

Minister for Rural Affairs and the Natural Environment  
Malri Gougeon MSP



Scottish Government  
Riaghaltas na h-Alba  
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[redacted]

Our ref: 2019/0013191

May 2019

Thank you for your letter of 29 April containing additional information regarding the proposed changes to the Protection of Wild Mammals (Scotland) Act 2002.

I do recognise that foxes pose a significant threat to livestock and also to species of ground-nesting birds that are the focus of conservation efforts. It is therefore important that land managers have access to fox control measures that are both efficient and humane. In most circumstances foxes can be managed by shooting, either lamping or with night-vision equipment. Indeed, Lord Bonomy notes in his report that the majority of foxes are killed in this way.

Having read the detail and research data of both the Lord Bonomy report of November 2016 and the Jeremy Naylor and John Knott journal of May 2018, I am aware that in some types of terrain it may be difficult to use the methods that I have outlined above and that the use of a pack of dogs to flush foxes from cover to waiting guns may be the most effective option.

Lord Bonomy acknowledged that "there are occasions ... when a fox is caught and killed by the hounds before it can be flushed from cover into the open and when a fox is wounded by the guns when it emerges from cover and is killed by the hounds" and that "in general 20% or more of foxes disturbed by hunts are killed in this way by hounds".

Lord Bonomy also noted that there were legitimate grounds for suspicion that the present arrangements were providing cover for the unlawful use of dogs, contrary to the intention of the Protection of Wild Mammals Act with the associated concerns about welfare of foxes and other wildlife. It is for these reasons that we have decided to explore the option of limiting the number of dogs that can be used to flush foxes to two, unless otherwise permitted by licence.

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This is why, as previously as part of my statement on 9 January, I announced my intention to explore whether to introduce a licensing scheme that would allow the use of more than two dogs where fox control is necessary to protect important interests, and where there is no satisfactory alternative approach. Any licensed operations would of course be carefully monitored to ensure compliance with the law and with licence conditions.

I'd like to reassure you that I am aware of and appreciate the contribution that farming makes to the rural economy. It is not my intention to curb essential pest control.

I would add that these proposals are still at an early stage of development and will be subject to further consultation and parliamentary scrutiny as they progress.

I hope this information has been helpful.

**MAIRI GOUGEON**

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[redacted]

Our ref: 2019/0012656

May 2019

Thank you for the letter of 23 April regarding the proposed changes to the Protection of Wild Mammals (Scotland) Act 2002 which lies within my portfolio. I am therefore replying to your letter.

I do recognise that foxes pose a significant threat to livestock and also to species of ground-nesting birds that are the focus of conservation efforts. It is therefore important that land managers have access to fox control measures that are both efficient and humane. In most circumstances foxes can be managed by shooting, either lamping or with night-vision equipment. Indeed, Lord Bonomy notes in his report that the majority of foxes are killed in this way.

I am also aware that in some types of terrain it may be difficult to use the methods that I have outlined above and that the use of a pack of dogs to flush foxes from cover to waiting guns is the most effective option.

Lord Bonomy acknowledged that "there are occasions ... when a fox is caught and killed by the hounds before it can be flushed from cover into the open and when a fox is wounded by the guns when it emerges from cover and is killed by the hounds" and that "in general 20% or more of foxes disturbed by hunts are killed in this way by hounds".

Lord Bonomy also noted that there were legitimate grounds for suspicion that the present arrangements were providing cover for the unlawful use of dogs, contrary to the intention of the Protection of Wild Mammals Act with the associated concerns about welfare of foxes and other wildlife.

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This is why, as part of my statement on 9 January, I announced my intention to explore whether to introduce a licensing scheme that would allow the use of more than two dogs where fox control is necessary to protect important interests, and where there is no satisfactory alternative approach. Any licensed operations would of course be carefully monitored to ensure compliance with the law and with licence conditions.

I would add that these proposals are still at an early stage of development and will be subject to further consultation and parliamentary scrutiny as they progress.

I hope this information has been helpful

**MAIRI GOUGEON**

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Cabinet Secretary for Environment, Climate Change and  
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Roseanna Cunningham MSP



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Ms Aileen Campbell MSP  
The Scottish Parliament  
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Our ref:2018/0015924  
June 2018

Thank you for your letter of 27 April to both myself and the Cabinet Secretary for the Rural Economy and Climate Change on behalf of your constituent on the subject of fox hunting. I am replying because fox hunting falls within my portfolio.

Your constituent may be interested to learn that the analysis of responses to our recent consultation on the Rt. Hon. Lord Bonomy's recommendations for the reform of the Protection of Wild Mammals (Scotland) Act 2002 is drawing to a close and we plan to publish the report before summer recess. I hope your constituent took the opportunity to participate in the consultation. Lord Bonomy's report is available via the following web link : <http://www.gov.scot/Publications/2016/11/9965>.

In conjunction with this, and as per Lord Bonomy's further recommendations, we have also convened a stakeholder group led by retired Deputy Chief Constable Ruairaidh Nicolson to develop a Code of Practice on hunting and to consider the feasibility of a new hunt monitoring scheme. Your constituent may wish to note that stakeholders on both side of the debate are represented on the group.

Finally, as was outlined by the First Minister at the recent National Economic Forum in Dumfries, with 97% of Scotland's land mass classified as rural, the Scottish Government continues to support and invest in the rural economy. The people who live and work in our rural areas are the custodians of our natural capital, utilising it to grow local economies, enhance local services and conserve environmental quality.

**Roseanna Cunningham**

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[redacted]

Our ref: 2019/0014063

June 2019

Thank you for your email of 8 May regarding fox hunting in Scotland. In your letter, you describe the unsuitability of lamping, snaring and trapping as a method of fox control in place of a mounted fox hunt with a pack of hounds.

The methods of lamping, snaring and trapping are discussed in the Report of Committee of Inquiry into Hunting with Dogs in England and Wales 2000, commonly known as the Burns Report. The report concluded that lamping using rifles, if carried out properly and in appropriate circumstances, has fewer adverse welfare implications than hunting. Although lamping with a rifle can be affected if the terrain is rough, steep or has a high growth of vegetation, it can be successful in areas of high fox populations and during autumn.

Legal fox snares can hold the fox without strangulation and consideration must be given to factors such as positioning and timing of use. Both trapping and snares are used as a method to hold a fox until it is humanely killed. These methods are seen as an alternative to mounted fox hunting with a pack.

I am aware that in some types of terrain it may be difficult to use the methods that I have outlined above and that the use of a pack of dogs to flush foxes from cover to waiting guns may be the most effective option.

This is why, as part of my statement on 9 January, I announced my intention to explore whether to introduce a licensing scheme that would allow the use of more than two dogs where fox control is necessary to protect important interests, and where there is no satisfactory alternative approach. Any licensed operations would of course be carefully monitored to ensure compliance with the law and with licence conditions.

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The proposed legislative changes will apply throughout the country and have been brought forward to further protect the welfare of our wild animals. These proposals are, as you will be aware, still at an early stage of development and will be subject to further consultation and parliamentary scrutiny as they progress.

I hope this information is useful to you.

