



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs, Islands and Natural Environment Committee

Wednesday 8 June 2022

Session 6



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Pàrlamaid na h-Alba

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RURAL AFFAIRS, ISLANDS AND NATURAL ENVIRONMENT COMMITTEE
19th Meeting 2022, Session 6

CONVENER

*Finlay Carson (Galloway and West Dumfries) (Con)

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Karen Adam (Banffshire and Buchan Coast) (SNP)

*Alasdair Allan (Na h-Eileanan an Iar) (SNP)

*Ariane Burgess (Highlands and Islands) (Green)

*Jim Fairlie (Perthshire South and Kinross-shire) (SNP)

*Rachael Hamilton (Etrick, Roxburgh and Berwickshire) (Con)

*Jenni Minto (Argyll and Bute) (SNP)

*Mercedes Villalba (North East Scotland) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Ian Duncan Millar (Scottish Gamekeeper's Association)

Ross Macleod (Game and Wildlife Conservation Trust)

Penny Middleton (National Farmers Union Scotland)

Duncan Orr-Ewing (RSPB Scotland)

Jake Swindells (Scottish Countryside Alliance)

Barrie Wade (National Working Terrier Federation)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs, Islands and Natural Environment Committee

Wednesday 8 June 2022

[The Convener opened the meeting at 09:30]

Hunting with Dogs (Scotland) Bill: Stage 1

The Convener (Finlay Carson): Good morning, and welcome to the 19th meeting in 2022 of the Rural Affairs, Islands and Natural Environment Committee. I remind members who are using electronic devices to switch them to silent.

Our business this morning is two evidence sessions on the Hunting with Dogs (Scotland) Bill. I welcome our first panel, which will focus on rural sector and wildlife management interests. Penny Middleton is policy manager from the National Farmers Union Scotland, Ian Duncan Millar is a farmer and chair of Atholl and Breadalbane Fox Control Society and the Scottish Gamekeeper's Association, Barrie Wade is president of the National Working Terrier Federation, and Jake Swindells is the director of the Scottish Countryside Alliance.

We have approximately 90 minutes. I will kick off, turning to Jake Swindells first. Can you give your overall view of the bill?

Jake Swindells (Scottish Countryside Alliance): The introduction of a licence is a little disappointing, if I am honest. There is a feeling in the sector that a licence is unnecessary and potentially burdensome on a rural sector that is already struggling in the current climate. To introduce a licence at this stage will impose restrictions that the sector feels are pretty unnecessary for activities that should really be much more encouraged and assisted by the Scottish Government, rather than further restricted. Saying that, if there is to be a licensing scheme, the overriding factor should be that the licence is workable, fair and available to everybody across the sector—certainly to those who would rely on the licence for their livelihood.

Penny Middleton (National Farmers Union Scotland): We are generally supportive of the bill. I appreciate the difficulties in trying to close the loopholes in the current legislation. Again, our disappointment comes around the licensing side of things. It is our belief that there are occasions when people genuinely need to use more than just two dogs. Our feeling is very much that we should be licensing packs or organisations such as Mr

Duncan Millar's, so that they carry the licence and the responsibility. We do not believe that a two-week licence would be workable for that kind of situation, although there should also perhaps be individual licences for people who are not using a registered pack. Our main concern sits around the licensing side of things.

Ian Duncan Millar (Scottish Gamekeeper's Association): Thank you for the opportunity to be here. I think that most of my friends, colleagues, neighbours and members would generally welcome much of what is in the bill. There are obviously areas of some concern, which we will come to. The licences have been mentioned already and will, I guess, be the subject of detailed discussion in a few moments.

Generally speaking, the bill clarifies a lot of issues, but we still have to deal with practical realities out there in the countryside such as predation and how we manage the environmental and farming aspects of the countryside, as they are both important. Of course, when you are dealing with farming you are also dealing with people, so we need to be able to deal with them and make sure that the bill takes account of that.

Barrie Wade (National Working Terrier Federation): One of our primary concerns is that a number of the conditions and definitions in the bill would render the use of dogs below ground either impractical or illegal. Some of those conditions also have negative welfare implications, which is something that we always seek to avoid.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): My question follows on from that and is about the aims of the bill. To a large extent, the bill has emerged from what Lord Bonomy had to say about the failures of the existing legislation, as he saw them. Do you identify with Lord Bonomy's views? Can you say anything about whether the bill's aims match the recommendations of Lord Bonomy's review? Do you agree with what he had to say?

Penny Middleton: As we have said, we recognise that there were loopholes and that there have been unforeseen problems with the existing legislation, which mean that it needs to be updated. We are largely supportive of what Lord Bonomy recognised and said in his report. He recognised that there are situations in which it is necessary to use more than two dogs, and we accept that licences would probably be the way to manage and handle that going forward. However, it is important for rural communities to be able to protect their businesses and the environment, and controlling foxes does an awful lot for biodiversity as well as for farming. It is important for communities to be able to control foxes in all circumstances.

Ian Duncan Millar: I would probably agree with most of that. Lord Bonomy's recommendations have, in large part, been picked up by those who drafted the bill. It is disappointing that one of the key points that Lord Bonomy made about the number of dogs that were required for vermin control has been totally ignored in the drafting of the bill, but I am sure that we will come to talk about that in a bit more detail. Clearly, the intention behind the bill is to make sure that animal welfare is considered first and foremost, and we would totally support that. What our society does to control vermin in the countryside takes cognisance of that in the way in which it operates. I am quite happy to explain how that happens in detail to the committee.

Mercedes Villalba (North East Scotland) (Lab): I have a supplementary question for Barrie Wade. You said that some licensing conditions have negative animal welfare implications. Can you explain what you meant by that?

Barrie Wade: I will give you a simple example. Our code of conduct actively promotes the restriction of one dog to ground. However, there is a caveat attached, which is that that happens "wherever possible and practical", which is exactly the sort of wording that Lord Bonomy used. We advocate the use of a single dog below ground in all tight earths with defined tunnel structures. There are no advantages to putting in more than one dog, but there are lots of disadvantages. If you consider a mountainside or rock cairn, for example, there will be tons of rocks that are all piled on top of each other. If you were to enter a single dog in there, it would be rather like putting a single hound into a large patch of forestry and expecting a fox to bolt.

Foxes and terriers have significantly different climbing capabilities and agility levels. For example, a normal 4 or 5-foot garden fence would contain a terrier all day long and forever, whereas a fox would just scramble in and out of the area, and it might even walk along the top of the garden fence, just as a squirrel or a cat might do.

In an underground situation, such as on a mountainside or rock cairn, all that would happen is that a fox would clamber to a less accessible place. The terrier would be at a different level and would not be able to get to the fox, and the fox would just ignore the dog. The fox and the terrier would stay in those positions all day long, which is not what we would want, because it would achieve nothing and, as far as we are concerned, it would be a welfare issue. All that you would have would be a terrier barking away, getting exhausted and possibly climbing to places, which would tire it out. The moment that you entered a second terrier, that would be a complete game changer: the fox

would feel that it was less safe below ground than it was above ground, and it would leave.

I remember, when I was a much younger man than I am now, pursuing the one-dog argument with an old fell huntsman. He said, "Barrie, unless you put that second dog in there, you might as well sit down and light a second pipe, because the fox ain't gonna come out."

Mercedes Villalba: So, when you say that it is a welfare issue, you mean in relation to the dog, because it will be tired from being down there so long and you feel that it would be ineffective.

Barrie Wade: It would just stay there, yes.

Mercedes Villalba: The other solution would be to not send the dog down, I suppose.

Barrie Wade: That is an alternative, but you would then be leaving the fox to carry on and do more damage.

The Convener: We will move on to sections 1 and 2, which cover offences.

Ariane Burgess (Highlands and Islands) (Green): My question is for Barrie Wade, who is in the spotlight this morning.

The written evidence from the National Working Terrier Federation states:

"It is commonplace on a shoot day to use more than 2 dogs while flushing game from cover ... We do not believe that the intention of the Bill is to restrict, control or interfere with normal shooting practices".

I want to get clarity on that point, because the bill does restrict the number of dogs to two for game shooting and to one for flushing foxes and mink from below ground. If you do not think that the bill restricts those practices, that is a really important point that we need to fully understand.

Barrie Wade: That reflects more on the fact that the rabbit has been included in the definition of a wild mammal. For example, if you are flushing through cover on a shoot day, there might be rabbits in there and there might not. Until that rabbit is flushed, you do not know; however, if it is flushed, it is an offence. To try and flush it from there is an offence. Does that explain it?

Ariane Burgess: Please say a bit more. I really do not know your world at all.

Barrie Wade: For example, you might be using three spaniels to flush ground game. If part of that ground game is rabbits, and if rabbits are part of the act, you are committing an offence.

Ariane Burgess: Okay.

The Convener: Rachael Hamilton has a supplementary question.

Rachael Hamilton (Etrick, Roxburgh and Berwickshire) (Con): On the point that you made about there being an unintended consequence—I believe that I am right in saying that that is what you are implying, Barrie—do you and the rest of the panel believe that it would be right, in an animal welfare sense, for us to look at excluding rabbits from the scope of the bill?

Barrie Wade: Most definitely. It creates a legislative minefield as well as a legal one. For example, dogs are used in a variety of ways for hunting rabbits, such as to mark an earth or a rabbit warren to say which one is likely to contain rabbits. That is using the dog to hunt below ground.

Typically, when rabbits are ferreted or bolted into nets, they are not shot. You can use a dog to flush a wild mammal only in order for it to be shot or caught by a bird of prey. Rabbits that are ferreted are caught in the net and dispatched by hand. That would be a—

Rachael Hamilton: As this is an important point, would it be okay to hear from the rest of the panel, convener? Ian Duncan Millar, would you like to say something?

The Convener: Jake Swindells has also indicated that he would like to come in.

Ian Duncan Millar: I am happy to comment. Generally speaking, the inclusion of rabbits has caused a problem, albeit not for us personally.

If we look at hare coursing, which I think that all of us in the countryside would view as fairly abhorrent, having the chasing of rabbits as a potential defence is probably not very helpful. There is a real difficulty, and I understand what Barrie is saying.

There is a conundrum here, as there is in several other parts of the bill, in working out what we wish to try and find. If I understand it correctly, rabbits were included to get around the defence of, “We were chasing rabbits, not hares.” However, if there is evidence that hares were being chased, surely that is the offence that should be brought to justice.

Rachael Hamilton: That is an interesting point, because the civil servant said last week that the defence would not be able to be proved. It is therefore a bone of contention.

Penny, would you like to come in?

09:45

Penny Middleton: We had some concerns about rabbits being included in the bill. They are a major pest species and we need to be able to control them. I appreciate the difficulties with hare coursing—I certainly do not support that in any

way, shape or form—but the provision could mean unintended consequences that might cause problems, although we can see why it has been included. It is difficult to balance the pros and cons.

Jake Swindells: I echo what Penny Middleton said about unintended consequences if rabbits were to be included in the bill. Almost daily, I get phone calls from legal and professional rabbit controllers, who are trained and who have trained dogs. Farmers rely on those services as part of their livelihood and management schemes. There is a huge worry that those people will be completely out of work and that their dogs may be redundant.

Instead of tackling the hare coursing issue, the Scottish Government, in trying to legislate for it, is encompassing far more than is needed. One thought of the SCA is that there is potential for using permission as an exception if rabbits are included in the bill. If the rabbit controller had permission to be on the land to do what they were doing, there would be a legal exception for them to do so. That being the case, if a hare courser was on the ground, they—obviously—would not have permission and would be encompassed in the bill as breaking the law.

Barrie Wade: Two things combine in the bill as it is currently framed. At the moment, it would be legal to use a dog below ground only to control fox or mink. By including rabbits in the equation, it suddenly becomes illegal to use dogs to control rabbits. That needs to be recognised.

