

# Report of the Stakeholder Consultation during the 7th Quinquennial Review of Schedules 5 and 8 of the Wildlife and Countryside Act 1981

Joint Nature Conservation Committee on behalf of Natural England, Natural Resources Wales and NatureScot

May 2022





## Summary

- This document provides a summary of the Joint Nature Conservation Committee (JNCC)-led Stakeholder Consultation on proposed changes to Schedules 5 and 8 of the Wildlife and Countryside Act (1981).
- The consultation ran from 8 November 2021 to 30 January 2022.
- In total, 263 responses were submitted during the consultation process. Of these, 231 responses were submitted via an online consultation, and 32 via email and/or letter.
- There were 56 responses to Questions 1-5 on the Eligibility Criteria, Decision Criteria, Non-detriment Approach, Precautionary Principle and Species Measures.
- There were 207 responses to Question 6 concerning particular species, covering 506 species. Each response could include comments on multiple species, and the total number of individual comments received was 1,296.
- All of the comments and evidence submitted during the consultation, through Citizen Space, email or letter, were considered in discussions regarding the final statutory nature conservation bodies' (SNCBs') recommendations. As a result of the consultation, 17% of draft recommendations were changed.
- The final QQR 7 report and recommendations were submitted to Defra, Scottish Government and Welsh Government on 19 April 2022, for their consideration.

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# 1. Background

Every five years, the GB country nature conservation bodies (Natural England, Natural Resources Wales and NatureScot), working jointly through the UK Joint Nature Conservation Committee (JNCC) – collectively the statutory nature conservation bodies (SNCBs) – review Schedules 5 and 8 of the Wildlife and Countryside Act 1981 (WCA), concerning plant and animal species to be protected from persecution in the wild. This review provides recommendations to the Secretary of State for the Environment, Food and Rural Affairs and to Ministers for the Environment in the Scottish Government and Welsh Government<sup>1</sup> for changes to these schedules. This is known as the Quinquennial Review (QQR). As part of the QQR, stakeholders are provided with the opportunity to submit evidence and views.

<sup>1</sup> the Minister for Green Skills, Circular Economy and Biodiversity in the Scottish Government and the Minister for Climate Change in the Welsh Government.



## 2. Conduct of the Seventh Quinquennial Review

QQR 7 was conducted by the SNCBs in Great Britain. The QQR 7 Stakeholder Consultation process was carried out following the timetable in Table 1. Stakeholders were contacted by email regularly to raise awareness of the timetable and its important dates.

**Table 1.** QQR 7 timetable.

Phase	Time	Description
Planning	Nov 2019 – Mar 2021	Develop and publish Information Pack Identify stakeholders Publish the QQR timetable Develop online survey
Data Gathering	Apr 2021 – Jul 2021	Request information from stakeholders and SNCB specialists Respond to comments
Analysis by the SNCBs	Jul 2021 – Oct 2021	Analyse results from the Data Gathering Phase Prepare first recommendations Develop online consultation
Stakeholder Consultation	Nov 2021 – Jan 2022	First recommendations shared for comment in open Stakeholder Consultation Gather feedback on QQR selection process
Peer review, sign-off, submit to governments	Mar / Apr 2022	Finalise report and deliver to governments



## 3. Stakeholder Consultation and summary of responses

### 3.1 The QQR 7 Stakeholder Consultation

The Stakeholder Consultation was conducted between 8 November 2021 and 30 January 2022. It was conducted via an [online platform](#) and a standalone consultation report.

The consultation comprised two elements: **Part 1** consisted of five questions relating to stakeholders' views on the revised criteria, clearer definitions and the need for further, more widespread species measures. **Part 2** sought agreement, or not, with the recommendations relating to about a thousand species and five species groups (whales, dolphins, porpoises and two families of bats). If respondents did not agree with the recommendation for a particular species or species group, they could provide evidence to explain their response. The SNCBs examined these responses to review the draft species recommendations in QQR 7.

The number of consultation responses to Part 1 was 56 and there were 207 responses to Part 2, for which 1,296 individual comments were received on the species recommendations.

### 3.2 Part 1 Consultation questions and responses

#### 3.2.1 Eligibility Criteria (Question 1)

The Eligibility Criteria identify species eligible for consideration in the QQR. These criteria determine if a species is native to Great Britain, is a recognised species and its level of endangerment (as well as any international obligation we may have for a species). GB IUCN-compliant Red Lists are used as a measure of endangerment in the QQRs; the IUCN threat category criteria are used to interpret the terms 'in danger of extinction' and 'endangered' used in Section 22 of the WCA to indicate the need for species protection. In QQR 7, the SNCBs defined species with a Red List assessment of Critically Endangered or Endangered as being eligible for listing on the Schedules.

There was a wide range of views about the Eligibility Criteria. A majority of respondents raised concerns, in part, reflecting the complexity of the criteria themselves.

Some respondents disagreed with the use of the Red List assessment being made at a GB level due to variations in species status between countries. There were differences in the responses relating to the use of the Red List status of Critically Endangered and Endangered. Some respondents wanted the Vulnerable threat category to be included in the analysis, others suggested that the categories Near Threatened and Least Concern should be included. A few respondents considered that Data Deficient species or expert recommendations should be included. Some commented that if species could be listed as an 'exception' (where there is evidence that a species is not currently assessed as endangered, but may become so if no action is taken), reliance on this approach risks challenge and could undermine the process, even where the needs of the species can be clearly demonstrated.

Some respondents disagreed with the automatic inclusion of Critically Endangered species on the Schedules suggesting that this is inappropriate because the threats to the species being added are unrelated to the WCA, whilst some considered that the listing of Critically Endangered species might impede scientific collection and study.

