action is needed there is often a significant public presence whose health and safety needs protecting – this would not be well served through the use of repeated loud noises in excess of the threshold for damage to human hearing.

For auditory deterrents to be effective they need to vary their timing and direction. However, even if used appropriately, birds can quickly habituate to auditory deterrents meaning that they become useless in a few days to weeks. A single gas cannon can protect approximately 7ha of crop – based on 4-10ha protected by blackbirds ([Potvin & Bergeron 1981](#)) and similar results summarised in a 2003 Defra review ([Bishop et al. 2003](#)). The UK has a total arable land area of 17.5 million ha ([Defra 2018](#)), meaning it would take 2.5 million gas cannons to fully protect all crops. At an average price of approximately £320 per gas cannon this would mean there would be a required investment of £800 million without accounting for batteries and propane.

There is a code of practice in place for the use of bird scarers ([NFU no date](#)) which recognises their potential to cause significant nuisance, as well as the fact that they are most effective when used alongside lethal control. An analysis of FOI requests related to gas cannons found that there were an average of 15.3 complaints per year in the District Councils that released information, but with a pronounced increase more recently. There are a total of 192 District Councils in England ([LGIU no date](#)) meaning there could be up to 2,880 noise complaints per year linked to gas cannons, and clearly these are likely to increase significantly if the newly-issued general licences are not simplified.

The effectiveness of auditory deterrents is greatly aided by lethal shooting which ensures that birds associate the noise with a real risk, rather than just a startle response.

1.2.3 Chemical deterrent techniques

“Chemical techniques are generally found to be very effective in laboratory and cage trials, but less effective in the field. They are also relatively expensive and are time-consuming and difficult to apply. Only two chemicals are licensed for use as bird repellents in the UK.”

Chemical repellents can be taste, behavioural or tactile repellents. Given the cost (both of the repellent itself and the labour to apply it) these are not widely used in the UK. There is conflicting evidence around their effectiveness, and given the cost it seems unlikely that many farmers would risk using a potentially ineffective product.

Clearly, chemical repellents cannot be used for conserving flora and fauna, and are difficult to use to protect human health and safety. Tactile repellents can be used to keep birds off of surfaces but these can be costly to maintain.

1.2.4 Exclusion deterrent techniques

“Exclusion techniques are usually extremely effective. Efficacy depends on the degree to which birds are excluded, but the greater the exclusion the more expensive. They therefore tend to be restricted to high value crops or costly damage.”

One of the most effective methods for protecting crops from birds is to entirely exclude birds using netting. Exclusion can also be useful for keeping birds out of warehouses, and off structures. However, exclusion is very expensive, and is not a satisfactory solution for the protection of arable landscapes. Additionally, exclusion can't be used to conserve fauna without risking excluding the fauna you are seeking to protect and may potentially result in significant, unintentional consequences such as depriving birds of prey of hunting ground.

Wires and coloured tape can also be used, but birds can habituate to this very quickly. For example, experience from Islay shows that within a week of fully covering a fresh grass field with a tight mesh of red and white tape the geese had habituated to the tape and found ways to access the field and graze underneath the tape.

1.2.5 Habitat modification deterrent techniques

“Habitat modification techniques are generally considered to be effective and environmentally friendly, but are rarely investigated scientifically. It seems likely, however, that that they will be shown to be cost-effective in a variety of situations.”

Habitat modification, such as reducing fertilizer use on amenity grasslands, or growing unpalatable plants can be very effective methods. However, where specific crops are grown it is clearly not feasible to use many habitat modification methods.

Alternative feeding areas have been used successfully in a number of areas, and are especially effective when they are subsidised by the government as part of nationwide, integrated damage control plans. Without subsidy these schemes tend to be prohibitively expensive to farmers due to a combination of loss of productive land, and expenditure on “more attractive” sacrificial crops.

There is a role for habitat modification in protecting flora and fauna. However, there may be limits to the type of modifications that can be conducted on protected sites and there are likely to be unintended consequences for other species. The recently issued general licence GL28 (licence to kill or take Canada geese to preserve public health and safety) recommends a number of habitat modifications which, although potentially effective at reducing Canada goose breeding, are also likely to significantly impact the

breeding success for native species. For example, GL28 recommends the removal of islands but these islands are common breeding habitat for many species including avocet, black-headed gull, redshank and the UK's declining native mallard population.

2. Benefits that were delivered by the three revoked general licences

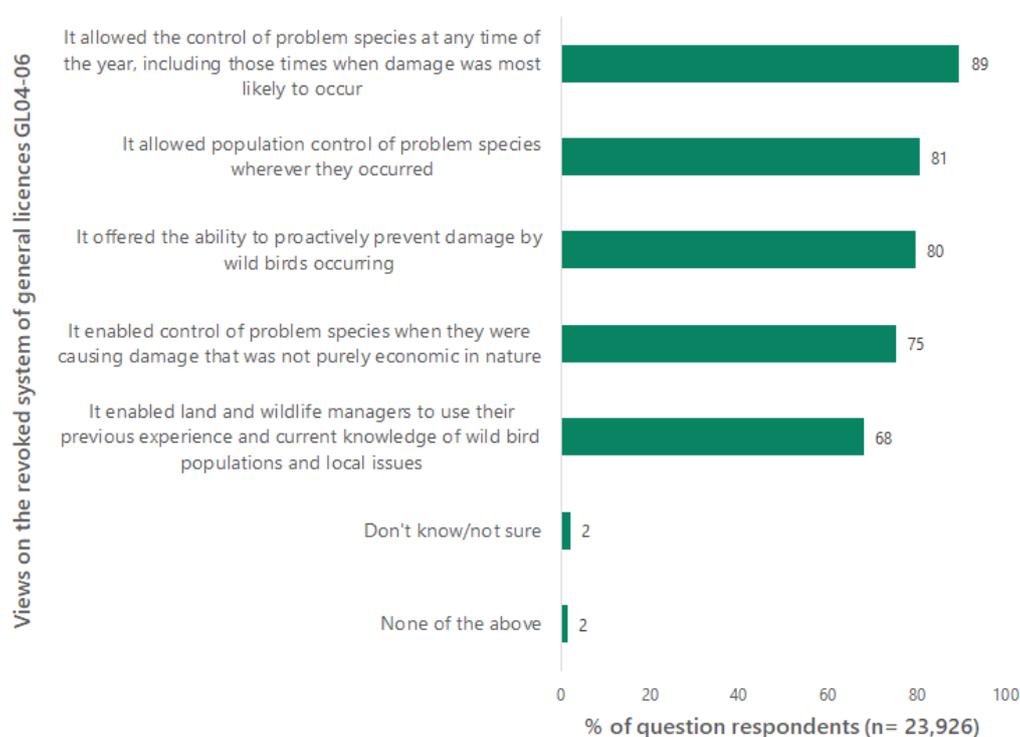
2.1 BASC survey to users of the general licences in England

BASC received 29,657 responses to its five-day online general licence survey which ran from the 7-11 May 2019. Part of the survey was aimed at understanding the value to the individual respondent who undertook or authorised individuals to undertake pest bird control of the general licence system prior to its revocation on 25 April.