To expand on that slightly, there are risks in the definition of how dogs can be used below ground. It is far too species-specific for what is needed. It refers simply to “a fox or mink”. At some point in the future, it could well be that control of some other ground-dwelling mammal is needed.

I believe that the bill is written in that way because, some 20 years ago, when I sat in front of a similar committee, we raised the issue of mink. The legislation was fox-specific. We mentioned the issue that was arising with mink—which has grown. Rather than the legislation expanding just to include wild mammals, the word “mink” was added. That is a serious limiting factor for what you are trying to achieve, and it undermines the longevity of the legislation.

Ian Duncan Millar: Normally, hare coursing would be an activity that the land manager or farmer—the person living there—would not be aware of and would certainly not support, whereas rabbit control would be at the behest of, and probably at the payment of, the farmer or land manager. As a defence against hare coursing, the provision is pretty spurious.

Jim Fairlie (Perthshire South and Kinross-shire) (SNP): I thank the witnesses for a very interesting and informative wee session on that point. I have questions for Barrie Wade and possibly Jake Swindells.

Ferretting is generally done with nets, but I understand that, occasionally, when ferrets are used, dogs will be used to catch the rabbits above ground. Last week, we were told by officials that that probably does not happen very much. Will you clarify for us whether that is still a method of rabbit control?

Barrie Wade: Most certainly it is. In fact, I have a note about that. Had the legal team spoken to, for example, a terrier club or a lurcher club, they would have got an entirely different response. A warrener's basic equipment is a ferret, nets and a dog. A gun is optional.

My mother's preference was always for a rabbit that had been dispatched by hand rather than shot, given the problems of getting lead shot out. Anybody who eats rabbits, as I am sure you have, will understand exactly what I am saying.

Jim Fairlie: Sair teeth.

Jake Swindells: I watched the evidence session last week, and I was interested to hear that comment. Yesterday, I was in a meeting with the director of the British Association for Shooting and Conservation, whom I know the bill team spoke to, regarding that topic. He said that he was actually misquoted or misunderstood. This information was volunteered during a completely separate meeting yesterday. He actually meant that ground game was not generally part of a general driven shoot day—if ground game such as rabbits came out, in general they were not shot. His meaning and intention was not to do with controlling rabbits directly.

Jim Fairlie: But the use of a ferret and two lurchers, or another dog, is still very much a viable method of controlling rabbit numbers.

Jake Swindells: It absolutely is.

Alasdair Allan: I want to pick up on the points that have been made about rabbits. Last week, when we had people in from the Government who drafted the bill, a number of us pressed them on the subject. As far as I understand what was said then, the bill's intention is very much about—as others have alluded to today—preventing the chase, if you like, and killing by a dog, rather than preventing the killing of rabbits. Perhaps Penny Middleton can answer this question. Notwithstanding your concerns, do you accept that that intention is in the bill?

Penny Middleton: Sorry—I am not sure that I understand that question.

Alasdair Allan: Some of the concerns that exist around rabbits are about pest control. That is a legitimate concern. Many of us who live in the country will appreciate that rabbits can be a pest. However, it has been put to us that the intention behind that part of the bill is not to prevent the killing of rabbits; it is simply about the method. Do you recognise that that is what the bill is intended to do?

Penny Middleton: It is a slight concern that—as I mentioned—the bill could, as an unintended consequence, potentially limit the options for the control of rabbits. NFU Scotland fully supports using the most humane method that one can use for control, but control is still vital and necessary, and we need to ensure that we have the necessary means to carry it out.

Alasdair Allan: You mention unintended consequences regarding the bill. I appreciate the concern that you raise, but a number of witnesses have indicated that unintended consequences may be associated with the current law in this area. One of you—perhaps Penny Middleton or Ian Duncan Millar—might want to say something about the unintended consequences that may currently exist around hare coursing. I know that some of you have different views on the extent to which that is happening, but could it be described as an unintended consequence of the current law?

Penny Middleton: Yes, it could—that is right. I support the suggestions from Ian Duncan Millar and Jake Swindells. When rabbits are being controlled, people are being asked to be there—they have permission to be on the land. I think that that would be a very sensible way to control that loophole so that there would be fewer unintended consequences, rather than simply including rabbits in the bill.

Alasdair Allan: I do not know whether anyone else wants in on that point.

Ian Duncan Millar: It is quite clear from the bill what the intention is, and I think that most of us would go with the intention. You have to consider the general intention of the bill and, if you are looking at a particular aspect of it, what the alternatives are. From the perspective of the Scottish Gamekeepers Association, the control of foxes can be undertaken in a number of ways. The question that I would always raise is, what is the best, most humane and effective way?

We are clearly on board with the whole aspect. One does not want to chase a fox halfway round Scotland—that is not a good idea. What is a good idea is to effectively use the tools at our disposal—in my case, a number of well-trained, scenting dogs—to flush the fox from cover towards strategically placed guns that dispatch it in a quick, efficient and humane manner.

We are on board with the general concept of where the bill is trying to get to, but we feel that there are issues with the drafting that actually make matters worse, rather than better, in some areas. I hope that our contribution today will help you to draft bits of the bill in a way that is more constructive and humane for everybody involved.

The Convener: Jake Swindells has indicated that he would like to respond to that point.

Jake Swindells: It was just an addition more than anything else. There is a potential safety issue, too. Anybody who has seen ferreting and netting will know that, if a dog is involved, the process is generally very quick—we are talking about seconds.

The only other option, if there was a restriction on the use of dogs in that regard, would probably have to involve a number of guns surrounding warrens in a field. That in itself would bring in a safety issue, which should be considered.

The Convener: Jim Fairlie has a short supplementary, and then I will bring in Rachael Hamilton.

Jim Fairlie: Jake Swindells has clearly understood my thought process.

If we take out the use of a dog to flush rabbits, we are then limited to using either guns or nets. I will play devil's advocate. Why do you not net whenever you are doing a warren? In that way, you would take out the use of guns and dogs, so why not net everything?

I will let Barrie Wade go with that one, because I see that he is smiling wryly.

Barrie Wade: As you well know, you can only net so many holes, and you cannot net every hole—it is as simple as that. Not all holes are nettable either.

Jake Swindells: If there are four or five rabbits bolting out of a hole and they are all caught in nets, we would be extending the time for which they are caught and struggling, which is a welfare issue in itself. If a dog is used, it is over with in seconds.

Jim Fairlie: That brings me to another point. The issue of blanket netting has been raised with me. If you are blanket netting, you will catch the rabbits, but—exactly as you said—you could have rabbits in a net for 10 or 15 minutes until they are eventually caught. Is that correct?

Jake Swindells: That is correct.

Rachael Hamilton: We are talking very technically here. A lot of people do not understand why we need to control pests. We have a huge land mass, but most people live in the city. I direct this question to Penny Middleton. What happens

on land if rabbits, foxes, mink and other species are not controlled?

Penny Middleton: A huge range of things can happen. NFU Scotland's interest, from the farming side, is that foxes are predators—they take live lambs, which has a big impact on not only farm productivity but farmers' mental health. Farmers work really hard to get live, viable lambs, and to see them taken by foxes, night after night, can be quite distressing.

Foxes also have a big impact on biodiversity. A lot of the current focus in farming is on trying to improve biodiversity. Our president, Martin Kennedy, is really good at explaining what happens where he is, up in highland Perthshire. He has incredible biodiversity on his farm and he is proud of the number of types of ground-nesting birds that he has there. As he says, however, he would not have that biodiversity if it was not such well-kept land. Controlling the foxes helps his land and his farm, but it also helps biodiversity in the form of those birds. The controls that happen in farming bring an added biodiversity benefit.

Similarly, rabbits are a pest and cause damage, and they bring high grazing pressure. I believe that they can also have an impact on biodiversity, by grazing, if they are present in numbers.

The Convener: We will move to sections 3, 5, 6 and 7 of the bill, which cover exceptions. Beatrice Wishart will start.

Beatrice Wishart (Shetland Islands) (LD): Good morning, panel. You have already touched on a lot of what I was going to ask about with regard to exceptions. The licensing scheme recognises that there are situations in which more than two dogs are required above ground or one below. Can you expand on those situations and say what you think about the exceptions in the bill? I do not know who wants to go first on that.

10:00

Ian Duncan Millar: The licensing issue is at the heart of the changes that we would like to be made to the bill. To be fair, we have some concerns about the current process, which could be overcome. At the moment, NatureScot has neither the resources nor the expertise to deal with licensing. The licensing system would need to be built up and made available and workable. It must be workable.

The Government's key policy aims include increasing forestry. Looking after capercaillie is another one that has recently had prominence. One of the main predators of capercaillie is the fox. Penny Middleton mentioned hill farming, where the loss of lambs is important. We have already talked about some of the alternatives for

controlling foxes. The reason why my members pay our society to do the job that we do is so that they can minimise the loss of lambs.

Government statistics show that the net farm income for hill sheep farms for 2021 is something like £9,600. If, as I have heard mentioned, the level of damage that would be deemed to be acceptable before a licence was offered was 10 per cent, that might be 50 lambs, which might mean £2,500 off the guy's income. Clearly, 10 per cent in an upland hill farm situation is not acceptable, but he is being asked to live with the Government policy of increasing forestry round about him and, at the same time, to improve the environment in any way that he can. He is happy to do that, but he needs the tools to do it.

I will take a moment to explain how our operation works. We do not have horses, red coats or followers. We have a membership of about 70 farmers who pay for the service. It is totally funded by them. We have a special dog trainer and handler who looks after the dogs. The dogs are specially trained scenting dogs. They are used to flush the foxes and, on a day when they are out doing their job, the local people make sure that sufficient people are out with guns so that, whatever woodland they are surrounding is properly surrounded by people who know what they are doing.

We have a set of rules, a fixture list and walkie-talkie communication between the dog handler and the people with guns who surround the wood. We have global positioning system collars on the dogs so we know where they are at any point in time. The dogs are all under the handler's control, despite the fact that they might, at some points, be many hundreds of yards away from him. When they are put into a plantation or woodland, they will find the fox and rapidly flush it.

I want to be absolutely clear about the point that, if we were restricted to using one dog or two, that one dog or two would go into a plantation and not make enough commotion to properly frighten the fox. The fox would run round in circles all day. That is not good for the welfare of the fox or for the welfare of the dogs and certainly does not do the job that we are paid to do.

Using a number of dogs is important because, when a number of dogs are out working, they do not run in Indian file one behind the other but run in a phalanx. Therefore, when the fox dodges left or right, it is immediately picked up. The commotion that the dogs create quickly persuades the fox that it is not safe for it to stay where it is and it will expose itself to the people with guns, who will quickly and humanely destroy it.

Murdo Fraser came out to see our pack of dogs in operation and was witness to what happened.

The dogs found a fox, there was a bit of a noise as they gave tongue for about a minute and a half, there were two bangs and then everything went silent. That is what happens. It is quick, efficient and humane.

I will discuss some of the alternatives. People using rifles are not guaranteed to be any more quick, effective or accurate on every occasion. If you are using spotlights, there is, again, an element of error. There is also an element of error in using thermal kit.

The element of error in our operation is very low indeed. The fox is found; it is quickly dispatched. I am not saying that it happens on every single occasion, because that is not the case. Every now and then, the fox will make a mistake, double back and meet up with the hounds. I have to be honest and say that that does happen, but it is very rare. I would say that about 90 to 95 per cent of the time the operation works as it is supposed to and these specially trained dogs do the job that they are there to do.

The Convener: We now have questions from Jim Fairlie and a supplementary question from Ariane Burgess.

