

Wild Animal Welfare Committee

**Home Office Advice Note: Animals (Scientific Procedures) Act 1986
Work with Wild Animals DRAFT v 3 November 2014**

Response from the Wild Animal Welfare Committee

April 2015

1. Introduction

1.1 The Wild Animal Welfare Committee (WAWC) is an independent group providing an evidence base for evaluating, monitoring, assessing and improving decisions affecting the welfare of free-living wild animals in the UK.

1.2 The WAWC highlights the importance and value of wild animals in general, and promotes the welfare of the individual in particular, aiming to reduce harm to wild animals and prevent suffering caused by human activity.

1.3 The WAWC is pleased to have the opportunity to comment on the Home Office Advice Note on Work with Wild Animals as regulated by the Animals (Scientific Procedures) Act 1986.

1.4 The WAWC is a new Committee and is considering its work programme for the next one to two years. Dependent on resources, the WAWC might be able to provide further facilities such as a central collation point for information regarding best practice about working with wild animals in scientific procedures, and related issues.

2. General

2.1 The WAWC welcomes the Advice Note which we are sure will be very useful and recognises the considerable amount of work that has already gone in to this document. We note that there is reference to some important sections yet to be completed (and these would seem to require a very substantial amount of work).

2.2 There are multiple references to “best practice” but it is not always clear who the repository of this best practice is. This could be from agencies (such as English Nature / Scottish Natural Heritage / Countryside Council for Wales / etc), species specialist individuals or groups with specific interest. There is clearly a need to have a central collation point for such information or to generate advice where it does not exist.

2.3 Given the ever-increasing knowledge of individual wild animals’ requirements, options for capture, transport and housing will continue to be refined and improved. It is thus important that the guidance notes remain a contemporary point of best practice which may be best achieved through appropriate reference throughout to externally accredited sources

2.4 Only English legislation seems to be listed throughout. In addition to the Animal Welfare Act 2006 (AWA), the Animal Health and Welfare (Scotland) Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011 are relevant. Significant changes have been made to the Wildlife and Countryside Act 1981(WCA) in Scotland in recent years, while Part 6 of the Marine (Scotland) Act 2010 has replaced the Conservation of Seals Act 1970. Referencing only English legislation throughout the document could result in some important omissions.

3. Detailed comments

3.1 We would make the following more specific points:

Section 1.1

3.2 In relation to identification, we feel that guidance is needed as to how to assess the extent and duration of pain and distress – including mental distress – caused by procedures and thus whether they should be regulated.

3.3 In defining “momentary” there is a problem. Many would view a minute as too long (if the word “momentary” is kept in the document). Otherwise it may need to change to “short”. A suggestion is that “moment” be 10 seconds or less in terms of pain.

Section 2.4

3.4 Further enquiries that might be made could include the place or country of origin and being satisfied that the due diligence referred to in the previous sentence (scanning for microchips etc) has been carried out. It is worth reiterating the point that if the animals appear to be strays they may not be used in regulated procedures.

3.5 The provenance of any wild-caught animals supplied for scientific use under ASPA should be recorded by the Establishment and records kept for 5 years.

Section 3.2

3.6 Capture can often be the most stressful part of any procedure, so consideration should be given to whether this could/should be regulated and taken into the harm-benefit calculation. This may be considered to create an uneven playing field in relation to conservation activities (e.g. mammal survey work) and would need further discussion. Also there needs to be a mechanism to ensure best practice (including estimations of post-capture losses) through wide dissemination of current techniques. (This includes the selective capture of only target species).

3.7 In line with the general point above, guidance is needed as to what constitutes “avoidable” pain, suffering, distress or lasting harm including clarification that it includes mental suffering. The definition of a regulated procedure at s. 2 of ASPA does not refer to “avoidable” pain, suffering, distress or lasting harm although Schedule 2C does provide a licence condition on this matter. However, as highlighted in the document, it is not clear that capture will necessarily be a regulated procedure and thus affected by the condition.

3.8 In terms of best practice, therefore, would it not be better to make the advice consistent with the discussion of restraint at s.3.7 and identification under s.1 and s.6 and refer instead to “momentary” pain, suffering, distress or lasting harm? This would reduce dependence on the word

“avoidable” which is open to very wide interpretation (including the option of not conducting the study).

3.9 We have commented on the definition of “momentary” above.

3.10 One implication of considering capture as a regulated procedure would be that the harm-benefit assessment would have to be undertaken – it might still be thought that brief capture is considered justifiable as other methods would cause more harm. By including it in this way the “complete” experience of the animal is evaluated.

