

Sam Turner
Wildlife Management Team
Natural Resources Division
Scottish Government
3H South, Victoria Quay
Edinburgh
EH6 6QQ

14 The Square
Grantown-on-Spey
Moray
PH26 3HG
(t) 01479 873535
(f) 01479 873527
enquiries@cairngorms.co.uk
www.cairngorms.co.uk
@cairngorms.co.uk

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Dear Sam,

Cairngorms National Park Authority Response to the Wildlife Management (Grouse) Bill consultation

The Cairngorms National Park Authority (CNPA) welcomes the opportunity to respond to the consultation on the Wildlife Management (Grouse) Bill. Moorland makes up over 50% of the National Park and its management plays a significant role in how land managers in the Park can contribute to achieving national land use ambitions and policy priorities.

The [Cairngorms National Park Partnership Plan](#) sets out how the CNPA and partners plan to work with moorland managers to adapt to and mitigate against the twin nature and climate emergencies, while working to maintain the socio-economic activities associated with sporting estates. In particular the objective A5 to “Increase the sustainability of moorland management to ensure greater species and structural diversity” and associated target to see “A measurable and sustained increase in home range, occupation and breeding success of golden eagle, hen harrier, merlin and peregrine across the National Park”.

CNPA see effective Grouse Moor Licensing and Muirburn Licensing as integral to achieving outcomes and objectives in the National Park Partnership Plan, and thus the regional public policy and priorities.

Your sincerely



Andy Ford
Director of Nature and Climate Change

Licensing of Grouse Shooting

1. Do you agree that the licensing of grouse shooting should be introduced to deter raptor persecution and wildlife crime linked to grouse moor management?

Yes. This is in line with the Cairngorms National Park Partnership Plan Objective A5 and the associated actions. There is strong evidence that raptor persecution continues to be an issue and that current regulations are not an effective deterrent. We think a Grouse Moor Licensing system has the potential to be an effective deterrent.

2. Do you agree that the landowner/occupier/person responsible for or accountable for the management decisions and actions should be responsible for acquiring and maintaining the licence for the taking of grouse on a particular piece of land?

Yes. The person who holds the shooting rights for grouse should apply for the licence and be the named licence holder. This makes for a transparent process which aligns liability clearly with owners or tenants who have ultimate management responsibility; minimising the risk of employees or representatives taking responsibility in the event of a breach of licence conditions.

The licence should apply to the individual who holds the shooting rights for an area of land and that licence should be attached to a map showing the boundaries to which the licence applies. Removal of a licence would mean that no grouse shooting could take place on that ground until the matter had been properly considered by the licensing authority.

It is important that there is a strong relationship between a Grouse Moor Licence, landowners and sporting tenants. Legislation should ensure that a sporting tenant who loses a licence cannot simply be replaced by a new tenancy, without proper consideration by the licensing authority.

Consideration should be given to ensuring clarity in the licence where there are overlapping responsibilities between landowners and sporting tenants/partners on a grouse moor.

3. Do you think that the person wishing to shoot grouse on land that they do not own, or occupy, should be required to check that the person who owns the land has a licence which allows for the taking of grouse on that area of land?

No, not if they are a shooting guest.

If you answered 'No', please state what other option/s you think we should consider (max 150 words).

The estates which shoot grouse are well known. Local information is generally sufficient for public agencies to know on which estates grouse shooting takes place and therefore soon be able to detect where unlicensed grouse shooting is taking place. The risk of unlicensed grouse shooting occurring would seem low. Guest income is a key part of the grouse moor business model. Requirements on the guest could be perceived as onerous and a licensing scheme should look to keep potential barriers to income generation at a minimum. An assurance that the estate has the necessary licensing in place could be provided by the estate as part of their commercial client operations.

A breach of the licence by a guest should potentially carry sanctions against the licence holder. It should be the responsibility of the licence holder to ensure all operations relating to grouse shooting on their land are carried out legally and responsibly.

4. If we introduce a licensing scheme, do you agree that NatureScot should be the licensing authority?

Yes

5. Do you think that a licence should be granted for a maximum period of one year (renewable on an annual basis thereafter)?

No.

If you answered 'No', please state what other option/s you think we should consider (max 150 words).

CNPA does not see a need for an annual licence. Having an annual licence creates administration and cost, to little or no perceivable benefit towards achieving the objectives of the licensing scheme. A licence should be applied for by the holder of the shooting rights for each area of land where people want to shoot grouse. That licence should then be held permanently until either the holder of shooting rights changes or the licence conditions are breached.

6. Do you think that the civil rather than the criminal burden of proof is an acceptable test for the application of sanctions in relation to grouse moor licences?