**MAIRI GOUGEON**

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**MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT**  
**Briefing for Meeting: Scottish Gamekeepers Association**

<b>What</b>	<i>Meeting with [Redacted] of Scottish Gamekeepers Association (SGA) to discuss fox hunting legislation</i>
<b>Where</b>	<i>Parliament, Edinburgh</i>
<b>When</b>	<i>Wednesday 1 May 2019 11:00 – 11:45</i>
<b>Key Message(s)</b>	<i>We have no desire to curb essential pest control We are at the early stages of this process and will consult on draft provisions.</i>
<b>Who</b>	<i>[Redacted]</i>
<b>Why</b>	<i>An opportunity to explain the decision to restrict hunting with dogs to two</i>
<b>Supporting official</b>	<i>[Redacted] Policy officer tbd</i>
<b>Briefing contents</b>	<b>Annex A:</b> Biographies and Agenda <b>Annex B:</b> Timescale for changes to the Act <b>Annex C:</b> Relative positions <b>Annex D:</b> The proposed licensing system <b>Annex E:</b> The SGA position
<b>Media Handling</b>	<i>N/A</i>



**MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT**  
**Briefing for Meeting: Scottish Gamekeepers Association**

**ANNEX A**

**Biographies and Agenda**

[Redacted]

**Agenda**

- Timescale for the changes to the Act
- Discussion of relative positions
- Discussion of licensing system proposal and what this might entail

### **Timescale for changes to the Act**

- The Minister for Rural Affairs and the Natural Environment gave a statement on proposals for fox hunting reform in Parliament on Wednesday 9 January as part of a statement on animal health and welfare.
- The proposals announced are:
- the implementation of the majority of Lord Bonomy's recommendations;
  - a new 2-dog limit (in line with England and Wales) alongside exploring a licensing scheme permitting more than 2 dogs for pest control where required; and
  - provision to discourage the establishment in Scotland of the practice known as "trail hunting" as this poses significant risks for wild mammals.

In the statement of 9 January, the Minister said;

"..despite the ban on hunting introduced by the Protection of Wild Mammals (Scotland) Act 2002, it is clear to me that there remains considerable **public concern** about fox hunting in Scotland and doubts about the operability of the legislation as it currently stands."

### **Top Lines**

- We recognise that in some circumstances such as densely wooded or rocky areas the use of a pack of dogs **may** be the only way to control foxes. We intend to explore whether to introduce a licensing scheme that would allow the use of more than two dogs where this is shown to be necessary.
- We intend to implement the majority of Lord Bonomy's recommendations but some aspects such as vicarious liability need further consideration.
- I cannot confirm timing of a Bill at this point. The Government will make an announcement on the legislative programme in due course
- We will consult on draft provisions.

**Relative positions**

[Redacted]

**The rejection of peer reviewed scientific research**

- Several correspondents have expressed concern over the proposed changes to the Protection of Wild Mammals (Scotland) Act 2002 to limit the number of dogs to two.
- The main points argued are;
  - The limit will have negative impact on pest control
  - The Government is overlooking the contribution mounted hunts make to the rural economy.
  - This restriction ignores Lord Bonomy's recommendation.
- In addition, many of the MACCS campaign emails refer to the scientific paper by Naylor and Knott.
- The study found that a pair of dogs flushed fewer foxes, less rapidly, and with a longer duration of active pursuit than a pack. In relation to the number of foxes flushed to guns, a pack of dogs was considerably more effective than a pair.
- They used the dogs starting to vocalise to a fox being flushed as an index of the time during which a fox was actively pursued by dog.
- It does not discuss any occasions where the fox is accidentally caught by the hounds.

**Top Lines**

- Lord Bonomy did not make a formal recommendation on the number of dogs that can be used. He noted that the use of a pack of dogs was much more effective than using only two.
- However Lord Bonomy also noted that there were legitimate grounds for suspicion that the present arrangements were providing cover for the unlawful use of dogs, contrary to the intention of the Protection of Wild Mammals Act with the associated concerns about welfare of foxes and other wildlife.
- Lord Bonomy acknowledged that "there are occasions ... when a fox is caught and killed by the hounds before it can be flushed from cover into the open and when a fox is wounded by the guns when it emerges from cover and is killed by the hounds" and that "in general 20% or more of foxes disturbed by hunts are killed in this way by hounds".
- While this is not an offence under the Act if the dogs are used with the intention of flushing the fox to waiting guns, it is contrary to the intention of the Protection of Wild Mammals Act with the associated concerns about welfare of foxes and other wildlife.
- It is for these reasons that we have decided to limit the number of dogs that can be used to flush foxes to two, unless otherwise permitted by licence.

**The proposed licensing system**

- Mounted hunt supporters say the proposed licensing system discriminates against lowland fox hunts. (It is important that we do not discriminate against mounted or lowland hunts, and that we are clear that licensing is about ensuring that a pack of dogs can be used where this is the only available option for fox control because of the difficulties posed by the terrain)
- Initial considerations expect that new licensing scheme would probably be based on existing licensing arrangements under the Wildlife and Countryside Act (Scotland) 2002. This would allow for consistency as Scottish Natural Heritage are already familiar with operating licensing schemes.
- Applicants would need to set out a purpose for which they require the use of more than two dogs to control foxes and demonstrate the following;
  - Serious damage to agriculture and livestock
  - All other legal pest control approaches (lamping, trapping, two dogs) are ineffective.

**Top Lines**

- The proposed licensing system for the use of more than two dogs is still in the early stages of development.
- We will consult on draft provisions.

**MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT**  
**Briefing for Meeting: Scottish Association for Country Sports**

<b>What</b>	<i>Meeting with [Redacted] Scottish Association for Country Sports (SACS) to discuss fox hunting legislation</i>
<b>Where</b>	<i>Parliament, Edinburgh</i>
<b>When</b>	<i>Wednesday 1 May 2019 14:00 – 14:45</i>
<b>Key Message(s)</b>	<i>We have no desire to curb essential pest control We are at the early stages of this process and will consult on draft provisions.</i>
<b>Who</b>	<i>[Redacted] SACS</i>
<b>Why</b>	<i>An opportunity to explain the decision to restrict hunting with dogs to two</i>
<b>Supporting official</b>	<i>[Redacted] Policy officer tbd</i>
<b>Briefing contents</b>	<b>Annex A:</b> Agenda <b>Annex B:</b> Animal Welfare Statement <b>Annex C:</b> Implementation of proposals <b>Annex D:</b> Proposed licensing scheme

**Agenda**

- Animal Welfare Statement
- Scottish Government's implementation of proposed actions
- Mitigation of negative impacts on SACS members through the proposed licensing scheme for the use of multiple dogs.

### **Animal Welfare Statement**

- The Minister for Rural Affairs and the Natural Environment gave a statement on proposals for fox hunting reform in Parliament on Wednesday 9 January as part of a statement on animal health and welfare.
- The proposals announced are:
- the implementation of the majority of Lord Bonomy's recommendations;
  - a new 2-dog limit (in line with England and Wales) alongside exploring a licensing scheme permitting more than 2 dogs for pest control where required; and
  - provision to discourage the establishment in Scotland of the practice known as "trail hunting" as this poses significant risks for wild mammals.

In the statement of 9 January, the Minister said;

"..despite the ban on hunting introduced by the Protection of Wild Mammals (Scotland) Act 2002, it is clear to me that there remains considerable **public concern** about fox hunting in Scotland and doubts about the operability of the legislation as it currently stands."

### **Top Lines**

- We recognise that in some circumstances such as densely wooded or rocky areas the use of a pack of dogs **may** be the only way to control foxes. We intend to explore whether to introduce a licensing scheme that would allow the use of more than two dogs where this is shown to be necessary.
- We intend to implement the majority of Lord Bonomy's recommendations but some aspects such as vicarious liability need further consideration.
- I cannot confirm timing of a Bill at this point. The Government will make an announcement on the legislative programme in due course
- We will consult on draft provisions.

