

Natural England Consultation on General Licences

Please use this form to reply to the General Licence consultation. This document also includes a general feedback form.

Responses may be returned by email to: wildlifeconsultation@naturalengland.org.uk

We would prefer responses to be submitted electronically but if you prefer to respond in writing, please submit your response to: Natural England General Licences Consultation, c/o Dr Edel McGurk, Natural England, Government Buildings, Otley Road, Lawnswood, Leeds. LS16 5QT.

Organisation	RSPCA
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The following table lists all of the questions posed in the consultation document. For each question, please indicate whether you support the proposal using the tick boxes, and provide an explanation and evidence in support of your view in the space provided. Where you do not have a view on a particular proposal, please tick 'No Comment'.

The form is designed to be completed on screen; free text boxes will expand as you type.

Confidentiality

We will respect requests for confidentiality. If you wish the information you provide to be treated as confidential, please record your request below; it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

Responses to Proposals

THEME: Obligations to Protected Sites

Question 1: Do you agree with Natural England's proposal to address this concern by drawing attention to the existing obligations on Statutory Undertakers?

Yes No No Comment

THEME: Non-Native Species

Question 2: Do you agree with our proposal to use regulatory measures to facilitate the control or invasive non-native species?

Yes No No Comment

The RSPCA is not opposed in principle to the use of *appropriate* regulatory measures and considers evidence-based Risk Assessments to be a potentially useful evaluation tool in relation to non-native species. However, the RSPCA questions whether issuing a general licence is an appropriate, or proportionate, regulatory measure for some of the non-native species or circumstances under consideration in this consultation hence our response is a qualified 'no' to this question.

In some instances the evidence of 'a genuine problem to resolve or need to satisfy', consistent with a licensable purpose, seems rather weak. Additionally, we are not persuaded that in some cases the action of listing a species on a general licence 'will contribute to resolving the problem'. Therefore, we do not believe some of the proposals meet the licensing principles Natural England seeks to apply.

Non-native species have the capacity to suffer as much as native species and therefore, from an animal welfare perspective, the RSPCA does not necessarily share Natural England's view that it is "perverse" when non-native species become protected species, on establishment in this country. It provides a measure of control over who can kill them and the methods that may be used and may therefore help to limit suffering caused to them. From an animal welfare perspective, questions regarding 'control' should entail consideration of the relative welfare 'harms' and 'benefits' of the proposed actions.

The RSPCA believes regulatory measures facilitating control should seek to resolve problems in a way that minimises the negative impact of any management on animal welfare and humaneness in line with the agreement on Natural England's discharge of Wildlife Management Functions.

Question 3.1: Do you agree with our proposal to add Ring-necked and Monk Parakeets to the general licence issued for the purpose of conserving wild birds (s.16(1)(c) of the Wildlife and countryside Act 1981)?

Yes No No Comment

The RSPCA would consider the arguments regarding these two species separately in this

question and in the related questions.

Monk Parakeet.

General licensing does not appear consistent with the principle that the action is 'proportionate to the scale of the problem or need'. The draft Risk Assessment estimates that the population is currently about 60 birds which are largely confined to one location. A recent presentation by Tayleur suggested a similar figure. (2008. BOU conference 'The impacts of non-native species') Given this fact, specific, individual, licensing seems a much more appropriate route. However, the evidence, and risk, relating to this species and the licensable purpose of 'conserving wild birds' would currently appear weaker than for other potential licensing purposes even if one is operating on a precautionary basis.

Licensing in relation to such a small number of birds can hardly be onerous to either applicants or Natural England. More importantly, individual licensing, and associated reporting, would provide feedback on the action undertaken and hence the current status of the population. This would be a significant improvement over the current situation in relation to Ruddy Ducks, for example, in which a general licence exists for killing/taking the ducks, that contains a condition to report on action taken, but for which no reports have apparently been submitted.

We understand that feasibility work on the control of the Monk Parakeet has in fact already been undertaken under licence and, as a consequence, the population may already have been reduced. The draft Risk Assessment considered that the existing population could be removed with relative ease. The small size of the population therefore could provide an opportunity to prevent a repetition of a situation comparable to that regarding Ring-necked Parakeets but considering general licences seems an inappropriate route to resolve the problem. The situation appears to be a demonstration of the points made in the Invasive Non-Native Species Framework Strategy about the lack of statutory operational responsibility, capacity and resources to address invasive species at an early stage.

