

Response by the British Association for Shooting and Conservation to Natural England's Consultation on the Changes to Class & General Licences.

General licences were introduced in 1992 as a legal necessity to comply with European law. BASC played a leading role in their introduction. The principle was simple – to permit people to continue to carry out necessary control of species of birds with no added burdens. The situation today is far removed from 1992 when Ministers assured stakeholders that the introduction of general licences was a legal device but one which would continue to allow necessary control with no added burdens.

The scope of general licences has also been widened to make it legal to carry out a wide range of activities affecting a wide range of species of birds, mammals and amphibians. Activities include possession, sales, exhibitions, rehabilitation and research. General licences have become a pragmatic way of addressing legal problems arising from the Wildlife and Countryside Act 1981 and other wildlife laws that apply in England.

However, that has introduced many complexities, so much so that the existing English general licences are in breach of the Regulators' Code and Natural England's pledge to "*reduce any unnecessary burdens on those we regulate.*" This consultation was an opportunity to propose simplifications to the English general licences to ensure compliance with the Regulators' Code, which took effect on 1st April 2014.

Instead, the majority of the proposals seek to make numerous new and unnecessary burdens on licence users, making the general licences even less compliant the Regulators' Code. The majority of the proposals also go against the Government's principles of 'reducing red tape' and 'reducing unnecessary burdens for businesses'.

The consultation is inconsistent, lacks evidence to back up many of the proposals and gives an overall impression of its drafting being rushed. The consultation was developed without any prior discussion with BASC.

Since the consultation launched BASC has received and reviewed over 300 comments and/or copies of consultation responses from its members. The key issue of concern is that the proposals in this consultation would make the general licences even more complex and confusing than is already the case.

The general licences need only to list the species legally affected and the legally permitted methods - all on a single page.

BASC strongly urges Natural England to simplify the general licenses and we would be pleased to assist in that task in discussion with Natural England and other stakeholders. Such an approach would be welcomed by all.

The remainder of this response consists of BASC's comments on relevant proposals and questions presented in the consultation document.

Proposal 1(a) Add the following species to General Licence WML-GL04 permitting action to prevent serious agricultural damage or disease:

Greylag goose (*Anser anser*)

Egyptian goose (*Alopochen aegyptiacus*) (Note: this species is already included on General Licence WML-GL06, for the purpose of conserving flora and fauna).

Question 1(a): Are you aware of any reasons why the change outlined in Proposal 1(a) should not be made?

No.

BASC recognises the potential for breeding feral greylag geese to cause serious crop damage. It therefore believes the proposal to add greylag goose to general licence GL04 to prevent serious agricultural damage or disease as it applies to breeding feral greylag geese in England is currently acceptable. However, BASC seeks confirmation that there will be no detrimental impact on migratory greylag and that the breeding population of greylag geese will continue to be counted annually if this proposed change is made, and that their place on the General Licence is reviewed after two seasons.

More information on BASC's position on proposals 1a and 2a are included at the end of this document.

Proposal 1(b) Add the following species to General Licence WML-GL06 permitting action for the purpose of conserving flora and fauna:

Sacred ibis (*Threskiornis aethiopicus*)

Indian house-crow (*Corvus splendens*)

Question 1(b): Are you aware of any reasons why the change outlined in Proposal 1(b) should not be made?

No.

BASC recognises the potential for invasive non-native species to cause serious damage to flora and fauna. Adding sacred ibis and Indian house-crow on to General Licence GL06 to conserve flora and fauna is sensible and allows immediate action should these species appear in England.

Question 1(c): What is your view on the continued inclusion of the following species on General Licence WML-GL04 (preventing serious agricultural damage or disease):

Collared dove (*Streptopelia decaocto*)

Jackdaw (*Corvus monedula*)

Jay (*Garrulus glandarius*)

BASC strongly supports the continued inclusion of collared dove and jackdaw on general licence GL04 to prevent serious agricultural damage or disease.

Collared doves feed predominantly on agricultural cereals (Robertson, 1990). BASC is unaware of any studies that estimate the level of agricultural damage they cause, although

studies on other doves have shown them to cause significant damage to sunflowers and soybean (Linz & Hanzel, 1997; Nakao, 1984). Feedback received from BASC members during this consultation has indicated that damage to livestock feedstuff (consumption and contamination) can be considerable as collared doves can quickly establish in large numbers around agricultural buildings. The UK collared dove population has increased by 372% since 1971 and there is no evidence that their inclusion on general licences has impacted on their population. Removing collared dove from general GL04 will result in significant regulatory burden for both Natural England and licence users.