## **Implementation of proposals**

### **Code of Practice and Hunt Monitoring**

- Lord Bonomy recommended that a code of practice and hunt monitoring scheme be developed for Mounted Foxhound packs.
- The code of practice was developed through a series of stakeholder meetings chaired by former Assistant Chief Constable Ruairaidh Nicolson.
- Scottish hunts signed up to the code of conduct on 1 October 2018.
- This code is advisory and has no statutory basis but was developed with the expectation that it will be robustly adhered to.
- It comprises a list of statements that describe the standards of conduct and best practice expected of practitioners and others involved in the planning and conduct of fox control activities by mounted hunts.

## **Top Lines**

### **The Code of Practice for Mounted Foxhound packs**

- Lord Bonomy's Review came to the conclusion that there is a basis for suspecting that there may be occasions when hunting, which does not fall within one of the exceptions, does take place and that the grounds for that suspicion should be addressed.
- The code of practice, as recommended by Bonomy was created to help address this point.
- We are grateful for the positive contribution made by hunting stakeholders toward the development of the Code

### **The official monitoring of Mounted Foxhound packs**

- We are also going to press on with the new hunt monitoring scheme recommended by Lord Bonomy
- Former ACC, Ruairaidh Nicholson has agreed to carry out monitoring of hunt activities for the rest of this season (until end April)
- Monitoring will help ensure compliance with the Code of Practice.
- Ruairaidh Nicholson will also draw up a job specification for the monitoring role in order to allow recruitment for this post if required next season.
- It is important that we assure the public that the best standards of animal welfare are being applied and that there is adherence to the law.



**Proposed licensing scheme**

- Mounted hunt supporters say the proposed licensing system discriminates against lowland fox hunts. (It is important that we do not discriminate against mounted or lowland hunts, and that we are clear that licensing is about ensuring that a pack of dogs can be used where this is the only available option for fox control because of the difficulties posed by the terrain)
- Initial considerations expect that new licensing scheme would probably be based on existing licensing arrangements under the Wildlife and Countryside Act (Scotland) 2002. This would allow for consistency as Scottish Natural Heritage are already familiar with operating licensing schemes.
- Applicants would need to set out a purpose for which they require the use of more than two dogs to control foxes and demonstrate the following;
  - Serious damage to agriculture and livestock
  - All other legal pest control approaches (lamping, trapping, two dogs) are ineffective.

**Top Lines**

- The proposed licensing system for the use of more than two dogs is still in the early stages of development.
- We will consult on draft provisions.

**MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT**  
**Briefing for Meeting: Angus Holman-Baird**

<b>What</b>	<i>Meeting with [Redacted] to discuss fox hunting legislation</i>
<b>Where</b>	<i>Constituency office</i>
<b>When</b>	<i>Friday 3 May 14:00– 14:45</i>
<b>Key Message(s)</b>	<i>We have no desire to curb essential pest control We are at the early stages of this process and will consult on draft provisions.</i>
<b>Who</b>	<i>[Redacted]</i>
<b>Why</b>	<i>An opportunity to explain the decision to restrict hunting with dogs to two and to pre-empt the use of trail hunting  MACCS case: 2019/0006598</i>
<b>Supporting official</b>	<i>No official support requested</i>
<b>Briefing contents</b>	<b>Annex A:</b> Biographies and agenda <b>Annex B:</b> Animal Welfare Statement <b>Annex C:</b> Lord Bonomy's review <b>Annex D:</b> Trail hunting <b>Annex E:</b> Naylor & Knott Study/ Animal welfare concerns <b>Annex F:</b> The proposed licensing system
<b>Media Handling</b>	<i>N/A</i>

**Biographies and Agenda**

[Redacted]

**Agenda**

- The Ministers Animal Welfare statement of the 9th January 2019;
  - Impact on effective fox control
  - Impact on farmer's livelihoods
- Lord Bonomy's review of the Act
- The two dog limit and proposed licensing system
- Prevention of trail hunting
- Motives for proposals (prejudice against mounted hunts, not welfare)

### **Animal Welfare Statement**

- The Minister for Rural Affairs and the Natural Environment gave a statement on proposals for fox hunting reform in Parliament on Wednesday 9 January as part of a statement on animal health and welfare.
- The proposals announced are:
- the implementation of the majority of Lord Bonomy's recommendations;
  - a new 2-dog limit (in line with England and Wales) alongside exploring a licensing scheme permitting more than 2 dogs for pest control where required; and
  - provision to discourage the establishment in Scotland of the practice known as "trail hunting" as this poses significant risks for wild mammals.

In the statement of 9 January, the Minister said;

"..despite the ban on hunting introduced by the Protection of Wild Mammals (Scotland) Act 2002, it is clear to me that there remains considerable **public concern** about fox hunting in Scotland and doubts about the operability of the legislation as it currently stands."

### **Top Lines**

- We recognise that in some circumstances such as densely wooded or rocky areas the use of a pack of dogs **may** be the only way to control foxes. We intend to explore whether to introduce a licensing scheme that would allow the use of more than two dogs where this is shown to be necessary.
- We intend to implement the majority of Lord Bonomy's recommendations but some aspects such as vicarious liability need further consideration.
- I cannot confirm timing of a Bill at this point. The Government will make an announcement on the legislative programme in due course
- We will consult on draft provisions.

## **Lord Bonomy's Review**

Lord Bonomy's recommendations were;

- Clarification of terminology and expressions in the Act to improve interpretation and enforcement
- Consideration of the appointment of independent hunt monitors
- A new Code of Practice for the conduct of hunt activities (voluntary in the first instance)
- Extension of the time limit for bringing prosecutions under the 2002 Act beyond 6 months
- Exploration of vicarious liability (falling on landowners) and "reverse" burden of proof (i.e. accused has to prove they were acting legally)

Lord Bonomy agreed with the study by Naylor and Knott, stating that

*"searching and flushing by two dogs would not be as effective as that done by a full pack of hounds, but also that imposing such a restriction could seriously compromise effective pest control in the country, particularly on rough and hilly ground and in extensive areas of dense cover such as conifer woodlands"*

Lord Bonomy discussed trail hunting in his report but did not make any conclusions.

## **Code of Practice and Hunt Monitoring**

- Lord Bonomy recommended that a code of practice and hunt monitoring scheme be developed for Mounted Foxhound packs.
- The code of practice was developed through a series of stakeholder meetings chaired by former Assistant Chief Constable Ruairaidh Nicolson.
- Scottish hunts signed up to the code of conduct on 1 October 2018.
- This code is advisory and has no statutory basis but was developed with the expectation that it will be robustly adhered to.
- It comprises a list of statements that describe the standards of conduct and best practice expected of practitioners and others involved in the planning and conduct of fox control activities by mounted hunts.

## **Top Lines**

- We haven't ruled out any of Lord Bonomy's recommendations at this stage but some aspects such as vicarious liability need further consideration.
- Lord Bonomy did not make a formal recommendation on the number of dogs that can be used. He noted that the use of a pack of dogs was much more effective than using only two.
- However Lord Bonomy also noted that there were legitimate grounds for suspicion that the present arrangements were providing cover for the unlawful use of dogs, contrary to the intention of the Protection of Wild Mammals Act with the associated concerns about welfare of foxes and other wildlife.
- Lord Bonomy acknowledged that "there are occasions ... when a fox is caught and killed by the hounds before it can be flushed from cover into the open and when a fox is wounded by the guns when it emerges from cover and is killed by the hounds" and that "in general 20% or more of foxes disturbed by hunts are killed in this way by hounds".
- While this is not an offence under the Act if the dogs are used with the intention of flushing the fox to waiting guns, it is contrary to the intention of the Protection of Wild Mammals Act with the associated concerns about welfare of foxes and other wildlife.
- It is for these reasons that we have decided to limit the number of dogs that can be used to flush foxes to two, unless otherwise permitted by licence.

