

Ministerial Advice

To: 1. Chris Lea 2. PS Cabinet Secretary for Environment and Rural Affairs

From: Simon Bilsborough

Date: 1 August 2016

Subject: The conservation of White-fronted Geese in Wales. Consultation responses and next steps

MATS Reference number: MA – L/LG/5093/16

When is a decision required from the Minister? In the normal course of business.

1. What is the issue you are asking the Minister to consider?

The Cabinet Secretary is being asked to consider the next steps concerning the conservation of White-fronted Geese in Wales, following the recent Welsh Government consultation.

2. What action(s) are you recommending to the Minister?

The Cabinet Secretary is being asked:

- a) To agree to publish the summary of consultation responses (attached as **Doc 1**) on the Welsh Government website
- b) To agree to:
 - **Option 5** – continuing to maintain the existing voluntary moratorium on shooting GWfG in Wales on land over which wildfowling clubs have shooting rights, together with funding further research to the value of £24,000 into the conservation needs of GWfG in Wales. This is officials' recommended option.
- c) If you prefer Option 1, to lay the required Statutory Instrument (SI) in the National Assembly for Wales (NAW) following summer recess.

3. Deputy Director, Statement of Assurance

☒ I, *Chris Lea*, confirm that I have quality assured this advice.

I am satisfied that the recommended decision or action, if agreed, would be lawful and affordable. Welsh Government policy priorities and cross portfolio implications have been fully considered.

Advice

4. Context - What is the situation that has led to this advice?

Background

Information on the declining population status of European White fronted Geese (EWfG) and Greenland White fronted Geese (GWfG), and on the current position concerning wildfowling in Wales, is in **Doc 2**.

EU Birds Directive

The issue of shooting GWfG raises issues in relation to the EU Birds Directive. Relevant detail on the EU Birds Directive is in **Doc 3**.

African Eurasian Waterbirds Agreement

The issue of shooting GWfG raises issues in relation to the African-Eurasian Waterbird Agreement (AEWA). Relevant detail on the AEWA is attached in **Doc 4**.

Consultation

Due to the continued global decline in WfG the previous Minister for Natural Resources consulted on options to promote the conservation of White-fronted Geese (WfG) in Wales. The consultation ran from 11 January – 7 March 2016 and sought views on 5 options as follows:

- **Option 1:** A statutory ban on shooting of all White-fronted Geese, both European (EWfG) and Greenland (GWfG) races throughout Wales throughout the year.
- **Option 2:** A statutory ban on shooting of all White-fronted Goose (EWfG and GWfG) only in specified parts of Wales used by GWfG, throughout the year.
- **Option 3:** A statutory ban on shooting of GWfG throughout Wales throughout the year.
- **Option 4:** A statutory ban shooting of GWfG only in specified parts of Wales used by GWfG, throughout the year.
- **Option 5:** Maintain the non statutory voluntary ban of shooting of GWfG in Wales on land over which the wildfowling clubs have specific rights to shoot.

Overall response

This consultation attracted 1,239 responses. Responses were received from 25 organisation and 1,214 individuals. Two organisations – the British Association for Shooting and Conservation (BASC), and the Royal Society for the Protection of Birds (RSPB) - provided information to their members to inform responses to the consultation. Of the 1,239 responses, 36% were from individuals or organisations in Wales, 19% England, 2% from other countries of the UK, and the remaining responses did not indicate a location. The summary of consultation responses is provided at **Doc 1**.

The numbers of respondents specifically indicating their support for, or opposition to, the 5 options are noted below and they could choose more than one option.

Option	Number of individuals supporting	Number of individuals opposed
1	907	73
2	8	5
3	85	141
4	3	14
5	248	222

Summary of responses to options

A summary of responses to Options 2, 3 and 4 (which we do not recommend) is in **Doc 5**.

Option 1: a statutory ban on shooting all WfG across Wales

There was a divergence of views on the proposal for a statutory ban, with some respondents strongly supporting the case for a statutory ban, and others strongly opposed.

Respondents answering on behalf of a named organisation who supported a statutory ban included Natural Resources Wales (NRW), National Trust Wales, the Wildlife Trusts Wales, RSPB, Wales Ornithological Society (WOS), Sea Trust, and The Wildfowl and Wetlands Trust.

Respondents answering on behalf of a named organisation who argued against a statutory ban included the Countryside Alliance, BASC, the National Farmers Union (NFU) Cymru, the Dyfi, Mawddach and Dysynni Wildfowling Association (DMDWA), along with a number of Wildfowling Associations based outside of Wales.

Option 5: Maintain the non-statutory voluntary ban of shooting of GWfG in Wales on land over which the wildfowling clubs have specific rights to shoot.

There was a divergence of views on Option 5, with some respondents strongly supporting the case for maintaining the current non-statutory ban, and others strongly opposed.

This option was supported by NFU Cymru, the Dyfi Shooting Syndicate, the Countryside Alliance, the Pembrokeshire Wildfowling Association, BASC, DMDWA, Dovey Wildfowling, the Lough Foyle Wildfowling, Alde & Ore Wildfowling Association, Preston & District Wildfowling Association, and Scottish Association for Country Sports.

It was opposed by RSPB, WOS, NRW, The Wildfowl and Wetlands Trust, Wildlife Trusts Wales, Sea Trust, and Wildlife Trust of South and West Wales.

Other questions

The consultation asked respondents if they had any evidence concerning the shooting of GWfG in Wales. The majority of organisations answering this question stated there was no evidence that GWfG are currently shot in Wales. Nearly all

individual respondents appeared to interpret this question as providing views about the issue of shooting and WfG, as opposed to providing evidence clearly demonstrating shooting of WfG in Wales was taking place.

5. What is your advice to the Minister?

Summary of consultation responses

The responses to the consultation have demonstrated the strength of feeling amongst organisations and individuals both for, and against, a statutory ban on the shooting of GWfG in Wales. These organisations and individuals will wish to see the full summary of responses made to the consultation.

Advice on consultation options

In terms of the options presented within the consultation, our advice is that options 1 and 5 are the key options on which to focus. Therefore Options 2, 3 and 4, in **Doc 5**, is for information only.

Option 1

Our advice on the option of pursuing a statutory shooting ban on WfG in Wales is as follows:

- The consultation has revealed no new evidence that GWfG in Wales are currently being shot. There is no evidence that the decline in GWfG numbers overwintering in Wales is due to shooting in Wales.
- A statutory shooting ban would remove any possible risk of a challenge to the Welsh Government from the European Commission, as regards the Birds Directive.
- A statutory shooting ban would remove risk of challenge that WG was not compliant with the African Eurasian Waterbirds Agreement (AEWA) through not having taken “*all possible steps*” (*to eliminate avoidable sources of mortality and disturbance, particularly shooting and collisions with man-made structures*).
- A statutory shooting ban would remove any risk of criticism of WG from signatories to AEWA if in due course the actions under AEWA are reviewed as the “trigger point” of the global population falling below 20,000 is reached.
- A statutory shooting ban would have the means of legal enforcement which would reduce the future risk of GWfG being shot on land in Wales over which the current voluntary ban does not apply.
- A statutory shooting ban could put at risk the continued support and goodwill of BASC and the wildfowling community for the existing voluntary ban. their enforcement of this with their members, and the accompanying habitat management works.
- Your statutory advisers, NRW, have advocated a statutory shooting ban.
- This was the option that attracted the greatest level of support from respondents

to the consultation.

