

Circulation: Regional Environment Adviser
County Advisers

Date: 27th March 2014

Ref: GL1

Deadline: Friday 9th May 2014

Contact: Claire Robinson
Claire.robinson@nfu.org.uk

Tel: 02476858534

General and Class Licences Under Wildlife Legislation in England

Natural England are [consulting](#) on changes to the wildlife licencing arrangements that allow derogations, in the form of licences, under wildlife legislation. Without these licences these activities would be unlawful.

NFU Comment and Summary

The NFU welcomes the proposed addition of Graylag geese, Egyptian geese, sacred ibis and indian house crow to the general licence. We do not support the proposed removal of several species from the general licence. Evidence is welcome from members in the following cases:

- To retain Jackdaw, Jay and Collard Dove in the general licence evidence of serious agricultural damage or disease caused by these species.
- To justify retaining/ seeking general licence for Lesser Black Backed Gull and Herring Gulls evidence of serious agricultural damage caused by these species.
- To support our view that Hooded Crows should be covered by a general licence for agricultural damage.

There are detailed proposals for licence conditions for trapping, including a draft Code of Practice regarding the welfare of the decoy bird and a reference tagging system for traps. In addition, there are proposals to cover Larsen-mate type traps (also known as 'clam' or 'butterfly' traps) under licence. We believe this should be under a general licence with the same conditions as Larsen traps.

There are a number of proposed changes to licence conditions including a 'read and understand' clause, sanctions for breaches of the general licence, and a new legal test 'no satisfactory alternative' (covered by the press as 'shoo before you shoot'). These proposals appear onerous to licence users and disproportionate to the issue Natural England are trying to tackle.

Background

There are three types of licence available: individual, class and general. The different licences make different requirements on people seeking permission to use a licence. This can be from how the licence is obtained through to reporting requirements after the licence has been used. The individual licence has the most controls placed on the user, with least for general licences. The box below provides more detail.

Box – Difference in requirements for licence users

Individual licence	Class licence	General licence
<ul style="list-style-type: none"> • Must apply to use on each occasion or each year • Need to provide detailed evidence in support of application • Reporting requirement • Compliance routinely checked 	<ul style="list-style-type: none"> • Must register before <u>first</u> use of licence • May need to provide evidence of skills or experience, but not of need for a licence • Reporting requirement • Compliance may be checked 	<ul style="list-style-type: none"> • No need to seek permission to use licence • No requirement to provide supporting evidence • No requirement to report on licensed activities • Compliance checking unlikely

Changes Proposed

The following sections outline the Natural England proposals. Then for each proposal is a suggested line of response for the NFU against which your comments are welcome. To support the NFU position there are several requests for evidence.

1. General licence for the purposes of preventing serious agricultural damage or disease, and conserving flora and fauna

The proposals are to add the following species to the general licence: Graylag geese, Egyptian geese, Sacred ibis and Indian house crow. Then the proposed removal of Jackdaw, Jay and Collard dove from the general licence.

NFU Proposed Response: We welcome the proposed inclusion of additional species on this licence, but see no justification for the removal of Jackdaw, Jay and Collard Dove. To retain these species on the list for this licence we welcome your evidence on the severity and frequency with which these species cause problems.

2. Large Gulls – Lesser black backed gulls and Herring gulls

Lesser black backed gulls have a small number of nesting sites (about 10) and have a declining population. The proposal is to require an individual licence rather than the current general licence for the purposes of preventing agricultural damage. This would bring lesser black gull licencing regime in line with Herring gulls. For both species it is proposed that general licences are required for public health and safety.

NFU Proposed Response: We welcome any evidence you have that lesser black backed gulls and herring gulls do cause agricultural damage to justify retaining/ seeking general licence arrangements for lesser black backed gulls and herring gulls.

3. Crow species

Natural England are seeking to clarify that the wild bird control general licence only applies to carrion crow and not to hooded crow. Control of hooded crows would be through individual licence.

NFU Proposed Response: Our initial thoughts are that hooded crows should be covered by the general licence. We welcome views on whether the hooded crow should be included in the general licence supported with evidence.