## **MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT**

### **Briefing for Meeting: Angus Holman-Baird**

#### **The Code of Practice for Mounted Foxhound packs**

- Lord Bonomy's Review came to the conclusion that there is a basis for suspecting that there may be occasions when hunting, which does not fall within one of the exceptions, does take place and that the grounds for that suspicion should be addressed.
- The code of practice, as recommended by Bonomy was created to help address this point.
- We are grateful for the positive contribution made by hunting stakeholders toward the development of the Code

#### **The official monitoring of Mounted Foxhound packs**

- We are also going to press on with the new hunt monitoring scheme recommended by Lord Bonomy
- Former ACC, Ruairaidh Nicholson has agreed to carry out monitoring of hunt activities for the rest of this season (until end April)
- Monitoring will help ensure compliance with the Code of Practice.
- Ruairaidh Nicholson will also draw up a job specification for the monitoring role in order to allow recruitment for this post if required next season.
- It is important that we assure the public that the best standards of animal welfare are being applied and that there is adherence to the law.

## Trail Hunting

- Trail hunting developed in England and Wales following the limitation to two dogs by the 2004 Act.
- There have been occasions south of the Border, where packs hunting a trail have encountered a fox and the fox was hunted in contravention of the law.
- Lord Bonomy acknowledged;  
    "the practice by mounted hunts of trail hunting in England and Wales have both given rise to suspicion that organised mounted hunts have continued to hunt foxes with a pack of hounds in contravention of the legislation."
- Trail hunting resembles a long-standing practice known as drag hunting in which a pack of hounds is used to follow a man-made artificially laid, but chemically-based, scent over a predetermined route.
- Drag hunting continues to be widely practised in England. It has occasionally been practised in Scotland in the past.
- Drag hunting differs from traditional mounted foxhunting in respect that it involves riding at speed in pursuit of the obvious drag rather than the slow and often laborious search for the scent of a fox.

## Top Lines

- The Scottish Government has not yet set out to define trail hunting in legal terms.
- The description of trail hunting provided by Lord Bonomy in his review of the Protection of Wild Mammals (Scotland) Act, may be helpful. He said:  
    "*...the hunting of a scent laid manually in such a way as best to simulate traditional mounted hunting activity. The trail is laid along the line a fox might take when moving across the countryside. Trail hunters use animal-based scent, primarily fox urine, a scent with which the hounds are familiar and with which it is intended they should remain familiar.*"
- Trail hunting is not an established practice in Scotland. Trail hunting developed following the limitation to two dogs by The Hunting Act 2004 in England and Wales.
- We are aware that trail hunting has become an activity south of the border. We know foxes are sometimes killed by hounds during these activities whether by accident or design so we therefore plan to take pre-emptive action to prevent trail hunting becoming established in Scotland.

**Naylor & Knott Study/ Animal welfare concerns**

This study has been cited by many correspondents as supporting the need to use a pack of hounds when hunting foxes.

- It found that a pair of dogs flushed fewer foxes, less rapidly, and with a longer duration of active pursuit than a pack. In relation to the number of foxes flushed to guns, a pack of dogs was considerably more effective than a pair.
- It does not discuss any occasions where the fox is accidentally caught by the hounds.

There are several points to consider within this study to fully appreciate it's scope and limitations;

1. The Naylor & Knott study only looked at the length of pursuit and number of foxes flushed. It acknowledged that the pursuit was only one index that "might" be relevant to the debate.  
*"Although we have been able to provide objective data on the duration of pursuit (and how the increased length of pursuit with pair vs. pack is compounded with increasing size of covert), no firm conclusion can be drawn as to the effect of duration of active pursuit on fox welfare."*
2. The method to quantify the duration of the chase uses the vocalisations made by the hounds. There is no evidence given to show that this is an accurate method.  
*"It seems reasonable to suppose that the time from the start of vocalizing to a fox being flushed from a covert in such a position where it could be shot would closely reflect the duration of active pursuit by dogs."*  
The study acknowledges that on some occasions the dogs may have vocalized when following the scent of a quarry other than the fox and conversely that  
*"in a considerable proportion of instances where foxes were flushed, this occurred without dogs being heard to vocalize"*  
Lastly, the method of using the vocalisations of the hounds to measure the length of pursuit has not been qualified or demonstrated as accurate, Naylor and Knott explain, "we are not aware of any attempt to objectively measure the duration of pursuit of foxes by dogs during hunting activity".
3. The study repeatedly cites the Final report of the Committee of Inquiry into Hunting with Dogs in England and Wales (2000), where it was concluded several statements speaking to the welfare of implications of fox hunting;  
*"in the case of the killing of a fox by hounds above ground, death is not always effected by a single bite to the neck or shoulders"*  
*"There is a lack of firm scientific evidence about the effect on the welfare of a fox of being closely pursued, caught and killed above ground by hounds. We are satisfied, nevertheless, that this experience seriously compromises the welfare of the fox."*  
*"Our tentative conclusion is that lamping using rifles, if carried out properly and in appropriate circumstances, has fewer adverse welfare implications than hunting, including digging-out."*



## **MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT**

### **Briefing for Meeting: Angus Holman-Baird**

#### **Lines to take**

- The Naylor & Knott study did show that a pack of dogs was quicker to flush foxes and flushed more foxes than only two hounds.
- However, as the authors acknowledge, the scope of the study is limited and that the pursuit was only one index that "might" be relevant to the debate".
- They also stated that "no firm conclusion can be drawn as to the effect of duration of active pursuit on fox welfare".
- The study repeatedly cites the Final report of the Committee of Inquiry into Hunting with Dogs in England and Wales (2000), which concluded that the experience of a fox of being closely pursued, caught and killed above ground by hounds, seriously compromises the welfare of the fox.
- The inquiry also found that when a fox is killed by the hounds, which is far more likely with a pack than with just two, "death is not always effected by a single bite to the neck or shoulders".

**The proposed licensing system**

- Mounted hunt supporters say the proposed licensing system discriminates against lowland fox hunts. (It is important that we do not discriminate against mounted or lowland hunts, and that we are clear that licensing is about ensuring that a pack of dogs can be used where this is the only available option for fox control because of the difficulties posed by the terrain)
- Initial considerations expect that new licensing scheme would probably be based on existing licensing arrangements under the Wildlife and Countryside Act (Scotland) 2002. This would allow for consistency as Scottish Natural Heritage are already familiar with operating licensing schemes.
- Applicants would need to set out a purpose for which they require the use of more than two dogs to control foxes and demonstrate the following;
  - Serious damage to agriculture and livestock
  - All other legal pest control approaches (lamping, trapping, two dogs) are ineffective.

**Top Lines**

- The proposed licensing system for the use of more than two dogs is still in the early stages of development.
- Any licensing scheme would operate across all of Scotland and would be available to any pack that met the criteria for the scheme.
- We will consult on the draft provisions for any licensing scheme.

**MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT****Briefing for Meeting: OneKind**

<b>What</b>	<i>Meeting with [Redacted] OneKind to discuss proposals for protection of wild mammals.</i>
<b>Where</b>	<i>Parliament, Edinburgh</i>
<b>When</b>	<i>Tuesday 28 May 2019 11:00 – 11:45</i>
<b>Key Message(s)</b>	<i>The Scottish Government takes animal welfare very seriously. We are going further than the recommendations of Lord Bonyon.</i>
<b>Who</b>	<i>[Redacted] OneKind</i>
<b>Why</b>	<i>An opportunity to discuss the proposed changes to fox hunting legislation and to advise on planned policy changes.</i>
<b>Supporting official</b>	<i>[Redacted] Policy officer tbd</i>
<b>Briefing contents</b>	<b>Annex A:</b> Background, biographies and agenda <b>Annex B:</b> Proposed changes to fox hunting legislation and licensing <b>Annex C:</b> Disturbance of wildlife and livestock by dogs <b>Annex D:</b> Trapping and Snaring Regulations <b>Annex E:</b> Current wildlife management issues <b>Annex F:</b> Farm animal welfare
<b>Media Handling</b>	<i>N/A</i>

**Background, biographies and agenda**  
**OneKind**

OneKind campaigns for improved legislation to protect all animals, currently covering issues such as animal sentience, wild animal welfare (including snaring and fox hunting), welfare of farmed salmon, live transport of animals and companion animal welfare.

OneKind continues to campaign for;

- A full and effective fox hunting ban
- A complete ban on snaring
- Further protection for mountain hares

[Redacted]

**AGENDA**

- Overview of SG proposals and timing
- Number of dogs to be permitted
- Proposed exception for licensed use of more than two dogs
- Necessity of killing foxes and hares
- Disturbance of wildlife and livestock by dogs

## Proposed changes to fox hunting legislation and licensing

### Background

- The Minister for Rural Affairs and the Natural Environment gave a statement on proposals for fox hunting reform in Parliament on Wednesday 9 January as part of a statement on animal health and welfare.
- The proposals announced are:
- the implementation of the majority of Lord Bonomy's recommendations;
  - a new 2-dog limit (in line with England and Wales) alongside exploring a licensing scheme permitting more than 2 dogs for pest control where required; and
  - provision to discourage the establishment in Scotland of the practice known as "trail hunting" as this poses significant risks for wild mammals.

In the statement of 9 January, the Minister said;

*"..despite the ban on hunting introduced by the Protection of Wild Mammals (Scotland) Act 2002, it is clear to me that there remains considerable **public concern** about fox hunting in Scotland and doubts about the operability of the legislation as it currently stands."*

### The proposed licensing system

- Mounted hunt supporters say the proposed licensing system discriminates against lowland fox hunts. (It is important that we do not discriminate against mounted or lowland hunts, and that we are clear that licensing is about ensuring that a pack of dogs can be used where this is the only available option for fox control because of the difficulties posed by the terrain)
- Initial considerations expect that new licensing scheme would probably be based on existing licensing arrangements under the Wildlife and Countryside Act (Scotland) 2002. This would allow for consistency as Scottish Natural Heritage are already familiar with operating licensing schemes.
- Applicants would need to set out a purpose for which they require the use of more than two dogs to control foxes and demonstrate the following;
  - Serious damage to agriculture and livestock
  - All other legal pest control approaches (lamping, trapping, two dogs) are ineffective.

### Top lines

- By implementing the limit of two dogs and the provision to pre-emptively ban trail-hunting, we are going further than Lord Bonomy's recommendations.
- We recognise that in some circumstances such as densely wooded or rocky areas the use of a pack of dogs **may** be the only way to control foxes. We intend to explore whether to introduce a licensing scheme to allow the use of more than two dogs where this is shown to be necessary.
- Any licensing scheme to allow more than two dogs would be under strict conditions where circumstances make this essential.
- We intend to implement the majority of Lord Bonomy's recommendations but some aspects such as vicarious liability need further consideration.
- I cannot confirm timing of a Bill at this point. The Government will make an announcement on the legislative programme in due course.

### **Why not just completely ban the use of any dogs in connection with controlling foxes or any other wild mammals?**

- There is a balance to be struck.
- Farmers need to control foxes to protect livestock and the use of dogs to "flush" foxes from dense cover and rocky ground so that they can be shot is often the only practicable way.
- At the same time we want to ensure that dogs are not allowed to chase foxes across open ground and/or kill them.

## **Disturbance of wildlife and livestock by dogs**

### **Background**

- OneKind have included this point with regard to the disturbance of wildlife and livestock caused by packs of foxhounds.
- Animal welfare groups have raised this issue in England & Wales, with reports of foxhounds entering land without permission and attacking sheep and other livestock. No prosecutions have been brought forward.
- Colleagues in Agriculture and Rural Economy are unable to confirm that this is going on in Scotland. It is expected that foxhound packs have the permission of the landowner before carrying out pest control services, allowing them to minimize interaction with livestock.
- In Scotland in 2016-17, 21 people were prosecuted for offences under the Dogs (Protection of Livestock) Act. This legislation applies to all forms of livestock and includes domestic dogs.
- **January 2019:** Scottish Partnership Against Rural Crime (SPARC) launched a campaign, "your dog – Your responsibility" highlighting ALL dog disturbance and sheep worrying and aims to improve understanding of who can be prosecuted if a dog worries farm animals.

### **Top lines**

- We are aware of reports in England and Wales of damage and disturbance to livestock by fox hound packs.
- The code of practice for mounted fox hound packs in Scotland was agreed by mounted hunts in September 2018.
- It is the responsibility of the Master of the hunt to obtain permission from the land owner and to consider animal welfare in the planning process.
- It is the responsibility of the huntsman to control the pack during the hunt, including
  - Maintaining control of the dogs and not allow them to pursue foxes or non-target mammals beyond cover and,
  - Immediately act to cease the pursuit of non-target mammals.
- The code also requires that Police Scotland be notified of certain details, including the general location of the event and details and contact numbers for the participating Master(s) and the Huntsman.
- Former Assistant Chief Constable, Ruaraidh Nicholson agreed to carry out monitoring of hunt activities for the 2018/19 season (until end April)
- Former ACC Nicholson chaired the stakeholder discussions last year.
- Monitoring will help ensure compliance with the Code. Ruaraidh Nicholson will also draw up a job specification for the monitoring role in order to allow recruitment for this post if required next season.

**MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT**  
**Briefing for Meeting: the League Against Cruel Sports**

<b>What</b>	<i>Meeting with [Redacted] League Against Cruel Sports to discuss fox hunting legislation</i>
<b>Where</b>	<i>Parliament, Edinburgh</i>
<b>When</b>	<i>Tuesday 30 April 16:00 – 16:45</i>
<b>Key Message(s)</b>	<i>That we will be progressing the strengthening of the Protection of Wild Mammals (Scotland) Act 2002.</i>
<b>Who</b>	<i>[Redacted] League Against Cruel Sports (LACS)</i>
<b>Why</b>	<i>An opportunity to reinforce the Scottish Government's commitment to strengthening the Protection of Wild Mammals (Scotland) Act 2002.</i>  <i>MACCS case: 2019/0002418</i>
<b>Supporting official</b>	<i>[Redacted]</i>
<b>Briefing contents</b>	<b>Annex A:</b> Biographies and Agenda <b>Annex B:</b> Progress following the Animal Welfare Statement <b>Annex C:</b> LACS current activities
<b>Media Handling</b>	<i>N/A</i>

**MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT**  
**Briefing for Meeting: the League Against Cruel Sports**

**ANNEX A**

**Biographies and Agenda**

[Redacted]

**Agenda**

- Update on process and timing following Jan announcement
- Update on League's campaigning activity



### **Progress following the Animal Welfare Statement**

- The Minister for Rural Affairs and the Natural Environment gave a statement on proposals for fox hunting reform in Parliament on Wednesday 9 January as part of a statement on animal health and welfare.
- The proposals announced are:
- the implementation of the majority of Lord Bonomy's recommendations;
  - a new 2-dog limit (in line with England and Wales) alongside exploring a licensing scheme permitting more than 2 dogs for pest control where required; and
  - provision to discourage the establishment in Scotland of the practice known as "trail hunting" as this poses significant risks for wild mammals.