Option 1 – next steps

If you agree to option 1, officials advise that a Statutory Instrument (SI) be drafted for your approval. This SI would follow the negative resolution procedure. It will be made and laid before the Assembly but should not be brought into force until at least 21 (calendar) days from the date of laying. However, Standing Orders also specify a 40 (calendar) day period (not including periods when the Assembly is in recess) which also commences from the date of laying whereby the Assembly may resolve that the instrument be annulled. Unless an annulment motion is tabled, there would be no debate of this instrument in Plenary.

Laying the SI in the National Assembly for Wales – timing

The end of current close season (no shooting allowed) is 31 August 2016. After this date, and up to 20 February 2017, it will be legal to shoot GWfG in Wales.

Ensuring the SI comes into force by September 1 (to coincide with the end of the close season and to ensure shooting GWfG in Wales is illegal from that date) will not be possible since it would have required drafting policy instructions to lawyers, drafting the SI, translating the SI and checking the SI by the end of July 2016.

GWfG are unlikely to migrate to Wales before mid October, and so there is very little risk of GWfG being shot in Wales immediately after the 1 September 2016.

If your preference is option 1, officials advise you to lay the SI in the NAW following summer recess and with this approach the SI will come into force by mid October 2016.

Obligations under Section 26 (4) of the Wildlife and Countryside Act 1981

Before making the SI, Section 26 (4) of the Wildlife and Countryside Act 1981 requires you to give any affected local authorities, other persons affected, and advisory bodies the opportunity to make representations on the subject of the SI. If you decide to agree to Option 1, further advice will be submitted to you on meeting this duty.

Option 1 would also include the research being undertaken as in option 5 below

Option 5 – recommended option.

Officials advice on the option of maintaining the current voluntary moratorium of shooting GWfG in Wales on land over which wildfowling clubs have shooting rights is as follows:

- The available evidence suggests that the voluntary ban on the shooting of the GWfG in Wales is currently working. The consultation has revealed no new evidence that GWfG in Wales are being shot. There is no evidence that the decline in GWfG numbers overwintering in Wales is due to shooting in Wales.
- Even if there is a statutory ban, this is difficult to practically enforce on the ground

so shooting remains a risk.

- Maintaining the voluntary moratorium on shooting of GWfG will ensure the continued support and goodwill of BASC and the wildfowling community for the existing voluntary ban, their enforcement of this amongst their members, and deliver the accompanying habitat management works.
- Maintaining the voluntary moratorium on shooting of GWfG would not remove any possible risk of a challenge to the Welsh Government from the European Commission, as regards the Birds Directive.
- Maintaining the voluntary moratorium on shooting of GWfG would not remove risk of challenge that WG was not compliant with the African Eurasian Waterbirds Agreement (AEWA) through not having taken “*all possible steps*” (*to eliminate avoidable sources of mortality and disturbance, particularly shooting and collisions with man-made structures*).
- Maintaining the voluntary moratorium on shooting of GWfG would not remove the risk of criticism of WG from signatories to AEWA, if the actions under AEWA are reviewed as the “trigger point” of 20,000 GWfG is reached

Option 5 – next steps

If you agree to Option 5, officials would continue with their current engagement with stakeholders to take forward the proposed research (see below) that is necessary to strengthen the evidence base for the conservation of WfG in Wales.

Research needs

The former Minister for Natural Resources agreed for WG to fund a research proposal to inform and strengthen the evidence base for the conservation of WfG in Wales.

The research work has been taken forward through a partnership of NRW, RSPB, BASC, Dyfi Wildfowling and the Wildfowl and Wetlands Trust. It includes;

- Monitoring of GWfG numbers, distribution and behaviour on the Dyfi and Anglesey
- Monitoring population age structure and condition
- Monitoring movements of GWfG across their range (by satellite tracking)
- Assessment of field condition in areas occupied by wintering GWfG.

This work will help understand the level of vulnerability of GWfG outside areas where a voluntary ban on shooting is currently implemented and inform future management decisions.

Proposals for extending the work to cover winter 2016/17 and 2017/18 amount to £24 000. Officials advise this additional two years of work will significantly improve our evidence base and will provide the evidence to better inform decision on most appropriate management of the geese and their habitat.

Overall advice

On the basis of the advice above officials **recommend**;

- you agree to publish the summary of consultation responses (attached as **Doc 1**) on the Welsh Government web site;
- **You agree to Option 5** – continuing to maintain the existing voluntary moratorium on shooting GWfG in Wales on land over which wildfowling clubs having shooting rights, together with funding further research into the conservation needs of (GWfG) in Wales. Once the programme of research is completed the evidence can then be reviewed.
- If you agree to Option 1, to lay the required Statutory Instrument (SI) in the National Assembly for Wales (NAW) following summer recess.

6. What legal or policy obligations are relevant to this advice?

Children's rights

There are no specific issues relating to children's rights in the UN CRC arising from this submission

Welsh Language Standards

There are no specific issues relating to Welsh Language Standards arising from this submission. Under the WG's translation scoring system, the summary of responses to the consultation will be published in English only.

Tackling Poverty

There are no implications for the WG's Tackling Poverty agenda arising from this submission

Wellbeing of Future Generations Act Goals

The conservation of WfG in Wales will contribute to the WFG goal of a nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems which support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).

Legal advice

Information withheld under Regulation 12(4)e of the Environmental Information Regulations 2004

Powers

The Welsh Ministers have various legal powers and duties in relation to wildlife and nature conservation.

Section 80 of the Government of Wales Act 2006 provides that any EU obligation of the UK is also an obligation of the Welsh Ministers if and to the extent the obligation could be implemented (or enabled to be implemented) or complied with by the exercise by the Welsh Ministers of any of their functions.

The Welsh Ministers are designated under section 2(2) of the European Communities Act 1972 in relation to the conservation of natural habitats and of wild

fauna and flora.

The GWfG is listed in Part 1 of Schedule 2 to the Wildlife and Countryside Act 1981 as a bird which may be killed or taken outside of closed season. Section 22 of that Act provides the Welsh Ministers with a power to add or remove any bird from that Schedule.

Section 71 of the Government of Wales Act 2006 allows the Welsh Ministers to do anything they consider is calculated to facilitate, or is conducive or incidental to, the exercise of any of their other functions.

7. What are the financial implications of Ministers agreeing to this advice and which budget will this be paid through?

Cost: £24,000 for proposed research (for both Options 1 and 5).
Budget: BEL 2824

Cost: £24k improving the evidence base (satellite tagging and monitoring) covering winter 2016-17 and 2017-18. The extended research programme can be managed by NRW and paid to them via their Grant in Aid this financial year.

Cost relating to development of legislation (if option 1 is chosen) will be met from departmental running costs.

Natural Resources Operations Team (NR/076/16).

8. What communication, engagement or media activity is planned following this decision?

We would advise you issue a Written Assembly Statement and a Press Notice to announce your decision, on a date which coincides with the summary of consultation responses being published. If you agree to this, we will liaise with your Ministerial Communications Team.

