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Dear Professor Poustie

Further to my letter of 19 November 2015, I am writing to provide you with the Scottish Government's response to the recommendations in the Wildlife Crime Penalties Review Report.

### ***Levels of fines and custodial sentences***

#### Recommendation 1

Those maximum penalties available on summary conviction at least for the more serious offences, are raised to at least a £40,000 fine and up to 12 months imprisonment. That conviction on indictment is more commonly made available across the range of wildlife offences with a maximum term of imprisonment of up to 5 years. This would not necessarily require a stand-alone Act but could be achieved as part of the next Criminal Justice or Criminal Proceedings Act.

#### Scottish Government response

This issue is clearly at the heart of the issue of penalties for wildlife crime and we agree with the conclusions in the Report. We will produce a list of the offences to which we think the recommendation should apply and look to take this forward in a suitable legislative vehicle in the next Parliament.

### ***Use of impact statements***

#### Recommendation 2

That the use of conservation/ecological impact statements and animal welfare impact statements is put on a more systematic basis than at present. This might initially be done on an administrative basis with the prosecution seeking these as a matter of course and where appropriate, from either SNH in the former case, or a vet in the latter case.

### Scottish Government response

The Scottish Government agrees with this recommendation. The Crown Office and Procurator Fiscal Service (COPFS) already provide impact statements in Court where it is appropriate and we are aware that preliminary discussions are underway with COPFS and Scottish Natural Heritage to assess what further information would be helpful to capture on a more regular and consistent basis. At the appropriate time, discussions will be widened to include representatives of the appropriate veterinary bodies. We hope that we will see the use of these statements increasing over time.

### Recommendation 3

That this requirement is put on a legislative footing along the lines of the requirement for courts to consider victim statements before sentencing in other areas of criminal law where such statements are made available to the court and also providing the court with a power to order the preparation of such a statement from a relevant regulatory agency before it passes sentence.

### Scottish Government response

We will give further consideration to whether we are able to put the use of conservation / ecological impact statements and animal welfare impact statements on a legislative footing and will identify a suitable legislative vehicle as required.

### ***Alternative penalties***

### Recommendation 4

That forfeiture provisions are extended and these and other alternative penalties are made consistent across the range of wildlife legislation as appropriate.

### Scottish Government response

The Scottish Government accepts this recommendation. We will look to undertake the work and legislate in the next Parliamentary session.

### Recommendation 5

That where a firearm or shotgun is involved in the commission of a wildlife crime, the court should have the power to cancel the relevant certificate as is already the case in the Deer (Scotland) Act 1996.

### Recommendation 6

That consideration should be given to amending firearms legislation which is reserved to the UK Parliament to allow the Chief Constable to withdraw a shotgun certificate where such a weapon has been involved in the commission of a wildlife crime not just on grounds of public safety but also on the grounds of a threat to the safety of wildlife.

### Scottish Government response

Firearms legislation remains reserved to Westminster. The Scottish Government believes that current firearms legislation is complex, difficult to understand and long-overdue for reform. Ministers have written to the Home Secretary numerous times on this issue. The Scottish Government will give further consideration to these specific recommendations and explore what scope there might be for change.

### Recommendation 7

That the Crown Office and Procurator Fiscal Service should continue to consider the use of Proceeds of Crime legislation to the maximum extent possible in appropriate wildlife cases.

### Scottish Government response

As standard practice, COPFS already look at cases to identify whether or not it is appropriate to pursue a proceeds of crime enquiry when dealing with wildlife crime offences. The Lord Advocate is aware of the review group's report and recommendations and is very supportive of efforts to tackle this area of crime.

### Recommendation 8

That wildlife crime offenders should be required to attend retraining courses, including courses on empathy where appropriate, either through Community Payback Orders or suspended sentences. This would require establishing that such courses are available and raising awareness of such courses amongst the judiciary.

### Scottish Government response

The Scottish Government is committed to investing in, and promoting, robust community sentences which require individuals to pay back for the harm their crimes have caused, and which also address the underlying causes of offending behaviour.

As part of a Community Payback Order (CPO) - which is the main community sentence in Scotland - individuals already access a range of interventions to support them away from offending behaviour. This can include access to courses on empathy and anger management if Criminal Justice Social Work assess these as being necessary in an individual case.

Although we are not aware of relevant courses specifically related to wildlife crime offending available in Scotland at this time we agree with this recommendation and will certainly investigate this further.

## ***Legislative coherence***

### Recommendation 9

That wildlife legislation should be consolidated.

### Scottish Government response

I agree that it would be desirable to consolidate wildlife legislation in Scotland. Although the Scottish Law Commission were unable to include this work in their programme, we will continue to keep the matter under review and assess if there are sufficient resources to undertake this work in the future.

## ***Sentencing Guidelines***

### Recommendation 10

That with the establishment of the Scottish Sentencing Council in October 2015, sentencing guidelines are developed for wildlife offences in order to enhance the consistency and transparency of sentencing.

### Scottish Government response

The Scottish Sentencing Council is an independent body and will work towards helping improve the transparency and consistency in sentencing in Scotland and, amongst other matters, provide a new sentencing guidelines regime for Scotland. I note that the report

suggests there is a perception of inconsistency in sentencing for wildlife crimes. The Scottish Government will draw to the attention of the Council the recommendation made in the report with it being a matter for the Council to decide whether they will prepare guidelines in this area.

I would like to take this opportunity to thank you once again for leading this important review. I now look forward to making progress with taking forward these recommendations and I am confident that these measures will have a positive effect in deterring wildlife crime.

I am also sending a copy of this letter to the Rural Affairs, Climate Change and Environment Committee.

*With kind regards*

*Aileen*

**AILEEN MCLEOD**