

Theme 6 Kept and farmed deer

The proposals in this theme seek to address issues with the welfare of wild, kept and farmed deer by taking forward the following recommendations from the DWG:

Recommendation 25: The Animals (Scotland) Act 1987 should be amended to establish clearly that an owner or occupier of land can shoot a stray farmed deer on that land to prevent damage by the deer, where that is the only reasonable practical means in the circumstances to detain the stray deer under the Act.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: Stray farmed deer carry a risk of transmitting disease to wild deer which could then enter the food chain, or be transmitted through wild deer populations. Shooting stray farmed deer may be the most appropriate method of protecting public health and ensuring deer welfare. We considered the SAWC findings alongside this recommendation and agree that shooting stray farmed deer may be in the best interest of wild deer populations by reducing transmission of disease.

Recommendation 27: The Scottish Government should give serious consideration to the introduction through the Animal Health and Welfare (Scotland) Act 2006, of a scheme to require an owner of deer to have a licence for the keeping of deer as private property that are not farmed deer, deer in zoos nor muntjac deer.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: The Scottish Government recognises that licensing would ensure assessment of the circumstances in which the deer would be kept and granting the licence would identify the owner's responsibility for the deer's health and welfare.

When developing this licensing system consideration will be given to whether venison from these deer should be restricted from entering the human food chain

Recommendation 28: Either the Deer (Scotland) Act 1996 or the Wildlife and Countryside Act 1981 should be amended so that any release of captive red deer and captive roe deer into the wild requires to be authorised by NatureScot.

Scottish Government Response: The Scottish Government accepts this recommendation.

Rationale: The Scottish Government agrees that captive red deer or roe deer should only be released into the wild under authorisation from NatureScot. Alongside the DWG, the SAWC draw attention to the ethical and welfare concerns of taking and releasing wild deer, particularly stress of capture and translocation which is potentially more harmful than direct shooting or humane killing. The Scottish Government agree that further regulation is required.

Read the consultation paper. The consultation paper contains full background information for this consultation. You may find it useful to read or refer to while responding.

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25. Do you agree with our proposals that the owner or occupier of land should be allowed to shoot stray farmed deer on that land in order to prevent damage by the deer, providing there is, by their assessment, no other reasonable or practical way to contain the deer?

Yes No Don't know

26. Do you agree with our proposals that anyone wishing to keep deer as private property (i.e. not for the purpose of farming or as an exhibit in a zoo) should require a licence to protect the welfare of those deer?

Yes No Don't know

27. If you do not support the introduction of licensing for kept deer, what further action, if any, would you recommend to protect their welfare?

If you do not support the introduction of licensing for kept deer, what further action, if any, would you recommend to protect their welfare?

Our Association is unable to support this proposal because there is insufficient evidence provided to demonstrate how a licencing system would either interface with the existing registrations systems (through RPID and/or CHP number) or practically confer addition welfare benefits.

There is a lack of hard evidence, in the consultation, about how many deer, of which sex/species and how many owners/keepers might be subject to a licencing process. In our experience the permutations encountered are almost infinitely variable making licencing very difficult to monitor and enforce.

We note the aspirations that

- (a) Licensing would ensure assessment of the circumstances in which the deer would be kept and
- (b) Granting the licence would identify the owner's responsibility for the deer's health and welfare.

In relation to (a)

a.1

Realistically who is going to fund the licensing process and who will have the time to do it? Could the "Vet attestation" model, recently adopted to allow the export of non-farm assured sheep to the continent, be one means of making this workable?

Our members experience a multiplicity of deer husbandry systems under which different species (native, non-native/invasive and exotic) sometimes admixed, are 'kept privately' under varying degrees of domesticity for variable time periods.

Accordingly, the licencing assessment protocol would be a complex procedure and, if intended to be legally binding, would require careful legal drafting. Additionally, an appeals/compensation procedure would seem necessary if a licence to own/keep deer was denied or revoked in part or whole.

Functionally, the licencing procedure would need to include a 'forward looking' element to take account of changing circumstances: e.g. poor weather, stocking/calving rates, deer species to be kept by the owner or keeper

Prior to the deployment of licencing we anticipate that NatureScot would have to 'up-skill' its staff for licencing assessments and/or out-source assessments to suitably qualified persons.