Your decision is likely to attract interest and comment from environmental groups and from wildfowling organisations.

Doc 1 of MA-(L)/LG/5093/16

Promoting the conservation of White-fronted Geese in Wales

Consultation responses

The Welsh Government held a consultation on options to promote the conservation of White-fronted Geese (WfG) in Wales. The consultation ran from 11 January – 7 March 2016. The consultation sought views on 5 options as follows:

- **Option 1:** A statutory ban on shooting of all White-fronted Geese, both European (EWfG) and Greenland (GWfG) races throughout Wales throughout the year.
- **Option 2:** A statutory ban on shooting of all White-fronted Goose (EWfG and GWfG) only in specified parts of Wales, used by GWfG, throughout the year.
- **Option 3:** A statutory ban on shooting of GWfG throughout Wales throughout the year.
- **Option 4:** A statutory ban shooting of GWfG only in specified parts of Wales used by GWfG, throughout the year.
- **Option 5:** Maintain the non statutory voluntary ban of shooting of GWfG in Wales on land over which the wildfowling clubs have specific rights to shoot.

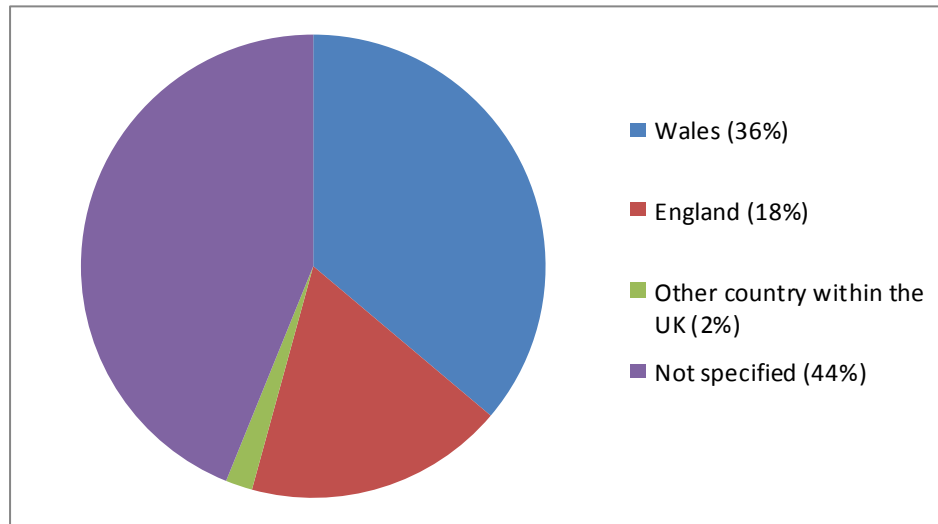
Overall response

This consultation attracted 1,239 responses. A small proportion of the responses were received after the end of the official consultation period but have been included in the analysis. The total excludes 20 responses which were duplicate responses (identical responses from the same individual, submitted via online or mailbox submissions), and which have been removed from the analysis to avoid double counting. The Welsh Government would like to thank everyone who responded to the consultation. Your comments have been carefully considered.

This document reflects the comments and views expressed by respondents to this consultation, and not the views of the Welsh Government on this issue.

Location of respondents

Of the 1,239 responses, 445 (36%) were from individuals or organisations in Wales; 229 (19%) England; 23 (2%) from other countries of the UK; and the remaining responses did not indicate a location.



25 responses were received from organisations. These are listed in Annex 1.

Two organisations – the British Association for Shooting and Conservation (BASC), and the Royal Society for the Protection of Birds (RSPB) - provided information to their members to inform responses to the consultation. This information is included in Annex 2 (BASC) and Annex 3 (RSPB). The table below shows the split in responses from organisations, and members of the public, and notes the number of responses from members of the public which were clearly submitted in response to the information provided by BASC or by the RSPB.

Respondents	Total responses	%
ORGANISATIONS		
• Environmental NGOs	10	1%
• Wildfowling groups and shooting interests	11	1%
• Public sector	1	-
• Other organisations	3	-
TOTAL ORGANISATIONS	25	2.5%
• Responses from members of the public not directly related to a campaign response	946	76%
• Members of public clearly responding in response to BASC information	25	2%
• Members of the public clearly responding in response to RSPB campaign	243	20%
TOTAL MEMBERS OF THE PUBLIC	1,214	98%
TOTAL RESPONSES	1,239	100%

Of the 1,239 respondents only a minority of about a quarter (314; 25.3%) provided a detailed response to one or more of the questions provided, i.e. almost three quarters of respondents did not answer the questions, but merely supplied a brief

paragraph indicating their support for one of the options. A few respondents provided additional comments on related conservation issues, including, for example, one call to ban lead shot.

Detailed comments in response to the consultation questions

1. What evidence do you have concerning the shooting of GWfG in Wales?

Organisations

Respondents answering on behalf of named organisations responding to this question included Natural Resources Wales (NRW), National Farmers Union Cymru (NFU Cymru), the Countryside Alliance, the Pembrokeshire Wildfowlers' Association, the British Association of Shooting and Conservation (BASC), the Dyfi, Mawddach and Dysynni Wildfowlers Association (DMDWA), and the Scottish Association for Country Sports (SACS). Other organisations which gave detailed views on options 1-5 did not respond to this question.

The majority of organisations who answered this question stated there was no evidence that GWfG are currently shot in Wales. These respondents argued there is no evidence to support the fact that the decline in numbers of Greenland White-fronted Geese can be attributed to shooting. They felt the downward population trend is due to poor breeding conditions in Greenland causing an ongoing decline in reproduction, rather than any increase in individual bird mortality in Wales. Natural Resources Wales (NRW) noted that the immediate cause of this rapid population decline in GWfG is known to be chronic low productivity in Greenland, which over the last twenty years has not balanced mortality.

Respondents argued there is no recent evidence of shooting of GWfG, therefore, the level of risk is not such as to warrant Welsh Government taking statutory action. They argued the voluntary moratorium on shooting GWfG in Wales is effective and being adhered to by wildfowling clubs shooting in Wales. They felt there is no threat to the European White-fronted goose population, and considered European White-fronted geese rarely visit the areas of Wales used by GWfG.

NRW noted the International and national population status of GWfG and argued whilst only small numbers of GWfG regularly over-winter in Wales, these birds are crucial to the maintenance of the national (and international) distributional range of the population. NRW stated that bag returns in the 1990s from wildfowlers on Anglesey showed continued killing of GWfG, where 28 GWfG were recorded to have been shot between winters 1997/98 and 2002/03. NRW suggested that these were birds either wintering on Anglesey or possibly birds on migration to the regularly occupied wintering site on the Dyfi Estuary Special Protection Area (where GWfG is a qualifying feature of the site). NRW noted the absence of a statutory bag return makes the gathering and provision of evidence detailing how many GWfG have been shot in Wales (2003 - present) very challenging to collect and report.