Jim Fairlie: I want to pick up on something that Ian Duncan Millar said about the community getting together to surround a piece of woodland. One of the issues that I brought up last week with officials was whether it would be better to specify a minimum number of guns as opposed to a minimum number of dogs. If we are being absolutely honest, the bill is trying to stop the situation where a hunt is set up with riders and two guns at either end of a huge plantation and a fox gets through, at which point the hunt can go after it with hounds and horses. That is what the loophole is about, and we are as well to be honest about it. Is there value in a method that specifies a number of guns for a specific area in order to close that loophole, and not limit the number of dogs?

Ian Duncan Millar: I think that there are two issues around numbers. We are a society with some experience in how this works. We have a committee that is made up of people from different parts of the area, and the other foot packs work in a similar fashion. Those local representatives know and understand the terrain in which they work. The dog handler—the trainer—knows the number of dogs that it is best to take out on any particular day to any particular venue. His experience is important, as is the experience of the local representatives in understanding the type of terrain that is being worked on that day. If you start to restrict the numbers of dogs or people, I would challenge whether NatureScot, even with considerable running-in time, would have the experience or the ability to say any better than the

man on the ground what the correct number of dogs or people would be.

We are quite happy with the licensing system that would apply to the organisation—to the society—and we are quite happy to report back to the licensing authority on the operation of that licence with regard to the number of days that we went out, the number of farmers that we helped and, indeed, the number of foxes that were shot on the days on which our hounds were out. All that is quite doable, but the licence must be workable for the terrain and allow the experience and knowledge of our members to be used. We are happy to be accountable for that. We are quite happy for observers to come out, if that is the way that the licence is going to work. However, the licence must operate in such a way as to allow the society to work to its fixture list and so that everybody knows where they are. Frankly, it is not workable to have individual licences for individual days.

Jim Fairlie: I want to ask about people who carry out your kind of fox control who are not part of your organisation—I know that that happens in other parts of the country. Are you saying that the only people who should have licences are those working under organisations such as yours? If I am a farmer with a fox problem and there is a guy down the road with 15 hounds and we have 15 neighbours, can we flush that fox out? Should only organisations such as yours have a licence?

Ian Duncan Millar: No, I am not saying that it should be just us who can get a licence; it should be organisations and people who are recognised for what they are doing. At the moment, there are three recognised full foot packs. There is our one, one in Lochaber and Sunart, and the Three Straths fox hounds, which is based at Tomatin. To my knowledge, there are another four small groups of hounds that are used in the same way by individuals. There is one in Fife, there is one in Cawdor, near Inverness, there is one in Stirling, and there is one near Stonehaven. I am quite sure that all those organisations would work within a licensing system that gave them a licence to operate in a way that is acceptable to everybody, and that they would be accountable for the way in which they operate.

Jim Fairlie: How do you feel about the 14-day limit that is in place? How would you like that to be amended?

Ian Duncan Millar: I think that it is illogical for there to be 14-day licences for our type of operation, when, for the Orkney stoat control programme, for example, there is a two-year licence. Those two things are not compatible.

Jim Fairlie: We will come on to that later. I am specifically asking about hunting with dogs for foxes. Are you saying that 14 days will not work?

Ian Duncan Millar: It would work only if we were working within a fixture list.

Jim Fairlie: That would be a seasonal licence, as opposed to an individual licence for every hunt.

Ian Duncan Millar: It would be a seasonal licence, and we would be quite happy to work to that licence, as long as there was a day or two—okay; up to 14 days—on either side for a particular venue. However, it is not workable for us to have to apply for another licence every 14 days. The admin is completely above and beyond anything that is reasonable.

The Convener: Thank you. I am keen to get opinions on this topic from the other witnesses. We have heard the message from Ian Duncan Millar quite clearly, but I would like Penny Middleton, Jake Swindells and then Barrie Wade to give their thoughts.

Penny Middleton: As Ian Duncan Millar has just explained, his highly professional organisation, with hounds and everything, is run according to guidelines. I cannot see why it would not be possible for such professional organisations to be granted a licence to work. They are bound by their guidelines, and the big threat to them if they were caught doing something that they should not do is that they might lose their licence. I think that that would be a good way of controlling things and ensuring that the professional organisations are doing the job as effectively and humanely as possible and that they are well-trained operations.

There might be scope beyond that for there to be an individual licence for somebody who does not have access to a professional pack; it would be a shorter-term individual licence for whatever they were doing. However, the two-week licence would not work for the professional organisations that Ian is talking about. Because they are professional, they should have their licence to work as they need to.

The Convener: Jake, what are your views on organisations and individuals having licences and on the timescales, please?

Jake Swindells: I made a few notes from Ian's comments, and I will chip in with those, if that is okay.

We absolutely support the overriding factor of welfare across the rural sector—that goes without saying. Last week, the bill team talked to the committee about the number of guns, and you alluded to it then, Mr Fairlie. The bill team feels confident that it can assess and dictate the number of dogs that may be used for a particular

area, but it does not feel inclined to say the same about the number of guns that would be needed. I am not sure how it can be confident that it can make the right decision about one, but not the other.

It is also worth noting that Lord Bonomy declined to recommend a limit on dogs and wrote that it would not be “effective”. Following on from that, the chief executive of the League Against Cruel Sports stated in 2005 that

“Pairs of dogs are utterly useless in flushing to guns”,

which, again, is interesting. Peer-reviewed evidence also shows that using only two dogs can make a pursuit last much longer. All those things compound my question for the Scottish Government, which is why it is looking to introduce the bill and the licence, when that clearly goes against its improving welfare agenda.

You have touched on lamping and other methods of control. I am an ex-practitioner and an ex-gamekeeper, and I dealt with the likes of lamping when I was a police officer. I then progressed to gamekeeping, so I have seen both sides of it. You can effectively lamp and use thermal equipment for around one or one and a half seasons per year. The rest of the time, the vegetation is too high to be able to do those things effectively. You can also snare, which is currently under review.

There is a possibility that we will lose two control methods, which could be absolutely devastating to the farming community and conservationists—and farmers are conservationists.

We would also focus on the point that, if a licensing scheme comes to fruition, it must be available for everyone. The method of how people follow dogs is utterly irrelevant. We must focus on having a licensing scheme that is workable and fair.

10:15

Barrie Wade: As far as I am aware, the licensing suggestion does not apply to the use of dogs below ground, but I agree entirely with what Ian Duncan Millar, Jake Swindells and Penny Middleton have said.

I think that it is essential for a licence to last for a season, rather than a relatively short period. Wildlife management is an all-year-round operation, just like farming.

With regard to groups of people, some of the packs of hounds that are currently mounted might be able to alter their behaviour to fit in with the new regulations. I see no reason why they should not be included.

Licences can be issued and withdrawn, so the threat of withdrawing licences that have been issued would be sufficient for anyone to want to comply with the legislation. If they did not do so, their licence would be withdrawn—it is as simple as that.

Ariane Burgess: I have a couple of questions, the first of which is for Ian Duncan Millar. Thank you for beginning to describe the work with foot packs. Lord Bonomy stated that, when a full pack of dogs is used as part of hunting foxes, 20 per cent of the foxes are killed by the dogs, not the guns. However, killing foxes with dogs is already illegal. What are your experiences? As I said, you began to describe your experiences with foot packs. How many foxes are killed by dogs and how many are killed by guns?

Ian Duncan Millar: About 90-plus or 95 per cent are killed by the guns; it is unusual for foxes to be killed by dogs. I speak to the handler every 10 days or every fortnight throughout the season. It is very unusual for the hounds to catch the fox; the fox nearly always goes out of the cover and is dispatched. I am not going to pretend that that never happens, because there are no certainties when we are dealing with wildlife. However, the hunt is set up in such a way that we minimise the opportunity for the dogs and the fox to come into close contact with each other.

Ariane Burgess: Does it make any material difference to animal welfare whether the hunt takes place on horseback or on foot?

Ian Duncan Millar: From my point of view, we do not have horses. Our participants are there to do a job. It is not fun, leisure or sport. They are there to get the job done and get back home to do their day job. Let us be absolutely clear: it is work. It is vermin control in the countryside for the benefit of agriculture and the environment. There is no element of fun, sport or enjoyment in it. We get the job done and go back home to get on with the day job.

Ariane Burgess: My second question is for Barrie Wade. In response to Mercedes Villalba’s question earlier, you started to talk about terrier work. I would like to understand more about what the dogs do to the fox underground.

Barrie Wade: The point of a terrier being below ground is not to fight with the fox, but to bark at him and discourage him from staying below ground. It is a similar sort of game that might occur with two dog foxes vying for vixen mating rights or for territorial rights, for example. It is a game of bluff, if you like. Terriers are selectively bred to bark and yap. Anyone who has ever owned a terrier knows that, when visitors come to the door or strangers are on the premises, the terrier will bark and yap. They do not go up and bite people.

Barking is part of their nature, and we utilise that nature below ground. The terrier goes in, and his job is to flush the fox from below ground. The idea is to make the fox feel less secure below ground than he does above ground.

That brings me on to another issue in the conditions that are being imposed. You have to observe silence at all times so that the fox thinks, "I've got this yappy little dog being a nuisance. I'm going to go elsewhere where I feel more comfortable." The revised definition of "under control" requires that we keep in contact with the terrier while it is below ground by verbal commands, hand movements or physical touch. You cannot do any of those things. If I spoke to my terrier while it was below ground, I would only discourage the fox, mink or whatever wild mammal it is from leaving the ground and, once again, I would create a stand-off below ground. That is what we try to avoid. We try to make the foxes feel as secure as possible above ground and as uncomfortable as possible below ground without engaging in physicals.

Ariane Burgess: I have been made aware of evidence that terriers that do terrier work have scars on their faces. Surely if you put a dog that is in hunt mode underground and it comes up against a fox, they must come into contact. What is the difference between putting two dogs against each other above ground, which is illegal, and putting a terrier underground against a fox in a highly stressful situation?

Barrie Wade: I understand completely what you are asking. It is all about the manner in which you work the dog. You have to create a situation in which the fox will not stop below ground and have a stand-off but will feel more confident to leave the earth.

In nature, animals do not fight with each other for fun. They avoid each other. They have confrontations, but they do not engage with each other unless they are killing something for food. It is exactly the same with a terrier and a fox. The terrier does not want to get injured, and I certainly do not want to get it injured.

Ariane Burgess: How do you prevent the dog from attacking the fox underground?

Barrie Wade: It is not the dog's nature to attack a fox; its nature is to bark at the fox. We have a code of conduct that says how we must conduct ourselves. I have some issues with some of the conditions in the bill, which I believe would lead to confrontations rather than discourage them. If we follow our code to the letter of the law, we will actively avoid the type of confrontation that could occur.

That is one of the reasons why we advocate the use of a single dog below ground rather than

multiple dogs. However, we also acknowledge that we are working with nature and that no two situations are the same, so we have to build in a degree of flexibility. For example, our recommendation is that, in what I regard as natural earths—the ones with a clearly defined tunnel structure—you should only ever use one dog. However, if you have areas of wind-blown forestry or features such as rock piles and cliff faces and the fox is reluctant to bolt, you should put in a second dog so that the fox feels less comfortable and leaves the earth.

Ariane Burgess: I hear what you say about the way in which the dog is worked, but how often does a dog attack a fox underground?

Barrie Wade: It depends on the circumstances and the manner in which you work the dogs. About 10 years ago, we conducted a survey of vets in areas in which it was suggested that there was a high degree of fox control, particularly of the type that involves terriers. We asked how often they had found it necessary to treat work-related injuries of terriers, and they could have answered "never", "infrequently" or "frequently". I do not have a copy of the table of responses to hand—I probably have it with me somewhere—but I can say that, in most instances, the answer was "infrequently" or "never". We also asked how often the injuries that were treated were of a serious nature. Of all the vets we surveyed, only one vet had seen serious injuries, and that was 20 years ago, which was prior to the implementation of our code of conduct, the use of modern locating equipment and various other things that have evolved over time.

