

# NatureScot submission of 28 July 2022

## PE1895/G: Mandatory accountability for NatureScot's decision making procedures

Scottish Ministers delegated licensing functions under the Wildlife and Countryside Act 1981 and the Conservation (Natural Habitats, &c.) Regulations 1994 to SNH (now NatureScot) in 2011.

NatureScot assess licence applications against three licensing tests:

- Test 1, there must be a legal purpose
- Test 2, there must be no satisfactory alternative
- Test 3, the proposed action must not be detrimental to the maintenance of the species at 'favourable conservation status' in relation to European Protected Species, or conservation and/or welfare in relation to other birds, plants and animals.

In relation to the Wildlife and Countryside Act 1981, tests 1 and 2 are statutory for wild birds – with test 3 compliance (conservation and/or welfare) being a policy decision to reflect the reality that 'conservation' issues can sometimes be more, or indeed less, important than 'welfare' issues'.

Licensing Officers assess and grant licences in accordance with legislation following internal policy and procedures. The details of the assessment are recorded on NatureScot systems. Cases where an application fails to meet the licensing tests are first discussed with the Licensing Manager, who will also inform the Unit Manager. Applicants who have had applications refused are clearly informed in writing of the reasons for refusal.

While there is no appeal procedure for licensing decisions provided for in the relevant legislation, all decisions by NatureScot are subject to their complaints handling process. In line with public sector complaints handling arrangements, any outstanding issues can be referred to the Scottish Public Sector Ombudsman (SPSO) for final adjudication if necessary. Details of the NatureScot complaints handling system are available at NatureScot website.