A study on jackdaws found that the percentage of jackdaw gizzards containing grain increased from 44% in May/June up to 100% in November/December (Holyoak, 1968), suggesting a high potential for agricultural damage. Studies on rooks and jackdaws showed significant damage to silage bails (McNamara et al., 2001; McNamara et al., 2002). The UK jackdaw population has increased by 140% since 1966 and there is no evidence that their inclusion on general licences has impacted on their population. Removing jackdaw from general licence GL04 will result in significant regulatory burden for both Natural England and licence users.

Question 1(d): What is your view on the continued inclusion of the following species on General Licence WML-GL06 (conserving flora and fauna):

**Jackdaw (*Corvus monedula*)
Jay (*Garrulus glandarius*)**

BASC strongly supports the continued inclusion of jackdaw and jay on this general licence.

BASC is unaware of any studies that looked specifically at the impact of jackdaws on flora and fauna. However, their control is part of a more complete package of predator control that has been shown to benefit grey partridges (Tapper et al., 1996). The UK jackdaw population has increased by 140% since 1966 and there is no evidence that their inclusion on general licences has impacted on their population. Removing jackdaw from general licence GL06 will result in significant regulatory burden for both Natural England and licence users.

A study in Sweden found that jays accounted for 35% of nest losses (Anglestam, 1986). Further studies have shown that jays are an important nest predator in wooded areas (Andren, 1992). The UK jay population increased by 5% since 1966 with fluctuations during that time period. There is no evidence that their inclusion on general licences has impacted on their population. Removing jay from general licence GL06 will result in significant regulatory burden for both Natural England and licence users.

Proposal 2(a) Add the following species to paragraph 2(ii) of General Licence WML-GL05 permitting taking, damaging and destroying of nests, and taking and destroying of eggs, for the purpose of preserving public health and safety:

Greylag goose (*Anser anser*)
Mallard (*Anas platyrhynchos*)

Question 2(a): Are you aware of any reasons why the change outlined in Proposal 2(a) should not be made?

No.

BASC recognises the potential for breeding feral greylag geese and breeding mallard to impact on public health and safety. It therefore believes the proposal to add greylag goose and mallard to the general licence GL05 to preserve public health and safety as it applies to breeding feral greylag geese and breeding mallard in England is currently acceptable.

Permitted control methods would be limited to taking, damaging or destroying greylag geese and mallard nests or to take or destroy their eggs. However, BASC seeks confirmation that there will be no detrimental impact on migratory greylag and mallard that the breeding populations of greylag geese and mallard will continue to be counted annually if this proposed change is made, and that their place on general licence GL05 is reviewed after two seasons.

More information on BASC's position on proposals 1a and 2a are included at the end of this document.

Question 3(a): What is your view on removing lesser black-backed gulls from the conservation General Licence (WML-GL06) and introducing a Class Licence to permit control of herring gulls and lesser black-backed gulls for the purpose of conserving flora and fauna?

BASC supports the proposal to create two new class licences covering the killing and taking of herring gulls and lesser black-backed gulls for the purposes of preserving public health and public safety, and conservation of flora and fauna; with the caveat that that the default position of licencing should be general licences.

Proposal 4(a) Change the wording 'Crow *Corvus corone*' to 'Carrion crow *Corvus corone*' at paragraphs 2(i)(a) and 6 in following General and Class Licences:

WML-GL04 (preventing serious agricultural damage or disease)

WML-GL05 (preserving public health and safety)

WML-GL06 (conservation of flora and fauna)

WML-CL12 (preserving air safety)

Question 4(a): Are you aware of any reasons why the change outlined in Proposal 4(a) should not be made?

Yes.

BASC strongly opposes the proposed removal of hooded crows from general licences GL04, to prevent serious agricultural damage or disease; GL05, to preserve public health and safety; and GL06 to conserve flora and fauna.

Hooded crows have been found to be the most important of the corvid family for nest predation (Andren, 1992) and in another study they were found to account for 10% of the losses of nests (Angelstam, 2004). They have been linked to predation of waterbirds (Zduniak, 2006) and have been found to cause significant damage to maize (Fasola et al., 1986). Furthermore, they have been found to account for approximately 20% of mortality in hill farm lambs (Houston, 1977).

The taxonomic re-classification of *Corvus corone* is disputed and new evidence has come to light.

Up until 2002 the generic term crow was taken to include two subspecies; the carrion crow (*Corvus corone corone*) and the hooded crow (*Corvus corone cornix*). In 2001 the British Ornithologists Union (BOU) stated that taxonomy of carrion/hooded crows was being "actively addressed, with a review in preparation" (Sangster et al., 2002)

In 2002 the taxonomic sub-committee of the BOU published its periodic review of British bird taxonomy (Knox et al., 2002) which included a short section recommending that hooded and carrion crows "be regarded as semispecies and treated as separate species". This was

followed in 2003 by a comprehensive review of the available scientific literature on the taxonomy of carrion and hooded crows (Parkin et al., 2003) which recommended “that Hooded and Carrion Crow be treated as separate species”.