The Convener: It would be helpful if you could provide the committee with that information.

Mercedes Villalba: I have a supplementary question for Ian Duncan Millar. I want to check that I have understood the point that you were making about the exception for a 14-day licence. Were you saying that the reason that you oppose that is that, in a particular season, it would be required almost continuously, which would mean that it would create an administrative burden because you would have to keep applying for sequential licences?

Ian Duncan Millar: The answer to the question is yes. In the season that has just finished, the first appointment was on 1 October, and the society was in operation two, three or four days a week in different places throughout our area continuously until Wednesday 30 March.

Mercedes Villalba: And would that have been with more than two dogs?

Ian Duncan Millar: Always with more than two dogs.

Jake Swindells: On the issue of the environmental benefit of a 14-day licence versus a two-year licence, my understanding is that the two-year period is designated because that is the maximum amount of time for which the Scottish Government can issue a licence for such a purpose. We are struggling to understand how the 14-day period was chosen and why that is being considered. I know that, last week, the bill team made reference to farm A having a licence one week and farm B having a licence the next week. In reality, it does not work like that. Foxes do not recognise boundaries, and they have a wide range, particularly when they are looking for food. They may have a den on an arable farm and feed on livestock from the livestock farm next door. In that case, you would be able to flush the fox from the livestock farm to the arable farm, but you would have to stop at the boundary, because you would not be allowed to follow the fox to that farm. That approach causes all kinds of problematic issues. Every rural sector organisation representative whom I have spoken to on this side says that it is just not workable.

The Convener: I have a question before we move on to the next section. The figure of 95 per cent is commendable. On a day when you are out controlling foxes, how many are you likely to shoot?

Ian Duncan Millar: Some days are without success. On other days, five or six foxes could be shot—that sort of number. I think that, for the season last year, the total number of foxes shot on days when our society and our handler were out was 154.

The Convener: Penny Middleton indicated that she would like to come in.

Penny Middleton: I wanted to add something to the discussion about the two-week limit for the licence. There is a two-year licence in the bill for the use of more than two dogs to control foxes for reasons of biodiversity, which is basically the same activity as the use of more than two dogs to prevent agricultural damage, for which there is a two-week licence. I also point out that there is a massive overlap between the impacts of agricultural damage and the impacts on biodiversity. There is quite a fine line between the two areas. Both activities produce the same results, effectively.

10:30

The Convener: Rachael Hamilton has a brief supplementary question before we move on to the next section.

Rachael Hamilton: We are short of time, so I am looking for a yes or no answer. Most of you have spoken about the term “under control”. Do

you think that that should be revised and that the wording from the Protection of Wild Mammals (Scotland) Act 2002 should be used?

Barrie Wade: Definitely.

Ian Duncan Millar: Yes.

Penny Middleton: Yes.

Jake Swindells: Yes.

The Convener: We will now move on to the sections that deal with licensing. I know that we have touched on a lot of licensing issues, but we are specifically going to look at sections 4, 8 and 9.

Jenni Minto (Argyll and Bute) (SNP): My question is a quick one, because you have already given us a lot of information with regard to licensing and your views on it. However, what struck me in your written evidence was that you kept using the word “workable”, which you have used again in this session. What do you think will make the licence workable?

Jake Swindells: “Workable” should mean that it is available to everyone, is easily applied for, and is affordable. I know that the financial memorandum suggests that the system might be cost neutral at some point. If there is a 14-day licence that is going to be cost neutral, the applicant will have to pay for numerous licences, provide evidence for the application, and meet a certain threshold. If they did not meet that threshold and were refused, that would cause issues such as livestock damage, conservation damage, financial damage and mental health issues. For the sector, “workable” means something that is fair and accessible by everyone and that works well for everyone, not just individual sectors of people who control foxes or rabbits.

Penny Middleton: I agree with Jake Swindells. However, I also stress the usefulness of having professional organisations that have a licence to work, which gives farmers the option to call on their services and get a professional job done. There are issues around practicality. For example, if you are in the middle of lambing and you are suddenly getting lambs taken, a couple of days’ delay in getting a licence could be quite significant.

Jenni Minto: It is fair to say that some of my farming constituents have raised with me issues around the pressures of work in that regard.

Penny Middleton: There is also the pressure on NatureScot, if it is issuing the licences. It could handle the situation if the applications came in evenly throughout the year, but that is not going to happen; they are going to come in in bulk at certain times of the year.

Jenni Minto: The submissions from everyone on the panel suggest that NatureScot is a suitable organisation to deal with the work, if, as Ian Duncan Millar has said, it is properly resourced. Will you explain why you think that NatureScot is the right organisation?

Penny Middleton: It has experience of issuing licences already. It issues most of the licences for various things, from general licences through to more specific licences for situations in which agricultural damage has occurred. We have done quite a lot of work with it on licensing to kill ravens. Getting those licences was problematic, so I spoke to it about what was needed in that regard. It has experience of such issues, which I think would be useful.

Jake Swindells: I agree with Penny Middleton that it would make sense for NatureScot to be the licensing authority. The decisions that it might have to make in relation to a specific area that the licence would be assigned to and the number of dogs that might be used might make things difficult. Although it might be the appropriate licensing authority, I think that it would need help from the rural community, stakeholders and practitioners throughout the process of issuing a licence.

Ian Duncan Millar: There are various issues. Extra and unnecessary administration should be avoided in all things that we do, including this. The whole process of applying for a licence every 14 days would add costs that would be quite unreasonable and inappropriate. Our dog handler is a whizz with dogs but not with paperwork. It is crazy to think up and try to build in a new system that would add costs unnecessarily.

Two issues concern us. One issue is the expertise that is available in NatureScot. It is the right body to administer the scheme, because—to be frank—I see nobody else that is in a good position to do it. However, it needs help and experience under its belt to be able to do that effectively.

The issue of timescales is also very important. We have to be able to work with a method that suits our members. In other words, if there is a situation around lambing time, for example, in which a rogue fox appears and starts killing, it must be possible for our society to step in and help that member.

Another issue that we have and which has not been mentioned yet is perhaps more fundamental: the ability to challenge a licence. There will have to be some method of challenging licences, but that cannot operate in an ad hoc way that would add immeasurable time to getting an operation done effectively. The challenge aspect would need to be restricted in such a way that a licence could

be challenged only where the conditions were actually being broken, and broken consistently, and not simply because there was somebody out there who had a different view.

We are all aware that there are a lot of people in society with different views on all sorts of different things, and this subject is particularly sensitive in that regard. We need to ensure that, whatever licensing system we put in place, a licence cannot be challenged immediately to put a stop to a practical situation. That would need to be subject to due process so that it could be demonstrated that the licence holder was, over the piece, not obeying the licence conditions, rather than an objection coming in that stops things the same morning.

Jenni Minto: Does Mr Wade want to say something?

Barrie Wade: I think that everything has been covered, to be honest. The only thing that I would stress is the importance of involving practitioner groups—it is in their interests to be as open and transparent as possible with whoever is drafting the legislation—and representatives of the farming community. That is all that I have to add.

Jenni Minto: It is interesting that you made the point that having a licence rescinded would be a very useful way of controlling malpractice, inhumanity and bad welfare.

Barrie Wade: Yes.

Jenni Minto: You have mentioned your code of conduct a couple of times. I am interested in the difference between a code of conduct and a licence. What are the penalties under your code of conduct?

Barrie Wade: On the difference between our code of conduct and a licence, the NWTF is a voluntary organisation, so we are not in a position to license anyone. All that we can do is make a suggestion; we can say, "This is what we believe you should do." When we come to deal with members of our own organisations, we can take action against them, but with regard to the wider community, we do not have the powers that others—for example, this committee—have.

Jenni Minto: I suppose that a licence is a stronger tool to ensure that people follow the correct welfare procedures in respect of wildlife and their own animals.

Barrie Wade: Most certainly. There are other countries in which licences are an absolute necessity, and the threat of the withdrawal of that licence is better than having a policeman on every corner.

The Convener: Does Ian Duncan Millar want to come in?

Ian Duncan Millar: It is just on the general question of licences. Scottish Gamekeepers Association members are mostly hill farmers and people who manage land in the hills and uplands. The crossover between agricultural benefit and environmental benefit is enormous. The committee will be familiar with the discussions around upland waders, whose biggest predators are foxes. Therefore, we offer a service that is of great benefit to both farmers and the wider environment.

Jake Swindells: Apologies—I know that I keep referring to the bill team’s session last week, but it was an important session. The bill team stated that farmers will not need a licence all year round. That is one of the considerations around the 14-day licence. The reality is that fox management and the like is an on-going process—it is a full, all-year-round management process—and that, without that process, there would be far more foxes and more predation on livestock and red list species. My point was that farmers need to be able to control predators all year round.

I want to touch on licensing as well. In the licensing process—in particular for a general licence—the licences are reviewed annually, and they are relevant to a particular species or topic. They can also be withdrawn. I wonder why—I know that this question was asked at last week’s session, but I do not feel that the answer was full enough—a general licence cannot be considered for the sector.

The Convener: We are where we are. Do you think that you can propose a licensing system that would work on an annual basis? Would you license a pack or an operator, or a piece of land? How would you see that working?

Jake Swindells: The SCA put together a licensing working group when the bill was first published. That group involves all the organisations that are represented here today, plus others such as the National Sheep Association, the BASC and pretty much every other rural stakeholder with an interest in the bill. I am absolutely confident that we could put together, and work with the Scottish Government on, a proper and workable licence that would suit everyone.

Rachael Hamilton: I will ask all my questions in one, but first I want to go back to the definition of a wild mammal. My question is for Barrie Wade. Should the definition be amended to bring in fox and mink? I just want a yes or no answer.

Barrie Wade: Yes—they are definitely wild mammals.

Rachael Hamilton: My second question is for Jake Swindells. Has your working group met Màiri McAllan?

Jake Swindells: Not yet—we have a meeting this Thursday, and Màiri McAllan has agreed to put observers on the group, which is very good news. We are looking forward to working with her directly. The next meeting after that, I believe, is when we will be able to move forward with her.

Rachael Hamilton: I now come to my proper questions. You have all said that different terrains are an issue. Given that there will be a broad range of applications for licences, how will NatureScot understand the number of dogs that should be involved in an action?

Secondly, what happens to the dogs if they are not working? For example, if NatureScot does not understand the density of a forest and it gives a licence for only two dogs to work within that cover, will those dogs get exhausted, which would raise an animal welfare issue? What happens in that instance? What are the practicalities? Do you kill the hounds? What do you do? Are the dogs sent to slaughter? Can we have the absolute raw detail on that, please?

Ian Duncan Millar: There are unintended consequences. If the bill goes through as it is currently drafted, somebody is going to have to turn to our dog handler and say, “Look—you need to euthanise these dogs.” Who is going to do that? I hope that it is not me.

We have a kennel of about 35 dogs. On any one day, about 20 to 24 dogs are taken out by the handler so that he can do his job. The point that I made earlier about numbers is that the licence should allow discretion for the dog handler, in conjunction with the local representative, to understand the best and appropriate number of dogs to take out. If the committee ends up recommending to Government that a licensing body—such as NatureScot, as we have all agreed—will be able to put a restriction on the number of dogs for any particular day, how would that work? How can anyone put their hand on their heart and say that somebody sitting in an office in Battleby will know better than the local representative and the dog handler what the appropriate number of dogs would be for that day? I am sorry; it is just nonsense.