As alternatives to licencing by NatureScot, we would suggest that in the already well-regulated sector (large zoological collections and research facilities) any deer present will be under the care of a 'Named' veterinary surgeon and it would seem reasonable that they could self-certify in terms of (a) and (b).

In the less-regulated sector our Association suggests that where deer are, **or may**, be kept privately, the owner/keeper and premises should be subject to periodic inspection/audit by a suitably qualified veterinary surgeon conversant with the needs of a wide range of deer species.

As a precedent, we draw the consultations attention to the veterinary oversight of horse-riding establishments where legislation provides for a veterinary oversight by the Riding Establishment Inspectorate.

a.2 The Cairngorm reindeer herd

This formerly extinct native species has a bi-phasic existence involving a free ranging 'summer' phase as one or more herds on the open range of the Highlands and for some individuals a seasonal captive 'winter' phase.

Licencing would seem inappropriate/unenforceable for the free-ranging phase and appropriate for affected individuals during their captive phase.

Finally, we note a discordant sentence attached to this recommendation ["When developing this licensing system consideration will be given to whether venison from these deer should be restricted from entering the human food chain"]. Our Association is not aware of any increase in public health risk arising from the consumption of venison from privately kept deer and that any 'consideration' given to this suggestion should involve a separate consultation involving the BDVA, public health, deer industry and venison sectors and others.

Further comments

The definition of 'kept deer' is uncertain. Whatever the term means, the Consultation makes clear that the welfare of these deer is already governed by the Animal Health and Welfare (Scotland) Act 2006. Consequently, no further regulation is required.

28. Do you agree with our proposals that anyone seeking to release captive red or roe deer into the wild in Scotland should require authorisation from NatureScot, for example, deer which may have been caught and monitored for research purposes?

This would also allow us to gain a better understanding of when and why people want to release captive red or roe deer into the wild.

Yes No **Don't know**

29. If you do not agree with our proposals that anyone releasing red or roe deer should require authorisation, what, if any, further actions would you recommend to ensure they do not cause damage to habitats, or pose a risk to wild deer populations?

Please provide any further comments on the proposals set out in this section here

Item 25 Do you agree with our proposals that the owner or occupier of land should be allowed to shoot stray farmed deer on that land in order to prevent damage by the deer, providing there is, by their assessment, no other reasonable or practical way to contain the deer?

We are obliged to comment that, following some initial confusion, we believe the principal focus here is on bovine TB in farm deer because it is specifically mentioned in the DWG document on Pg 130 para5 & Pg 152 para 7. Both infer that TB in farmed deer compromised the previous generation of deer farms and hence a potential risk of TB spread from farm to wild deer also exists today – something we do not believe is accurate or currently the case.

If the Response format was more flexible the Association might/would advise against the carcass entering the human food chain, unless the animal's previous medication history was known and was confirmed free from pharmaceutical residues etc.

28. Do you agree with our proposals that anyone seeking to release captive red or roe deer into the wild in Scotland should require authorisation from NatureScot, for example, deer which may have been caught and monitored for research purposes?

Our Association shares much of the 'rationale' of this recommendation based on deer welfare, cost and practicality. However, in the real world some charitable bodies /individuals/vets have a binding constitutional or philosophical duty to attempt the rehabilitation and release of injured wildlife, including deer.

However, our Association finds it difficult to respond affirmatively to this question in the absence of an understanding of NatureScot's proposed authorisation procedures. Our understanding is that NatureScot does not provide a 24/7/365 service and seems ill-equipped to receive and, affirmatively, respond to urgent authorisation applications submitted at night, weekends and during holiday periods. Such urgent applications are most likely to arise from the need to protect the welfare, through early release, of non-injured or minimally injured roe deer. In such cases, a mechanism for granting retrospective authorisation to trusted partner organisations should be considered.

In more structured settings and using the example cited (deer which may have been caught and monitored for research purposes) the authorisation required would necessarily depend upon the specific details of the experimental design and be appropriately flexible to enable release.