Individuals

228 individual respondents (i.e. those not responding on behalf of an organisation) answered question 1. Nearly all individual respondents appeared to interpret this question as providing views about the issue of shooting and White-fronted geese, as opposed to providing evidence clearly demonstrating shooting of White-fronted geese in Wales was taking place. Some individuals provided anecdotal information such as “heard about it” or “read about it”. For the purposes of analysis, responses to question 1 have been divided into different categories of response:

Evidence category	Number of individuals responding	Percentage of responses in evidence category
Know that numbers are declining	79	35
Other	45	20
Read about it	34	15
Think that a voluntary moratorium is effective	28	12
None	28	12
Know of a statutory ban in place elsewhere	5	2
Heard about it	4	2
Think that a voluntary moratorium is limited	3	1
Know shooting has occurred	3	1

The most common type of evidence recorded (35%) related to declining WfG population levels. Respondents referred to specific monitoring scheme data such as **the Wetland Bird Survey (WeBS)**¹, or to the conservation status of WfG under various programmes such as Birds of Conservation Concern² or IUCN (2015) Red List of Threatened Species³ listing.

28 (12%) individuals specifically stated they were not aware of any evidence (stating “none”).

20% of respondents provided information which did not fit into any specific category or provided information on more than one category and their responses were classed as ‘other’. Some individuals argued the main factor determining the global population of Greenland White-fronted geese is breeding productivity in western Greenland. Other responses referred to studies undertaken in Ireland⁴, showing that shooting increases mortality in the species and therefore reduces the breeding population for the following season. They argued, given the conservation concern about the species and the small numbers of birds in Wales, and the fact that Wales is the only area on the species’ flyway where WfG is not protected, this makes a clear argument that no bird should be shot. Other individual respondents argued

¹ <http://www.bto.org/volunteer-surveys/webs/about>

² <https://www.bto.org/science/monitoring/psob>

³ IUCN 2015. *The IUCN Red List of Threatened Species. Version 2015-4*. <http://www.iucnredlist.org>

⁴ <http://bit.ly/1oPbQ0D>

shooting is demonstrably not a threat to GWfG - there is far more threatening issues effecting the population of these birds.

Some individual respondents referred to personal experience. One respondent referred to their experience of watching GWfG and seeing them frequently with flocks of Canada Geese. In the view of the respondent this left them vulnerable to disturbance from shooting, and misidentification. Other individuals stated, as wildfowlers, they had supported the voluntary ban. That it was a form of effective self regulation and it had helped the recovery of the white fronted geese. They went on to say that there was no evidence of shooting WfG within the Dyfi estuary area for the previous 43 years, and there was no need to place the species on a banned list.

Some individual respondents commented on the Action Plan for the African-Eurasian Migratory Waterbird Agreement (AEWA). They noted this action plan does not require the Welsh Government to issue a public consultation on the legal status of white-fronted geese. They argued the action plan requires the Welsh Government to send representatives to an international meeting to consider responses to the continued deterioration of the global population status of WfG.

Some individual responses noted the consultation focussed on the possible risk of birds being shot in Wales with no mention of the risk of collision impacts with inappropriately located wind energy developments. They argued the AEWA action plan specifically identifies inappropriately located wind energy developments as a threat to WfG.

2. Do you support a statutory ban on the shooting of all WfG in Wales? If so, which is your preferred option (Options 1 or 2), and why? If not, why?

- **Option 1:** A statutory ban on shooting of all European White-fronted Goose (EWfG) and Greenland White-fronted Goose (GWfG) throughout Wales throughout the year.
- **Option 2:** A statutory ban on shooting of all White-fronted Goose (EWfG and GWfG) only in specified parts of Wales, used by GWfG throughout the year.

There was a divergence of views on the proposal for a statutory ban, with some respondents strongly supporting the case for a statutory ban, and others strongly opposed.

Organisations

Respondents answering on behalf of a named organisations who supported a statutory ban included NRW, National Trust Wales, the Wildlife Trusts Wales, Wildlife Trust of South and West Wales, RSPB, Wales Ornithological Society, Sea Trust, Capell Creative, and The Wildfowl and Wetlands Trust

Respondents argued the population is extremely sensitive to hunting mortality. They noted the steep annual decline in population size through the early 2000s was arrested to a large extent following the cessation of hunting in Iceland in 2006. They argued additional mortality from shooting has been shown to adversely contribute to population decline (Studies at Wexford Slob, Ireland, showed shooting mortality was additive to natural mortality, such that protection from shooting gave enhanced adult survival rates). These respondents argued the loss of any bird through hunting will worsen the status of the remaining Welsh population.

These respondents argued only a statutory ban provides full protection to both species, which is required to reduce all sources of mortality to both species. They argued other options are insufficient to conserve the critically endangered GWfG, and it is critically important to reduce all sources of mortality to both species in Wales. They argued a statutory ban is warranted in view of the small and declining numbers of both species over-wintering in the UK.

It was argued Option 1 is also the only way to fully mitigate the risk to the Welsh Government from legal challenge for failing to take all reasonable steps to protect these birds, and this option would provide legal consistency across borders, and would be consistent with Welsh Government obligations under the Environment (Wales) Act 2016. It was argued shooting of either species of WfG is contrary to the Well-being of Future Generations (Wales) Act 2015 (requiring the Welsh Government to maintain and enhance a biodiverse natural environment).

Respondents argued minimising additional sources of mortality is a priority action in the international action plan in the African-Eurasian Waterbird Agreement (AEWA). Ensuring compliance with the Wexford declaration⁵ was also referred to. Respondents noted this declaration recognises that Greenland, Iceland, Ireland, and argued the United Kingdom must take joint and equal responsibility for the conservation of this species, and continuing to allow the shooting of this species by way of a voluntary ban in Wales contravenes the spirit of this agreement. It was also argued continuing to allow hunting in Wales may impede other co-operative conservation action among range states.

Respondents also argued choosing a measure other than option 1 means Welsh Government will continue to be open to legal challenge under the EC Birds Directive and the Natural Environment and Rural Communities (NERC) Act 2006⁶.

It was also argued it should not be a hardship for wildfowlers to adhere to a statutory ban. Responders noted, in their view, a statutory ban on white-fronted geese should also be welcomed by all wildfowlers who want to promote conservation of an endangered wild species rather than push them to extinction.

⁵ <http://greenlandwhitefront.org/formalities/wexford-declaration/>

⁶ In Wales, the “biodiversity duty” under the NERC Act 2006 has been superseded by a new duty for public authorities under the Environment (Wales) Act 2016

One respondent reflected personal experiences of seeing WfG over-wintering on the Towy above Carmarthen and on Tregaron Bog, and how this was no longer possible.

Some specific comments were put forward by respondents answering on behalf of named organisations which support option 1 but which argued against option 2. These respondents argued that the effects of hunting and hunting disturbance are not site related, and that therefore the ban should be Wales-wide. They noted the recent use of Anglesey as a wintering area, and argued that this shows the need for a Wales-wide ban as the species could winter anywhere in the future. It was also argued that geographical restrictions are likely to cause confusion and uncertainty, and require additional enforcement costs

Respondents answering on behalf of named organisations who argued against a statutory ban included the Countryside Alliance, BASC, NFU Cymru, the Pembrokeshire Wildfowlers' Association, DMDWA, the Lough Foyle Wildfowlers, Alde & Ore Wildfowlers Association, Preston & District Wildfowlers Association and SACS.

