

**SCOTTISH PARLIAMENT**  
**WRITTEN ANSWER**

**27 March 2018**

Index Heading: Economy

**Alison Johnstone (Lothian) (Scottish Green Party):** To ask the Scottish Government by what date it will respond to the consultation on improving the protection of wild mammals.

S5W-15318

**Roseanna Cunningham:** I refer the member to the answer to question S5W-14811 on 8 March 2018. All answers to written parliamentary questions are available on the Parliament's website, the search facility for which can be found at <http://www.parliament.scot/parliamentarybusiness/28877.aspx>

## **BACKGROUND NOTE FOR S5W-15318**

The answer refers to a question asked recently by Claudia Beamish as follows:

**Question S5W-14811: Claudia Beamish, South Scotland, Scottish Labour, Date Lodged: 22/02/2018**

**To ask the Scottish Government by what date the analysis of the responses to the consultation on improving the protection of wild mammals in Scotland will be published, and when it will publish its response to the findings.**

Answered by Roseanna Cunningham (08/03/2018):

We received a large number of responses to the Improving the Protection of Wild Mammals in Scotland consultation and will publish those responses for which permission was given later this month.

We plan to publish our consultation report this spring and any proposals for legislative reform before the summer recess.

---

The Scottish Government appointed the Rt Hon. Lord Bonyon in December 2015 to review the operation of Protection of Mammals (Scotland) Act 2002. His report was published in Nov 2016. He found that the law is unduly complicated and made a number of recommendations for legal reform plus the creation of a new code of practice and the exploration of a new hunt monitoring programme.

On 31 January 2017, we announced that we would invite key stakeholders to work together to develop a code of practice for hunts and explore the potential for a new monitoring scheme, and that we would consult on Lord Bonyon's proposed changes to the existing legislation which include:

- The introduction of vicarious liability and reverse burden of proof provisions
- An extension to the time limit for bringing prosecutions
- The removal of inconsistencies and the improvement of definitions.

On 20 June 2017, the Scottish Government announced the appointment of retired Deputy Chief Constable Ruaraidh Nicolson to lead the stakeholder group to develop the new code of practice and to consider the feasibility of monitoring. If viable, these would be implemented on a non-statutory basis with statutory underpinning remaining an option should it be considered necessary. The draft Code is now in an advanced state.

On legal reforms, the Scottish Government's Improving the Protection of Wild Mammals in Scotland consultation closed on 31 Jan 2018. Some 20,000 responses were received and analysis is under way. Consultation responses were published on Wed 14 March.

A provisional timetable and preliminary summary of results are provided below.

TIMETABLE	Estimated date	Corporate target
Publish Consultation Responses	14 Mar-18 (done)	28 Feb
Submission to Cab Sec ECCLR for clearance of consultation report	Mid-May 2018	n/a
Publish consultation report	End May 2018	No corporate target
Publish SG response to consultation	30 June-18	No corporate target

### Summary of Consultation Responses

Category of Response	Responses	Summary
Submitted directly to "Citizen Space" consultation hub (includes a small number of hard-copy and emailed responses not associated with campaigns)	235	Includes detailed responses from members of the public and some pro and anti-fox hunting organisations. Further analysis required to account for qualitative "free-text" components. Approx two-thirds appear to be in favour of fox hunting and against amending the 2002 Act.
Campaign - Onekind/LACS (submitted to SG 2002 Act mailbox)	5,500	LACS polling says 85% of Scottish public support full ban & Bonomy proposals don't go far enough. SG should: 1. Withdraw any "flushing to guns" exemptions from mounted hunts; Limit the number of dogs that can be used (presumably by "non-mounted hunts") to 2; Introduce a new offence of "reckless" hunting (without defining what they mean by "reckless hunting"); SG should be wary of 'trail hunting' being used as cover for illegal fox hunting
Campaign - Onekind/LACS (submitted to Cab Sec ECCLR from the e-activist website )	9,705	Scotland should give wild mammals the same level of protection as they are afforded in England and Wales; Remove all exemptions that allow mounted hunts to use dogs to flush to guns; Limit number of dogs used in any other exemptions to 2
Campaign - International Fund for Animal Welfare (not submitted to Citizen Space)	2,059	In favour of all Lord Bonomy's proposals as set out in all the consultation questions; Two main concerns about the current Act are: (1) Allowing an unlimited number of dogs for flushing undermines the purpose of flushing to cover and prevents the fox being safely shot; (2) Need to address issue of recklessness (again undefined)
Campaign - Scottish Greens (not submitted to Citizen Space)	1,886	In favour of some of Lord Bonomy's recommendations as set out at Q1.1 (better definition of "to hunt"), 1.2 ("deliberately" serves no useful purpose), 1.3 (inclusion of "searching" alongside "stalking" and "flushing", 4.1 (vicarious liability for landowners) and 6.1 (time limit for prosecution). No response to other yes/no questions; Support a 'real' ban on fox hunting; Two further changes to the 2002 Act are needed: Restrict the number of dogs; Prevent hunts masquerading as 'trail hunts'; SG should go further than Bonomy recommendations and remove 'flushing to guns' exemption
Campaign - Animal Concern (not submitted to Citizen Space)	14	Consultation does not allow respondents to express their feelings; Vast majority against fox hunting (those not against appear to be infiltrators). 2002 Act failed to ban it properly and hunts have continued to kill foxes. Instead of tinkering with 2002 Act, it should be replaced with a new law that truly bans hunting with dogs; If, however, we continue to allow dogs to be used to flush foxes from cover, then we must (i) Limit the number of dogs to be used to two; (ii) 2: Make it mandatory that dogs wear muzzles; 3: Make it illegal to put terriers or other dogs into any hole in the ground to force any animal to the surface.
<b>Total</b>	<b>19,399</b>	

Campaigning to influence the Scottish Government's position on fox hunting has stepped up recently. The Sunday Herald (25 Feb) reported celebrity support (Ricky Gervais, Chris Packham, Bill Oddie, Peter Egan) who back a total ban in Scotland.

Green MSP Alison Johnstone intends to bring forward a Member's bill to ban foxhunting outright but we have yet to see any detail.

The League Against Cruel Sports and the International Fund for Animal Welfare are planning a march to the Scottish Parliament on 24 March. Greens and others argue that the current exemption allowing a pack of dogs to flush foxes to guns for pest control is a cover for illegal hunting. Evidence for this claim is disputed and successful prosecutions are few (with the notable exception of the recent case heard in Jedburgh Sheriff Court).

The SNP National Council approved a resolution (3 Dec) calling for an outright ban on "mounted" hunts (i.e. participants on horseback) and a restriction on the number of dogs used by those not engaged in mounted hunting to two. This numerical restriction is a feature of the law in England and Wales but Lord Bony was persuaded that such a restriction could seriously compromise effective pest control in Scotland.

[Redacted]