The response received (see Figure 1) clearly showed that the previous general licence system was valued by the respondents for the following reasons – which are arguably not offered by the three new general licences published at the time of writing:

- **89%** felt it allowed the control of problem species at any time of the year, including those times when damage was most likely to occur.
- **81%** felt it allowed population control of problem species wherever they occurred.
- **80%** felt it offered them the ability to proactively prevent damage by wild birds occurring.
- **75%** felt it enabled control of problem species when they were causing damage that was not purely economic in nature.
- **68%** felt it enabled land and wildlife managers to use their previous experience and current knowledge of wild bird populations and local issues.

Figure 1: Survey respondents' views of the revoked general licence system



2.2 BASC's experience of the benefits of general licences

BASC has provided support and guidance to partner organisations, landowners, small-holders, farmers, land managers and, its members on general licences since they were first introduced. Our experience of the benefits of the revoked general licences are as follows.

The general licences provided the flexibility for land owners and managers to decide when legal lethal control was needed and covered a wide range of circumstances without going into complex and confusing definition.

One general licence for each purpose covering the relevant species was a pragmatic way to organise the general licences.

The user did not need to apply for the general licence; it is estimated that 220,000 individuals undertook pest control ([PACEC 2014](#)), this was easily enabled through the revoked general licences. (This is in considerable excess of the 50,000 estimated by Natural England, showing they had a poor understanding of the importance of general licences.)

The revoked general licences were clear about what the user needed to do to comply with the terms and conditions. Users and regulators of licences need them to be concise and clear to ensure legal control is easily understood and practised.

The revoked general licences made it entirely clear that preventative action was permitted. This is necessary in order to prevent damage to crops, preserve human health and safety and the protection of wild birds.

The revoked general licences were clear in the requirement of the user to consider non-lethal methods before undertaking legal control.

The revoked general licences did not define what constitutes serious damage or loss, putting the onus on the end user, who best understand the impact on their enterprise.

There is just one case of prosecution highlighted by the Crown Prosecution Service on their website dated 2001. BASC is not aware of any other prosecutions under the general licences which is a strong indicator that the users have complied with the terms of the revoked licence.

2.3 Evidence for the benefits of the revoked general licences

Peer-reviewed papers and reports demonstrate the clear need and value for the control of birds for specific reasons.

BASC produced a report in May 2019 entitled 'Benefits of General Licences (England)' ([BASC 2019](#)) – copy attached with this submitted evidence.

The scientific evidence referenced in the report demonstrates the threat of damage, disease and public health and safety now risked by the revocation of the three licences and hence, conversely, the benefits these licences provided to society and the public good. Some of the headline issues are:

- A fall in populations of wild birds like the red-listed curlew, when their young are predated by corvids.

- Higher food prices because of more livestock being killed or seriously injured such as newborn lambs being attacked by crows and other corvids.
- Higher food prices because of lower crop yields as more damage is done to crops including brassicas, peas, cereals and by pigeons, corvids and geese.
- Increased risk to the health of people and animals from problem species such as geese and pigeons which can transmit disease, toxins and cause illness.
- Increased risk to human health and safety from more aircraft bird strikes, damage to buildings from nesting birds, and fouling of public spaces.
- Public sites like football grounds, arenas and sports stadia failing to meet the standards within their safety certificates (which they require to operate), if they require the control of wild birds to reduce disease and/or the risk of slipping and falling.

BASC evidence submitted to Natural Resources Wales' call for evidence on a review of firearms policy stated. The BASC paper is available online.² It outlined the following:

- Predator control, in combination with habitat management, has been found to reverse the local declines of farmland bird species such as song thrush, whitethroat, dunnock and blackbird ([Stoate & Szczur 2001](#)).
- Corvids are one of the most important groups of avian nest predators ([Andren 1992](#), [Anglestam 1986](#)), and management for shooting, which includes the removal of corvids, can lead to significant increases in passerine breeding success ([Stoate & Szczur 2001](#)). Furthermore, jays can be responsible for up to 40 per cent of all nest predation in blackcaps ([Weidinger 2009](#)). Research has found that the most effective control is where mammalian and avian predators are both removed ([Bodey et al. 2011](#), [Madden, Arroyo & Amar 2015](#)).

NRW considered this evidence along with other submissions and concluded in their synthesis of evidence³ that: "Priority species identified under legislation or local biodiversity plans can be vulnerable to predation by non-native and native predators. Evidence demonstrates that predator control is important where the impacts threaten the favourable condition of populations of priority species."

Control for pest birds in England as part of integrated predator management is essential for priority species just as NRW concluded in Wales. The revoked general licences were functioning perfectly to permit control when and where it was needed by conservation organisations and land managers and local people alike.

² <https://basc.org.uk/basc-wales/natural-resources-wales-firearms-policy/>

³ <https://cdn.naturalresources.wales/media/683945/paper-2-synthesis-of-evidence.pdf?mode=pad&rnd=131625760710000000>

3. Problems with or caused by the three revoked general licences, and conditions that could be attached to the general licences to address these problems

3.1 Problems with or caused by the three revoked general licences

Specific examples of the problems with or caused by the three revoked general licences reported by BASC members are as follows:

- They could be revoked without notification (revocation should not be permitted without a period of grace to protect users).
- A lack of awareness raised by the government on the reasons for issuing general licences and the law behind them.
- There should be an agreed timetable for review.

BASC's understanding is that other parties have concerns as to the lawfulness of the revoked licenses (GL04, GL05 and GL06). Since 25 April we have requested Natural England to disclose their legal advice. BASC legal team has had an opportunity to assess the Judicial Review's proceedings which led to NE's decision. Our legal advisers are of the view that there were good grounds to defend the challenge made on the *ultra vires* claim on the general licences GL04, GL05 and GL06.

The competent authority should satisfy themselves before issuing general licence; this could be done by underpinning the general licence process with a regular appropriate assessment of pest bird populations and evidence of the ineffective use of non-lethal alternatives compared to lethal management.

3.2 A regular assessment of pest bird populations

A key requirement of both the Wildlife and Countryside Act and the Birds Directive is that there should be "no other satisfactory solution" before authorising the killing or taking of birds. A regular assessment for each species and each situation that reviewed the effectiveness of other solutions and provided evidence of the lack of no other satisfactory solutions at a country-level could address this.

This assessment would be relatively straightforward for some species and some situations (for example controlling woodpigeon to prevent damage to crops), but will be more difficult for others (for example, controlling Canada geese to conserve native fauna). Where this evidential base demonstrates that there are no other satisfactory solutions it would allow users to conduct lethal control without needing to exhaust non-lethal methods first, or reduce the burden to the methods that would be most likely to work in the specific circumstance.

The Birds Directive also requires that derogations under Article 9 do not compromise the favourable conservation status of the species affected. However, relevant case law under the EU Habitats Directive highlights that even if species are not in favourable status, the use of derogations is still acceptable. More specifically, in case C-342/05, having established that the conservation status of the wolf in Finland was not favourable, the Court has considered that the granting of a derogation for wolf hunting remains possible by way of exception "where it is duly established that they are not such as to worsen the unfavourable conservation status of those populations or to prevent their restoration at a favourable conservation status".