These respondents argued there is no new evidence to recommend a change of position, or to suggest the existing voluntary moratorium does not satisfy current legislative requirements for the GWfG, and self regulation has proved effective. Respondents felt a statutory ban is not needed due to the fact that the voluntary moratorium is working to protect the GWfG. Some respondents argued wildfowling clubs are at the forefront of conserving the GWfG in Wales, and a statutory ban would disengage local wildfowlers from the conservation of this species. It was argued the voluntary ban on shooting is a reflection of wildfowlers' understanding of the species' status, and the wildfowling community would not seek to endanger the GWfG. The effect of a statutory ban, it was argued, would in all probability be an increase in the rate of decline of GWfG, as individuals and organisations switch off and lose interest in their conservation. Respondents argued that a statutory ban on shooting GWfG in other countries has not resulted in either stabilisation or improvement of the population.

Respondents argued poor breeding productivity of GWfG in Greenland needs to be targeted, rather than moving from voluntary to statutory protection in Wales. It was felt a statutory ban will not reverse the declining numbers of GWfG coming to Wales, nor would it have tangible impact upon the present conservation status of the GWfG

Some respondents referred to the African-Eurasian Waterbird Agreement (AEWA). They argued given that there is no evidence that hunting is taking place and that (under AEWA) range state representatives have not yet met there can be no justification for option 1 or 2.

It was also argued other species (such as grey partridge and black grouse) are also declining in Wales, and much like the GWfG are conserved largely by shooting interests. Respondents argued these species remain legal quarry subject to voluntary restraint, and if this state of affairs is appropriate to these game species there is no reason it is not also appropriate to the GWfG.

Individuals

907 of individuals responding indicated their preference for option 1. 73 specifically indicated they were against a statutory ban. 157 indicated their preference for an option other than Option 1. 67 individuals did not indicate a preference for any of the options.

No. individuals supporting Option 1	No. individuals against Option 1
907	73

262 individual respondents supporting Option 1 either referred directly to information received from the RSPB or supplied comments along similar lines to those provided by the RSPB, and attached as Annex 3.

Other common themes for comments in favour of Option 1 included; the view that a statutory ban is a simple option to help ensure the future of this species in Wales, and provides the best and most secure option to ensure that GWfG are fully protected and not mistakenly shot.

A small number of respondents focused on wider benefits that could be gained in adopting Option 1. They argued supporting wild populations including GWfG and EWfG could help further Wales' tourism, and positive publicity of adopting option 1 would help to attract more visitors. The economic value via tourism of the birdlife on the Dyfi estuary, the popularity of the Dyfi Osprey Project, and the importance of the RSPB Ynyshir reserve, were all noted.

10 individual respondents not supporting Option 1 either referred directly to information received from BASC or supplied comments along similar lines to those provided by BASC, and attached as Annex 2.

Other common themes for comments from those not in favour of Option 1 included shooting in Wales has not been the cause of the population decline, and the need was to prioritise action on real issues such as problems of poor productivity on the breeding grounds in Greenland. It was also argued the voluntary ban is working: one respondent made the case that the current self-policing system that has been in place since 1972 works perfectly well. It was argued wildfowl clubs do extraordinary amount of work to conserve wetland birds. It was argued a statutory ban will have no material benefit to the bird population. Some respondents argued wind farms pose a far greater risk to WfG.

A small number of respondents focused on the conservation works undertaken by wildfowlers in Wales. They argued that Wildfowlers on the Dyfi estuary have been protecting the main over-wintering population of GWfG in Wales with their voluntary shooting moratorium, and there is no evidence that this does not work. The respondents stated they had overwhelming evidence a conservation alliance between wildfowlers and bird conservation bodies is the best hope for the remaining few dozen geese on the Dyfi estuary. They argued measures should be directed to

help the poor breeding productivity of GWfG. It was argued the focus should be on maintaining quality habitat in the UK to enable birds to return to their breeding grounds in the very best condition, and if this was combined with a greater effort to ensure breeding success for the birds while on their breeding grounds, the population would stand a much greater chance of recovery.

13 individuals registered a response specifically in relation to Option 2.

No. individuals supporting Option 1 and Option 2	No. individuals supporting Option 2	No. individuals against Option 2
5	3	5

Respondents supporting options 1 and 2 argued that the shooting of WfG is past its sell by date in this day and age. They argued, in a civilized society, we should be protecting our wildlife not destroying it, and wildlife should be preserved it for others to enjoy, not only now but in the future as well.

Respondents who supported option 1 but who argued against option 2, argued whilst the GWfG currently has a winter range in Wales confined to a couple of small areas, it is very possible this will change with time. As a migratory bird species these individuals are highly mobile and unlikely to solely reside in designated areas. These respondents argued any disturbance in an area such as the Dyfi in one year could lead to a relocation of the GWfG that is not foreseen. Protecting WfG only in a small area will therefore cause many problems, and that it is important to ensure that no further shootings take place to further endanger this already rare species.

3. Do you support a statutory ban on the shooting of GWfG in Wales? If so, which is your preferred option (Options 3 or 4), and why? If not, why?

Option 3 A statutory ban on shooting of GWfG throughout Wales throughout the year.

Option 4 A statutory ban shooting of GWfG only in specified parts of Wales, used by GWfG, throughout the year.

Options 3 and 4 tended to be unsupported, both by those organisations which supported option 1, and by those which opposed option 1. Other organisations stated support for option 3 on an “in principle” basis, but rejected it as unworkable in practice.

Organisations

A key concern was the degree to which it is possible to distinguish between EWfG and GWfG in the field, and the risk of misidentification. Respondents from organisations which supported option 1 argue both options 3 and 4 assume ready

separation of WfG/GWfG in the field, which seems an unrealistic expectation. They noted both species are very similar in appearance and telling them apart, even for experienced wildfowlers, is difficult especially in poor weather conditions. The possibility of shooting on purpose or through misidentification between the EWfG and GWfG remains a very real risk. They argued it is necessary to remove both GWfG and EWfG from the quarry list in order to remove any possible identification problems associated with the killing of GWfG because of misidentification as EWfG. In this context, they argued option 1 protects wildfowlers as it makes it clear that all WfG are protected, and this removes any doubt in species identification.

One respondent argued incidences of EWfG being confused with GWfG have not been documented, probably because the Eurasian sub species tends to overwinter in England and is rarely seen in the over wintering grounds of the GWfG in Wales

Organisations which were opposed to option 1 and 2 also opposed options 3 and 4, and argued, given the lack of evidence of any shooting, it is unlikely that hunting is implicated in the decline of GWfG in Wales. They argued given that there is no evidence that hunting is taking place and that, under AEWA, range state representatives have not yet met, there can be no justification for option 3 or 4. They felt a statutory ban on the shooting of all GWfG in Wales is not needed.

Individuals

Individuals registering a response specifically in relation to Options 3 and 4 answered as follows:

No. individuals supporting Option 3	No. individuals against Option 3	No. individuals supporting Option 4	No. individuals against Option 4
85	141	3	14

Individuals who supported option 3 argued in favour of a complete ban on shooting GWfG. Respondents argued all measures to conserve GWfG should be incorporated, including a total ban of shooting. They argued a complete ban should be given priority, as with any part or voluntary bans the decline in the species will accelerate. Some respondents argued a statutory ban should be given priority, but it shouldn't be instead of other conservation measures. Another respondent noted GWfG were seen with flocks of Canada Geese, which leaves them vulnerable to disturbance from shooting and misidentification.