The treatment of carrion crow (*Corvus corone*) and hooded crow (*Corvus cornix*) as separate species is mainly based on differences in reproductive biology (Saino and Bolzern, 1992; Saino and Villa, 1992), call characteristics (Palestrini and Rolando, 1996) and habitat preference (Rolando and Laiolo, 1994; Saino, 1992; but see Haas et al 2009 which found no difference). These physical and behavioural differences were cited as sufficient to act as a pre-zygotic barrier to gene flow, that is, differences between individuals are great enough to prevent, or minimise, cross mating (See Parkin et al., 2003 for a detailed review).

In 2003 the genetic evidence for elevating hooded crow to a species was “limited and piecemeal” (Parkin et al., 2003) and mainly focused on birds in the Siberian hybrid zone (for example, Ufyrkina et al., 1995), with some studies in Italy (Saino et al., 1992). The results of genetic studies in this period were not clear cut, but seem to suggest that hooded crows and carrion crows from Europe are genetically more alike than carrion crows from Europe (*C. c. corone*) and carrion crows from Japan (*C. c. orientalis*) (Kryukov and Suzuki, 2000). However, the previously cited physical and behavioural differences were perceived as sufficient to support the change.

Recent advances in both the processes involved in genetic sequencing, and a better understanding of the mechanisms involved in speciation have led to a re-evaluation of the taxonomy of carrion and hooded crows. A study in 2007 (Haring et al., 2007 page 854) stated that “with respect to taxonomy the present data provide a rather clear picture: The present data do not support the recent proposal to treat the European carrion crow and hooded crow as distinct species”.

This was subsequently reaffirmed by Haas et al. (2009) who stated that “The present-day hybrid zone is mainly associated with variation at the plumage genes and very little so with variation at other genes and markers” (page 302).

Finally, a study in 2010 confirmed “the almost complete lack of genetic differentiation between carrion and HC [hooded crow]” and that “the degree of differentiation is well within the level observed between populations within the same taxon” (Wolf et al., 2010 page 170).

Until this issue is resolved it would be sensible to list both carrion crow and hooded crow on the general licences to ensure clarity. This approach has been taken in Scotland. To remove hooded crow will cause confusion and complexity with regard to hybrids.

The UK hooded crow population has increased by 6% since 1994. There is no evidence that their inclusion on general licences has impacted on their population. Removing hooded crow from the three general licences will result in significant regulatory burden for both Natural England and licence users.

Question 7(a): What is your view on the use of a Code of Practice to replace some licence conditions and showing best practice?

BASC does not support the unnecessary introduction of a Natural England trapping code of practice. BASC has a published code of practice on trapping birds which sets best practice in this area.

Natural England itself produces a technical note (TIN072) which contains relevant advice in relation to the Animal Welfare Act 2006.

Whilst BASC actively promotes best practice advice and guidance it strongly disagrees with the suggestion that there should be a mandatory requirement to follow such a code rather than to have specific conditions on a licence where relevant. As the draft code of practice clearly states “compliance with this code is a condition of using certain general licences” should an operator fail to comply with even one of the conditions however badly worded and impractical they would render themselves liable to prosecution. BASC feels this is not compatible with the Regulators’ Code. BASC would suggest that the Animal Welfare Act 2006 is sufficiently robust to ensure the welfare of any captive bird within a ‘cage trap’.

Question 7(b): What are your views on the draft Code of Practice at Annex F?

BASC does not support the unnecessary introduction of a trapping code of practice. BASC has a published code of practice on trapping pest birds which sets best practice in this area.

The draft code contains some good advice but if it is produced it should be done on the basis that it is best practice advice and not a legal requirement. However, the draft code contains many ill thought out and unworkable suggestions. For example, “traps must be constructed of suitable materials so decoy and trapped birds cannot injure themselves”. With the best of intentions how can this be guaranteed? Such wording makes any trap unworkable. Another example is that “Trapped target birds must be dispatched immediately upon discovery”. Cage traps of this type work best with a decoy bird, therefore this wording makes the acquisition of such a decoy virtually impossible.

Question 8(a): In your view, should there be a maximum time for which decoy birds can be continuously kept within a trap? If yes, what time limit would you consider to be appropriate, and how soon could the bird be returned to a trap? Question 8(b): In your view, should there be a maximum time period for which birds can be retained as decoys? If yes, what should this time period be?

No.

BASC does not support the unnecessary introduction of a maximum time for which decoy birds can be continuously kept within a trap or be kept as a decoy.

The welfare of an individual decoy bird is paramount and this welfare is now covered by the Animal Welfare Act 2006. An arbitrary time limit (without scientific evidence) on the length of time a decoy is retained does not ensure the welfare of a bird.