Table 2 shows the population trend and conservation status of native birds that were able to be killed or taken under the revoked general licences. All species with the exception of feral pigeon and jay were reported as having an increasing population, and all are green listed under Birds of Conservation Concern. The increases in the majority of these species demonstrate that the previous licencing system was not having a significant impact on the conservation status of the species concerned, and for those with declining trends there are clear links to changing land use as the main driver of decline or stabilisation.

Table 2: Population trend and status for native birds that could be killed or taken under revoked general licences GL04, GL05 and GL06

Species	State of the UK Birds ⁴ Long term trend % (1970-2015)	BBS Trend % (1995-2015)	BoCC status	BBS Long term trend ⁵
Feral pigeon	na	-21	Green	uncertain
Woodpigeon	123	35	Green	rapid increase
Collared dove	311	3	Green	rapid increase
Jay	8	19	Green	fluctuating, with no long-term trend
Magpie	97	-2	Green	rapid increase
Jackdaw	149	54	Green	rapid increase
Rook	na	-20	Green	probable increase
Carrion crow	98	18	Green	rapid increase

The lesser black-backed gull is not covered by the same surveys as the other species. The *L. f. graellsii* sub-species is in decline at the flyway level, but Birds of Conservation Concern does not report any significant decline at the UK level.

Bag data is available for some of the species (Table 3) on the revoked general licences. These indicate that the annual bag of woodpigeons is approximately 7% of the UK population and the combined bag of corvids is approximately 2% of their combined populations. This level of take is highly unlikely to impact on the national population, but it does allow land managers to act locally to reduce bird densities to levels that minimise damage.

⁴ <https://www.bto.org/our-science/publications/state-uks-birds>

⁵ <https://www.bto.org/our-science/publications/birdtrends/2018/species>

Table 3: The estimated bag and the population estimate for native species that could be killed or taken under revoked General Licences GL04, GL05 and GL06

Species	Estimated bag (PACEC 2014)	Population estimate (Robinson 2019)	Bag as % population*
Feral pigeon	?	550,000 (p)	?
Woodpigeon	1,100,000	5,400,000 (p)	6.8
Collared dove	?	990,000 (p)	?
Jay	13,000	170,000 (t)	2.5
Magpie	42,000	600,000 (t)	2.3
Jackdaw	75,000	1,400,000 (p)	1.8
Rook	76,000	1,100,000 (p)	2.3
Carrion crow	84,000	1,000,000 (t)	2.8

(p) pairs; (t) territories; * The total individual population is calculated as the number of pairs or territories multiplied by 3

3.3 Conditions that could be attached to general licences to address problems with or caused by the three revoked general licences

The problems highlighted by BASC do not require any additional conditions attached to the general licences. BASC would ask that Defra ensures that in the future:

General licences cannot be revoked without notification and that sensible transition provisions are put in place when general licences are amended.

Defra reinstates the biannual appropriate assessments to underpin the tests required to issue a general licence.

Defra puts in place an agreed timetable for review.

4. Problems with or caused by the revocation of the three revoked general licences

4.1 General problems with, or caused by, the revocation of the three revoked general licences

A large, independent, national survey estimated that 220,000 people in the UK take part in avian pest control ([PACEC 2014](#)). This is in considerable excess of the 50,000 estimated by Natural England, showing they had a poor understanding of the importance of general licences.

The revoking of the three general licences on 25 April has caused complete confusion and chaos with no clear plan in place potentially putting people at risk of prosecution. This has clearly been shown by BASC along with other rural organisations receiving unprecedented levels of member enquiries. BASC has received in excess of 10,000 member enquiries and in excess of 95,000 views of the dedicated general licence web page since the decision was made to revoke the general licences GL04, GL05 and GL06.

Unfortunately, the decision to revoke the general licences without warning by NE has led to a loss of confidence in government agencies by shooters who rely on other agreements that could be revoked immediately and without warning.

BASC received 29,657 responses to its five-day online general licences survey. The survey clearly showed the negative and far-reaching impacts of the revocation, reported by those who usually controlled pest birds, or authorised pest bird control in England.

The survey showed that, of 26,944 respondents:

- 97% used GL04 to prevent serious damage or disease. Of these:
 - 87% undertook pest bird control themselves
 - 3% authorised pest bird control on their behalf
 - 11% both undertook control themselves and authorised others to undertake control on their behalf.
- 62% used GL05 to preserve public health and safety. Of these:
 - 88% undertook pest bird control themselves
 - 5% authorised pest bird control on their behalf
 - 7% both undertook control themselves and authorised others to undertake control on their behalf.
- 90% used GL06 to conserve wild birds, flora and fauna. Of these:
 - 87% undertook pest bird control themselves
 - 3% authorised pest bird control on their behalf
 - 10% both undertook control themselves and authorised others to undertake control on their behalf.

The total days reported using the licences in a typical year were:

- 1,415,351 days spent annually by respondents on bird pest control to prevent serious damage or prevent the spread of disease (GL04).
- 666,354 days spent annually by respondents to on bird pest control to preserve public health and safety (GL05).

- 1,288,043 days spent annually by respondents on bird pest control for conservation (GL06).

In total, this amounts to **3,369,748** days reported to be spent annually controlling bird pests under general licences GL04-06 by respondents.

On average, before the revocation respondents spent:

- 30 days each annually on bird pest control to prevent serious damage or prevent the spread of disease (GL04)
- 10 days each annually to preserve public health and safety (GL05)
- 20 days each annually on bird pest control for conservation (GL06).

Results revealed that 99% of 24,442 respondents were aware of damage, loss or risk occurring as a result of the revocation; 1% were not. Respondents reported damage and losses occurring over or adjacent to land they would normally control wild birds on, or authorise their control on, as a result of the revocation of the three general licences as follows:

- **86%** reported damage/loss of crops
- **79%** reported damage/loss of wild birds like songbirds or waders
- **59%** reported damage/loss of foodstuffs for livestock
- **52%** reported damage/loss of livestock
- **46%** reported an increased risk of the spread of disease among animals (e.g. through wild bird waste)
- **44%** reported damage/loss of other wild animals or plants
- **39%** reported increased risk to public health and safety (e.g. through disease or nesting in buildings)
- **38%** reported damage/loss of fruits or vegetables
- **15%** reported damage to inland waters or fisheries (including loss of fish)
- **1%** reported damage/loss of growing timber
- **1%** reported none of the above.

Of the 3,610 respondents who gave an estimate of financial loss as a result of the revocation, the median loss reported per respondent as a result of the revocation was £1,200 and the total reported loss was £29,071,056. This is recognised as potentially being a conservative estimate, as reported losses over £600,000 have been excluded from this analysis as outliers.

Of 23,921 respondents who usually controlled, or authorised control of, pest birds in England:

- Overall, **96%** had stopped all or some of their pest control of wild birds:
 - **82%** had stopped all pest control of wild birds
 - **14%** had stopped some pest control.
- **2%** had been able to resume all their pest control and **2%** chose 'none of the above'.

Of those who had **not** been able to resume their usual pest control activity at the time of the survey:

- **70%** were waiting for new general licences to be published that covered their usual activity.

- **58%** were prevented from using the new general licences as they were too impractical or too onerous.
- **8%** had applied for one or more individual licences and were waiting for Natural England to approve it/them.