In the statement of 9 January, the Minister said;

"..despite the ban on hunting introduced by the Protection of Wild Mammals (Scotland) Act 2002, it is clear to me that there remains considerable **public concern** about fox hunting in Scotland and doubts about the operability of the legislation as it currently stands."

### **Top Lines**

- We recognise that in some circumstances such as densely wooded or rocky areas the use of a pack of dogs **may** be the only way to control foxes. We intend to explore whether to introduce a licensing scheme that would allow the use of more than two dogs where this is shown to be necessary.
- We intend to implement the majority of Lord Bonomy's recommendations but some aspects such as vicarious liability need further consideration.
- I cannot confirm timing of a Bill at this point. The Government will make an announcement on the legislative programme in due course
- We will consult on draft provisions.

**MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT****Briefing for Meeting: [Redacted]**

<b>What</b>	<i>Meeting with [Redacted] Scottish Countryside Alliance to discuss fox hunting legislation</i>
<b>Where</b>	<i>TG.23 Parliament, Edinburgh</i>
<b>When</b>	<i>Wednesday 24 April 16:45 – 17:30</i>
<b>Key Message(s)</b>	<i>We have no desire to curb essential pest control We are at the early stages of this process and will consult on draft provisions.</i>
<b>Who</b>	<i>[Redacted] Scottish Countryside Alliance [Redacted] Master of Foxhounds Association</i>
<b>Why</b>	<i>An opportunity to explain the decision to restrict hunting with dogs to two  MACCS case: 2019/0001082</i>
<b>Supporting official</b>	<i>[Redacted] Policy officer tbd</i>
<b>Briefing contents</b>	<b>Annex A:</b> Biographies and agenda <b>Annex B:</b> Animal Welfare Statement <b>Annex C:</b> The Scottish Government Consultation on hunting with dogs <b>Annex D:</b> The rejection of peer reviewed scientific research <b>Annex E:</b> Code of Practice and Hunt Monitoring <b>Annex F:</b> The proposed licensing system
<b>Media Handling</b>	<i>N/A</i>

**Biographies and Agenda**

[Redacted]

**Agenda**

- The Ministers Animal Welfare statement of the 9th January 2019
- The Scottish Government consultation "Improving the Protection of Wild Mammals in Scotland" analysis
- The interpretation of "Public concern"
- The rejection of peer reviewed scientific research
- The Code of Practice for Mounted Foxhound packs
- The official monitoring of Mounted Foxhound packs
- The proposed licensing system

### **Animal Welfare Statement**

- The Minister for Rural Affairs and the Natural Environment gave a statement on proposals for fox hunting reform in Parliament on Wednesday 9 January as part of a statement on animal health and welfare.
- The proposals announced are:
- the implementation of the majority of Lord Bonomy's recommendations;
  - a new 2-dog limit (in line with England and Wales) alongside exploring a licensing scheme permitting more than 2 dogs for pest control where required; and
  - provision to discourage the establishment in Scotland of the practice known as "trail hunting" as this poses significant risks for wild mammals.

In the statement of 9 January, the Minister said;

"..despite the ban on hunting introduced by the Protection of Wild Mammals (Scotland) Act 2002, it is clear to me that there remains considerable **public concern** about fox hunting in Scotland and doubts about the operability of the legislation as it currently stands."

### **Top Lines**

- We recognise that in some circumstances such as densely wooded or rocky areas the use of a pack of dogs **may** be the only way to control foxes. We intend to explore whether to introduce a licensing scheme that would allow the use of more than two dogs where this is shown to be necessary.
- We intend to implement the majority of Lord Bonomy's recommendations but some aspects such as vicarious liability need further consideration.
- I cannot confirm timing of a Bill at this point. The Government will make an announcement on the legislative programme in due course
- We will consult on draft provisions.

**The Scottish Government Consultation on hunting with dogs**

- The consultation has been criticised in a recent MACCS campaign from pro-hunting interests, stating that the following points:
  - The campaign responses came from people who could not be identified
  - Many responses came from people who did not live in Scotland
  - Only 2% of responses were 'substantive' and these responses should be considered with more weight.
  - The proposed changes to the Protection of Wild Mammals (Scotland) Act 2002 is undemocratic.
- The Scottish Government consultation "Improving the Protection of Wild Mammals in Scotland" received 18,792 responses
- 18,497 (98%) were submitted through five different campaigns from anti-hunting interested parties.
- 9,063 (49%) were from anti-hunting respondents outside of Scotland.
- All responses received contained a name and email address and all duplicate submissions were removed prior to analysis.
- While most responses contained a postal address, CitizenSpace, the Scottish Government's online consultation hub, does not ask for postal addresses as they cannot be verified.

**Top Lines**

- The public consultation on the review of the Protection of Wild Mammals (Scotland) Act 2002 was conducted in the same manner as all other consultations in Scotland. When undertaking an analysis of consultation responses we give careful consideration all the replies that we receive.

**The rejection of peer reviewed scientific research**

- Several correspondents have expressed concern over the proposed changes to the Protection of Wild Mammals (Scotland) Act 2002 to limit the number of dogs to two.
- The main points argued are;
  - The limit will have negative impact on pest control
  - The Government is overlooking the contribution mounted hunts make to the rural economy.
  - This restriction ignores Lord Bonomy's recommendation.
- In addition, many of the MACCS campaign emails refer to the scientific paper by Naylor and Knott.
- The study found that a pair of dogs flushed fewer foxes, less rapidly, and with a longer duration of active pursuit than a pack. In relation to the number of foxes flushed to guns, a pack of dogs was considerably more effective than a pair.
- They used the dogs starting to vocalise to a fox being flushed as an index of the time during which a fox was actively pursued by dog.
- It does not discuss any occasions where the fox is accidentally caught by the hounds.

**Top Lines**

- Lord Bonomy did not make a formal recommendation on the number of dogs that can be used. He noted that the use of a pack of dogs was much more effective than using only two.
- However Lord Bonomy also noted that there were legitimate grounds for suspicion that the present arrangements were providing cover for the unlawful use of dogs, contrary to the intention of the Protection of Wild Mammals Act with the associated concerns about welfare of foxes and other wildlife.
- Lord Bonomy acknowledged that "there are occasions ... when a fox is caught and killed by the hounds before it can be flushed from cover into the open and when a fox is wounded by the guns when it emerges from cover and is killed by the hounds" and that "in general 20% or more of foxes disturbed by hunts are killed in this way by hounds".
- While this is not an offence under the Act if the dogs are used with the intention of flushing the fox to waiting guns, it is contrary to the intention of the Protection of Wild Mammals Act with the associated concerns about welfare of foxes and other wildlife.
- It is for these reasons that we have decided to limit the number of dogs that can be used to flush foxes to two, unless otherwise permitted by licence.