All decoy birds are covered by the Animal Welfare Act 2006 which includes everything necessary to ensure the welfare and needs of kept animals. Given this, a great deal of the detail in the relevant general licences about food, water, etc is superfluous as it is now covered in the Animal Welfare Act 2006, whereas it wasn’t, of course, when such things were first included on the licences. Rather than adding new restrictions on the keeping of decoys, NE should be looking to remove conditions from the licences which are covered in legislation elsewhere and which only serve to lengthen and complicate them.

Question 8(c): In your view, should the options for birds caught under General or Class Licence be restricted to dispatch, release or keeping as a decoy?

No.

BASC does not support the unnecessary introduction of wording that restricts birds caught under general or class licences to dispatch, release or keeping as a decoy.

These three points would seem to cover the obvious course of action with a bird caught in cage trap. As such BASC questions why it would need to be listed. BASC would like to see

more streamlined general licences that cover only the necessary legal clauses without unnecessary and obvious additions.

Question 8(c) highlights the confused nature of some aspects within the consultation. The question conflicts with point 4 in the draft code of practice (Annex F) which states *“Trapped target birds must be dispatched immediately upon discovery.”*

Question 9(a): In your view, is there merit in the use of a referenced tagging system for traps set under General or Class Licence? If yes, how do you suggest that such a system would be organised? What do you consider the costs and benefits to be?

No.

BASC does not support the unnecessary introduction of a referenced tagging system for traps set under general or class licence.

This would significantly increase the burden upon police and trap operators. No figures or information have been produced to support such a system and BASC would suggest that it is for those who have ‘requested’ such a system provide these. BASC also feels that this suggestion may not be compatible with the Regulators’ Code.

Question 10(a): In your view, should Larsen-Mate traps be specifically permitted for use under relevant General and Class Licences? If yes, what restrictions would be appropriate regarding use of this type of trap? If possible, please estimate what cost (in time and/or financial) these restrictions would have.

BASC does not support the unnecessary introduction of wording that specifies the types of traps that can be used under general or class licence.

Larsen-Mate traps do not need to be specifically permitted as they are already compatible with the wording of the relevant general licences. There is no mention of specific trap names or design or within the relevant general licences, only reference to cage traps. Therefore BASC does not agree with the suggestion that *“it was not intended that the licences cover use of this type of trap, the current wording is ambiguous and they could be regarded as being covered and thus lawful.”*

BASC sees merit in developing new trap technology (such as Larsen-Mates). Indeed, without such innovation we would not have Larsen cages, which have become an essential part of wildlife management and conservation. In the development of new types of cage traps an overriding requirement in design is the care of any animal under the provisions of the Animal Welfare Act 2006.

Question 10(b): If the use of Larsen-Mate traps was not permitted under General and Class Licences, do you consider that there are situations where their use could be justified under individual licence? Please give details of these situations.

BASC regards Larsen-Mate traps as entirely compatible with the current licence wording.

Proposal 11(a) To add the recommendation: “All reasonable precautions must be taken to ensure that unnecessary suffering of birds is avoided. Wounded birds are to be pursued and humanely despatched where practicable.” to the following General and Class Licences:

WML-GL04 (preventing serious agricultural damage or disease)

WML-GL05 (preserving public health and safety)

WML-GL06 (conservation of flora and fauna)

WML-GL21 (control of ruddy ducks for the purpose of conservation of flora and fauna)

Question 11(a): Are you aware of any reasons why the change outlined in Proposal 11(a) should not be made?

Yes.

BASC does not support the unnecessary introduction of wording stating that birds which are shot and injured are then pursued and humanely dispatched where practicable.

Humane dispatch, and the rapid retrieval of shot quarry is currently covered in the following BASC publications, with relevant wording provided.

The Handbook of shooting (6th ed)

Always “mark” shot quarry carefully - Watch each shot bird or animal carefully to make sure you know where it will be retrieved. If it is wounded ensure that it is picked up without delay and dispatched immediately. Every effort should be made to locate, pick up and humanely despatch wounded quarry as soon as possible after shooting it. Do not move on or try to shoot another bird or animal before you have retrieved the first one. Always dispatch wounded quarry as humanely and as quickly as possible. A sharp knock on the head with a suitably heavy stick or “priest” is most effective for birds

Respect for quarry (A BASC code of practice 2010)

A new approach - We need to develop our shooting skills – if we get these right then every bird or animal we shoot at should be killed instantly – and then our quarry retrieval, so that all shot quarry, of whatever type (including pest species), is recovered quickly, humanely despatched if necessary, and, wherever possible, put to good use. We need to develop a sense of personal responsibility for the outcome of each shot we take – and not leave it to somebody else.

Watching birds known or thought to have been hit - Failing to watch birds hit but not immediately falling, for where they do come down, together with poor marking of fallen birds, results in the loss and wastage of both wounded and dead birds. Watch any bird known or thought possibly to have been hit and mark carefully where it falls to ensure its retrieval. Do this before looking for another bird to shoot. Accept this as your responsibility.