Many BASC members have taken the opportunity to submit evidence to Defra and express their concerns individually and provide evidence of their loss as a result of revoking the three general licences. BASC has received in excess of 10,000 member enquiries which have highlighted the following key areas of concern:

- Loss of lambs to corvid attack.
- Loss of poultry and eggs on commercial chicken farm to corvids.
- Large scale damage to crops. Including some reporting complete loss of the crop due to pigeon and corvid damage. Pea and bean sowing being particularly effected.
- Gamekeeper member reported the loss of all known lapwing nests on his estate to corvids.
- Large-scale damage and loss to animal feed by feral pigeons and corvids.
- Increased risk of disease due to feral pigeons defecating in cattle shed.
- Loss of income by professional pest controllers.

4.2 Risks of losing circumstances under which certain wild bird species can be controlled under Natural England's new general licences

Until 25 April 2019, people could use three general licences issued by Natural England to kill or capture certain wild birds (including removing or destroying eggs and nests) to:

- prevent the spread of disease or stop serious damage to livestock, food, crops, growing timber, fisheries or inland water (GL04)
- preserve public health and safety (GL05)
- conserve wild birds and flora and fauna (GL06).

Natural England released a timetable for new general licences ([Natural England 2019](#)) which identified:

- three priority groups of licences grouped by the timescale of their introduction
- seven very specific reasons for control where there used to be three broad reasons
- three species for which control will no longer be available under GLs.

The previous general licences collectively covered 155 circumstances where individual species could be controlled if they were causing a problem (as illustrated by all coloured cells in Table 4). The new general licence proposals cover only 31 circumstances for individual species control (shown as green, yellow or orange cells in Table 4). This means that there are now 124 circumstances where control of species will no longer be permitted under general licence. To put it another way, according to Natural England's proposals, 80% of control circumstances for individual species have been removed. In addition, control has been lost in relation to fisheries, inland water, and growing timber (previously GL04) and conservation of flora and non-bird fauna (see Table 4).

The fact that control of some problem species has been missed out of the new general licence proposals could cause problems in a number of areas including disease, agriculture, public health and safety and conservation.

Disease

The species covered under the proposed new general licences are feral pigeon, jackdaw and rook. However, other species that used to be covered under general licence GL04 can cause problems in relation to disease. These have not been covered by the new proposals.

For example:

- According to [Defra \(2018a\)](#) avian influenza has been found in gulls, corvids, pigeons and doves and these species pose a disease risk to livestock through direct and indirect contact (e.g. contamination of feed, water, bedding and equipment). Egyptian geese can also carry and transmit avian influenza ([Burger, Abolnik & Fosgate 2012](#)).
- Research shows crows can transmit paratuberculosis to ruminants such as cattle, sheep and goats, which could make it difficult to control nationally ([Beard et al. 2001](#), [Corn et al. 2005](#)).

- Corvids may exacerbate issues through their presence in livestock areas, scavenging infected prey, and travelling wide distances ([Daniels et al. 2003](#)).
- Globally, the main hosts for *Trichomonas gallinae* are pigeons and doves – research shows that *Trichomonas* infection was present in 86% of collared doves, 47% of woodpigeons and 40% of stock doves ([Lennon et al. 2013](#)).
- Collared doves can also carry *Chlamydia psittaci*, which could spread to other wild birds or humans ([Donati et al. 2015](#)).
- A [report to Defra](#) in 2009 identified the ring-necked parakeet as a potential vectors for a number of diseases.
- Livestock feed can be contaminated by up to 42 wild bird droppings per square metre per month and transmit disease and infection ([Daniels, Hutchings & Grieg 2003](#)).

Agriculture

The species covered under the proposed new general licences for crop, fruit and vegetable damage are feral pigeon, woodpigeon, carrion crow, jackdaw, rook, Canada goose and Egyptian goose. However, other species that used to be covered under general licence GL04 can cause problems in relation to crop, fruit or vegetable damage. These have not been covered by the new proposals.

For example:

- Parakeets are considered agricultural pests throughout their native ranges ([Tayleur 2010](#)).
- A [report to Defra](#) in 2009 found the ring-necked parakeet was a major crop pest and identified seven commercially important crops grown in the UK that are potentially vulnerable to parakeet damage: maize, sunflower, tomato, grape, wheat, apple and pear.

Public health and safety

The species covered under the proposed new general licences for human health and safety are feral pigeon, lesser black-backed gull, herring gull, Canada goose and monk parakeet. However, other species that used to be covered under general licence GL05 can cause serious issues in relation to human health and safety.

For example:

- The presence of bird droppings requires safety guidance for harmful micro-organisms to be followed under the Control of Substances Hazardous to Health (COSHH) Regulations ([Health and Safety Executive no date](#)). Breathing dust or water droplets containing contaminated bird (e.g. pigeon, collared dove) droppings can lead to bacterial infections in humans such as [Psittacosis](#) and [Salmonella](#).
- Pigeons can transmit [dermatitis and pruritus](#) via red blood mites and the pigeon tick – both of which can migrate into human living space ([Regan, Metersky & Craven 1987](#)).

- A [Civil Aviation Authority report](#) shows that in the UK between 2012-2016, pigeons and doves were responsible for 800 reported aircraft bird strikes or near misses, crows were responsible for 300 and gulls over 1,300. BASC estimates that without shooting, aircraft strikes or near-misses from woodpigeon could be expected to increase by 7% per year.⁶
- Magpies, crows and jackdaws are highly susceptible to, and can act as hosts for West Nile Virus ([Koraka, Barzon & Martina 2016](#), [Jimenez de Oya et al. 2018](#)).
- Corvids like crows, rooks and jackdaws commonly come into conflict with businesses, organisations and home owners due to them causing damage or destruction ([British Pest Control Association 2018](#)).
- Ring-necked parakeets have been known to damage buildings and structures when nesting, and if nesting material gets wet power outages can occur ([Tayleur 2010](#)).

Conservation

The species covered under the proposed new general licences for the conservation of wild birds are carrion crow, jackdaw, jay, magpie, rook, Canada goose, monk parakeet and ring-necked parakeet. However, other species that used to be covered under general licence GL06 for conservation purposes can cause problems for wild birds.

For example:

- Pigeons and doves, including woodpigeon, feral pigeon and collared dove, are known to be one of the main carriers of *Trichomonas gallinae* which can cause *Trichomonosis* disease in wild bird populations including UK birds of prey. Research found that of sampled European birds, 70% of woodpigeons and 60% of collared doves tested positive for *Trichomonas* infection. *Trichomonosis* is continuing to spread in Europe and has led to epidemic mortality of finches, including greenfinches and chaffinches ([Stabler 1954](#), [Chi et al. 2013](#), [Marx et al. 2017](#)).
- According to [Defra 2018a](#), avian influenza has been found in gulls, pigeons and doves. Egyptian geese can also carry and transmit avian influenza ([Burger, Abolnik & Fosgate 2012](#)).
- Gulls can become infected with *Salmonella* bacteria when they feed at sites where sewage is released. Although gulls are relatively resistant to disease, they can carry *Salmonella* and pass it on other animals. Carrion-eaters like birds of prey can pick up *Salmonella* when eating infected prey. The most significant outbreaks of wild bird *Salmonellosis* occur in passerines ([Tizard 2004](#)).
- Egyptian geese can exhibit dominant and aggressive behaviour towards other birds, prevent smaller native species from establishing territories, can reduce the productivity of birds of prey such as osprey and barn owl by usurping nests

⁶ The annual woodpigeon bag in the UK is at least 1.1 million as estimated by [PACEC](#) and the [RSPB](#) lists the population as 5.4 million pairs. This equates to around 16.5 million birds and a bag of 6.66%.

and outcompeting them for artificial nesting platforms or nestboxes ([Rehfish, Allen & Austin 2008](#)).