Individuals who opposed option 3 argued the voluntary moratorium has been very effective and the population decline has been caused outside the UK. They considered shooting is demonstrably not a threat to GWfG - there are far more threatening issues effecting the population of these birds. A statutory shooting ban would, in their view, make no difference to the real issues.

4. Do you support the continuation of the current voluntary ban on shooting GWfG in Wales (Option 5)? If so, why? If not, why?

Option 5 Maintain non statutory voluntary ban of shooting of GWfG in Wales on land over which the wildfowling clubs have specific rights to shoot.

Organisations

This option was supported by NFU Cymru, the Dyfi Shooting Syndicate, the Countryside Alliance, the Pembrokeshire Wildfowlers' Association, BASC, DMDWA, Dovey Wildfowlers, the Lough Foyle Wildfowlers, Alde & Ore Wildfowlers Association, Preston & District Wildfowlers Association, and Scottish Association for Country Sports. It was opposed by RSPB, WOS, NRW, The Wildfowl and Wetlands Trust, Wildlife Trusts Wales, Sea Trust, and Wildlife Trust of South and West Wales.

Respondents from organisations which supported this option argued the main population of GWfG is found on SAC/SSSI designated sites and the tools already exist to prevent shooting in these areas. They argued shooting organisations have imposed their own voluntary ban and the voluntary moratorium has been upheld by the clubs commitment for the last 43 years. They felt self-regulation always works better than legislation, thus benefitting all WfG. They argued wildfowlers are proven to be good stewards of the marshes, and wildfowling clubs police these areas.

They argued option 5 actively engages with the shooting community in the conservation of these geese - maintaining the voluntary ban would signal a willingness to work with land users on the ground at the sharp end of conservation, rather than dictating terms to them despite the effectiveness of their efforts. They considered this option provides the Welsh Government with the option to continue the real conservation effort that all stakeholders agree is necessary to promote the conservation of white-fronted geese in Wales.

It was also argued this option satisfies the requirements of the EU Birds Directive (2009/147/EEC), the Natural Environment and Rural Communities Act⁷, the African-Eurasian Waterbird Agreement (AEWA) and the requirements of the Legislative and Regulatory Reform Act 2006.

Some argued in favour of concentrating, as wildfowlers have done, on maintaining quality habitat in the UK to enable birds to return to their breeding grounds in the very best condition. It was argued if we combined this with a greater effort to seek out avenues to ensure breeding success of the birds while on their breeding grounds (in Greenland) the population would stand a much greater chance of recovery. Some respondents argued poor breeding in Greenland and the coming of offshore wind farms are the true threat to WfG in Wales.

⁷ In Wales, the “biodiversity duty” under the NERC Act 2006 has been superseded by a new duty for public authorities under the Environment (Wales) Act 2016

Others felt a statutory ban on shooting was part of wider anti-shooting agenda being pursued. They also argued a statutory shooting ban could have detrimental effect, as wildfowling would have no impetus to conserve WfG.

One respondent supported a voluntary ban only if legislation provided unenforceable.

Respondents who opposed this option argued under the current arrangement, the voluntary moratorium only applies to members of the BASC and wildfowling clubs and wildfowling clubs with rights to shoot on the Dyfi and only to GWfG (not EWfG), creating the risk of accidental shooting of GWfG through misidentification. They argued any hunter who is not a member of a wildfowling club has the right to shoot both populations and contribute to their extirpation in Wales. They argued the voluntary moratorium does not protect GWfG or EWfG in the wider countryside, including in flight during migration or movements between roosting and foraging sites where the birds are arguably at greater risk. Some respondent argued a statutory ban would remove any element of doubt about the situation among wildfowling.

Some respondents argued minimising additional sources of mortality (explicitly delivered in part by full legal protection) is a duty under the African-Eurasian Waterbird Agreement (AEWA) .

Other respondents argued a statutory ban was not in conflict with, or any barrier to, the prioritisation of other conservation measures.

Individuals

Individuals registered a response specifically in relation to Option 5 as follows:

No. individuals supporting Option 5	No. individuals against Option 5
248	222

Some individual respondents who supported option 5 referred to the challenges and burdens a statutory ban would place on the police. Others argued self-policing does work when carried out by people who love their surroundings. They stated the voluntary ban has worked for 40 years so changing the law will not promote the conservation of the GWfG. Other respondents reiterated their view that breeding difficulties in Greenland are the key issue.

Individuals who opposed option 5 questioned the ability of wildfowling to enforce their voluntary moratorium. One respondent was not opposed to wildfowling but argued a statutory ban makes sense to protect WfG flight paths.

There were also a number of respondents who indicated no preference for or against a statutory ban or for or against the voluntary moratorium. One respondent argued wildfowling should concentrate on reducing the huge numbers of feral Canada Geese prevalent in many areas of Wales. Another argued that, aside from hunting, the main threat to the GWfG is climate change, which should be addressed, but is beyond the scope of the options.

5. What priority should be given to a possible statutory ban (option 1 -4) compared to possible other conservation measures, and why?

There was support from all responding organisations for additional conservation measures in support of the conservation of GWfG in Wales. Some respondents argued such measures should be taken forward instead of a statutory ban, whilst others argued the measures were required in addition to a statutory ban. NRW advocated “Option 1 Plus” which they described as statutory shooting ban, conservation research, habitat management measures, and community engagement. NRW also advocated the production of a GWfG Management Plan.

Respondents argued measures to support populations of GWfG should be evidence-based and underpinned by research into the reasons for the decline of WfG throughout the life cycle and both here and overseas.

Some argued the priority should be to get the evidence regarding the day-to-day activities of the GWfG on where they feed, roost and fly when in Wales, by capturing the data from geo satellite tags.

Other respondents argued the Welsh Government should work with International partners to control Canada geese in Greenland; and should work on a WfG reintroduction/breeding programme in Wales. They argued it was necessary to improve the status of GWfG in Wales and to continue to invest in research and habitat work to ensure birds return to their breeding grounds in Greenland in the best possible condition. Some argued that work should also include reducing disturbance to overwintering flocks – particularly as the birds demonstrate a significant preference for site loyalty.

It was also argued it is in Greenland that action needs to be taken before it is too late and, in that regard, the Welsh Government should be working with its fellow International partners to bring about real change.

Other points

Some respondents argued there is no mention in the consultation document of the risk of collision impacts with inappropriately located wind energy developments. They argued if the Welsh Government feels the risk of shooting needs to be mitigated by taking WfG off the quarry list, then consideration must be given not to construct wind energy and similar infrastructure developments inshore and offshore of Wales, and particularly in the vicinity of the Dyfi estuary. They argued, if option 1 is chosen, WG will be obliged to carry out a review of all proposed and existing wind energy and similar infrastructure developments in Wales to ensure there is a zero-risk of collision with GWfG. This assessment should, in the view of these respondents, include risk of collision with low flying aircraft (plane, helicopters, para gliders) including civilian, coast guard, air ambulance or military, or any other human activity that can be

deemed to pose a real or perceived threat to the continual survival of the GWfG when in Wales.