10:45

If those numbers were put on, the restriction would inevitably mean that dogs would be euthanised. That is not something that any of us would like to do. These dogs are bred for a purpose. They are kept in kennels that anyone would be happy to see. It is quite fun to go in among them, to be honest. They are remarkably clean animals and are happy. They are taken out every day for a run as a complete group—35 or 40 dogs running about together. The dog handler has

them trained; when he blows his whistle, they know that it is feeding time, so back they come. As is the experience in training any kind of dog, repetition and reward work for our dogs. They are under control.

I would dearly like to avoid the euthanasia of dogs, which is what will happen if a restriction of lower numbers is put on the licence.

Penny Middleton: In effect, I agree with Ian Duncan Millar. We have talked about NatureScot and the steep learning curve that it would have if it was to be required to make such judgments, not just on whether a licence should be issued but on how many dogs should be allowed. We have said that those packs are professional groups doing a professional job—they know the job. In licensing, such decisions should fall to the people who know and work in the system.

Ian Duncan Millar: I mentioned the numbers. We arrived at those numbers not through any ad hoc decision making but through experience. That is what works. The handler takes out 20 to 24 dogs; he knows that that is the quickest way to put pressure on the fox, in order to flush it to the guns. If we go with two, three or four dogs into a large plantation, it simply will not work.

The objective of the bill is to improve welfare all round—both for the wild animals and for the dogs that are being used. Restricting numbers will make matters worse, not better.

Jake Swindells: A short time ago, I mentioned cost neutrality. If NatureScot needs to conduct any site visits—which I imagine it would, because whoever is issuing the licences will not be familiar with every piece of ground—there will be a cost element. If the application for the licence is to be cost neutral in effect, that cost will go only one way—to the applicant.

The Convener: In our session last week, it was suggested that NatureScot would not argue about what solutions were workable, and that it would work with the dog handler, other organisations or individuals. Is it not unlikely that NatureScot would come back and say, “Well, we think you’re wrong. You don’t need 15 dogs; you only need 10”? Will it not recognise, for example, that Ian Duncan Millar has been doing his job for a long time and is the expert? That is, unless it has grounds to suggest that it is an unreasonable number of dogs—and I do not know why it would do that.

What is really important, I suppose, is the relationship that has been built up between NatureScot and those who control the predators. I would like to think that there would not be a situation in which it would say, “You are wrong. We want to halve the number of dogs.” It would assume that the experts know best. The process

has been focused on animal welfare, and we have to take that as given.

Rachael, do you have any further questions, or can I move to Jim Fairlie?

Rachael Hamilton: We have not really touched on Jake Swindells’s point about resourcing. It is important to recognise the vast land mass in Scotland on which we need to control pests. It is a huge area for NatureScot to cover. If every NatureScot person has to go on farm every 14 days, how many people will that involve, and how many millions of pounds? That is just a comment.

The Convener: We are back to the presumption that those who control the pests are the experts.

Jim Fairlie: Barrie Wade, I come back to you for a clarification.

As you all know, I have been involved in hill sheep farming for 30 years, so I know the business intimately. On the point that the convener has just made, I had a very good working relationship with NatureScot when it came to getting a licence to control ravens that were preying on our lambs.

On one of the points that Ariane Burgess made to you about dogs below ground, the only time that I have ever seen that going wrong and dogs coming out hurt has been when two dogs were down one burrow—the back dog pushes the front dog in and there is a fight. That is mishandling by a handler. If the handler is licensed, they will be careful about how they put dogs underground. The example I have just given is the only time that I have ever seen a dog getting into contact with a fox. Is that a fair assessment?

Barrie Wade: Most definitely. That is exactly the reason why our code is written in the way that it is. I think that the wording in our code is that we actively discourage the use of more than one dog below ground.

However, we have the caveat that, in certain circumstances, there are benefits. That goes beyond the rock faces that I mentioned. There could well be an equipment failure. We have not touched on the fact that most terriers that go to ground are fitted with sophisticated locating equipment, nor that someone may be rescuing a dog that is trapped below ground. That dog might not be a working dog. Our clubs offer a rescue service for pet dogs that have followed their natural instincts and have gone below ground—so we get the call. It is not so much that the dog is actually stuck; it is enjoying itself and is just doing what the good Lord intended it to do. However, to an unfamiliar owner, that is a very stressful situation—and it means that there is an unfit dog below ground.

We have a number of concerns about some of the conditions that are not associated with the use of dogs below ground. We believe that much more could be done to make the process more friendly to animal welfare. A number of conditions in the previous act that we considered very worthwhile are being taken away, and I cannot understand why. They include, for example, the requirement that, if a dog becomes trapped below ground, we act immediately.

Jim Fairlie: Sorry, will you say that again?

Barrie Wade: The 2002 act provides that, should a dog become trapped below ground, there is a requirement to act immediately. That is not in the bill.

I have a couple of examples. According to the 2002 act, one of the conditions is that

“reasonable steps”

should be taken

“to ensure that the fox or mink”—

which, in my opinion, should read “mammal”—

“is flushed as soon as reasonably possible after it is located and shot as soon as possible after it is flushed”.

That is a clear objective, which we should attempt to follow.

Also included is the provision that

“all reasonable steps”

should be taken

“to prevent injury to the dog including steps to prevent the dog becoming trapped underground and, if it does”—

The Convener: I am sorry to interrupt you, Barrie, but I am conscious of the time.

Barrie Wade: Do you want me to write to you separately about this?

The Convener: The information that you give the committee is really important, so if you can provide that in writing, it would be most helpful. I am conscious that only eight or nine minutes are left in this session.

Barrie Wade: Should I also provide the table that I referred to?

The Convener: Yes, please—and your examples of where the bill is lacking in comparison with existing legislation would be helpful.

We will move on to the prohibition of trail hunting, which is covered in sections 11 and 12. There are questions from Beatrice Wishart and Jenni Minto.

Beatrice Wishart: I know very little about trail hunting. Will you explain the extent to which it is practised in Scotland and the impact that a ban would therefore have? I would also be interested

in hearing your views on the exception to the trail hunting ban to allow the training of dogs to follow an animal-based scent.

The Convener: Perhaps Jake Swindells is best placed to answer that.

Jake Swindells: Trail hunting is not practised much in Scotland; it is practised much more south of the border. As you know, that is a legal activity with no related welfare issues. It is very useful for training and bringing on young dogs. Banning it would restrict the ability to train dogs effectively.

I understand the reasoning behind the provision but, because the activity, which is legal, does not regularly take place, you have to draw an inference as to why it is being targeted and whether it is a targeted attack on traditional hunting. Over the past 20 years since the 2002 act came into force, there have been no trail hunting offences, so it must be asked why the activity is under the spotlight.

Traditional hunting involves following on horseback. Generally, riders have little contact with the pack or the fox. There are restrictions to traditional hunting as it stands, so if trail hunting was to be banned, you would be removing what could be a big benefit for a local community in mental health and economic terms. The measure will have a knock-on effect in the community.

The Convener: Do you believe that there are no animal welfare grounds for banning trail hunting and that the reason for doing so is simply that the practice of people jumping on horses and riding across the countryside is unpalatable to some people?

Jake Swindells: It is hard to think of it in any other way. A number of aspects of the bill seem to point in that direction, with the example of trail hunting being the most obvious one.

Alasdair Allan: Although I live in the countryside, unlike most members of the committee, I do not have foxes in my constituency, so I defer to your knowledge on the issue.

Jake Swindells has spoken about trail hunting. Whether we are talking about trail hunting or something else, would you draw a distinction between dogs following an animal scent and a non-animal scent in relation to the usefulness of that exercise or the potential abuse of it?

Jake Swindells: Those are very similar. Take drag hunting for example. If you train the animals to follow an aniseed scent for instance, they are no longer as effective at following a fox scent to flush a fox from cover. Although each method has its place, the activity must be as realistic as possible—the dogs have to be trained in realistic circumstances.

Alasdair Allan: Does the bill not provide for the training of dogs for those very reasons?

Jake Swindells: Yes, it does. The bill focuses on the recovery of injured deer and suchlike.

Alasdair Allan: My understanding is that the bill allows for that activity. Maybe we can talk about that with the next panel, too.

The Convener: I think that it is unclear whether drag hunting is considered to be dog training—I am certainly confused as to whether trail hunting could be included in that.

Ian Duncan Millar: It is not an activity for our society at all.

The Convener: Okay. Thank you. I call Jenni Minto

Jenni Minto: I am interested in the point that dogs are intelligent animals. If you are following a trail and a fox shows up, they are intelligent enough to chase it. That is perhaps one of the loopholes that the legislation is seeking to close.

It interests me that trail hunting has been banned in Wales and on National Trust land. Do you have any comments on what impact that has had?

Jake Swindells: I have spoken to kennel staff and those who run and operate the dogs—they are the experts, which is why we seek information from them. It must be understood that the older dogs in the pack can keep the younger dogs in line. Effectively, the older dogs take on some of the training of the younger dogs. If a younger dog strays away from the scent, the older dog will scold it and bring it back in. Without the dogs being trained to do that—if that capability was not there—things would be a lot more difficult.

Jenni Minto: Do you have any comment on what the impact might be of a ban on trail hunting in Wales?

11:00

Jake Swindells: I cannot comment on that with any authority, to be honest. Trail hunting is not necessarily practised regularly up here, so I would not say that I am an authority on the reasons why that is being considered in Wales.

The Convener: Finally, we move to part 3 of the bill, which includes enforcement provisions. Jim Fairlie has the final question.

Jim Fairlie: We know that the legislation can be fairly punitive. Vehicles and so on can be removed from your possession if it is proven that you have broken the law. The bill includes a provision to have a horse or horses removed from a convicted person's possession. What are your views on

that? Ian Duncan Miller, you will not have an issue with that, so I will ask Jake Swindells.

Jake Swindells: Initially, the sector felt that it was probably slightly more targeted towards traditional hunting, but we asked the same questions of the bill team when I spoke to Màiri McAllan—the bill team was on the call in support. I understand that there is separate legislation that covers any vehicle used in the commissioning of a crime. I understand that the thought process was that that should not be repeated or duplicated in the bill, which I think is why the likes of motor vehicles are not included.

Jim Fairlie: However, if people are found to be breaking the law, they can have vehicles taken off them. One of the concerns that has been raised is that the provision seems like a targeted attack on a particular group. That is not the case—the provision just brings any group into line with the legislation.

Jake Swindells: Yes, that is my understanding. There is separate legislation that covers the recovery and seizure of motor vehicles. That is why the bill just covers horses.

Jim Fairlie: Therefore, the inclusion of the provision relating to horses in the bill does not cause you any concern.

Jake Swindells: No, provided that there is legislation across the board to deal with every aspect and it is not a targeted measure.

Rachael Hamilton: I listened to what was said about the loss of livestock. Do any of the panel members believe that there should be a provision in the bill for compensation in the case that it is not possible to control predators?

Jake Swindells: That issue has not been raised with us. I am not sure whether it has been thought about. At the point of refusal of a licence, I think that two things will happen. First, a conversation will be sought on the loss that has occurred, whether a conservation loss or, as is more likely, a loss of livestock. Secondly, that is also the point at which we will probably see the first judicial review. Therefore, there are a couple of things that might happen, but compensation is not something that has been accounted for, as far as we are aware.

Penny Middleton: Compensation is a difficult issue. Compensation for other losses due to predation and so on is rarely offered, which is why we want to be able to control the problem in the first place and not need to be compensated for it. It is a complex issue. In the case of hill flocks, considerable losses of lambs can affect the entire viability of the flock. It is not simply a case of providing money to replace the lambs, because the nature of hefted flocks is that they are not replaceable. Therefore, the lambs have to be born

on the hill and stay on the hill—you cannot just buy in replacements. Therefore, compensation in that regard is a much bigger issue.

Earlier, I mentioned the mental health aspect of such losses. It is very difficult for farmers who have to deal with the losses, and compensation might help to some extent but it will not address the feelings that they have.