Inland water, fisheries and growing timber

Under the new general licence proposals, wild bird species can no longer be controlled to prevent damage to inland water and fisheries, or growing timber. BASC's survey shows that since the revocation, 15% of respondents reported damage to inland waters or fisheries (including loss of fish) and 1% reported loss or damage to growing timber.

Flora and non-wild bird fauna

Under the new general licence proposals, wild bird species can no longer be controlled to prevent damage to flora or non-bird fauna. BASC's survey shows that since the revocation, 44% of respondents reported damage or loss of other wild animals or plants.

Table 4: Control circumstances and species covered by GL04, GL05 and GL06 in comparison to the new GL proposals listed by NE in their general licences position statement

Previously covered by	GL04								GL05	GL06		
	% removed	92%	77%	46%	62%	100%	100%	100%	85%	58%	38%	100%
Species covered by GL04, GL05 & GL06	Prevent serious damage to livestock	Prevent the spread of disease	Prevent serious damage to crops	Prevent serious damage to foodstuffs for livestock	Prevent serious damage to fisheries	Prevent serious damage to inland waters	Prevent serious damage to growing timber	Prevent serious damage to vegetables/ fruit	Preserving public health and public safety	Conserve wild birds	Conserve wild flora	Conserve wild fauna (exc. wild birds)
Feral pigeon	No replacement	Priority 2	Priority 3	Priority 3	No replacement	No replacement	No replacement	No replacement	Priority 1	No replacement	No replacement	No replacement
Woodpigeon	No replacement	No replacement	Priority 1	Priority 3	No replacement	No replacement	No replacement	Priority 3	No replacement	Not covered by GL06	Not covered by GL06	Not covered by GL06
Collared dove	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	Not covered by GL06	Not covered by GL06	Not covered by GL06
Carrion crow	Priority 1	No replacement	Priority 3	Priority 2	No replacement	No replacement	No replacement	No replacement	No replacement	Priority 1	No replacement	No replacement
Jackdaw	No replacement	Priority 3	Priority 3	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	Priority 3	No replacement	No replacement
Jay	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	Priority 3	No replacement	No replacement
Magpie	No replacement	No replacement	No replacement	Priority 2	No replacement	No replacement	No replacement	No replacement	No replacement	Priority 1	No replacement	No replacement
Rook	No replacement	Priority 3	Priority 1	Priority 2	No replacement	No replacement	No replacement	Priority 3	No replacement	Priority 3	No replacement	No replacement
Lesser black-backed gull	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	Priority 1	No replacement	No replacement	No replacement
Herring gull	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Priority 1	Not covered by GL06	Not covered by GL06	Not covered by GL06
Canada goose	No replacement	No replacement	Priority 1	No replacement	No replacement	No replacement	No replacement	No replacement	Priority 1	Priority 2	No replacement	No replacement
Egyptian goose	No replacement	No replacement	Priority 3	No replacement	No replacement	No replacement	No replacement	No replacement	Not covered by GL05	No replacement	No replacement	No replacement
Monk parakeet	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	Priority 3	Priority 3	No replacement	No replacement
Ring-necked parakeet	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	No replacement	Not covered by GL05	Priority 3	No replacement	No replacement
Sacred ibis	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL05	No replacement	No replacement	No replacement
Indian house-crow	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL04	Not covered by GL05	No replacement	No replacement	No replacement

Red = no replacement in the new general licence proposals, Green/Yellow/Orange = Priorities for new general licences. All according to Natural England's position statement [here](#)

5. BASC's view as to why the three new general licences are unworkable

Natural England have issued only three new general licences; GL26 to kill or take carrion crows to prevent serious damage to livestock; GL31 to kill or take woodpigeons to prevent serious damage to crops and GL28 to kill or take Canada geese to preserve public health and safety.

BASC and other rural organisations have described the new general licences as unworkable and not fit for purpose. Wording within the licences is unclear and contradictory which makes it extremely difficult, if not impossible, to follow what is required.

To make things even more complicated, Natural England also published, on 26 April, no fewer than three other documents associated with the new licences. These are GL33, WML-GU01 and WML-GU02.

Far from allowing control, as claimed, to carry on 'much as before,' the three new general licences include many additional restrictions and conditions than their revoked predecessors. Appendix 1, 2 and 3 highlight the key concerns with GL26, GL28 & G31.

Key additional restrictions in the new general licences are as follows:

- Control is only allowed as a last resort where reasonable steps to prevent predation by [other non-lethal] lawful methods have been taken.
- Non-lethal methods have to be continued alongside use of the general licence (although they have presumably already been shown not to work, otherwise the general licence could not be used).
- Control methods allowed are listed out. It used to be 'any lawful method'. This adds unnecessary restriction (e.g. the new licence specifies what product you must use to oil an egg).
- Section 8e of the three new general licences lists detailed information that the users of the licences must be able to show, if asked by an officer of Natural England or the Police. These are all new, onerous and arguably impossible requirements.
- For the crow general licence (GL26) allowable cage traps are restricted to 'Larsen' or 'Multi Catch' cage traps, the latter defined as 'large enough for a man to enter'. Any other size would therefore become illegal. The new licence defines a 'Larsen' in a way that prohibits the use of a Larsen Mate or similar device.
- The three new general licences all have different wording as to who can use them. On the crow general licence (GL26) it is 'farmers and other keepers of vulnerable livestock and people acting on their behalf', the woodpigeon licence (GL31) it is people growing crops and by people acting on their behalf. The revoked general licences used the wording 'Landowners, occupiers and any Authorised Persons' (which is still used in the Canada geese general licence (GL28)). This adds unnecessary confusion and additional restrictions which removes flexibility for unforeseen needs.

- For the crow general licence (GL26) it states that users can undertake lethal control of birds only during the breeding season if lethal control at other times or use of other licensed methods (e.g. egg destruction) would not provide a satisfactory solution. How can a general licence user know that? The spring breeding season is the key time of use for both farmers and gamekeepers.
- The three new general licences cannot be used in protected sites (i.e. SSSI, SPA, RAMSAR etc.), or within 300 metres of them, without first obtaining a further licence from NE.
- There are now definitions of what amounts to serious damage which are confused. For example the new crow general licence (GL26) states that the loss of some released game birds to crow predation is not 'serious damage' but is an element of 'normal business risk' and it provides a long and complicated 'justification' for this conclusion. This is compared with the loss of a single lamb being classed as constituting a welfare risk.

The temporary solution that an individual licence could be applied for in the absence of the proposed 31 new general licence left end users vulnerable to prosecution. Natural England suggested that applying for an individual licence may allow people to carry out control, while waiting for their application to be assessed, under what is being called the section 4 defence. This refers to part of Wildlife and Countryside Act 1981. However, this is a defence which is not the same as acting under the authority of a licence issued to carry out control.