ANNEX 1 - Organisations responding to the consultation

- Alde & Ore Wildfowlers Association
- Anglesey Sea Zoo
- British Association of Shooting and Conservation
- Capell Creative
- Countryside Alliance
- Dovey Wildfowlers
- Dyfi, Mawddach and Dysynni Wildfowlers Association
- Dyfi Shooting Syndicate
- Flora Conservation UK
- Friends of the Earth
- Kent Wildfowling & Conservation Association
- Lough Foyle Wildfowlers
- National Trust Wales
- Natural Resources Wales
- NFU Cymru
- Pembrokeshire Wildfowlers Association
- Preston & District Wildfowlers Association
- RSPB
- Scottish Association for Country Sports
- Sea Trust
- Welsh Ornithological Association
- Welsh Ornithological Society
- Wildfowl and Wetlands Trust
- Wildlife Trust of South and West Wales
- Wildlife Trust Wales

Annex 2: Information from BASC website (<http://basc.org.uk/blog/in-your-area/have-your-say-on-white-fronted-geese-proposals>)

Some points of interest from BASC's response are as follows:

- In 1972, wildfowlers on the Dyfi estuary initiated a voluntary moratorium on shooting Greenland white-fronted geese.
- In 1973, Dyfi and District Wildfowlers' Association initiated a rearing and release programme of pure bred Greenland white-fronted geese in memory of Ian Richardson, the late club secretary, who was killed in a motor accident on his way home from the shoot dinner.
- The Wildfowlers' Association of Great Britain and Ireland (WAGBI) was a principle funder of the first British expedition to Greenland in 1979 to study the Greenland white-fronted goose. Click here for video footage.
- BASC has a long involvement in conservation and legislative protection of migratory birds. BASC was involved in the establishment of the Africa-Eurasian Waterbird Agreement (AEWA) in the 1990s, and is active in the AEWA Technical Committee and working groups for single species action and management plans. BASC is a signatory to the 2012 AEWA single-species action plan for the conservation of Greenland white-fronted geese.
- It is clear that Greenland white-fronted geese are in need of conservation measures as they migrate to and from their wintering grounds in Wales. That is why for over forty years wildfowlers on the Dyfi estuary and elsewhere have been protecting overwintering birds with an effective voluntary moratorium on shooting.
- The voluntary moratorium is effective, there is no threat to the European white-fronted goose population and European white-fronted geese rarely visit Wales. Poor breeding productivity of white-fronted geese in Greenland needs to be targeted, not moving from voluntary to statutory protection in Wales.
- The AEWA action plan does not require the Welsh Government (or Defra for that matter) to issue a public consultation on the legal status of white-fronted geese. It requires the Welsh Government to send representatives to an international meeting to consider responses to the continued deterioration of the global population status. This meeting has not yet taken place.
- The main factor determining the global population of Greenland white-fronted geese is breeding productivity in Western Greenland.
- The consultation focuses on the possible risk of birds being shot in Wales with no mention of the risk of collision impacts with inappropriately located wind energy developments. This is surprising given that the AEWA action plan

specifically identifies inappropriately located wind energy developments as a threat.

- In December 2015, a planning inspectorate report was published on the implications for European Sites of a proposed North Wales wind farms connection. Concerns were raised about risks of the proposal to Greenland white-fronted geese. Although the Welsh Government had raised a concern prior to the submission of the application and in written submissions during the examination about a potential effect on Greenland white-fronted geese it did not attend any of the hearings, or state during examination that it considered that there was likely to be a significant effect on the birds. The applicant suggested that bird deterrents were disproportionate and unnecessary. Natural Resources Wales view was that it did not advocate an additional requirement to fit diverters on the overhead line in order to make it more visible to birds.
- If the Welsh Government takes white-fronted geese off the quarry list (options 1-4) this represents a significant change in policy towards removing all risks of mortality for white-fronted geese in Wales. Therefore the Welsh Government will be obliged to carry out a review of all proposed and existing wind energy and similar infrastructure developments in Wales to ensure there is a zero-risk of collision.
- BASC supports option 5, which is to retain the existing voluntary ban on shooting Greenland white-fronted geese.
- Option 5 satisfies the requirements of the EU Birds Directive (2009/147/EEC), the Natural Environment and Rural Communities Act 2006, the African-Eurasian Waterbird Agreement and the Legislative and Regulatory Reform Act 2006.
- Option 5 supports the real conservation effort that all stakeholders agree is necessary to promote the conservation of white-fronted geese in Wales.
- The cost to the taxpayer of updating legislation for no material benefit is not a good or responsible use of public funds. If the Welsh Government wishes to improve the status of Greenland white-fronted in Wales then it should continue to invest in research and habitat work to ensure birds return to their breeding grounds in Greenland in the best possible condition.

Annex 3 RSPB Information



Urge Welsh Government to ban shooting of white-fronted geese

About white-fronted geese

White-fronted geese are amongst the rarest wintering geese populations in the UK, and make remarkable journeys for such large birds. Each autumn the globally endangered Greenland white-fronted geese leave their breeding grounds in the distant tundras of west Greenland to migrate across ice caps and oceans to spend the winter in the British Isles, including here in Wales. Their commoner cousins, European white-fronted geese, carry out a similar journey migrating all the way from Siberia.

Greenland white-fronted geese are now almost extinct in Wales, with just a handful wintering on the internationally protected Dyfi estuary, while European white-fronted geese have also seen sharp declines.

How you can help

Please respond to the Welsh Government consultation and urge them to **adopt option 1, a total ban** on shooting white-fronted geese in Wales at all times of year.

Here are some points you might want to include in your message:

- Only a total ban on shooting white-fronted geese across Wales at all times of year can ensure that they are fully protected and not mistakenly shot.
- The Greenland white-fronted goose is now under threat of extinction in Wales and so the Welsh Government has a legal and moral responsibility to ban any shooting of them.
- European white-fronted geese have also seen sharp declines in the UK in recent years and so require the same protection.
- The Well-being of Future Generations Act is about to come into force, which calls for a resilient Wales, with a biodiverse natural environment. Ensuring a biodiverse natural environment means saving species like white-fronted geese by giving them full protection, not relying on a voluntary ban.

The consultation will close on **7 March 2016**. You can email your responses to:

natureconservation@wales.gsi.gov.uk

Or write to:

Biodiversity and Nature Conservation Branch, Welsh Government, Rhodfa Padarn, Llanbadarn Fawr, Aberystwyth, SY23 3UH

If you've taken action to save these threatened birds then please help us monitor the progress of the campaign by emailing or posting a copy of your letter to Matthew Ford, Policy Advocate, at campaigns.wales@rspb.org.uk or RSPB Cymru, Wales Headquarters, Castlebridge 3, 5-19 Cowbridge Road East, Cardiff, CF11 9AB.

Thank you for joining us to make a difference and speak up for nature.

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Background

Two types of White fronted Geese (WfG) migrate to the UK for the winter. European White fronted Geese (EWfG) and Greenland White fronted Geese (GWfG). In 2015 the global population of GWfG was estimated to have fallen below 20,000 birds. This is of concern. Whilst declines in population levels of EWfG are of concern their numbers remain far higher than GWfG.