Dropping birds where they are unlikely to be retrieved - Unretrieved and unretrievable dead birds are a waste. Unretrieved wounded birds suffer unnecessarily. Dogs may not be able to retrieve birds from, for example, dense reedbeds, standing crops, ice-covered water, fast-flowing rivers or tides, big waves, busy roads, or even private land. Before starting to shoot decide which shots will not be taken due to a risk of falling birds not being retrieved.

Using a competent dog - A dog is essential for the rapid retrieval of wounded birds so they can be despatched quickly; for the retrieval of wounded birds before they disappear and become lost; and for the retrieval of dead birds so they are not wasted. If you do not have your own, make sure that one or more competent gundogs are available before you start shooting. Wherever possible, but only where it is safe, and acceptable, have a dog retrieve a wounded bird before you take the next shot.

The code of good shooting practice (2012)

Predator and pest control - In general, all non-lethal traps and snares should be checked at least once a day. Trapped animals (save those used for attracting others) must be removed on inspection, and despatched humanely as quickly as possible and disposed of lawfully.

Trapping pest birds (A BASC code of practice, 2013)

Other considerations - Any of the birds killed in accordance with the general licences must be killed quickly and humanely

Woodpigeon shooting (A BASC code of practice, 2010)

In the field - Do not shoot at birds where it may not be possible to retrieve them. Whenever possible dogs should be used to ensure all shot pigeons are retrieved, particularly from thick cover, as quickly as possible. A priest or specially designed humane dispatcher is recommended for despatching wounded birds. Do not leave dead birds lying in fields or in ditches. Any damaged birds or birds unfit for human consumption should be disposed of responsibly.

Proposal 26(a) Add a statement to all General and Class Licences that licence users must, before taking the licensed action, have read (or had read to them) in full and understood all terms and conditions of this licence.

Question 26(a): Are you aware of any reasons why the change outlined in Proposal 26(a) should not be made?

Yes.

BASC does not support the unnecessary introduction of a condition that requires users to have read (or had read to them) and understood general licences.

Failing to follow the terms of a general licence can already result in prosecution and users are aware of this. Making it a requirement to have 'read and understood' would be difficult to police and almost impossible to prove one way or another. This would be an unnecessary increase in bureaucracy and go against government's aims to reduce red tape.

The existing English general licences are in breach of the Regulators' Code and Natural England's pledge to "reduce any unnecessary burdens on those we regulate". The majority of the proposals in the consultation seek to make numerous new and unnecessary burdens on licence users, making them even less compliant the Regulators' Code. To then require users (including children carrying out pond dipping for great crested newts) to have read (or had read to them) and understood pages of unnecessary text is overly bureaucratic. It would be far better to simplify the wording of general licences so that they are understood.

Proposal 27(a) Add the following wording to all General and Class Licences:

'Please note that breaching the conditions of this licence means that you cannot rely on this licence to carry out an activity that would – except under the provisions of this licence - be an offence'

Question 27(a): Are you aware of any reasons why the change outlined in Proposal 27(a) should not be made?

Yes.

BASC does not support the unnecessary introduction of wording that breaching the conditions of this licence means that you cannot rely on this licence to carry out an activity that would – except under the provisions of this licence – be an offence.

The Regulators' Code makes it clear that 'in responding to non-compliance regulators should clearly explain what the non-compliant item or activity is' (section 2.2). Further, it then says 'this does not apply where the regulator can demonstrate that immediate

enforcement action is required to prevent.... a serious breach'. As stated above, users are aware that failing to follow the terms of a general licence can result in prosecution.

The Regulators' Code also says at 3.1 that 'regulators should take 'an evidence based approach to determining the priority risks'. This proposal is to include the wording in all the licences. We would wish to see copies of the risk assessment used to justify the inclusion of the proposed words. Please also confirm to BASC how the proposed wording reflects 3.4 of the Regulators' Code which states that 'regulators.....should recognise the compliance record of those they regulate'.

Proposal 28(a) Amend the following text on the current General Licences:

'Failure to act within the purpose of this licence as set out in paragraph 1 or failure to comply with the terms and conditions may mean that the licence cannot be relied upon and an offence could therefore be committed. The maximum penalty available for an offence under the Act is, at the time of the issue of this licence, a level 5 fine (£5000) and/or a six month custodial sentence.'

To:

'This licence authorises acts that would otherwise be offences under the legislation referred to above. Failure to comply with its terms and conditions:

i. may be an offence against that Act or mean that the licence cannot be relied upon and an offence could therefore be committed. The maximum penalty available for an offence under the Act is, at the time of the issue of this licence, a level 5 fine (£5000) and/or a six month custodial sentence; and

ii. may result in your permission to use this licence being withdrawn. Natural England will inform any person or organisation whose permission to use this licence is withdrawn in writing. This sanction may be applied to other similar licences.'