### **Code of Practice and Hunt Monitoring**

- Lord Bonomy recommended that a code of practice and hunt monitoring scheme be developed for Mounted Foxhound packs.
- The code of practice was developed through a series of stakeholder meetings chaired by former Assistant Chief Constable Ruaraidh Nicolson.
- Scottish hunts signed up to the code of conduct on 1 October 2018.
- This code is advisory and has no statutory basis but was developed with the expectation that it will be robustly adhered to.
- It comprises a list of statements that describe the standards of conduct and best practice expected of practitioners and others involved in the planning and conduct of fox control activities by mounted hunts.

### **Top Lines**

#### **The Code of Practice for Mounted Foxhound packs**

- Lord Bonomy's Review came to the conclusion that there is a basis for suspecting that there may be occasions when hunting, which does not fall within one of the exceptions, does take place and that the grounds for that suspicion should be addressed.
- The code of practice, as recommended by Bonomy was created to help address this point.
- We are grateful for the positive contribution made by hunting stakeholders toward the development of the Code

#### **The official monitoring of Mounted Foxhound packs**

- We are also going to press on with the new hunt monitoring scheme recommended by Lord Bonomy
- Former ACC, Ruaraidh Nicholson has agreed to carry out monitoring of hunt activities for the rest of this season (until end April)
- Monitoring will help ensure compliance with the Code of Practice.
- Ruaraidh Nicholson will also draw up a job specification for the monitoring role in order to allow recruitment for this post if required next season.
- It is important that we assure the public that the best standards of animal welfare are being applied and that there is adherence to the law.

**The proposed licensing system**

- Mounted hunt supporters say the proposed licensing system discriminates against lowland fox hunts. (It is important that we do not discriminate against mounted or lowland hunts, and that we are clear that licensing is about ensuring that a pack of dogs can be used where this is the only available option for fox control because of the difficulties posed by the terrain)
- Initial considerations expect that new licensing scheme would probably be based on existing licensing arrangements under the Wildlife and Countryside Act (Scotland) 2002. This would allow for consistency as Scottish Natural Heritage are already familiar with operating licensing schemes.
- Applicants would need to set out a purpose for which they require the use of more than two dogs to control foxes and demonstrate the following;
  - Serious damage to agriculture and livestock
  - All other legal pest control approaches (lamping, trapping, two dogs) are ineffective.

**Top Lines**

- The proposed licensing system for the use of more than two dogs is still in the early stages of development.
- We will consult on draft provisions.



**MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT****Briefing for Meeting: Scottish Land and Estates**

<b>What</b>	<i>Meeting with Scottish Land and Estates (SLE) to discuss proposed changes to legislation</i>
<b>Where</b>	<i>Parliament</i>
<b>When</b>	<i>Tuesday 14 May 16:00– 16:45</i>
<b>Key Message(s)</b>	<i>We have no desire to curb essential pest control We are at the early stages of this process and will consult on draft provisions.</i>
<b>Who</b>	<i>[Redacted]</i>
<b>Why</b>	<i>An opportunity to explain the decision to restrict hunting with dogs to two and to pre-empt the use of trail hunting</i>
<b>Supporting official</b>	<i>[Redacted] Policy officer tbd</i>
<b>Briefing contents</b>	<b>Annex A:</b> Biographies and agenda <b>Annex B:</b> Animal Welfare Statement and proposed licensing system <b>Annex C:</b> Lord Bonomy's review <b>Annex D:</b> Trail hunting <b>Annex E:</b> Naylor & Knott Study/ Animal welfare concerns <b>Annex F:</b> Animal Welfare Bill <b>Annex G:</b> Animal welfare commission <b>Annex H:</b> SLE Spring Conference
<b>Media Handling</b>	<i>N/A</i>

**Biographies and Agenda**

[Redacted]

**Agenda**

- Hunting Legislation
- Content of animal welfare bill
- Animal welfare Commission
- SLE spring conference

**Animal Welfare Statement and proposed licensing system**  
**Key Issues/Questions**

- To what extent is Scottish Government looking to go beyond the Bonomy recommendations?
- Is it the intention to limit to two dogs and has any evidence been taken from England where the two dog rule applies?
- Is there an acceptance of hunting from a predation angle and that efficient control of the fox population is a legitimate and efficient land management practice?
- Is licensing being considered?

**Background**

- The Minister for Rural Affairs and the Natural Environment gave a statement on proposals for fox hunting reform in Parliament on Wednesday 9 January as part of a statement on animal health and welfare.
- The proposals announced are:
- the implementation of the majority of Lord Bonomy's recommendations;
  - a new 2-dog limit (in line with England and Wales) alongside exploring a licensing scheme permitting more than 2 dogs for pest control where required; and
  - provision to discourage the establishment in Scotland of the practice known as "trail hunting" as this poses significant risks for wild mammals.

In the statement of 9 January, the Minister said;

"..despite the ban on hunting introduced by the Protection of Wild Mammals (Scotland) Act 2002, it is clear to me that there remains considerable **public concern** about fox hunting in Scotland and doubts about the operability of the legislation as it currently stands."

**The proposed licensing system**

- Mounted hunt supporters say the proposed licensing system discriminates against lowland fox hunts. (It is important that we do not discriminate against mounted or lowland hunts, and that we are clear that licensing is about ensuring that a pack of dogs can be used where this is the only available option for fox control because of the difficulties posed by the terrain)
- Initial considerations expect that new licensing scheme would probably be based on existing licensing arrangements under the Wildlife and Countryside Act (Scotland) 2002. This would allow for consistency as Scottish Natural Heritage are already familiar with operating licensing schemes.
- Applicants would need to set out a purpose for which they require the use of more than two dogs to control foxes and demonstrate the following;
  - Serious damage to agriculture and livestock
  - All other legal pest control approaches (lamping, trapping, two dogs) are ineffective.

**Top Lines**

- We recognise that in some circumstances such as densely wooded or rocky areas the use of a pack of dogs **may** be the only way to control foxes. We intend to explore whether to introduce a licensing scheme that would allow the use of more than two dogs where this is shown to be necessary.
- We intend to implement the majority of Lord Bonomy's recommendations but some aspects such as vicarious liability need further consideration.
- I cannot confirm timing of a Bill at this point. The Government will make an announcement on the legislative programme in due course

## **MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT**

### **Briefing for Meeting: Scottish Land and Estates**

- The proposed licensing system for the use of more than two dogs is still in the early stages of development.
- Any licensing scheme would operate across all of Scotland and would be available to any pack that met the criteria for the scheme.
- We will consult on the draft provisions for any licensing scheme.

## **Lord Bonomy's Review**

Lord Bonomy's recommendations were;

- Clarification of terminology and expressions in the Act to improve interpretation and enforcement
- Consideration of the appointment of independent hunt monitors
- A new Code of Practice for the conduct of hunt activities (voluntary in the first instance)
- Extension of the time limit for bringing prosecutions under the 2002 Act beyond 6 months
- Exploration of vicarious liability (falling on landowners) and "reverse" burden of proof (i.e. accused has to prove they were acting legally)

Lord Bonomy agreed with the study by Naylor and Knott, stating that

*"searching and flushing by two dogs would not be as effective as that done by a full pack of hounds, but also that imposing such a restriction could seriously compromise effective pest control in the country, particularly on rough and hilly ground and in extensive areas of dense cover such as conifer woodlands"*

Lord Bonomy discussed trail hunting in his report but did not make any conclusions.