29. If you do not agree with our proposals that anyone releasing red or roe deer should require authorisation, what, if any, further actions would you recommend to ensure they do not cause damage to habitats, or pose a risk to wild deer populations?

Our Association observes that where native, free-living red or roe deer are brought in to period of biosecure captivity in their home range area (e.g. for research purposes, as by-catch in a live capture exercise or as accidental by-catch as a result of being fenced inside a deer proof enclosure) then their release or self-release [via one-way gates or deer jumps] should pose no more risk of damage to habitats or risk to wild deer than those individuals did prior to their period in captivity. Authorisation in this context seems an unnecessary administrative burden. Under such circumstances, application for authorisation would be unworkable. It would require the deer to be held captive pending the grant of authority, which would jeopardise welfare. This observation should be contrasted with the situation where red or roe deer are translocated during their period of captivity and we believe such releases should be subject to authorisation.

Further comments

It is impossible to respond meaningfully to questions in this Theme because the Consultation has not defined properly what is meant by terms 'wild', 'farmed' or 'kept'. This is a problem that has challenged the Westminster Government for many years and which still remains unresolved. Under Scottish legislation (The Deer (Scotland) Act 1996. 43 (4)) farmed deer means '*deer of any species which are on agricultural land enclosed by a deer-proof barrier and are kept on that land by any person as livestock.*' This Consultation proposes that the phrase 'and be clearly marked to show they are kept as such' should be added to this definition.

The term 'livestock' is defined by the Agriculture (Miscellaneous Provisions) Act 1968 as any '*creature kept for the production of food, wool, skin or fur or for use in the farming of land or for such purpose as the Minister may by order specify*' (Section 8. (1)). The Consultation provides a definition of what is meant by a zoo under the Zoo Licensing Act 1981 and seems therefore to propose that any deer that are confined within a deer-proof barrier and are neither on a deer farm or in a zoo should be classed as 'kept'. Such a definition is unworkable, as deer in heritage deer parks are enclosed within a deer-proof boundary but are considered by both Westminster and Holyrood legislation to be wild. Deer in heritage deer parks are incapable of being rounded up, gathered, handled,

ear tagged, medicated or tested. Heritage deer parks may contain red deer or fallow deer or both, and have done so for many hundreds of years. In Scotland they can also contain roe deer. It makes no legislative sense to impose the rounding up and tagging of the red deer and the fallow deer but to exempt the roe deer. However, the proposal to catch and tag wild roe deer in a deer park is clearly ridiculous. The proposal to licence deer in heritage deer parks and the supplementary suggestion that they should be individually tagged (Recommendation 26 of the DWG) will simply not be enforceable.

Deer in heritage deer parks are treated as wild deer under Scottish game meat regulations and enter the human food chain in the same way as free-living wild deer from the open landscape. This venison is a by-product of the deer park herds, which are maintained as a longstanding heritage amenity and feature of several ancient houses and estates in Scotland. The deer are not '*kept for the production of food, skin, wool or fur*' and are therefore not 'livestock'. Because they are wild, they are not treated with veterinary medicines or vaccinated in any way and there is no risk of medicated carcasses entering the human food chain. The suggestion that the venison from 'kept deer' that are neither farmed nor in zoos should be prohibited from entering the human food chain has no logical or empirical basis and is unnecessary.

Colleagues - For the future, be aware of Recommendation 26 which states "There should be a legal requirement for all deer that are owned as private property and not farmed deer or deer in zoos, to be tagged to identify them as private property." The Scottish Government accepted those proposals in principle but is still considering how best to implement them and therefore we have not included questions on these recommendations in this consultation. We will set out proposals for the marking of kept and farmed deer at a later date.

Both the DWG and SAWC's mindset in relation to 'park deer' is influenced - among other things -by the concept that privately kept deer, aka deer owned as private property, are susceptible to exploitation by 'canned hunting'.

Any future contribution we, the Association, might make with respect to Recommendation 26 might involve looking at both tagging park deer and 'canned hunting'. For ease of future reference 'canned hunting' is referred to in the DWG document at Paras 63-84 and in the SWAC document at Para's 28-29.

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