Question 28(a): Are you aware of any reasons why the change outlined in Proposal 28(a) should not be made?

Yes.

BASC does not support the unnecessary introduction of a statement that a person's right to use a general licence may be rescinded if they breach a condition(s) of a wildlife licence.

The law already provides for those that fail to comply with legislation relating to licences. These proposals breach the Regulators' Code because they are not proportionate. Where is the evidence that there is a risk of the current legal system not working, or that Natural England officers have the 'necessary knowledge and skills' to make these decisions?

Question 29(a): Do you support our aspiration to collect more information on the level of wild bird control carried out under General Licences?

No.

BASC does not support the unnecessary introduction of a trial voluntary reporting scheme or a mandatory scheme whereby users of general licences would submit annual bag returns to Natural England.

In England we are fortunate to have excellent bird monitoring programmes that report on all the species covered by the general licences on an annual basis. Introducing a requirement to record levels of control under general licences would result in significant regulatory burden for both Natural England and licence users for no benefit and would be in breach of the Regulators' Code.

Question 29(e): Even if we do not proceed with plans to gather information on General Licence use, do you think that there is a special case for collecting this information in respect to action taken on designated sites (i.e. SSSI, SPA, SAC)?

No.

BASC does not support the unnecessary introduction of a requirement to record information on general licence use on designated sites.

This would result in a significant regulatory burden for both Natural England and licence users for no benefit and would be in breach of the Regulators' Code.

Proposal 30(a) Add the following text to all General Licences permitting the lethal control of protected species:
'This licence does not authorise any action against a species that is a qualifying feature of a European designated site (Special Protected Area (SPA) or Special Area of Conservation (SAC)) on that site.'

Proposal 30(b) Add the following text to all Class Licences permitting the lethal control of protected species:
'This licence does not authorise any action against a species that is a qualifying feature of a European designated site (Special Protected Area (SPA) or Special Area of Conservation (SAC)) on that site, unless such use of this licence is specifically permitted by Natural England.'

Proposal 30(c) Add the following text to the Important Information / Explanatory Notes of all General and Class Licences permitting the lethal control of protected species:
'Potential adverse impacts to European designated sites, i.e. Special Protected Areas (SPAs) and Special Areas of Conservation (SACs) must be considered. This includes impacts from off-site activities. Where there is the potential for adverse impacts, advice must be sought from Natural England's regional teams (www.naturalengland.org.uk/contact/ or Telephone 0845 600 3078).'

BASC has significant experience of managing wildfowling activity on designated coastal sites. We are familiar with the legislation surrounding consenting and the need for an evidence based and proportional approach. BASC can see the need for some assessment of the likely significant effect caused by taking birds that form part of the interest feature of a European site.

Question 30(a): Are you aware of any reasons why the change outlined in Proposal 30(a) should not be made?

BASC understands the reason for this addition. We recommend adding information about where users can get information on designated site. It may also be helpful to provide some examples so users understand what is meant.

Question 30(b): Are you aware of any reasons why the change outlined in Proposal 30(b) should not be made?

BASC understands the reason for this addition.

Question 30(c): Are you aware of any reasons why the change outlined in Proposal 30(c) should not be made?

BASC understands how activities outside Natura sites (SPA/SAC) can have an effect on interest features of the designated site. However, the proposed wording suggests assessing

'potential adverse impacts to European designated sites', which is far too general and does not reflect the legal requirement. The assessment should be of 'likely significant effect'

The European Commission guidance '*Managing Natura 2000 sites – the Provisions of Article 6 of the 'Habitats' Directive 92/43/EEC*' (EC, 2000) is an important document when making these assessments as it provides guidance on what constitutes disturbance of species in particular:

In order to be 'significant' a disturbance must affect the conservation status. The conservation status of a species is defined in Article 1(i) (see Section 2.3).

In order to assess whether a disturbance is significant in relation to the objectives of the directive, reference can be made to the definition of the **favourable conservation status of a species** given in Article 1(i), on the basis of the following factors.

- '**Population dynamics data** on the species concerned indicate that it is maintaining itself on a longterm basis as a viable element of its natural habitats'.

Any event which contributes to the long-term decline of the population of the species on the site can be regarded as a significant disturbance.

- '**The natural range** of the species is **neither being reduced** nor is likely to be reduced for the foreseeable future'

Any event contributing to the reduction or to the risk of reduction of the range of the species within the site can be regarded as a significant disturbance.

- '**There is, and will probably continue to be, a sufficiently large habitat** to maintain its populations on a long-term basis'.

Any event which contributes to the reduction of the size of the habitat of the species within the site can be regarded as a significant disturbance.