It is only a valid defence if specific conditions are met such as being able to show there was no other satisfactory solution and includes a reporting requirement. It also does not apply to all areas i.e. it is not valid in relation to lethal action for the purposes of conserving flora and fauna.

Having received legal advice BASC advised its members not to rely on this defence.

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Appendix 1

Carrion Crow General Licence GL26

The below is an initial analysis of areas of concern

- In short the wording within the licence is unclear and contradictory which makes it impossible to follow; one person will read it one way and someone else will read it another.
- There is a lack of uniformity and clarity. One paragraph will state one thing and then another will say something which contradicts it.
- The definitions of who can use a licence is different between the three new general licences which have been issued and the reasons for this are not clear.
- At times it appears to be none site specific, at others it does.
- At times it appears to recognise the value of reducing crow numbers to prevent future damage but then immediately has contradictory wording to suggest otherwise.
- There is confusion and a lack of uniformity as to what is serious damage.
- Some of the methods to scare e.g. swapping place with a scarecrow might be amusing if it wasn't such a serious issue. What this shows is a lack of practical understanding.

Licence Section/ paragraph	Wording	Questions/implications
Overview	<p>This licence permits farmers and other keepers of vulnerable livestock, and people acting on their behalf to carry out activities that would otherwise be illegal against the following protected species of wild bird.</p> <p>This licence may only be used:</p>	<p>There are now three new general licences all with different wording as to who they are for. The Canada goose licence uses wording from previous general licences – “landowners etc.” why is this one different?</p>

	<p>1. for the purpose of preventing serious damage to certain specified livestock by this bird species.</p> <p>3. where reasonable steps to prevent predation by lawful methods have been and continue to be taken.</p> <p>Users of this licence must comply with all licence terms and conditions including those in 'Standard Licence Conditions for trapping wild birds and using decoys under a Natural England licence' (GL33).</p>	<p>Within the licence there is contradictory wording in relation what is livestock. Under section 3 (terms and conditions) it advises livestock as sheep (including lambs), piglets, domestic poultry and waterfowl and reared gamebirds and wildfowl (including released birds while they are kept*)</p> <p>Later in section 12 (definitions) it advises; "<i>Livestock</i>" is as defined in section 27(1) of the 1981 Act. "<i>Livestock includes any animal which is kept</i> <i>(a) for the provision of food, wool, skins or fur;</i> <i>(b) for the purpose of its use in the carrying on of any agricultural activity; or</i> <i>(c) for the provision or improvement of shooting or fishing."</i></p> <p>Later wording within the licence says "<i>reasonable endeavours</i>" and not steps. Why is this? There is still the confusing instruction that these steps need to continue to be taken even when they do not work just to comply with the ambiguous wording.</p> <p>The licence itself is now twice as long (11 pages) as the one it replaces. It now also links to trapping standards which are on a separate document. In all there are now 16 pages to consider and comply with and just for one species.</p>
<p>7. Who can use this licence?</p>	<p>This licence can only be used by farmers and other keepers of the vulnerable livestock listed at '3' above, and by people acting on their behalf.</p>	<p>As per earlier comment, there are now 3 license with 3 different definitions on who can use them.</p> <p>The Canada goose licence uses the term 'authorised persons' and then links to the WCA to clarify who these are (as did the revoked licences) why is this licence different?</p> <p>What does acting on their behalf mean? Is this a legal term?</p> <p>Do you have to have permission from a farmer or keepers of vulnerable livestock or can you decide you are acting on their behalf?</p>

		<p>Is the licence site specific i.e. where there is livestock or can control be carried out elsewhere for example in a wood where these birds are roosting or neighbouring field on a flight line? Or perhaps person specific as to who can give permission e.g. farmers and other keepers?</p>
<p>8. When this licence can be used</p>	<p>a) Only as a last resort to prevent serious damage*.</p> <p>b) Before using the licence reasonable endeavours must have been made to resolve the problem using the lawful methods identified in Table 1 (unless their use would be impractical, without effect or disproportionate in the circumstances) and any other lawful methods that may be appropriate in the circumstances.</p> <p>c) Reasonable endeavours must continue to be made to resolve the problem using such appropriate lawful methods alongside use of the licence.</p> <p>d) Only undertake lethal control of birds during the breeding season if lethal control at other times or use of other licensed methods (e.g. egg destruction) would not provide a satisfactory solution.</p> <p>e) Any person using this licence must be able to show, if asked by an officer of Natural England or the Police: (i) what type of livestock any action under this licence is protecting;</p>	<p>Why this term and not the wording from the WCA i.e. “<i>no other satisfactory solution</i>”? The two have different meanings.</p> <p>What does section b) and c) mean? It is ambiguous and could easily be read that you have to continue to use methods at the same time as carrying out lethal control. Because of this it makes the licence unworkable.</p> <p>How can this be assessed? No one knows what is going to happen in the future. This breeding season for crows coincides when most livestock e.g. lambs will be at their most vulnerable.</p> <p>This section recognises that control e.g. egg destruction does not have to be on a particular site where damage is being done and also shows a view that control is around reducing numbers to prevent future serious damage and not just stopping adult birds attacking livestock. But this is immediately contradicted by the following point and some later sections.</p> <p>This now seems to make it site specific and puts the onus on the user.</p>

	(ii) what lawful methods have been, and are being, taken to prevent predation of such livestock by carrion crow or why the lawful methods have not been taken; (iii) what measures have been and are being taken to minimise.	
11. European and nationally protected sites	a) For protected sites with interest features that include bird species, no action authorised by this licence is permitted to take place within those sites or within 300 metres of the boundary of such site.	<p>What happens if the bird species designation/feature is only seasonal?</p> <p>Potentially the issue isn't so much on an actual SSSI etc. (where consents are required) but in what is in effect an exclusion zone around it. While someone might be able to find out if a neighbour has a SSSI, how easy would it be for them to find out what the designation was for and also what consenting activities have been approved? Would NE sharing this information breach GDPR?</p> <p>How do I apply to carry out control in this exclusion zone; is it by an individual licence?</p> <p>Potentially, could this mean land within 300 metres is devalued and have extra restrictions applied and what are the legal implications?</p>
12. Definitions used in this licence	<p>Livestock definition</p> <p>Larsen and multi catch traps now have definition where previous wording allowed a cage trap the dimensions of which do not satisfy the requirements of section 8(1) WCA.</p>	<p>As referenced earlier under the overview the definition of livestock differs within the licence.</p> <p>This now appears to prohibit some traps previously permitted such as 'Larsen Mates'.</p>
Advice section	Users of this licence are requested to exercise restraint when undertaking shooting or scaring activities during periods of prolonged severe weather.	If control is required to prevent damage, then why a request of restraint?