Ring-necked Parakeet

Recent research in Belgium has indicated a potential impact on nuthatches but not other hole nesting species. However, the situation in Belgium may not be comparable to Britain since the majority of the forests there are younger than 40 years and characterized by a lack of old trees and standing dead wood. (Strubbe & Matthysen. 2009. Biol Invasions. 11(3) 497-513.)

Nuthatch abundance has increased rapidly in the UK since the mid-1970s and there is no indication yet of a halt to the upward trend. (BTO Bird trends.)

'There has been no in-depth study in this country on the impact parakeets have on native bird species, either directly or indirectly such as competition for nest sites.' (CSL. 2007. Review of status, ecology and likely future spread of parakeets in England. Report to Defra.)

Currently, the argument that this species should be controlled in England for the purpose of conserving wild birds therefore appears to be much weaker than for other licensable purposes and not consistent with a key feature of general licences that '*there is good evidence that the licensed activity is justified*'.

We believe that the proposal undermines the argument in the associated Q & A produced by Natural England that 'there will be no "*free for all*" to kill them'. We note that, for example, in relation to Q9 in the list of Q & A's, it is accepted that when species such as the House Sparrow and Starling were included on general licences it 'enabled people to take or kill birds *in a wide range of situations with limited control*.' (Our emphasis) It therefore seems likely that this lack of control over what people do might also be the effect of including the parakeets on all the general licences and this is not significantly different from a '*free for all*'. A consequence of listing these species on the general licence would be to place the burden of proof on a prosecutor to prove

that the accused was not undertaking the activity for such a purpose and this is likely to be very difficult for such a broad and undefined 'conservation' purpose.

Question 3.2: Do you agree with our proposal to add Canada Geese and Egyptian Geese to the general licence issued for the purpose of conserving wild birds (s.16(1)(c) of the Wildlife and Countryside Act 1981)?

Yes No No Comment

There are various anecdotal reports but the scientific literature contains little hard evidence relating to adverse conservation impacts of these species. Since Natural England has apparently issued 37 individual licences over the last two years for the control of these species for this purpose it would have been useful if some of the resultant information about the sort of conservation problems these licences were addressing had been included in the consultation. This would have informed the process more than the document's recitation regarding the precautionary approach advocated by the Framework Strategy.

Currently, it would appear that the main conservation problem posed by Canada geese relates to damage to wildlife habitat and 'there is little hard evidence that Canada geese cause significant problems by competing directly with other wildlife.' (Natural England. 2007. The management of problems caused by Canada geese: a guide to best practice TIN009)

The RSPCA believes that a 'conservation purpose' regarding the effect of these two geese on other species should not be overstated in order to seek to justify their control.

Question 4.1: Do you agree with our proposal to permit the killing/taking of Ring-necked and Monk Parakeet species for the purpose of preventing serious damage to crops, etc (s.16(1)(k) of the Wildlife and Countryside Act 1981)?

Yes No No Comment

As in the response to Q 3.1 we would regard this as two questions, relating to different species, and treat them separately hence the 'yes' and 'no' response!

Ring-necked Parakeet

The RSPCA is not opposed to the inclusion of the Ring-necked Parakeet on the general licence regarding prevention of serious damage to crops etc. They are recognised as a major crop pest in various parts of the world and we note the conclusion by CSL that: "There is growing evidence that they are already damaging high value crops such as fruits in the urban/rural fringe areas in England. However, if the population continues to grow and successfully establish in more rural areas, the potential to cause economic damage to a wider range of crops will increase greatly." (CSL. 2007. Review of status, ecology and likely future spread of parakeets in England. Report to Defra.)

Monk Parakeet

For the reasons outlined in response to Q 3.1 the RSPCA does not believe general licences are currently appropriate for this species. There may well be a case for precautionary action against the, currently, small population of this species in the wild in this country but we believe that this should be achieved by specific, focussed work under individual licence(s).

Question 4.2: Do you agree with our proposal to issue a separate licence for this purpose for invasive non-native species?