Article 6(2) - *Disturbance of a species occurs on a site when the population dynamics data for this site show that the species could no longer constitute a viable element of it in comparison to the initial situation. This assessment is done according to the contribution of the site to the coherence of the network.*

Proposal 31(a) Amend the wording of the following condition from:

"In respect to the species listed at paragraph 2(i)(a) above, this licence can only be relied on in circumstances where the authorised person is satisfied that appropriate legal methods of resolving the problem such as scaring and proofing are either ineffective or impracticable" to:

"In respect to the species listed at paragraph 2(i)(a) above, this licence can only be relied on in circumstances where the authorised person has taken reasonable and appropriate steps to resolve the problem, such as scaring and proofing".

Question 31(a): Are you aware of any reasons why the change outlined in Proposal 31(a) should not be made?

Yes.

BASC strongly opposes the unnecessary proposal to increase the "burden of proof" that alternative methods such as "scaring" and "proofing" have been tried before shooting.

The proposal should be dropped and the existing wording should also be removed.

The proposal, and the existing wording is based on a misreading of the requirements of the Birds Directive, which only requires Member States to determine, before introducing licensing, whether there is no other satisfactory solution. This is correctly reflected in the Wildlife and Countryside Act, where the requirement to make that assessment is clearly aimed at the authority granting the licence, not the licence user.

It is for Government to be satisfied that “appropriate legal methods” were/are “either ineffective or impractical”, not the individual. The reason the general licence user is usually acting is precisely because there is no other satisfactory alternative.

The existing wording causes significant confusion and its removal would meet the established principles of better regulation.

BASC position on proposals 1a and 2a pertaining to greylag goose and mallard.

In determining its position, BASC Council drew on feedback from members, the Wildfowling Liaison Committee and the Gameshooting and Gamekeeping Committee and considered the following:

- BASC Council does not believe or support greylag geese or mallard being viewed as pests and understands that these proposals are not about reducing the population, but about people being able to respond quickly to prevent serious problems occurring
- BASC Council recognises that the proposals reflect Government's wish to cut bureaucracy as outlined in the Red Tape Challenge. BASC Council strongly supports a reduction in bureaucracy relating to shooting and land management
- BASC Council is aware that there is already licensed control of greylag and mallard taking place:
 - For greylag geese in the period from 2005-2011 there were 349 licences issued to destroy up to 90,448 eggs and 457 licences to shoot or kill by injection 15,647 birds. Most of these licences were to prevent serious damage to crops or to protect air safety
 - For mallard in the period from 2005-2011 there were 78 licences issued to destroy up to 32,440 eggs and 30 licences to shoot or kill by injection 2,471 birds. Most of these licences were to protect public health and air safety
- Farmers in some areas are concerned about more timely action in situations when greylag geese impact on their livelihoods by competing with their cattle and sheep for spring grass and crops through grazing and trampling
- Local authorities in some areas are concerned about more timely action in situations where nests pose a potential health and safety hazard in villages, towns and city parks
- The population of breeding greylag geese has increased by 179% in the last 20 years and the breeding mallard population has increased by 20% in the same time period. Because control will take place during the breeding season migratory birds will not be affected

- BASC Council requires confirmation that the breeding populations of greylag geese and mallard will continue to be counted annually if the proposed changes to the relevant licences are made, and that their place on those general licence is reviewed after two seasons.
- BASC Council is mindful that wood pigeons can cause serious agricultural damage; and notes that as a responsible organisation BASC needs to recognise the damage that feral greylag geese can cause to crops and the resultant impact on the farming community
- BASC Council recognises that fears for the Canada goose population were also expressed across the membership ahead of that species' addition to several general licenses in England and in Wales. Those fears have not been realised, with populations continuing to grow and bag returns increasing on the foreshore

References

Andren, H. (1992). Corvid Density and Nest Predation in Relation to Forest Fragmentation: A Landscape Perspective. *Ecology*, 73(3), 794.

Angelstam, P. (2004). Habitat thresholds and effects of forest landscape change on the distribution and abundance of black grouse and capercaillie. *Ecological Bulletins- Swedish Natural Science Research Council*, 51, 173–188.

Anglestam, P. (1986). Predation on Ground-Nesting Birds' Nests in Relation to Predator Densities and Habitat Edge. *Oikos*, 47(3), 365–373.

Fasola, M., Pallotti, E., Chiozzi, G., & Balestrazzi, E. (1986). Diet of the hooded crow, magpie and rook in northern Italy. *Rivista Italiana di Ornitologia*, 56(3-4), 172–180.

Haas, F., Pointer, M. A., Saino, N., Brodin, A., Mundy, N. I. and Hansson, B. (2009) An analysis of population genetic differentiation and genotype-phenotype association across the hybrid zone of carrion and hooded crows using microsatellites and MC1R. *Molecular Ecology* 18 (2), 294-305.