Nearly all GWfG winter in Wales on the Dyfi Estuary, north of Aberystwyth. The Dyfi is a designated European Special Protection Area (SPA) specifically for its GWfG population; it is also a Site of Special Scientific Interest (SSSI) and National Nature Reserve. In early 2015 26 GWfG were recorded on the Dyfi, the lowest count ever, running back to 1959 when regular counts began.

Although only small, the Welsh wintering GWfG population is crucial to the maintenance of the national (and international) distributional range of the species because it is the most southerly wintering site for GWfG in the UK.

Wildfowling in Wales – current position

In Wales and England it is illegal to shoot WfG during the close season (21 February – 31 August in, or over, any area below high water mark) but not during other periods of the year. WfG may not be shot at any time of the year in Scotland or N. Ireland. There is similar protection in the Irish Republic.

Despite shooting being lawful, local wildfowling clubs have put in to effect a long-standing (40 year +), self imposed voluntary ban on shooting GWfG on the Dyfi Estuary. It is acknowledged by all parties that this voluntary shooting ban has been instrumental in protecting the birds there.

Following a previous consultation (in 2013) the British Association of Shooting and Conservation (BASC) worked with all wildfowling clubs across Wales to bring in similar voluntary bans on shooting GWfG on land which the wildfowling clubs have specific rights to shoot over.

Officials have not been provided with any records or evidence of GWfG being shot in Wales between the winter of 2008-09 to the present, although such data is not formally collected. Records have been obtained from Anglesey of 28 GWfG being shot between winters 1997/98 and 2002/03. In January-February 2015 there were records of a maximum of 17 GWfG returning to Malltraeth (Anglesey), one of the areas where shooting took place in the period up to 2009. Similar numbers were observed in the area this year.

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EU Birds Directive (2009/147/EEC)

EU Birds Directive - background

1. Article 1 of the EU Birds Directive states *This Directive relates to the conservation of all species of naturally occurring birds in the wild state in the European territory of the Member States to which the Treaty applies.*
2. Article 2 of the Directive states *Member States shall take the requisite measures to maintain the population of the species referred to in Article 1 at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level.*
3. Article 3(1) requires Member States to *take the requisite measures to preserve, maintain or re-establish a sufficient diversity and area of habitats.* Article 3(2) states the requisite measures shall include primarily:
 - creation of protected areas;
 - upkeep and management in accordance with the ecological needs of habitats inside and outside the protected zones;
 - re-establishment of destroyed biotopes;
 - creation of biotopes.
4. The full text of Article 7(1) of the Directive states *Owing to their population level, geographical distribution and reproductive rate throughout the Community, the species listed in Annex II may be hunted under national legislation. Member States shall ensure that the hunting of these species does not jeopardise conservation efforts in their distribution area.*
5. Article 7(4) states *Member States shall ensure that the practice of hunting, including falconry if practised, as carried on in accordance with the national measures in force, complies with the principles of wise use and ecologically balanced control of the species of birds concerned and that this practice is compatible as regards the population of these species, in particular migratory species*
6. Article 8(1) states *In respect of the hunting, capture or killing of birds under this Directive, Member States shall prohibit the use of all means, arrangements or methods used for the large-scale or non-selective capture or killing of birds or capable of causing the local disappearance of a species, in particular the use of those listed in Annex IV, point (a).* Annex IV point (a) lists certain means/methods of hunting, the use of which should particularly be prohibited, if capable of causing the local disappearance of a species. Amongst other things, the Annex

refers to “semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition”.

Legal advice - EU Birds Directive

Information withheld under Regulation 12(4)e of the Environmental Information Regulations 2004

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African-Eurasian Waterbird Agreement (AEWA).- background

1. The African-Eurasian Waterbird Agreement (AEWA) is an intergovernmental treaty, to which the UK is a contracting party, dedicated to the conservation of migratory waterbirds and their habitats across Africa, Europe, the Middle East, Central Asia, Greenland and the Canadian Archipelago.
2. With the exception of England and Wales, all of the countries that are contracting parties to AEWA, and which are within the 'range states' of the GWfG, have statutory bans on the shooting of GWfG.
3. In relation to hunting, the AEWA states (in the context of GWfG) *"hunting may continue on a sustainable use basis where hunting of such populations is a long-established cultural practice. This sustainable use shall be conducted within the framework of special provisions of a Species Action Plan (SAP) at the appropriate international level"*.
4. This issue was discussed at the AWEA 2009 international workshop, which concluded (in relation to GWfG) *"With low annual productivity it is critically important to reduce sources of mortality. This will conserve the very small numbers of successful breeders that produce subsequent generations and help restore the population to former levels. To this end, the workshop concluded that hunting cannot currently be undertaken on a sustainable basis and any kill would exacerbate the current unfavourable conservation status of the population"*.
5. The Species Action Plan for GWfG states contracting parties (that are Range States of a migratory waterbird species including GWfG) shall endeavour to do the following:
 - conserve and, where feasible and appropriate, restore those habitats of the species which are of importance in removing the species from danger of extinction;
 - prevent, remove, compensate for, or minimise, as appropriate, the adverse effects of activities or obstacles that seriously impede or prevent the migration of the species; and
 - to the extent feasible and appropriate, to prevent, reduce or control factors that are endangering or are likely to further endanger the species, including strictly controlling the introduction of, or controlling or eliminating, already introduced exotic species.
6. One of the top priorities in the Species Action Plan for GWfG (adopted by the AEWA working group May 2012) is minimising additional sources of mortality; *Take all possible steps to eliminate avoidable sources of mortality and disturbance, particularly shooting and collisions with man-made structures.*
7. In relation to reducing mortality associated with hunting of GWfG, the action plan recommends protection from hunting is introduced or maintained throughout the year while the population is at unfavourable conservation status.

Legal advice - AEWA

Information withheld under Regulation 12(4)e of the Environmental Information Regulations 2004

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Options 2, 3 and 4

Summary of consultation responses

Option 2: a statutory ban on shooting all WfG in specified parts of Wales (those generally used by GWfG).

In general, respondents did not favour option 2, arguing whilst the GWfG currently has a winter range in Wales confined to a couple of small areas, it is very possible this will change with time. As a migratory bird species these individuals are highly mobile and unlikely to solely reside in designated areas. Protecting WfG only in a small area could cause problems in the future.

Options 3 and 4: a statutory ban on shooting of GWfG across Wales or in specified parts of Wales

Options 3 and 4 tended to be unsupported, both by those organisations which supported option 1, and by those which opposed option 1. Other organisations stated support for option 3 on an “in principle” basis, but rejected it as unworkable in practice.

Advice on options 2,3 and 4

Option 2

This option was not supported by respondents, who considered it to be impracticable as there is no guarantee that WfG will only utilise the specified parts of Wales where a statutory shooting ban applies. The option could be complex (as any legislation would need to define these areas with care) and expensive as it is likely that definitive maps would need to be published which defined the areas where a statutory shooting ban applied. These may need to be revised from time to time.

This option is not recommended.

Options 3 and 4

These options were not supported by respondents. The options focus only on the shooting of GWfG, and the consensus was that it would be impossible in practice distinguish between EWfG and GWfG in the field, with a consequent risk of misidentification (i.e. possible identification problems associated with the killing of GWfG because of misidentification as EWfG). **This is a serious and practical issue and we do not therefore recommend options 3 and 4.**