Yes No No Comment

We understand the argument against advocating alternative methods that may disperse

populations of such invasive species and thereby aggravate problems.

The RSPCA believes that further work on the humane control of these species would: be justified, help to resolve problems, and could help minimise the potential conflict between farmers, conservationists and animal protection interests predicted by Feare (1996. pp107-112. In 'The introduction and naturalisation of birds'. eds. Holmes, J.S. and Simon J.R. HMSO)

The draft Risk Assessment regarding Ring-necked Parakeet refers to the belief "that the UK feral population might be persecuted through the removal of chicks from nest cavities for future sale in the pet trade." Therefore in relation to 'taking' parakeets does Natural England envisage attaching licence conditions regarding subsequent treatment of those birds?

Question 5.1: Do you agree with our proposal to permit the killing/taking of Monk Parakeet species under a general licence for the purpose of preserving public health or public or air safety (s.16(1)(i) of the Wildlife and Countryside Act 1981)?

Yes No No Comment

We are aware of evidence from the United States of this species causing problems to electricity utility companies because of their habit of constructing large stick nests on electric power infrastructure. This would be a problem if it occurred in this country. However, for the reasons explained in response to Q 3.1 and Q 4.1 the RSPCA does **not** believe general licensing is the route to go down for this species.

Question 5.2: Do you agreed with our proposal to issue a separate licence for this purpose for invasive, non-native species?

Yes No No Comment

We agree that methods that might increase dispersal would not be appropriate for invasive, non-native, species and particularly those that may still have a limited distribution. However, we believe that using individual licences rather than adding species to general licences is appropriate for the Monk Parakeet. Conditions that do not encourage dispersal of the birds could be built into licences.

THEME – Review of species listed

Question 6.1: Do you agree that Great Black-backed Gull should only be listed on the general licence permitting take/kill birds for the purpose of preserving air safety? Please provide evidence in support of your view.

Yes No No Comment

Public safety in such circumstances is clearly paramount but bearing in mind that it is a licence requirement that licensees using the 'preserving air safety' general licence maintain records and submit returns each year it would be interesting to know what level of problem exists, and level of control is currently exercised, against this species in relation to air safety.

There appears to have been little change in the breeding population of this species in England but the consultation raises a pertinent question as to whether a species with a breeding population of only around 1500 pairs should be on general licences? It appears that there is no single mechanism of change operating on the Great Black-back Gull population overall in Britain. (Mitchell et al 2004). Also, the causes of changes at particular sites or areas are not well known and comparatively little research has been undertaken on the species.

The fact that Natural England are not aware of any evidence of the species causing widespread problems and that it *believes* only a small number are killed lead us to view that removal from the other general licences and utilisation of individual licensing would be appropriate. The condition

on individual licences regarding feedback from licensees, whilst involving an element of bureaucracy, could provide information about the species that is lacking.

Question 6.2: Do you agree that the Herring Gull should only be listed on the general licences permitting

a. the killing/taking of birds for the purpose of preserving air safety?

Yes No No Comment

b. the destruction of eggs and nests for the purpose of preserving public health and public safety? Please provide evidence in support of your view.

Yes No No Comment

It might have informed the consultation to have a summary of the number of Herring Gulls reported killed under the existing general licence regarding air safety. (Gen - L06)

More generally, the situation regarding the Herring Gull poses a dilemma. Whilst the *overall* breeding population has declined by more than 50% over the last 25 years the number roof-nesting has greatly increased. Consequently, a red listed species of conservation concern is increasingly coming into conflict with people in some urban areas. This is an issue that merits further research.

The RSPCA believes that nest destruction, the treatment of eggs or the use of dummy substitutes to prevent hatching can be effective and humane methods of reducing problems posed by this species in urban areas. Sterilising eggs reduces the number of potential recruits to that urban population and, probably more importantly in relation to impacts, incubation is a quiet affair causing less disturbance to residents. (Rock, P. 2003. Environmental Health Journal. May 2003. 132-135)

Gloucester City Council found that a programme of egg oiling was successful in reducing the impact of the birds in the city but had a number of practical problems. The benefits of keeping the gulls sitting quietly were apparently maintained but practical problems were reduced by the use of a technique based on substituting dummy eggs. (E.g. Dealing with Gulls in Gloucester – a debate2007.

