

# PE2021/N: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

## Petitioner written submission, 7 March 2025

We wish to respectfully draw the Committee's attention to two recent developments of significance:

**A:** An FOI request to Historic Environment Scotland (HES) has revealed that in March 2024 the Director of the Culture Sector at UNESCO's World Heritage Centre, aware of our animal welfare concerns, wrote to the UK Ambassador in Paris regarding the '**mismanagement**' of the sheep population on St Kilda adversely affecting the Outstanding Universal Value (OUV) of the World Heritage property. This is the second time that UNESCO has raised this animal welfare issue regarding the St Kilda sheep, having written to the Department for Culture, Media and Sport (DCMS) in 2019 ([see EIRS 202100253172](#)).

Both letters constitute relatively rare 'Paragraph 174' notifications requesting comment from member states:

“... when the Secretariat receives information that a property inscribed has seriously deteriorated, or that necessary corrective measures have not been taken within the time proposed” ([see Operational Guidelines for the Implementation of the 1972 World Heritage Convention](#)).

UNESCO's 2024 letter<sup>1</sup> was forwarded via DCMS and Historic England to Historic Environment Scotland (HES), Scottish Natural Heritage (SNH) and National Trust for Scotland (NTS) to collate a response that included a population graph for the Soay sheep on Hirta since World Heritage Site inscription in 1986 to the most recent count. The population in 1986 was 710 sheep, a total more than trebled in the years 2009, 2011 and 2021, when it stood at 2132. Whilst this may be comparing trough with peak in a wildly oscillating population graph (due to rapid population increases followed by winter starvation 'crashes') the fact remains that, when the Soay sheep were included in the OUV at World Heritage Site designation, the population was at a size when there would have been no starvation. If we analyse the data for the underlying trend, averaging out the oscillations, we can see that the average population count has almost doubled between 1986 and 2023 (from c1100 to c2000).

HES, SNH and NTS entirely miss the (animal welfare) point of the 'Paragraph 174' notice, justifying non-management by claiming the average population size is

“...on a slight upward trend, indicating that the population is doing well...”

This goes to the heart of our concern: we argue that this “*doing well*” condemns an increasing number of sheep to dying each year in a *manner* that is unjustifiable and

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<sup>1</sup> A copy of this letter was provided in response to FOI requests to HES and Nature Scot but have not yet been published.

unnecessary, and therefore inhumane. Analysis of the yearly average number of sheep dying of starvation shows an increasing trend from just over 500 adults in 2001 to well over 700 by 2020.

Note that the letter from UNESCO came from their Director of their **Culture** Sector: the sheep are cited in the OUV for the site for their cultural importance, not as wildlife. They are a living reminder of the way the St Kildans **kept** their sheep and there is no evidence that this involved winter starvation. It would appear that the current '**mismanagement**' of the sheep by NTS may be jeopardising St Kilda's World Heritage Site status.

**B:** The [Scottish Information Commissioner's Decision Notice 177/2024: Welfare of sheep on St Kilda has been published](#), following an investigation of all Scottish Government communications relating to the sheep on St Kilda between 2006 and August 2021 (Scottish Government Case Reference: 202100253172).

The Commissioner's Decision Notice offers the following elements relevant to our petition:

1. The Commissioner's instruction to disclose the precise dates of all the withheld documents has now been complied with by Scottish Government and this information allows us to demonstrate to the Committee that, from the time of the passage of the 2006 AHW Act until the 19 November 2019, there is **NO** record of **ANY** government communications pertaining to the St Kilda sheep.

We argue that this makes a mockery of the claim in a 22 November 2019 Government email that:

The issue of whether sheep on the St Kilda archipelago are considered as wild, feral or domesticated animals **has been raised with the Scottish Government several times previously, as you might expect.** [our emphasis]

Contrary to this statement, the Scottish Government clearly has no record of this "issue" being "raised" with them "several times previously".

This unsubstantiated claim was repeated as recently as March 2022; in a letter to Alasdair Allan MSP, Cabinet Secretary Mairi Gougeon MSP, states:

“... that, for the purposes of welfare legislation, the St Kilda sheep should be regarded in the same way as an unmanaged population of wild deer or other wild animals. **This has been the consistent position of the Scottish Government and the previous Scottish Executive for many years.**” [our emphasis]

2. Notwithstanding that the Commissioner considered the balance of the competing public interest lay in maintaining the 'in-built' confidentiality of some communications identified as being subject to legal privilege, paragraph 53 of Decision Notice 177/2024 states:

“The Commissioner finds the Applicant's [our] public interest arguments compelling and he agrees that there is significant public interest in examining whether the Authority's decision-making is based in law. He finds this to be a case where the public interest is finely balanced.”

Therefore, in light of the "compelling" "public interest arguments" identified by the Commissioner, we urge the Committee to ask the Government to waive their right to confidentiality and release all their withheld communications for the public interest.

3. Paragraph 39 of Decision Notice 177/2024, highlighted our concern that the release of sheep on Hirta (following capture for research purposes) –

“... would have constituted a breach or offence of the [AHW] 2006 Act or if not, a breach or offence of the Wildlife and Countryside Act 1981.”

As no offence regarding this clear 'Morton's fork' has been reported to the Procurator Fiscal Office, we now suspect that at no point has this 'legal failure' been discussed within Scottish Government prior to 30 August 2021 (for had any legal discussion on this point been recorded, we feel sure that the Commissioner would have viewed it as misfeasance and ordered release of 'legal advice').

We argue that a thorough consideration of all the legal connotations, including ownership, should have been comprehensively assessed by the Scottish Government. Yet evidence suggests that their position regarding the populations of sheep on St Kilda archipelago has not benefited from the "fully informed legal context" the Scottish Government implied to the Commissioner in Paragraph 34 of Decision Notice 177/2024. Therefore, unless the Government provide, to the Committee, evidence of any legal advice requested and/or received; when that was; and whether it involved any third party, we would urge the Committee to have Parliament fully assess all aspects of the predicament that the St Kilda sheep face.