## **Code of Practice and Hunt Monitoring**

- Lord Bonomy recommended that a code of practice and hunt monitoring scheme be developed for Mounted Foxhound packs.
- The code of practice was developed through a series of stakeholder meetings chaired by former Assistant Chief Constable Ruaraidh Nicolson.
- Scottish hunts signed up to the code of conduct on 1 October 2018.
- This code is advisory and has no statutory basis but was developed with the expectation that it will be robustly adhered to.
- It comprises a list of statements that describe the standards of conduct and best practice expected of practitioners and others involved in the planning and conduct of fox control activities by mounted hunts.

## **Top Lines**

- We haven't ruled out any of Lord Bonomy's recommendations at this stage but some aspects such as vicarious liability need further consideration.
- Lord Bonomy did not make a formal recommendation on the number of dogs that can be used. He noted that the use of a pack of dogs was much more effective than using only two.
- However Lord Bonomy also noted that there were legitimate grounds for suspicion that the present arrangements were providing cover for the unlawful use of dogs, contrary to the intention of the Protection of Wild Mammals Act with the associated concerns about welfare of foxes and other wildlife.
- Lord Bonomy acknowledged that "there are occasions ... when a fox is caught and killed by the hounds before it can be flushed from cover into the open and when a fox is wounded by the guns when it emerges from cover and is killed by the hounds" and that "in general 20% or more of foxes disturbed by hunts are killed in this way by hounds".
- While this is not an offence under the Act if the dogs are used with the intention of flushing the fox to waiting guns, it is contrary to the intention of the Protection of Wild Mammals Act with the associated concerns about welfare of foxes and other wildlife.
- It is for these reasons that we have decided to limit the number of dogs that can be used to flush foxes to two, unless otherwise permitted by licence.

## **MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT**

### **Briefing for Meeting: Scottish Land and Estates**

#### **The Code of Practice for Mounted Foxhound packs**

- Lord Bonomy's Review came to the conclusion that there is a basis for suspecting that there may be occasions when hunting, which does not fall within one of the exceptions, does take place and that the grounds for that suspicion should be addressed.
- The code of practice, as recommended by Bonomy was created to help address this point.
- We are grateful for the positive contribution made by hunting stakeholders toward the development of the Code

#### **The official monitoring of Mounted Foxhound packs**

- We are also going to press on with the new hunt monitoring scheme recommended by Lord Bonomy
- Former ACC, Ruaraidh Nicholson has agreed to carry out monitoring of hunt activities for the rest of this season (until end April)
- Monitoring will help ensure compliance with the Code of Practice.
- Ruaraidh Nicholson will also draw up a job specification for the monitoring role in order to allow recruitment for this post if required next season.
- It is important that we assure the public that the best standards of animal welfare are being applied and that there is adherence to the law.

## **Trail Hunting**

- Trail hunting developed in England and Wales following the limitation to two dogs by the 2004 Act.
- There have been occasions south of the Border, where packs hunting a trail have encountered a fox and the fox was hunted in contravention of the law.
- Lord Bonomy acknowledged;  
    "the practice by mounted hunts of trail hunting in England and Wales have both given rise to suspicion that organised mounted hunts have continued to hunt foxes with a pack of hounds in contravention of the legislation."
- Trail hunting resembles a long-standing practice known as drag hunting in which a pack of hounds is used to follow a man-made artificially laid, but chemically-based, scent over a predetermined route.
- Drag hunting continues to be widely practised in England. It has occasionally been practised in Scotland in the past.
- Drag hunting differs from traditional mounted foxhunting in respect that it involves riding at speed in pursuit of the obvious drag rather than the slow and often laborious search for the scent of a fox.

## **Top Lines**

- The Scottish Government has not yet set out to define trail hunting in legal terms.
- The description of trail hunting provided by Lord Bonomy in his review of the Protection of Wild Mammals (Scotland) Act, may be helpful. He said:  
    "*...the hunting of a scent laid manually in such a way as best to simulate traditional mounted hunting activity. The trail is laid along the line a fox might take when moving across the countryside. Trail hunters use animal-based scent, primarily fox urine, a scent with which the hounds are familiar and with which it is intended they should remain familiar.*"
- Trail hunting is not an established practice in Scotland. Trail hunting developed following the limitation to two dogs by The Hunting Act 2004 in England and Wales.
- We are aware that trail hunting has become an activity south of the border. We know foxes are sometimes killed by hounds during these activities whether by accident or design so we therefore plan to take pre-emptive action to prevent trail hunting becoming established in Scotland.

**Naylor & Knott Study/ Animal welfare concerns**

This study has been cited by many correspondents as supporting the need to use a pack of hounds when hunting foxes.

- It found that a pair of dogs flushed fewer foxes, less rapidly, and with a longer duration of active pursuit than a pack. In relation to the number of foxes flushed to guns, a pack of dogs was considerably more effective than a pair.
- It does not discuss any occasions where the fox is accidentally caught by the hounds.

There are several points to consider within this study to fully appreciate its scope and limitations;

1. The Naylor & Knott study only looked at the length of pursuit and number of foxes flushed. It acknowledged that the pursuit was only one index that "might" be relevant to the debate.  
*"Although we have been able to provide objective data on the duration of pursuit (and how the increased length of pursuit with pair vs. pack is compounded with increasing size of covert), no firm conclusion can be drawn as to the effect of duration of active pursuit on fox welfare."*
2. The method to quantify the duration of the chase uses the vocalisations made by the hounds. There is no evidence given to show that this is an accurate method.  
*"It seems reasonable to suppose that the time from the start of vocalizing to a fox being flushed from a covert in such a position where it could be shot would closely reflect the duration of active pursuit by dogs."*  
The study acknowledges that on some occasions the dogs may have vocalized when following the scent of a quarry other than the fox and conversely that  
*"in a considerable proportion of instances where foxes were flushed, this occurred without dogs being heard to vocalize"*  
Lastly, the method of using the vocalisations of the hounds to measure the length of pursuit has not been qualified or demonstrated as accurate, Naylor and Knott explain, "we are not aware of any attempt to objectively measure the duration of pursuit of foxes by dogs during hunting activity".
3. The study repeatedly cites the Final report of the Committee of Inquiry into Hunting with Dogs in England and Wales (2000), where it was concluded several statements speaking to the welfare of implications of fox hunting;  
*"in the case of the killing of a fox by hounds above ground, death is not always effected by a single bite to the neck or shoulders"*  
*"There is a lack of firm scientific evidence about the effect on the welfare of a fox of being closely pursued, caught and killed above ground by hounds. We are satisfied, nevertheless, that this experience seriously compromises the welfare of the fox."*  
*"Our tentative conclusion is that lamping using rifles, if carried out properly and in appropriate circumstances, has fewer adverse welfare implications than hunting, including digging-out."*



## **MINISTER FOR RURAL AFFAIRS AND THE ENVIRONMENT**

### **Briefing for Meeting: Scottish Land and Estates**

#### **Lines to take**

- The Naylor & Knott study did show that a pack of dogs was quicker to flush foxes and flushed more foxes than only two hounds.
- However, as the authors acknowledge, the scope of the study is limited and that the pursuit was only one index that "might" be relevant to the debate".
- They also stated that "no firm conclusion can be drawn as to the effect of duration of active pursuit on fox welfare".
- The study repeatedly cites the Final report of the Committee of Inquiry into Hunting with Dogs in England and Wales (2000), which concluded that the experience of a fox of being closely pursued, caught and killed above ground by hounds, seriously compromises the welfare of the fox.
- The inquiry also found that when a fox is killed by the hounds, which is far more likely with a pack than with just two, "death is not always effected by a single bite to the neck or shoulders".