<http://www.gloucester.gov.uk/Documents/GreenTeam/GULLS%202007.pdf> and

1000 seagull eggs dealt with. Gloucester City Council Press Release. August 2004.)

Question 7.1 Do you agree with our proposal to issue a limited general licence permitting the taking/killing of House sparrow, Starling, Robin and Blackbird in food production/handling premises for the purpose of preserving public health or public safety (s.16(1)(i) of the Wildlife and Countryside Act 1981)?

Yes No No Comment

Since it is in line with the policy approach of the RSPCA, we agree with the hierarchical approach to resolving such problems advocated in the proposal i.e. 1) non-lethal, 2) cage trap/mist net, and release alive 3) shooting as a last resort, and with any action being undertaken by suitably qualified persons. However, we have reservations about the ability of a *general* licence to achieve implementation of such an approach.

Although involving only a small number of birds, such problems often generate a lot of public concern and action under general licences lacks transparency.

Question 7.2 If such a licence is issued, do you agree that it is appropriate to require users of the licence to register their first use of the licence with Natural England and to keep written records of action taken under the licence?

Yes No No Comment

Yes, and to submit written records of action taken under any such licence. However, some monitoring could be useful to assess implementation in practice.

THEME – Sales of birds

Question 8.1: Do you agree with the proposal to consolidate the sales licences?

Yes No No Comment

The RSPCA agrees in principle that consolidation might be helpful. However, we wonder what use is made of the existing general licences? Bearing in mind it is a condition of GL21 and GL22 that the seller submits a report to Natural England by the end of the year, giving details of any sales, what reports has Natural England received? The inclusion of such information could have informed the consultation process.

Question 8.2: Do you agree with the proposal to continue to allow the birds listed on the appendix (and their eggs) to be sold without a ring?

Yes No No Comment

Question 8.3: Is the list of species that are exempt from ringing correct (see draft licence for list)? If you disagree, please state why and provide evidence.

Yes No No Comment

Question 9.1: Do you agree with our proposal that no species be excluded from sale under the general licence on the grounds of risks to their conservation status from illegal take from the wild? If you disagree, please provide grounds and evidence for your position? If you do disagree, please provide grounds and evidence for your position.

Yes No No Comment

Question 9.2: Do you agree that Ruddy Duck and Egyptian Goose should continue to be excluded from the general licence permitting sales on the grounds of potential risks to native species, and that Canada Goose should be added to the list of exclusions?

Yes No No Comment

The 'yes' and 'no' response is because the proposal contains two questions and our response is not the same to both elements.

The RSPCA supports the principle that trade in certain species should be better regulated or restricted in order to avoid, or minimise, the risks posed by some invasive non-native species. Trade is a major pathway for invasive species and therefore we believe that a constraint on the sale of some species is an appropriate tool in seeking to minimise problems arising.

The RSPCA supports the continued exclusion of the Ruddy Duck and Egyptian Goose from the sales general licence.

Given the Government's current attempt to eradicate the Ruddy Duck in the UK it would be illogical not to seek tight control on the keeping and trade in this species. Since the population of ruddy ducks in this country originated from escapes from captivity we believe the Government's recent decision not to add the Ruddy Duck to Schedule 4 of the Wildlife and Countryside Act to be perplexing, to say the least.

Introduced populations of Egyptian Geese appear to be markedly increasing in both abundance and distribution in England and in various other European countries. (BTO 2008. Research Report 489) However, their distribution in England still appears to be concentrated in certain areas and therefore continued exclusion from the general sales licence appears appropriate.

However, we note that in section B3 of the document relating to Q9.4 the comment is made that 'Some non-native species are so well established that regulating sales may not deliver a conservation benefit.' This seems very pertinent in relation to this present question and, given the widespread distribution of the Canada Goose throughout England, the RSPCA questions what conservation purpose would now be served by adding the Canada Goose to the list of exclusions?

The RSPCA believes that the general introduction pathway for invasive non-native species relating to trade in waterfowl may merit a broader review.

Question 9.3: Do you agree that sales of Eagle Owls under the general licence should be subject to a registration scheme on the grounds of potential risks to native species?