Table 1	lists methods that are considered capable of reducing or resolving problems for each of the categories of vulnerable livestock covered by this licence.	<p>This section should recognise that it may not be practical to do any of these methods and having fully considered them lethal control might be the appropriate first action.</p> <p>A number of the methods suggested in this section would be amusing if the issue and potential damage were not so serious. The idea of changing place with a scarecrow to shoot and frighten crows is pretty weak but what it does show is an acknowledgement that some methods are not going to work in a longer term.</p> <p>Once a decision has been made that lethal control is required then efforts to make it efficient and humane should be made and some of the suggestions made would actually make this more difficult.</p>
Table 2	This defines what amounts to “serious damage” for the purpose of the livestock covered by the licence.	<p>This appears to confirm that serious damage doesn’t have to occur before lethal control can be carried out to prevent such damage; however, there appears to be a lack of understanding, confusion and lack of uniformity in approach to different types of livestock as to what constitutes serious damage for example;</p> <p>The welfare of some livestock is recognised; <i>“Crow attacks on ewes and lambs can lead to serious injuries, and well as deaths. These attacks have welfare implications for the sheep, as well as a financial cost in veterinary bills and potentially losses of relatively high value livestock². This welfare aspect not noted with other livestock species listed.</i></p> <p>Losses of other livestock are noted as normal business risk. When looking at gamebirds the licence advises <i>“Where other causes of losses are being effectively minimised (e.g. through good husbandry and control of other predators), then if crow predation were to reduce, or to threaten to reduce, the number of birds recovered by shoots to below 35%, then that would constitute serious damage.”</i></p> <p>This does not recognise that in the case of gamebirds there are different ‘keepers in the process’, such as game farmers who will rear the birds and sell on to shoots at a certain age who will then release these. Losses at different stages of managing gamebirds will have different impacts on the respective ‘keepers’. Therefore the calculation based on ‘harvests’ by shoots is not a valid assessment.</p>

	<p><u>Evidence</u> As explained in condition 8 of the licence, any person using this licence must be able to show, if asked by an officer of Natural England or the police, what type of livestock licensed action is protecting and why the threat of predation is sufficiently serious to merit action under the licence, notwithstanding the use of appropriate lawful methods to contain the threat. Relevant evidence will include examples of actual or attempted predation during the present year or in recent years.</p>	<p>This is unclear. As above is it legitimate to kill crows to prevent serious damage based on previous damage or damage elsewhere away from a particular site?</p> <p>Again this appears to be making it site specific.</p>
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Appendix 2

Canada Goose General Licence GL28

The below is an initial analysis of areas of concern

- In short, wording within the licence is unclear and contradictory, which makes it extremely difficult if not impossible to follow; one person will read it one way and someone else another.
- There is a lack of uniformity and clarity. One paragraph will state one thing and then another will say something which contradicts it.
- The definitions of who can use a licence is different between the three new general licences which have been issued and the reasons for this are not clear.
- At times it appears to be none site specific, at others it does.
- At times it appears to recognise the value of reducing numbers to prevent future damage but then has contradictory wording.

Licence Section/ paragraph	Wording	Questions/implications
Overview	<p>This licence permits landowners, occupiers and other Authorised Persons to carry out activities that would otherwise be illegal against this species during the close season. This licence may only be used:</p> <ol style="list-style-type: none"> 1. for the purposes of preserving public health and/or public safety, 2. where it is strictly necessary to take action to preserve public health and/or public safety, and 	<p>There are now three new general licences, all with different wording as to who they are for. This one uses the term authorised persons but the two others issued do not and it is unclear why.</p> <p>Making the licence only valid during the close season prevents the use of certain methods during the open season period e.g. the use of a semi-automatic weapon even if the purpose is to protect public health?</p>

	3. where reasonable steps to prevent problems by lawful methods have been and continue to be taken.”	Later wording within the licence says “reasonable endeavours” and not steps. Why is this? There is still the confusing instruction that these steps need to continue to be taken even when they do not work just to comply with the ambiguous wording.
Licence Terms and Conditions	“1. Valid for the period 1 st February [or date issued if later] to 31 st August 2019 (inclusive).”	This confirms that the control is only authorised outside the ‘open season’; however, it is not just having authority to carry out lethal control of these birds but the methods available which is important in some situations.
7. Who can use this licence?	“a) This licence can only be used by Authorised Persons*, except those convicted on or after 1 January 2010 of a wildlife crime*”	The previous wording on old general licences (GL04-06) appear to have been used rather than the different terms (farmers etc.) on the new woodpigeon and carrion crow licences.
8. When this licence can be used	<p>b) Before using the licence reasonable endeavours must have been made to resolve the problem using the lawful methods identified in Table 1 (unless their use would be impractical, without effect or disproportionate in the circumstances) and any other lawful methods that may be appropriate in the circumstances.</p> <p>c) Reasonable endeavours must continue to be made to resolve the problem using such appropriate lawful methods alongside use of the licence.</p> <p>d) Only undertake lethal control of adult birds with dependent young during the breeding season if lethal control outside the close season, egg oiling/pricking, and rounding-up and culling birds during their flightless phase would not provide a satisfactory solution.</p>	<p>What do sections b) and c) mean? They are ambiguous and could easily be read that you have to continue to use methods at the same time as carrying out lethal control. Because of this it makes the licence unworkable.</p> <p>How can this be assessed? No one knows what is going to happen in the future.</p> <p>This section appears to recognise that control does not have to be on a particular site where damage is being done and also shows a view that control is around reducing numbers to prevent future issues.</p> <p>But this appears to be contradicted by the following point (e).</p>

	<p>e) Any person using this licence must be able to show, if asked by an officer of Natural England or the Police:</p> <ul style="list-style-type: none"> (i) what risk to public health and/or public safety any action under this licence is addressing; (ii) what lawful methods have been, and are being, assessed and or taken to prevent address the risk or why the lawful methods have not been taken; and (iii) why the risk is judged sufficiently serious to merit action under this licence” 	<p>This now seems to make it site specific and appears to put the onus on the user.</p>
9. Use of traps	<p>“The use of traps (including pens and corrals) under the authority of this licence must comply with the terms and conditions in document ‘Standard Licence Conditions for trapping wild birds and using decoys under a Natural England licence’ (GL33)”</p>	<p>There does not appear to any reference to corrals in GL33</p>
11. European and nationally protected sites	<p>a) For protected sites with interest features that include bird species, no action authorised by this licence is permitted to take place within those sites or within 300 metres of the boundary of such site.</p>	<p>What happens if the bird species designation/feature is only seasonal?</p> <p>Potentially, the issue isn’t so much on an actual SSSI etc. (where consents are required) but in what is in effect an exclusion zone around it. While someone might be able to find out if a neighbour has a SSSI, how easy would it be for them to find out what the designation was for and also what consenting activities have been approved?</p>

		<p>Would NE sharing this information breach GDPR?</p> <p>How does one carry out control in this exclusion zone; is it by an individual licence?</p> <p>Potentially, could this mean land within 300 metres is devalued and have extra restrictions applied and what are the legal implications?</p>
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Appendix 3

Woodpigeon General Licence GL 31

The below is an initial analysis of areas of concern.

- In short, wording within the licence is unclear and contradictory, which makes it extremely difficult if not impossible to follow; one person will read it one way and someone else another.
- There is a lack of uniformity and clarity. One paragraph will state one thing and then another will say something which contradicts it.
- The definitions of who can use a licence is different between the three new general licences which have been issued and the reasons for this are not clear.
- At times it appears to be none site specific, at others it does.
- At times it appears to recognise the value of reducing woodpigeon numbers to prevent future damage but then has contradictory wording to suggest otherwise.
- There is confusing references as to what is considered serious damage and what constitutes a crop.
- Some of the methods to scare e.g. swapping place with a scarecrow, might be amusing if it wasn't such a serious issue. What this shows is a lack of practical understanding.