Yes. History shows it is very difficult to secure convictions for wildlife crimes as crimes are committed in remote areas where there is little chance of being witnessed. Technology in some cases makes it easier to detect crimes, but it also makes it much easier to commit undetected crimes. A civil burden of proof has been applied successfully to the issue of General Licence restrictions and it should also be applied to Grouse Moor Licence sanctions. The loss of a licence should not be considered the only sanction which could be applied. Inspection regimes and payment in relation to those regimes are also options which could be applied.

7. Do you agree that record keeping or reporting requirements should be part of the licence conditions?

Yes. The purpose of the Grouse Moor Licence is to act as a deterrent to raptor persecution, therefore it would make sense for licensees to keep and share records regarding raptor populations. The target for sustainable moorland management in the National Park Partnership Plan is "A measurable and sustained increase in the home range, occupation and breeding success of golden eagle, hen harrier, merlin and peregrine across the National Park." A requirement to survey and monitor raptor populations as part of the licensing scheme would greatly help measure progress towards this target and more widely, the success of licensing in eliminating persecution.

There is also a risk that data gathering and reporting are perceived as an unnecessary burden on legitimate business activities, where the purpose of data collection is not clear. It is not obvious to what purpose grouse bag, trapping or other such data would be put.

8. Do you agree that, where a person holds a valid licence, and there is sufficient evidence to show that, on the balance of probabilities a wildlife crime has been committed on their property, NatureScot should have the power to impose the following penalties:

- **Issue a written warning**
- **Temporarily suspend a licence**
- **Permanently revoke a licence**

Yes to all penalties above, subject to an appropriate appeals process also being put in place. Thought should be given to a sliding scale of penalties dependent on the severity of the crime and the level of proof that a crime has been committed eg a conviction for raptor persecution should lead to permanent revocation of a licence. A crow trap without an appropriate ID label might lead to a written warning.

Muirburn

1. Currently a licence is only required to undertake Muirburn outwith the Muirburn season. Do you agree that a licence should be required to undertake Muirburn regardless of the time of year that it is undertaken?

Yes. This is in line with the Cairngorms National Park Partnership Plan Objective A7 and the associated actions. Muirburn for all objectives requires to be better regulated.

2. If we introduce a licensing scheme, do you agree that NatureScot should be the licensing authority?

Yes, but it is crucial that CNPA is a statutory consultee on muirburn licensing in the National Park to ensure that it ties in closely with the National Park Partnership Plan.

3. Do you agree that there should be a ban on muirburn on peatland unless it is done under licence as part of a habitat restoration programme approved by NatureScot?

Yes. However, the definition of peatland as a habitat must be clarified. Currently the definition of peatland is not clear or commonly understood. This could lead to discrepancies and misunderstandings with the risk of those carrying out muirburn being penalised for acting within their interpretation and scope.

4. Other than for habitat restoration, public safety (e.g. fire prevention), and research, are there any other purposes for which you think muirburn on peatland should be permitted?

No.

5. Do you agree that the definition of peat set out in the muirburn code should be amended to 40 cm?

CNPA feels there is not sufficient scientific basis for a clear conclusion to be drawn. Whilst it is generally accepted amongst practitioners that peat is rarely set on fire by muirburn, there is some evidence that muirburn allows the top layer of peat to dry out, becoming hydrophobic and potentially reducing the functionality of the whole peat column. CNPA's recommendation is that a precautionary principle is applied.

In practice, carrying out, monitoring and regulating muirburn based on system using peat depths is likely be very challenging. Peat depth can vary across the landscape at a very fine scale, a fire may not precisely follow the prescribed path and probing to determine peat depths in advance of lighting a fire may be difficult. A clear, detailed and workable methodology would be required.

It is possible deep peat could be identified based on overlying vegetation and on the presence of indicator species e.g. Sphagnum and Eriophorum, acknowledging that whilst suitable in most situations there are areas of deep peat under pure heather swards which could go undetected by a search for indicator species. CNPA also recommends further investigation of the possibility of establishing vegetation cover and peat depth by remote sensing.

6. Any further comments?

CNPAs preference would be for a Muirburn Licensing system based on constraint maps where CNPA is a statutory consultee on constraint maps within the CNP.

Every landholding where burning is planned should have a constraint map which should define areas where burning is allowed and where it is not. Constraints should include blanket bog, steep slopes, areas of wind clipped heather, juniper, montane willows and other red and amber listed species, water courses, natural regeneration and areas of deep peat where these have been identified. There may be other potential constraints which should be considered to achieve more structural and species diversity in moorlands.

Each constraint map should be agreed between the landholding and the Licensing agency. Maps should be re-negotiated and/or renewed every 3-5 years. This will allow constraints to be amended as site based knowledge improves, spatial priorities change or as scientific knowledge is updated.