Yes No No Comment

The RSPCA is supportive of the proposal, in principle, but uncertain regarding how, in practice, it would operate. The recent suggestion by Toms (2008. BOU conference 'The impacts of non-native species') that the captive population was currently c.3,000 and that between 1994-2007 some 28% were 'lost' at some stage suggests a significant risk of establishing, by default, a population in the wild in England. RSPCA field staff deal with a number of escaped eagle owls each year – though, at apparently 10 -15 a year, only a small fraction of the number Toms indicates are lost annually – and some form of registration scheme might facilitate connecting birds with owners.

Question 9.4: Do you believe that other bird species should be added to this list of exclusions on the grounds of potential risks to native species? Please consider the possible candidates suggested above; you may suggest other species and explain why, providing evidence.

Yes No No Comment

As we point out in relation to Q9.2, trade is a major pathway for invasive species and therefore we believe that constraints on the sale of some species is an appropriate tool, to use as a preventative measure, in seeking to minimise problems arising. The RSPCA is therefore, in principle, supportive of Natural England exercising greater control on how potentially damaging non-native species are traded and kept, hence a qualified 'yes' in response.

Candidate species should be considered on the evidence of problems already occurring or likely to arise. However, section B3 of the consultation document provides no evidence or argument in relation to the species listed as possible candidates.

Question 10: Do you agree with our proposal that sales of dead Barnacle Goose and White-fronted Goose (Greenland race) be permitted under the general licence?

Yes No No Comment

Question 11.1: Do you agree that Natural England should provide guidance on what might constitute suitable documentary evidence?

Yes No No Comment

The RSPCA supports the proposal. We believe that the requirement for documentary evidence of captive-breeding together with a clear definition of what that evidence should ideally comprise, is a positive step towards preventing bird crime and preventing the cruelty and suffering that is caused by trade in wild birds. We believe that guidance from Natural England on documentary evidence is probably going to be fairly authoritative and helpful to a court – especially to magistrates.

The RSPCA investigates many cases involving the illegal possession and sale of wild birds. Many of these cases involve the selling or possession for sale of birds in this country which have been purchased on the continent (mainly Belgium). As investigators into this trade we welcome the proposed guidance definition of 'documentary evidence' which unequivocally lists what would be required of the seller in the way of paperwork to accompany any sale.

Any buyer going abroad to buy cheap birds and sell them on at a profit will now have to insist that the dealer gives him satisfactory paperwork to verify the provenance of each bird. If the documentary evidence is not available then the buyer can choose not to purchase. Similarly any person selling birds bred in this country should be obliged to show the legitimate provenance of each protected bird.

The birds are protected by the Wildlife and Countryside Act 1981 and the RSPCA believes that this proposal underpins what the Act sets out to achieve in terms of their protection. However, we have a concern that 'gifts' of birds might circumvent the controls and guidance.

Consideration should be given to whether the terms of this licence should encompass or replace the current Schedule 3 and therefore create a level standard for all birds, with the exception of those others referred to in the licence.

Question 11.2: Do you agree that the wording we propose is appropriate? If not, please provide

alternative wording.

Yes No No Comment

THEME – Understanding and awareness of the general licences & their conditions

Question 12.1 Do you believe that there is sufficient widespread understanding of the General Licences, the circumstances in which they may be used and the conditions that apply. Please provide evidence in support of your answer where possible.

Yes No No Comment

Although it is anecdotal, for the consultation we sought the views of the RSPCA's staff in its Enquiries Service that provides a front line in dealing with enquiries from the public. Their views were that, overall, the public were not aware of general licences. A licence that: i) one needs to have read and understood, ii) which is a legal document, iii) but that is simply *issued* or released to the world at large, rather than applied for, may be intrinsically a difficult concept to grasp and the perception of a licence is in relation to something that needs to be applied for.

At least Natural England makes the licences readily available on their website. Unfortunately, although outside the scope of this consultation, the same cannot be said for Wales. In the latter case the lack of transparency about general licences is unlikely to be conducive to understanding and awareness.

Question 12.2 Do you have any suggestions as to how we could raise the level of awareness?

Please scroll down to the next part of this form if you wish to provide us with general feedback on this consultation package and exercise.