Haring, E., Gamauf, A. and Kryukov, A. (2007) Phylogeographic patterns in widespread corvid birds. *Molecular Phylogenetics and Evolution* 45 (3), 840-862.

Holyoak, D. (1968). A comparative study of the food of some British Corvidae. *Bird Study*, 15(3), 147–153.

Houston, D. (1977). The Effect of Hooded Crows on Hill Sheep Farming in Argyll, Scotland: Hooded Crow Damage to Hill Sheep. *Journal of Applied Ecology*, 14, 17–29.

Knox, A. G., Collinson, M., Helbig, A. J., Parkin, D. T. and Sangster, G. (2002) Taxonomic recommendations for British birds. *Ibis* 144 707-710.

Kryukov, A. P. and Suzuki, H. (2000) Phylogeography of carrion, hooded, and jungle crows (Aves, Corvidae) inferred from partial sequencing of the mitochondrial DNA cytochrome b gene. *Russian Journal of Genetics* 36 (8), 922-929.

Linz, G. M., & Hanzel, J. J. (1997). Birds and Sunflower. In A. A. Schneiter (Ed.), *Sunflower Technology and Production* (pp. 381–394).

- McNamara, K., O'Kiely, P., Whelan, J., Forristal, P. D., Fuller, H., & Lenehan, J. J. (2001). Vertebrate pest damage to wrapped, baled silage in Ireland. *International Journal of Pest Management*, 47(3), 167–172.
- McNamara, K., O'Kiely, P., Whelan, J., Forristal, P. D., & Lenehan, J. L. (2002). Preventing bird damage to wrapped baled silage during short-and long-term storage. *Wildlife Society Bulletin*, 30(3), 809–815.
- Nakao, H. (1984). Damage to soybean caused by rufous turtle dove, *Streptopelia orientalis* and feral pigeon, *Columba livia* var. *domestica* and their food habit in Hokkaido. *Japanese Journal of Applied Entomology and Zoology*, 283, 125–130.
- Palestrini, C. and Rolando, A. (1996) Differential calls by carrion and hooded crows (*Corvus corone corone* and *C. c. cornix*) in the Alpine hybrid zone. *Bird Study* 43 364-370.
- Parkin, D. T., Collinson, M., Helbig, A. J., Knox, A. G. and Sangster, G. (2003) The taxonomic status of carrion and hooded crows. *British Birds* 96 (6), 274-290.
- Robertson, H. a. (1990). Breeding of Collared Doves *Streptopelia decaocto* in rural Oxfordshire, England. *Bird Study*, 37(2), 73–83.
- Rolando, A. and Laiolo, P. (1994) Habitat selection of hooded and carrion crows in the Alpine hybrid zone. *Ardea* 82 (1), 193-199.
- Saino, N. (1992) Selection of foraging habitat and flocking by crow *Corvus corone* phenotypes in a hybrid zone. *Ornis Scandinavica* 23 (2), 111-120.
- Saino, N. and Bolzern, A. M. (1992) Egg volume, chick growth and survival across a carrion hooded crow hybrid zone. *Bollettino Di Zoologia* 59 (4), 407-415.
- Saino, N. and Villa, S. (1992) Pair composition and reproductive success across a hybrid zone of carrion crows and hooded crows. *Auk* 109 (3), 543-555.
- Saino, N., Lorenzini, R., Fusco, G. and Randi, E. (1992) Genetic-variability in a hybrid zone between carrion and hooded crows (*Corvus corone corone* and *C.c. cornix*, Passeriformes, Aves) in north-western Italy. *Biochemical Systematics and Ecology* 20 (7), 605-613.
- Sangster, G., Knox, A. G., Helbig, A. J. and Parkin, D. T. (2002) British Ornithologists' Union Records Committee: 28th Report (October 2001). *Ibis* 144 (1), 181-184.
- Tapper, S. C., Potts, G. R., & Brockless, M. H. (1996). The Effect of an Experimental Reduction in Predation Pressure on the Breeding Success and Population Density of Grey Partridges *Perdix perdix*. *Journal of applied ecology*1, 33(965-978).
- Ufyrkina, O. V., Vasilev, V. A., Kryukov, A. P. and Ryskov, A. P. (1995) Genomic fingerprints in crow - a study of the genetic-structure of populations of the hybrid zone. *Genetika* 31 (7), 883-888.
- Wolf, J. B. W., Bayer, T., Haubold, B., Schilhabel, M., Rosenstiel, P. and Tautz, D. (2010) Nucleotide divergence vs. gene expression differentiation: comparative transcriptome sequencing in natural isolates from the carrion crow and its hybrid zone with the hooded crow. *Molecular Ecology* 19 162-175.
- Zduniak, P. (2006). The prey of hooded crow (*Corvus cornix* L.) in wetland: study of damaged egg shells of birds. *Polish journal of Ecology*, 54(3), 491–498.