

## **Justice Committee**

### **Inquiry into the role and purpose of the Crown Office and Procurator Fiscal Service**

#### **Written submission from the Royal Society for the Protection of Birds Scotland**

##### **Summary**

In the last thirty years, RSPB Scotland has assisted the statutory agencies in the prosecution of over 60 wildlife criminals in Scotland, while overall, we have been involved in the investigation of well over 2,000 confirmed crimes against wild birds, invariably while assisting the police. Given the nature of wildlife crime occurring in remote areas, and the difficulty in both identifying a potential suspect and in linking evidence with an identifiable individual, only a small proportion of cases lead to a successful prosecution.

Scotland has some of the best wildlife protection legislation in Europe, with successive government's seeking to strengthen the laws safeguarding our world-famous natural heritage and to further bear down on those criminals who seek to harm protected species and habitats.

However, a law is only as good as its enforcement, and, in RSPB Scotland's opinion, resourcing and training of the police and prosecutors, and good communication with expert partners are vital in ensuring our wildlife thrives. While we recognise that, in many cases, bringing the perpetrators of wildlife crimes to justice will not be possible, we also feel very strongly that at the very least, there needs to be a significant improvement in liaison and communication between the police, Crown Office Procurator Fiscal Service and specialist partner agencies in order to ensure that the chances of successfully prosecuting cases are maximised.

##### **Background**

RSPB Scotland's Investigations team has played a key role, over more than 30 years, in assisting the statutory agencies, notably the police and the Crown Office Procurator Fiscal Service, in the detection, investigation and prosecution of wildlife criminals. Our staff have assisted in the execution of search warrants, have provided specialist identification and interpretation of evidence, and have given key witness testimony in a significant number of prosecutions. The cases involved have included illegal egg collections, raptor persecution, possession of illegal poisons, illegal trapping of wild birds, disturbance of protected species and trading offences.

We have also meticulously documented the progress of wildlife crime cases, from the initial report or finding of a potential crime victim or scene, through to the conclusion of a court case. This specialist team and the depth of our working knowledge and acquired experience give us an in-depth perspective on wildlife crime investigations in representing the environmental non-governmental organisation sector.

## Engagement with the Crown Office and Procurator Fiscal Service

RSPB Scotland provided verbal and written submissions to the Joint Thematic Inspection, by HM Inspectorate of Constabulary for Scotland & HM Inspectorate of Prosecution for Scotland, of the arrangements in Scotland for preventing, investigating and prosecuting wildlife crime carried out in 2007. This culminated in the publication by the Scottish Government in 2008, of the report *Natural Justice*<sup>1</sup>, which made 24 recommendations as to how the roles of both the police and the Crown Office Procurator Fiscal Service should evolve and develop to address issues such as deployment of resources, communications and training. While RSPB Scotland welcomed the report, we remain concerned that, eight years on, in our opinion, a significant number of the recommendations made by this report are yet to be fully implemented. These include adequate time and resources being provided to a larger compliment of wildlife crime officers, and improved liaison and communication between COPFS and partner agencies.

We are a member of the Scottish Environment LINK Wildlife Crime Task Force, which was set up due to increasing concerns about the effectiveness of statutory agencies in consistently tackling wildlife crime and the perceived failure to implement the recommendations of the government's own report outlined above. RSPB Scotland made a significant contribution to the LINK review of the Enforcement of Wildlife Protection Legislation in Scotland. The findings of this review were published as a commissioned report, *Natural Injustice*<sup>2</sup>, in early 2015. These reports also made a series of recommendations, many of which related to the work of the police and of COPFS. We shared the disappointment of the wider LINK membership that unlike Police Scotland, the Crown Office steadfastly refused to meet with LINK representatives to discuss the concerns raised.

RSPB Scotland also provided a substantial amount of verbal and written evidence to the recent review of Wildlife Crime Penalties carried out by the Scottish Government, and again, welcomed the report<sup>3</sup> produced by the review panel and looks forward to the recommendations listed in the report being fully implemented by the Scottish Government.

In its response to the Justice Committee's call for evidence, while welcoming the establishment of and improvements arising from the specialist Wildlife and Environmental Crime Unit within COPFS, LINK also identified three main areas of concern:

1. Lack of communication and engagement by prosecutors with organisations who had played key roles in wildlife crime investigations during considerations of plea resolutions and/or means of case disposal.
2. Failure to recognise the conservation impact of the crime and to communicate this to the court.
3. Failure to hold debriefing sessions with those same organisations to help identify learning opportunities arising from investigations and subsequent prosecutions.

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<sup>1</sup> <http://www.hmics.org/sites/default/files/publications/Thematic%20-%20Natural%20Justice.pdf>

<sup>2</sup> <http://www.scotlink.org/wp/files/documents/Natural-Injustice-paper1-FINAL.pdf>

<http://www.scotlink.org/wp/files/documents/Natural-Injustice-paper2-FINAL.pdf>

<sup>3</sup> <http://www.gov.scot/Resource/0048/00489228.pdf>

While we believe that the second point should be addressed by the use of impact statements in court, as recommended by the Penalties Review Panel, RSPB Scotland, along with fellow LINK members remains concerned that a continued lack of communication by some prosecutors and the failure to learn from completed cases do not only represent a failure to implement recommendations made by the government's own Natural Justice report, but also represents a missed opportunity to improve the effectiveness of investigation and prosecution of wildlife criminals.

RSPB Scotland  
24 November 2016