Rachael Hamilton: Penny, am I right in saying that the Dogs (Protection of Livestock) (Amendment) (Scotland) Act 2021, which the Parliament passed last year, is an avenue for compensation for the loss of livestock?

Penny Middleton: I think that you are right about that. Again, however, the issue of how that compensation is calculated is very tricky. You might have the auctioneer value of an animal, but there is sometimes more to the value of an animal than just its market value; it is about more than what you might have lost financially.

Ian Duncan Millar: There are precedents for compensation, as with white-tailed or sea eagles and beavers, for example. I am more concerned that the licence would be applied consistently to agriculture and for environmental gain. I again refer to the Orkney example.

The Convener: We are running over time, but there is something that I would like to get on the record. With the bill moving forward, what are the critical amendments that should be made for you to think that it is workable and fit for purpose for the sectors that you represent? I would like to hear from you all individually, starting with Barrie.

Barrie Wade: Some of the conditions and definitions definitely need revision. I am happy to write to the committee about that.

Ian Duncan Millar: For us, it revolves around the licence, which must be available in a reasonable manner, as we have discussed. If the licensing system is done properly, the rest of the bill will be fine. As I said at the start of the meeting, we concur with the objectives of the bill.

Penny Middleton: Again, the main issue is the licence and aspects around it that we have already discussed—for instance, professional packs being issued a licence seasonally rather than every 14 days. We have also discussed issues around rabbits and maintaining strength on the hare coursing side of things. We do not want to lose that, but we should introduce something around a defence of having permission to be on land doing the activity.

Jake Swindells: The most problematic issue is the reduction to two dogs. A pack must be able to operate, and operate easily. The licence must be fair and available to people across the board, regardless of terrain. Obviously, forestry and open

land are the main topics of conversation, but there are also fields and lowlands full of crops, which act in exactly the same manner. The 14-day licence is absolutely not workable; it should be either a seasonal licence, one that is in line with the two-year environmental benefit licence or a general licence type.

The Convener: That ends our evidence session. I thank you all for your valuable evidence, which will help to inform our work as we move forward.

We will suspend for a comfort break and a changeover of witnesses.

11:07

Meeting suspended.

11:20

On resuming—

The Convener: I welcome to the meeting our second panel, which will focus on conservation issues. We are joined by Ross Macleod, head of policy for the Scotland, Game and Wildlife Conservation Trust, and Duncan Orr-Ewing, head of species and land management at RSPB Scotland.

We have around 45 minutes for questions. I will kick off. What are your experiences of the use of dogs in relation to wildlife management for conservation purposes? Examples of that include for the control of non-native invasive species and for the management of predators of endangered species. We will kick off with Ross Macleod.

Ross Macleod (Game and Wildlife Conservation Trust): Our experience of the use of dogs is mostly around collecting information—for instance, we use dogs regularly for the purpose of species counts. We also see the use of dogs in connection with aspects of predator control—I can elaborate on that in due course. The primary reason that we engage with or have experience of the use of dogs is for data collection for scientific purposes, which is our main remit.

Duncan Orr-Ewing (RSPB Scotland): I will divide our experience into two areas: our land management and projects that we are involved with. I will start with the projects. Most of our use of dogs for projects in Scotland is as conservation detection dogs for control of invasive non-native species, especially on islands, where it has been necessary to use them to detect rats. In addition, the Orkney Native Wildlife Project uses dogs to detect non-native stoat as part of the on-going eradication programme on the island. That is our main use of dogs.

As Ross Macleod said, we occasionally use dogs for research purposes. That aspect is perhaps not covered in the bill. The bill does not cover birds; it covers mammals. We might want to use dogs for the detection of, for example, pine martens, for research purposes.

The other aspect of our use of dogs is in relation to our land management. As a significant landowner in Scotland, we occasionally carry out fox control. We do not use dogs for control of foxes on our land; all the fox control that we do is through shooting. We work to our vertebrate control policy, which has strict ethical standards around fox control and vertebrate control, and we are advised by an ethics committee on those standards. The standards that we employ are very similar to the seven principles of ethical wildlife control, which I know have been discussed in Parliament recently. The only other occasion when we would kill foxes on our land is for neighbourliness—when we have a neighbouring farmer who is experiencing lamb predation by foxes. In those cases, we would consent to fox control for that purpose.

The Convener: You said that you do not use dogs to help control foxes, but what is that decision based on? Given that the witnesses on the previous panel said that hunting with dogs is sometimes the most animal welfare-minded way to control foxes—it might be the only way to control them effectively in undergrowth or whatever—what did RSPB Scotland base that decision on?

Duncan Orr-Ewing: We have an ethics committee that helps to inform us on animal welfare issues, and we have other expertise that helps to inform our policies on predator control, which are built into our council-approved vertebrate control policy. That sets out methods and ways that we can humanely control vertebrates on our land.

Most of our management of vertebrates on our Scottish estate is deer management. We do some fox control, but that is very much a last resort. From our perspective, and according to the advice that we get from our experts, the most humane way to control foxes is for experienced and trained marksmen to shoot them. We quite often go to our local BASC-accredited gamekeeper—or whoever—to do that work for us.

The Convener: According to the witnesses from the previous panel, there are situations across Scotland where shooting foxes is not possible without being able to flush them from the undergrowth. Does that limit your ability to prevent damage to endangered ground-nesting birds?

Duncan Orr-Ewing: We would not claim that the fox control that we do is the most efficient fox control. Obviously, we have a lot of ground-nesting

birds on our reserves. When the wetland predator is a fox, we use fox control. We take an evidential approach. It is not always foxes that are preying on ground-nesting birds; it can be other things. For example, badgers sometimes eat wader and grouse eggs. We have also found that livestock, including sheep, sometimes eat wader eggs. We use nest cameras and things like that before we embark on any form of predator control on our land. As I have said, we have never found it necessary to use dogs to control foxes on our land; all our control is done through shooting by trained marksmen.

The Convener: Has any evidence ever been presented to the RSPB to suggest that flushing foxes might be the best method but the RSPB has decided that it does not want to do that, for other reasons?

Duncan Orr-Ewing: Evidence will have been provided, considered by our ethics committee and built into our vertebrate control policy. We take advice from experts in that area and from animal welfare bodies, such as the Scottish Society for the Prevention of Cruelty to Animals.

Ariane Burgess: I had a question for Duncan Orr-Ewing, but you have responded to most of it in answer to the convener's questions, so I will ask a follow-up question.

The bill proposes a licensing scheme for using more than two dogs for wildlife control purposes, and individual landowners, farmers and organisations will be able to apply for those licences. However, I am aware that, for some predators, including species such as mink, control measures are efficacious in the long term only if they are done at a landscape scale. How could the approach to species control be improved? Could we take an alternative approach to simply allowing greater numbers of dogs to be used by licence holders in their local area?

Duncan Orr-Ewing: That is a long question. Yes, I agree that, for example, mink control is effective only at a landscape scale and, indeed, we participate in mink control schemes only where they are done at that scale, because that is the most effective way of controlling them. Of course, mink are an invasive, non-native species.

With regard to fox control, you are probably asking the wrong person because, as I have said, we do not use dogs to control foxes on our land, and I cannot envisage a case in which we would need more than two dogs for the work that we do, be that for research on or control of invasive, non-native species on islands. I do not know whether that answers your question.

Ariane Burgess: You might not be able to answer the question, but I am raising the idea of our needing to look at the whole ecology and

taking a larger landscape approach. With the coming agriculture bill, we also have opportunities to bring in conditionalities and look towards biodiversity. Therefore, if we are looking at a Scotland that is deeply scarred, taking an approach at a landscape scale could transform how we approach wildlife management.

Duncan Orr-Ewing: Yes, I very much agree with that. As you know, we are involved with some of the biggest landscape-scale restoration projects in Scotland, including peatland restoration work in the flow country, the work at Cairngorms Connect and the great Trossachs forest project. That is certainly part of our ethos. With regard to other vertebrate control, such as deer management, it makes sense to do it at that level.

11:30

Ross Macleod: Our experience is the same. We have had a growth in farmer clusters in England. Transferring that sort of collaboration to Scotland would be a great step forward, particularly in terms of, for instance, roe deer management in low-ground situations, where ownership can be quite fragmented and it would be useful to get people together to manage the situation. Enabling people to organise more efficiently would also be useful with regard to predator control.

Rachael Hamilton: What are your thoughts about NatureScot's shared approach to wildlife management, which was mentioned in the chamber last week? I asked the minister, Màiri McAllan, about how stakeholders in rural settings who know best, such as our conservation farmers or land managers, could be involved in that approach.

To expand on what I am trying to get at, I should say that I am slightly confused about the approach to wildlife management in relation to ensuring that we protect the endangered, red-list species. In one of its reports, NatureScot said that there will be problems if we carry on the way that we are going in relation to capercaillie decline, so we must think about wildlife management in a different way. That very much speaks to this bill, because there has been a lot of comment in our evidence sessions so far about one group of people being treated in one way and another group being treated in another way, with environmentalists almost being seen as better beings than people who work the land every day. Do you see where I am coming from?

Duncan Orr-Ewing: We are a significant land manager in Scotland, so I hope that you are not thinking of us in the way that you describe. We understand how land is managed, and we have agricultural operations and woodland operations on our land.

Invasive non-native species are one of the major drivers of biodiversity loss. That is one of the reasons why we are happy that section 7 of the bill considers the environmental aspects of land management and deals with issues of environmental benefit and conservation exceptions. One of our concerns about the Protection of Wild Mammals (Scotland) Act 2002 is that it does not really consider environmental aspects. With regard to our recent work to restore biodiversity on seabird islands, where many of the ground predators are non-native species, it is important that we have that facility.

On the issue of collaboration, that is absolutely essential. I hope that that answers your question.

Ross Macleod: We feel the same. Collaboration and having a level of trust that enables people to work together is important, particularly where we see challenging situations that need to be resolved. Taking the rather large step to use information and collect evidence for the best purposes with regard to an adaptive management process requires courage, and I think that we all need to work together towards that, whether the issue involves waders or other species that are at risk at the moment.

Duncan Orr-Ewing: I should have said that we are signed up to the NatureScot shared principles of wildlife management that you referenced.

Rachael Hamilton: Is the RSPB signed up to the shared approach?

Ross Macleod: Yes.

Rachael Hamilton: I know that the RSPB is evidence led. Are there any provisions in the bill that do not allow the RSPB to take a view in relation to an approach that protects species?

Duncan Orr-Ewing: I have to say that we are largely content with the bill and the way that it is framed. The key section for us is section 7 and the issue of environmental benefit.

The main issues that we have around that are some of the definitions that are being used and their consistency with other pieces of legislation, such as the Wildlife and Natural Environment (Scotland) Act 2011 and the Wildlife and Countryside Act 1981, which have different definitions around things such as non-native species. We encourage you to think about making the definition of invasive non-native species as appropriate as possible, with regard to issues such as a species being non-native to a particular area. We support the biogeographical approach, which is what we think is intended in the bill. In that context, mammals such as stoats are non-native to Orkney and hedgehogs are non-native to the Western Isles. I have to say that we prefer the 2011 act's definition, which makes reference to the

locality where the animal or plant is indigenous or “outwith its native range”, to the one that is proposed in this bill.

There are other definitions that we would like to see improved, such as the definition of enclosed game birds. We also have an issue with the requirement for action to be taken

“as soon as reasonably possible”.

In the Orkney stoat example, the way in which that project works means that there is no start point in terms of when a period that could be defined as being as soon as reasonably possible would start. It might take several days to do the work that is necessary to control stoats. It would be helpful to have such definitions clarified by officials. You will have seen from our written response that we have specifically asked for that.