The GB Red List status was used as the default status if it was available. In the absence of a GB status, the European Red List Critically Endangered status was used. Some comments received suggested that the European Red List status was not an accurate enough representation of the populations that occur within GB.

### 3.2.2 Decision Criteria (Question 2)

The QQR Decision Criteria reflect Sections 9 and 13 of the WCA legislation. Following QQR 6, the criterion regarding a Place of Shelter was defined to provide clarity for the selection of species for addition to the Schedules. In addition, following requests from stakeholders during the 2019 criteria review, a new definition of killing a 'plant' was added to broaden the cover afforded to plants.

There was a wide range of views about the Decision Criteria. The Decision Criteria are restricted by the legislation (Section 9 and 13 of the WCA) and wider species protection measures fall outside the remit of those sections. Nonetheless, a majority of respondents stated that the WCA should be used as a mechanism to protect species from a range of impacts including land use changes, citing that the Decision Criteria were either too narrow, restrictive or unclear to achieve this.

### 3.2.3 Non-detriment Approach (Question 3)

The 'Non-detriment' Approach is used where there is evidence that the status of a species will be negatively affected by removal from the Schedules (as opposed to the Precautionary Principle, which is used when there is no evidence that the status of a species will be negatively affected). The majority of respondents agreed with using the non-detriment test. In the event, the test was not applied as no evidence was submitted that demonstrated this for any species, however, the inclusion of this factor will be useful for future QQRs.

There was support from respondents for this approach, however several reflected that it was unclear what evidence is required, how it would be assessed and how it will be assessed in future reviews.

### 3.2.4. Precautionary Principle (Question 4)

In QQR 7, before a species was considered for removal from the Schedules, evidence was needed to show there would be no deterioration in its status, that benefits received from being on the Schedule are no longer needed, or that the species is no longer threatened. If there was no evidence to show that the conservation of the species would be affected by removal of protection the Precautionary Principle was used, and the species recommended to be retained on the Schedules.

The majority of the respondents agreed with the use of the Precautionary Principle, however many requested clarification of the definition, the type of evidence required for the approach to be applied and the weighting given to different types of evidence. A few respondents stated that keeping well recovering species on the Schedules may negatively affect other species by increasing competition pressures and, therefore, instead the Precautionary Principle should be replaced by an assessment of the impact of retention on the species, however there was no clear evidence submitted to suggest there would be such an impact.

### 3.2.5. More widespread Species Measures (Question 5)

The majority of respondents agreed with the need for a range of measures to reverse biodiversity decline. This suggests a strongly shared consensus that the WCA is only part of the required solution to biodiversity decline in GB. However, comments received suggested that some stakeholders held the reverse view that the WCA is the only legislation offering the protection of species, whilst at the same time biodiversity decline in GB has been well publicised. Together, these two factors may have led to a desire to recommend as many declining species to be listed under the WCA as possible.

Views were mainly that a variety of legislative and management approaches are required to protect species and reverse biodiversity decline, which should go further than the protection delivered by the WCA. These approaches include directly addressing the main threats to species, protecting/conserving threatened species to prevent further extinctions or reductions in range through targeted species recovery action, reintroductions, and capitalising on wider benefits to nature and to people by implementing wildlife habitat management approaches that support a greater resilience and diversity of ecosystems (Nature Positive 2030 (2021)<sup>2</sup>).

## 3.3. Part 2 Consultation question

### 3.3.1. Species recommendations

Using the data received during the Data Gathering Phase, the SNCBs drafted initial recommendations for species and these were presented in the consultation. Respondents were able to select if they agreed or disagreed with each species recommendation.

Total responses (including email responses and responses through Citizen Space)	Agree	Disagree
1,296	900 (69%)	396 (31%)

This question focussed on the draft recommendations for 1,004 species in the Stakeholder Consultation. Following the consultation, all stakeholder responses were incorporated into the existing information for each species and re-examined/analysed. 17% of draft species recommendations were changed based on the new information presented in the consultation phase. Some species received no comments during the consultation and were sent for further review to SNCB species specialists for final checking of the recommendations.

<sup>2</sup> Nature Positive 2030 (2021): <https://jncc.gov.uk/our-role/the-uk/nature-positive-2030/>





## 4. Conclusion

During QQR 7, the GB SNCBs developed a system that: prioritised our most threatened species for listing; had a degree of flexibility to allow the listing of additional species where the nature conservation case, based on scientific evidence, was clearly made; adopted a careful, precautionary approach to retaining species already listed on the Schedules; and applied a “non-detriment” approach to species that may be considered for removal from listing. The GB SNCBs consider that, taken as a whole, this approach could significantly contribute to the level of species protection given overall.



## 5. Next steps

All responses to Part 1 of the Stakeholder Consultation were analysed by the SNCBs and used to inform advice in the final QQR 7 report to the governments. Part 2 responses were examined alongside the data from the datagathering phase and used for the final QQR 7 species recommendations.

The final QQR 7 report and all recommendations were submitted on 19 April 2022 to Defra, Scottish Government and Welsh Government, for their consideration. The report and recommendations will be made publicly available when the Secretary of State lays a copy in each House of Parliament.

**We are JNCC, the only statutory nature advisor to the four governments of the UK. We know nature and believe that a thriving natural world is crucial for people and planet.**

**We are an inclusive organisation. We collaborate, innovate, and evaluate, providing robust evidence and advice to help policy makers turn science into action.**

**We work across land and sea with partners in the UK, the UK Overseas Territories and around the world. For over 30 years our trusted expertise, dedication and skills have strengthened nature conservation and we are working in collaboration to drive nature recovery.**

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