4. Trapping Code of Practice

Natural England are proposing a Code of Practice (draft available [here](#)) on the trapping of live birds under general or class licence. The code would form part of the licence, as a substitute for some of the existing licence conditions and provide additional advice including:

- A generic specification for traps using decoy birds
- A definition of birds classed as decoy birds
- Suitability of supplied food and water
- Dealing with non-target species
- Adverse weather conditions (when traps should not be used)
- How traps should be physically inspected

NFU Proposed Response: There is no evidence that the current approach needs to be changed.

5. Keeping Trapped Birds as decoys

Views are being sought on whether there should be a time limit for keeping decoy birds in traps or for use as decoys. Also restricting the options for birds caught under licence to dispatching, releasing or keeping as a decoy.

NFU Proposed Response: From the text it is not clear whether there is actually an issue that needs to be addressed.

6. Reference tagging system for traps

Natural England are seeking views on the merit of tagging traps used under general and class licence. If there was a tagging system how could it be organised?

NFU Proposed Response: There is no clear justification for these proposals. There is a clear additional cost of administration for Government and industry, but it is not clear what the benefit will be.

7. Use of Larsen Mate type traps (also known as 'clam' or 'butterfly' traps)

Currently the wording is ambiguous to whether these types of traps are covered by the licence system, something Natural England want to rectify. If they are to be included what conditions be applied, such as specifying suitable bait (e.g. no carrion) as stipulated in Scottish Heritage's General Licences?

NFU Proposed Response: We would welcome member views on how Larsen-mate type traps are used and which species they are used to capture. Assuming they are used to capture birds protected by legislation then we would welcome their inclusion in the licencing regime. They should have the same conditions as those applied to Larsen traps.

8. Humane Dispatch

Natural England want to ensure all birds that are shot under licence are humanely dispatched. For relevant general and class licences the proposal is for the following recommendation to be added '*All reasonable precautions must be taken to ensure that unnecessary suffering of birds is avoided. Wounded birds are to be pursued and humanely dispatched where practicable.*'

NFU Proposed Response: It is routine good practice to ensure all birds are humanely dispatched and see no reason for the addition of this clause.

9. Pond Dipping

The proposal is to provide a general licence permitting schools and educational facilities to take and temporarily possess (24 hours) great crested newts.

NFU Proposed Response: We welcome proposals to enable schools to engage effectively in educational activity. However, it does highlight the inconsistent level of controls facing other sectors dealing with great crested newts across the wider environment.

10. Compliance

There are several proposals around compliance. These include the introduction of a 'read and understand' licence condition and clarifying the implications of breaching a licence. As worded if the user is deemed to have breached the licence, regardless of the type of breach, they will have their right to use the licence withdrawn. This seems disproportionate when a breach could be as simple as not submitting a report by a certain date.

NFU Proposed Response: These changes have the potential to change to legal requirements of the licences and make them more onerous. We will take a more detailed look at this proposal from a legal perspective before responding to the consultation.

11. EU Birds Directive Obligations

Natural England are inviting views on the introduction of a trial voluntary reporting scheme, where users of general licences are invited to submit records of the control of protected bird species. Also proposed is a requirement to report any action undertaken through the licences on protected sites i.e. SSSIs, Special Protected Areas (SPA) and Special Areas of Conservation (SAC).

NFU Proposed Response: There is no evidence that justifies these proposals for additional reporting. This adds additional red tape which is disproportionate to the issue.

12. Action Taken on European designated sites (SPAs & SACs)

It is proposed that general or class licences cannot be used on designated sites, without prior advice from Natural England. This would require an individual application to Natural England to undertake the control.

NFU Proposed Response: The control mechanisms in place for designated sites already afford protection to wild birds.

13. 'No Satisfactory Alternative' Legal Test

The proposal is to change to wording of the general licence to require the licence user to have '*taken reasonable and appropriate steps to resolve the problem, such as scaring and proofing.*' The current wording of the licence that is being replaced is '*satisfied that appropriate legal methods of resolving the problem such as scaring and proofing are either ineffective or impracticable.*'

NFU Proposed Response: Shooting is just one of the tools used alongside scarecrows, imitation animals and even falconry. The NFU believes that the proposed changes would be difficult to implement in law, making them unenforceable. We have not seen any evidence that there is a need for this proposed change in the rules.

END