Rachael Hamilton: In the earlier evidence session this morning, the definition of

“management of foxes and mink below ground”

was discussed, and it was suggested that that should be broadened. I do not know whether you agree with that, but perhaps both of you could write to the committee on where you think that the definitions in the bill could be improved.

Duncan Orr-Ewing: We have done that—we have highlighted five or six definitions that could helpfully be improved. They are mostly around the part of the bill that we are most interested in, which involves the use of conservation detection dogs for the control of non-native species, which is a growing area of work, especially with the biodiversity crisis and the threats to seabirds.

We were speaking earlier to the convener about the outbreak of avian influenza that is now infecting many of our seabirds. They are stressed from a range of issues that are going on in the environment, and we must take all the measures that we can to safeguard their populations, including the control of invasive non-native species.

The Convener: I ask everyone to bear in mind that we are discussing hunting with dogs. I fear that our discussion has grown arms and legs, and I would like us to focus on the bill.

Jim Fairlie and Alasdair Allan would like to ask supplementary questions.

Jim Fairlie: Duncan Orr-Ewing, you said that you do not use dogs at all. Do you believe that it is unethical to use dogs to flush foxes?

Duncan Orr-Ewing: That is the advice that we are given by our ethics committee. As I said, our vertebrate control policy, which governs the wildlife management that we do on our nature reserves, follows the advice that we are given,

which is that that is not a humane approach. There are other methods of fox control that we are advised that we should not use, such as snaring. Our agreed method, under our vertebrate control policy, which largely adheres to the seven ethical principles of wildlife control, is that the shooting of foxes by a trained marksman is the most humane and, indeed, efficient method.

Jim Fairlie: Okay. We need to protect capercaillie if we are going to save the species. By and large, they will be in wooded areas. How are you going to shoot foxes in woodland?

Duncan Orr-Ewing: We do very limited predator control for capercaillie. In fact, as an evidence-based organisation, we follow the evidence, and I have to say that we have limited evidence that fox and crow control benefits capercaillie. In the woodlands that we are dealing with—especially in our Abernethy national nature reserve—we have low densities of foxes and crows compared with, for example, open farmland in the strath.

Jim Fairlie: I might be wrong about this, but I believe that one of the main issues that a recent report about capercaillie highlighted is the need to make sure that predation is limited, and I think that foxes are cited as an example. I will check whether that is the case.

You—I apologise; I do not mean you personally. The RSPB is one of the largest landowners in the country, and it farms. When the RSPB farms, does it seek to be profitable or does it do so simply to maintain the landscape?

Duncan Orr-Ewing: All our nature reserves have management plans with agreed objectives, which, as you would expect on a nature reserve, are focused on enhancing the important biodiversity of those sites.

In a farming context, we have some in-hand farming but, more often, we work with grazing tenants—that is, graziers on licences. Our largest in-hand farming operation is on Islay.

When farmers ask us to control foxes out of neighbourliness—for example, where they are suffering lamb predation—we will do that.

Jim Fairlie: Do you have a limit? Last week, officials said that they thought that a loss level of 10 per cent was an acceptable level at which to take action. Do you have a limit, whereby you say, “Okay—you’ve now had so many lambs killed that we’ll do something about it,” or is it an immediate response?

Duncan Orr-Ewing: It is an immediate response. If a farmer comes to us, we will authorise the control of foxes, but, if it is done on our land, it will be done according to our methods. We will not allow the neighbouring farmer to use

dogs to control foxes on our land. We will bring in a trained marksman to do the fox control.

Jim Fairlie: Okay, but the primary function of your in-hand farming is not to be profitable; it is to—

Duncan Orr-Ewing: There is an element of profitability—some of our farming makes a reasonable return—but the primary purpose of farming our land is usually to graze the land to manage for biodiversity.

Jim Fairlie: I will come back with another question later on.

Alasdair Allan: I want to follow up on your comment that you had never felt the need to go beyond what is proposed in the bill when it comes to controlling foxes. I appreciate that you have given us an ethical view, but have you or the people who practise agriculture on your land ever felt the need—for agricultural reasons, as it were—to go beyond what is envisaged in the bill, for instance as regards the number of dogs?

Duncan Orr-Ewing: No—not that I have heard. Of course, not everyone who practises agriculture on our land will be thoroughly versed in what is in the bill. They will take guidance from us and the professional staff who manage our nature reserves.

Alasdair Allan: So, the people who practise agriculture on your land have never felt the need to dispatch a wild mammal other than by shooting.

Duncan Orr-Ewing: That has never come to my attention.

Mercedes Villalba: Good morning. I have a question about population control. We have heard that the killing of foxes is necessary to control the population. Does RSPB's evidence base show that routine killing of foxes has been found to be an effective means of population control?

Duncan Orr-Ewing: Are you talking about populations of foxes or populations of, say, ground-nesting birds? Foxes are, of course, territorial and will defend their territory quite rigorously against incomers. If territorial foxes are removed, other foxes will come in and occupy that habitat and that spare territory. Therefore, if fox control is to be done efficiently—I am sure that Ross Macleod will back this up—it must be done every year at the right time of year.

In relation to populations of birds on our land, as I have said, we do not do fox control involving dogs. We take an evidential approach to make sure that it is foxes that are doing the predation before we step in and control them, because that is not always the case—there are other predators out there. That is the approach that we would adopt.

11:45

Mercedes Villalba: Thank you; that is very clear.

At the start, you said that your approach is similar to the seven ethical principles for wildlife control, and you also mentioned that you use shooting. Can you outline a couple of other measures that you deploy for controlling predators?

Duncan Orr-Ewing: We do relatively very little predator control on our land in Scotland, but we will do it where it is necessary—and, obviously, legally.

Our main method is shooting. Occasionally, we have used Larsen traps for the control of crows but I do not think that we are not doing any of that on our land in Scotland at the moment—I would struggle to give you an example of where we are doing that. Most vertebrate control on our land is through shooting, as we are advised that it is the most humane method. As I have said, most of the vertebrate control that we do on our land in Scotland is deer management.

Mercedes Villalba: Are there any methods that do not involve killing the animal? That is what I was getting at.

Duncan Orr-Ewing: We certainly would not use dogs to kill any animals on our land. Will you repeat the question?

Mercedes Villalba: If you had an issue with foxes, for example, would you try other steps before shooting?

Duncan Orr-Ewing: Yes. We would explore all non-lethal options before moving to lethal control. For example, when ground-nesting birds such as waders are breeding we have used anti-predator fencing on a number of nature reserves. In effect, that is electric fencing around fields, which prevents access by predators—not just foxes, but badgers and other ground predators. I am not saying that that is appropriate everywhere, but we can do it on our reserves because, often, the areas are smaller, and it has proved pretty effective on quite a number of our sites.

The general approach, which is built into our vertebrate control policy, is that killing vertebrates is a last resort, and we will explore all non-lethal options beforehand. That aligns with the seven principles.

Mercedes Villalba: Has having a lethal method as the last resort impeded your ability to maintain and improve biodiversity and protect livestock, where necessary?

Duncan Orr-Ewing: No. When it comes to land management, I think that we are the only organisation that monitors—very effectively—the

biodiversity productivity on our land. Our team of reserve ecologists does that, and we publish our information in an annual report, so we can demonstrate that.

Ross Macleod: The Game and Wildlife Conservation Trust operates two demonstration farms—one in England and one in Scotland. Our Scottish farm is a sheep enterprise on the hill edge of the eastern Cairngorms. It also acts as a laboratory for us. We benefit from the predator control that is undertaken by local keepers. We have a substantial population of curlews, lapwings and oystercatchers on the farm; that is why we look after it.

What we are discussing is the need for flexibility in the way in which we approach predator management. The trust's view is that predator management has to be rational, achievable, focused and humane. It is important to respect that. We have lots of research that indicates the benefits of predator management—for example, the Otterburn research from 2000 to 2010, and work from the Sussex study down south, which indicates the benefits of predator control.

The situation for predator control will vary depending on topography and location. I am sure that you heard from colleagues who spoke earlier about the need to manage in hard situations such as dense forest, whin banks or gorse, where it is difficult to move a fox. In such situations, flexibility is sometimes needed.

Our position is that we want care to be taken to ensure that the legislation continues to offer us that flexibility in situations where there is a particular need. It may be an individual fox that is causing problems, so it is essential to be proportionate in that respect. I hope that that gives you an idea of where the trust comes from in that situation.

The Convener: You want a flexible approach. This is not specifically about RSPB Scotland's ethical stance on predator control, but do you believe that birds on land that is managed by organisations or individuals who take that ethical approach are at a disadvantage in that they are more likely to be predated because the option of using dogs to flush out predators is not considered? Does that approach put those birds at a disadvantage?

Ross Macleod: It depends on certain situations. We can locate areas of Scotland where it is perfectly possible to take a light touch on predator control, but there are other situations where it is definitely needed, because the productivity, for instance, of wading birds or capercaillie is plummeting and we need to take action.

The Convener: I do not want to set up a battle between RSPB Scotland and anybody else, but

are you suggesting that, although your aim is to protect birds, you are not actually protecting birds as much as you could, because you have taken an ethical stance on predator control, which we heard earlier in the meeting is not necessarily the best or most humane way to control foxes? Does your position mean that you are not protecting birds as well as you otherwise might?

Duncan Orr-Ewing: Are you asking me that question?

The Convener: Yes.

Duncan Orr-Ewing: You say that we have an ethical stance, but what we have is an ethical and—importantly—evidential approach. The predator that might be causing issues, if you like, in relation to the predation of ground-nesting birds may not always be the obvious one that people assume that it is. As I said, when we have put out nest cameras, we have found instances of sheep predated ground-nesting bird nests, not foxes or badgers.

The Convener: We are not talking about shooting sheep; the issue is about hunting with dogs.

Duncan Orr-Ewing: To go back to our approach, if you are a gamekeeper who is managing a grouse moor, the way that you approach predator control is very different from the way that we approach it. A gamekeeper is looking to maximise a surplus of game birds to shoot, whereas we want to deliver a wide range of biodiversity on our land, including predators such as foxes and badgers and so on. I know that you cannot kill badgers legally, but you can kill foxes. However, they are part of biodiversity for us, and we do not want to eradicate foxes from any particular piece of ground.

Ross Macleod: That is also the case for most gamekeepers. We should reflect on the biodiversity and climate crises that are affecting us; that would bring about significant focus on the delivery of outcomes, as it is doing in the agricultural sector. We will see that in the land management sector in general.

Mercedes Villalba: I have a brief question for RSPB Scotland. Does any of the land that you manage contain dense forestry or gorse?

Duncan Orr-Ewing: Yes.

Mercedes Villalba: You have said that you do not use dogs to hunt foxes. Have you found in topography such as those areas that your approach has fallen short?

Duncan Orr-Ewing: Our vertebrate control policy would still apply to how we approach vertebrate control in those areas, but in general, most of the issues that we have and where we do

fox control are not in that kind of habitat; it is mostly in areas that have wading birds, which are open ground-nesting species. That is where we do most of the fox control on our land in Scotland, and we have important breeding populations of those wading birds on our land. We would not go for fox control before we had explored other methods, which might include anti-predator fencing. We tend not to do much predator control in most of our woodland sites and scrub habitats.

Mercedes Villalba: Is that because your evidence is that foxes are not the primary predator of the species that you trying to protect in those areas?

Duncan Orr-Ewing: Correct.

The Convener: We move to section 7, which is on exceptions for environmental benefit. We have touched on the issue somewhat already, but Ariane Burgess has a question.

Ariane Burgess: The bill includes an exception for environmental benefit, which would allow, with a licence, the use of two or more dogs for purposes such as eradication of invasive non-native species. However, can you tell me about the environmental harm that can be caused by bringing dogs into an area where, for example, there are ground-nesting birds? That question is for Duncan Orr-Ewing.