Licence Section/ paragraph	Wording	Questions/implications
Overview	<p>This licence permits people growing crops and people acting on their behalf to carry out activities that would otherwise be illegal against the following protected species of wild bird.</p> <p>This licence may only be used where reasonable steps to prevent crop damage by lawful methods have been and continue to be taken.</p>	<p>There are now three new general licences, all with different wording as to who they are for. The Canada goose licence uses wording from previous general licences – “landowners etc.” why is this one different?</p> <p>Later wording within the licence says “reasonable endeavours” not steps. Why is this different?</p>

	<p>If you need to take action to prevent serious damage to a type of crop, or in circumstances, not covered by this licence you will need to apply for a licence to do so from Natural England”.</p>	<p>There is still the confusing instruction that these need to continue to be taken, even when they do not work, just to comply with the ambiguous wording.</p> <p>Later there is a list of crops, so does this mean that if a crop is not listed it isn't covered even if it was a high value?</p>
<p>7. Who can use this licence?</p>	<p>a) This licence can only be used by people growing crops, and by people acting on their behalf.</p>	<p>As per earlier comment we now have 3 licenses with 3 different definitions on who can use it.</p> <p>The Canada goose licence (GL28) uses the wording “<i>authorised persons</i>” and then links to the WCA to clarify who these are (as did the revoked licences), why is this licence different?</p> <p>What does “<i>acting on their behalf</i>” mean? Is this a legal term?</p> <p>Do you have to have permission from a farmer growing crops, or can you decide you are acting on their behalf?</p> <p>This appears to be making the licence site specific? Or perhaps person specific as to who can give permission e.g. if I have a wood and if a grower asks me, can I then shoot pigeons in my wood but not before?</p> <p>As the licence covers the whole of England, does it need to be a local grower to, or can they be anywhere in the country? Or is it only applicable on the growers land?</p>
<p>8. When this licence can be used</p>	<p>a) Only as a last resort to prevent serious damage.</p> <p>c) Reasonable endeavours must continue to be made to resolve the problem using such</p>	<p>Why this term? and not the wording from the WCA i.e. “<i>no other satisfactory solution</i>” The two phrases have different meanings.</p> <p>What does this mean? It is ambiguous and could easily be read that you have to continue to use methods at the same time. Because of this, it makes the licence unworkable.</p>

	<p>appropriate lawful methods alongside use of the licence.</p> <p>d) Only undertake lethal control of birds during the peak breeding season* if lethal control at other times or use of other licensed methods (e.g. egg destruction) would not provide a satisfactory solution.</p> <p>e) Any person using this licence must be able to show, if asked by an officer of Natural England or the Police:</p> <p>(i) what type of crop any action under this licence is protecting.</p> <p>(iv) why the threat of serious damage from woodpigeon is sufficiently serious to merit action under this licence.</p>	<p>How can this be assessed? No one knows what is going to happen in the future. 'May to September' is listed as the breeding season (start and finish dates are not given). This is also a vital growing period for many crops.</p> <p>This section also recognises that control does not have to be on the site where damage is being done and also shows a view that control is around reducing numbers to prevent damage and not just stopping birds eating crops on a particular site.</p> <p>But this is immediately contradicted by the following point and later sections</p> <p>This now seems to make it site specific. Does this mean for example a specific field of oilseed rape, or fields of oilseed rape in general, or those to be grown in the future?</p> <p>This seems to put the onus on the user again.</p>
9. Use of traps	The use of traps under the authority of this licence must comply with the terms and conditions in document 'Standard Licence Conditions for trapping wild birds and using decoys under a Natural England licence' (GL33).	It is unclear within this licence if call birds are permitted, if so, what type? This was addressed in the old general licences (they weren't) but not this one. Potentially, this opens up an area for confusion and misuse.
11. European and nationally protected sites	a) For protected sites with interest features that include bird species, no action authorised by this licence is permitted to take place within	<p>What happens if the bird species designation/feature is only seasonal?</p> <p>Potentially the issue isn't so much on an actual SSSI etc. (where consents are required) but in what is in effect an exclusion zone around it. While someone might</p>

	those sites or within 300 metres of the boundary of such site.	<p>be able to find out if a neighbour has a SSSI, how easy would it be for them to find out what the designation was for and also what consenting activities have been approved?</p> <p>Would NE sharing this information breach GDPR?</p> <p>How does one apply to carryout control in this exclusion zone; is it by an individual licence?</p> <p>Potentially, could this mean land within 300 metres is devalued and have extra restrictions applied and what are the legal implications?</p>
12. Definitions used in this licence	“Crops” for the purpose of this licence refer to cultivated plants grown on a sufficient scale to have economic or financial value.	<p>It is uncertain how this definition has been determined but it contradicts the later table which has specifics.</p> <p>Potentially, any level of crops has a value. Is this worded in this way to rule out, say an allotment holder who grows their own, from relying upon this licence?</p>
Advice section	<p><u>Severe weather</u></p> <p>Users of this licence are requested to exercise restraint when undertaking shooting or scaring activities during periods of prolonged severe weather and to extend the requirements of voluntary restraint and statutory suspension of wildfowling to activities undertaken under this licence.</p> <p><u>Sales and consumption of birds</u></p>	<p>This is one of the times when control is likely to be essential i.e. pigeons on oilseed rape in the winter.</p> <p>The sale of dead woodpigeons is permitted under Section 3 part II of the WCA.</p>

	Woodpigeons killed or taken under this licence may be eaten and in accordance with government policy.	
Table 1	Lists methods that are considered capable of reducing or resolving the type of serious damage to each of the categories of crops covered by this licence.	<p>This section should recognise that it may not be practical to do any of these methods and having fully considered them, lethal control might be the appropriate first action.</p> <p>On this basis these are considerations/assessments to be made. The idea of changing place with a scarecrow to shoot and frighten woodpigeons is 'pretty weak' but what it does show is an acknowledgement that some methods are not going to work in a longer term.</p>
Table 2 Serious damage for the purpose of this licence is defined and includes a list of crops.	<p>There is clear evidence that woodpigeons cause serious damage to a range of vulnerable growing crops. For the purpose of this licence, there is considered to be potential for "serious damage" in the absence of licensed action where pigeons are feeding on one or more of the following crops:"</p> <p><u>Evidence</u></p> <p>As explained in condition 8 of the licence, any person using this licence must be able to show, if asked by an officer of Natural England or the police, what type of crop licensed action is protecting and why the threat of damage is sufficiently serious to merit action under the licence, notwithstanding the use of appropriate lawful methods to contain the threat. Relevant evidence will include examples of actual losses during the present year or in recent years.</p>	<p>This seems to confirm that serious damage doesn't have to occur before lethal control but just the potential of it. So control by roost shooting in a wood, would be appropriate to prevent future damage on a rape field, or likewise shooting on a stubble to do the same.</p> <p>But then it becomes a bit contradictory when the later part says when they are feeding on one of these crops. Does this mean at the time, or in the future?</p> <p>This is unclear. As above is it legitimate to kill pigeons to prevent damage on a crop, yet to be planted based on previous damage or damage elsewhere?</p> <p>Again this appears to be making it site specific.</p>