Duncan Orr-Ewing: We know that dogs that are out of control can cause problems for ground-nesting birds. That situation probably became more acute during lockdown, with more people going to the countryside for recreation, often taking their dogs with them, including to places with fragile populations of ground-nesting birds. In particular, I am thinking of some of the islands.

The Convener: I am sorry—I do not mean to be rude—but we need to focus on hunting with dogs. It is not just about people who are out walking their dogs. We need to be really careful. We could stray into a whole range of other matters. The question is very much about exceptions to the two-dog limit.

Ariane Burgess: Yes, exactly. Therefore, we are talking about a hunting context and what happens if dogs come into an area where there are nesting birds. We heard from farmers earlier—and we have heard in other situations—that hunting actually helps the nesting birds. I am trying to understand whether there is a different experience of that.

Duncan Orr-Ewing: Yes. We would be concerned about a lot of dogs running loose in certain habitats at certain times of the year in places where there are ground-nesting birds. Quite a lot of concern has been expressed about foot packs of hounds running loose in certain places on the national forest estate, for example,

during March and April, when birds and other mammals are starting to breed. We have expressed concern about that in the past.

Ariane Burgess: Ross Macleod, do you want to come in on that?

Ross Macleod: A lot of the foot packs would probably say that they try to target their efforts at a suitable time that avoids those risks. That makes an awful lot of sense and, if that is reflected in legislation in due course, that would be a sensible provision.

Ariane Burgess: I have a follow-up question for Duncan Orr-Ewing. Should we give more thought to the environmental benefit that wild mammals, such as foxes and badgers, contribute to an area, such as how their digging in the soil contributes to nutrient recycling and moisture retention, helping to prevent flooding and drought and creating habitats for other animals?

Duncan Orr-Ewing: Yes. We clearly acknowledge the importance of these predatory species as part of the ecology—the environment.

Jim Fairlie: I am slightly confused. Duncan Orr-Ewing, you said that you have electric deterrents in certain areas. Is that done on a wide scale?

Duncan Orr-Ewing: Yes. I have to say that that is done less in Scotland, but in England we have a lot of electric fences around a number of our nature reserves to prevent ground predators from predated ground-nesting birds.

Jim Fairlie: I can see the value of that from your point of view, but looking at that from a farmer's point of view, he will not have the capacity or financial capability to put those deterrents in place. Do your neighbours tell you that your keeping foxes and badgers out of the vast areas of land that you have actually puts more pressure on them?

Duncan Orr-Ewing: I have not heard that, but I acknowledge what you say. I think that I mentioned earlier that we accept that not everybody can take that approach. Our focus is clearly on the management of biodiversity and enhancing biodiversity on our land, so we will do that. However, as I think that I acknowledged earlier, that is not suitable for everywhere.

Jim Fairlie: The point that I am trying to get to is that the bill allows for a two-year licence for organisations such as yours but limits to 14 days licences for farmers, who are basically trying to make a living. Ross Macleod, do you have a view on that?

Ross Macleod: Yes. We are concerned that there should be flexibility in the approach so that the foot packs that are undertaking predator control at the request of farmers can do so at

relatively short notice. It might be difficult for them to achieve that if they have to organise having the requisite number of guns to achieve the humane predator control approach, which is a point that was well made in the 1 July evidence session. Therefore, we need some flexibility, and the 14-day provision is quite restrictive. We should think further about that.

12:00

Jim Fairlie: This is purely an observation, but I would say that the groups involved are coming at this from different environments. I absolutely take on board everything that the RSPB does, Duncan, but although we might be talking about a particular land mass, the environment that you are concerned with and the objectives that you are working towards are just not the same as those for land managers. Is that not a fair point?

Duncan Orr-Ewing: That might be occasionally the case, but, as I have said, we have productive livestock on our land, too. The electric fencing model that we have just been talking about is not employed everywhere; in fact, our largest in-hand farming operation, which is on Islay, has no electric fencing around the sites, and we deliver a lot of wading and ground-nesting birds while still managing a productive farm.

Jim Fairlie: But you have no foxes on Islay.

Duncan Orr-Ewing: Indeed, but we have other aerial predators.

Jim Fairlie: Oh yes—big black ones that you need a licence to shoot.

The Convener: We move to section 8, which is on licensing. I call Jenni Minto.

Jenni Minto: The only fox on Islay is the dead one in the museum.

I am interested in hearing a bit more about the issue of licences, which has already been touched on. What are your thoughts on licences being granted for two years for environmental purposes? I ask Duncan Orr-Ewing to start.

Duncan Orr-Ewing: I have to be honest—I do not think that any of that presents a major issue for us. I do not want to duck your question, but I think that we can work within what is proposed.

Jenni Minto: Why?

Duncan Orr-Ewing: Partly because we do not do a lot of the management that people are concerned about. Moreover, our main interest in this subject lies in conservation detection dogs; the bill—and section 7, in particular—addresses some of the shortcomings that we felt were present in the 2002 act and gives us, we hope, the

flexibility to do the conservation work that we need to do.

Jenni Minto: Do you want to respond, Mr Macleod?

Ross Macleod: I would come at this from the point of view of having the flexibility to look after our environment through different means. As I have said, we think that predator management needs to be proportionate to the situation, and any approach that we take in that respect should reflect the evidence that we find on the species that we are trying to look after.

Jenni Minto: I was struck by the comment in your submission that

“There are several methods to control foxes but none of them are effective in all circumstances. The need for different approaches to management is therefore vital.”

You touched on that point in your responses to some of Mercedes Villalba’s questions, but do you have anything to add in that respect?

Ross Macleod: Yes. In certain situations, the habitat can be such that it is very difficult to achieve a safe shot in order to kill a fox, and we might use other techniques such as snaring. Unfortunately, the end product for the fox is that it is shot, but as long as we can guarantee that the approach is humane, that is an option that is available.

However, it is difficult to shoot foxes straight with a rifle in all circumstances, because of the nature of the terrain—we could be talking about thick grass, coarse landscapes or dense forests—and in such cases you are trying to pressure the fox sufficiently to move towards guns. In that respect, I come back to the important point made in the evidence session on 1 June about concentrating on the number of guns as a humane measure to ensure that there is no chase.

Jenni Minto: From my perspective and with my limited knowledge, I am not entirely clear how the words “snare” and “humane” can be used in the same sentence. Can you expand on that a bit?

Ross Macleod: I am sorry; can you repeat the question? It is difficult to hear you.

Jenni Minto: I find it difficult to listen to “humane” and “snare” in the same sentence. Can you explain a bit more about that?

Ross Macleod: Again, I do not want to divert from the main purpose of the session.

Jenni Minto: I realise that.

Ross Macleod: We can look at the effect of the Wildlife and Natural Environment (Scotland) Act 2011 and the work that was done on snaring in relation to that, to see the evidence of improvement and professionalism on the part of

the users. If we can achieve that in the Hunting with Dogs (Scotland) Bill, we will have done good work.

Jenni Minto: Thank you.

The Convener: Again, I am very aware of time, because we have only another seven minutes at most.

I have a very quick question, which will be directed to Ross and not to Duncan, because the RSPB does not use dogs for control. With regard to situations in which two dogs might be necessary for the purpose of environmental benefit, we have heard about exceptions, but it appears that there are few situations in which a licence will not be required, because there are few situations in which two dogs will be the most humane and animal welfare-minded way to flush foxes. There really are not exceptions. In my opinion, the licence is probably wrong, because we have heard that, in almost every situation in which dogs could be used, that will be more than two dogs. What are your thoughts on the two-dog limit and the licensing, which is for exceptions to that limit?

Ross Macleod: Our concern was that there would be situations in which it is difficult to move a fox in order for it to be shot safely by a gun. In those particular situations—and they can be very particular—it might be necessary to use more than two dogs. That is just our view. There is a need to explore what the limits might be, perhaps by gathering further information from foot packs about how many dogs are used in certain situations. The trust does not have any information on that, but it would be useful to explore that through an evidence-gathering facility.

Jim Fairlie: I can see a situation in which two dogs would be fine. For example, on the edge of an arable field with a very narrow shelter belt, two dogs go in at the bottom, and you have guns covering it, so that is fine. However, in much bigger areas, do you accept that more than two dogs would be required for environmental benefits as well as agricultural benefits, to make sure that the fox is flushed out safely? That question is for Ross.

Ross Macleod: I defer to the expertise and practicality of those foot packs that have experience in that but, yes, I can see a situation in which that might be necessary.

Jim Fairlie: Would you be comfortable with that?

Ross Macleod: Yes.

Jim Fairlie: Okay. Thank you.

Ariane Burgess: Again, my question is for Duncan Orr-Ewing. The proposed licensing scheme in sections 4 and 8 would allow the use of

more than two dogs to search for, stalk, flush, kill or capture a wild animal for a number of purposes related to wildlife management and environmental benefits. However, if the number of dogs was always limited to two, instead of allowing a pack of hounds, that would effectively put an end to mounted fox hunting, which is one of the big motivations behind this bill. Would a hard limit on two dogs have a significant impact on the ability of RSPB to carry out non-traditional work with dogs for conservation purposes?

Duncan Orr-Ewing: I do not think so.

Ariane Burgess: Thank you.

The Convener: We move to our final topic, which is the prohibition of trail hunting.

Alasdair Allan: Section 12 of the bill, as it is envisaged, provides for the training of young dogs to follow an animal scent or an animal-based scent, but it does not envisage trail hunting per se taking place. Can either of the witnesses offer any observations about that? Do you feel that that distinction in the bill is adequate? How does it sit with your ethical point of view?

Ross Macleod: There will be situations in which stalkers might require a dog in order to follow up on an injured animal, find it and dispatch it humanely. Within the land management community, there would be concern about the need to have the facility to do that in future.

I cannot offer any experience on trail hunting, I am afraid.

Duncan Orr-Ewing: With regard to training animals using an animal-based scent, the issue for us is conservation detection dogs. For example, on Orkney, where stoats are non-native, it might be necessary to train those dogs on the mainland, to allow them to do the work on the island. It would be extremely helpful if that facility were not closed off. I know that I have not answered your question, but that is one of the points of clarification that we sought.

Alasdair Allan: Very briefly, Mr Orr-Ewing, do you see the motivation behind making a distinction between training a young dog and having an organised trail hunt?

Duncan Orr-Ewing: To be honest, I do not know whether that is really my area.

Rachael Hamilton: I will ask for something to be given to the committee. Mr Macleod, you mentioned the Otterburn project. I know that it is possibly something that we can find online, but it could be beneficial for the committee to look at the references to the Otterburn project that relate to this bill. Mr Orr-Ewing, it would be interesting to know whether the RSPB used the Otterburn

project as part of your evidence-based approach to management.

Duncan Orr-Ewing: I am struggling to remember the dates; did the Otterburn project take place in the 1990s?

Ross Macleod: It took place between 2000 and 2010.

Duncan Orr-Ewing: The answer to Ms Hamilton's question is yes. We build any valid evidence into our land management, and the Otterburn study was a replicated trial, which is a high level of evidence.

Rachael Hamilton: Lastly, for clarification, the RSPB does not use dogs for pest control, where there is no other method for effective control. Is the pest control done purely by shooting? Who does that? I know that the RSPB shoots hundreds of foxes across the United Kingdom every year. How do you actually do that? Do you have contractors?

Duncan Orr-Ewing: Some of our staff are qualified to do that work and have firearms certificates but, normally, we get a BASC-accredited person, who is quite often the neighbouring gamekeeper, to do the work for us. That is the way that we tend to operate.

The Convener: That brings us to the end of the evidence session. I thank both witnesses for their evidence; it has been most useful.

12:13

Meeting continued in private until 12:17.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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