3.11 If an animal is captured by a means not considered as a regulated procedure is it still covered by the ASPA? If so, how? We would appreciate greater clarity as to when the ASPA applies or the AWA (or, presumably, AHW(S)A or WAA(NI)) exemption applies, to avoid creating a hiatus in legal protection for animals. Regarding the implications of making capture a regulated procedure - would the AWA and other animal welfare acts apply if it is not a regulated procedure?

3.12 In relation to the sentence about not causing avoidable pain, suffering, distress or lasting harm, identifying the particular mechanisms of capture could give the impression that these are accepted methods. That would be inconsistent with s.3.3 on trapping methods where some of these e.g. snares are considered unacceptable.

3.13 If capture is not a regulated procedure under ASPA, we think there would be an advantage in regulation. That would make it possible to exclude some capture methods. Again, there should be some best practice guidance here rather than simply referring to the WCA.

3.14 Note also that some procedures may also be regulated under ASPA if they are part of a series or combination of non-regulated procedures which together may cause the animal pain, suffering, distress or lasting harm. There should be discussions as to whether capture prior to a further procedure comes under that heading.

3.15 The highlighted sentence is a little confusing as the consequences of release and non-release are addressed together. We agree that the AWA and the other animal welfare acts would normally cover the release of injured or diseased animals since these actions could be an offence of abandonment likely to cause unnecessary suffering. We also agree with the reference to dependent young but of course those risks also apply to animals that are selected and retained for procedures, and not only to those that are rejected. This is the sort of issue that could benefit from some general welfare advice e.g. a recommendation not to trap in breeding season unless unavoidable/scientifically justified.

3.16 The highlighted section also needs further clarification / expansion in relation to the threshold for euthanasia, including who is to determine this and make judgments about fitness? If euthanasia is to be practised, who is to do this and by what method? This all needs more clarity.

Section 3.3

3.17 It is important to note that these methods raise significant welfare concerns and some, such as leg hold traps, would normally be illegal. Indeed the sentence which included “...normally be considered...” implies that under some circumstances there could be acceptable harm: what would these circumstances be?

3.18 Advice should also include avoidance of setting traps if poor weather is forecast as this may expose trapped animals to extreme conditions and prevent regular inspection. There is precedent for this in the English general licences to take wild birds: “Cage traps should not be used during severe hot or cold weather conditions, or when such conditions are reasonably anticipated.”

Section 3.4

3.19 We think that the guidance should recommend twice daily checking of traps in the text rather than the footnote.

Section 3.7

3.20 We have commented on “momentary” earlier and would not agree that “momentary” could be extended as far as “a few minutes”. This would be going beyond the conventional meaning of the word (we are not aware of a generally accepted legal definition). In any case, mental distress is unlikely to be momentary.

Section 4.1

3.21 We suggest inserting a sentence about transport between paragraphs two and three. ASPA Schedule 2C creates a licence condition of ensuring that conditions of transport are appropriate to an animal’s health and wellbeing. There could there be a reference here to - for example - the CITES guidelines on transport of wild animals as a starting point.

Section 4.3

3.22 The clarification as to what can be directed or supervised by the vet needs to be made with reference to the Royal College of Veterinary Surgeons (RCVS). The Advice Note needs to make clear whether the identified activities are things that can be delegated under the Veterinary Surgeons Act 1966 (VSA). The RCVS has interpreted these terms as follows:

- a) “direction” means that the veterinary surgeon instructs the student as to the tests or treatment to be administered but is not necessarily present.
- b) “supervision” means that the veterinary surgeon is present on the premises and able to respond to a request for assistance if needed.

Section 5.1

3.23 Moving an animal from a Place Other than a Licensed Establishment (POLE) to an establishment could increase the duration of captivity and increase stress due to transport.

Section 6.1

3.24 The Mutilations (Permitted Procedures) (England) Regulations 2007 and the Scottish and Welsh equivalents in relation to mutilations are generally limited to farmed livestock and some specified non-farmed species and the main methods of marking allowed are microchipping and tattooing. The Regulations may not be particularly relevant in this context and we suggest omitting this second short paragraph.

3.25 NB Some coloured / marked collars are used solely for identification.

3.26 As noted above, an assessment of the extent and duration of pain, distress and harm associated with different methods of identification would be an essential part of the harm-benefit analysis via the Animal Welfare and Ethical Review Body (AWERB).

Section 6.3

3.27 It would be useful to have a central repository for all information about methods / problems / success rates for all such information rather than held locally at AWERB level. If only held at AWERB level any pitfalls encountered would, for example, not be accessible to the wider community.

3.28 This section lists considerations that should be taken into account, but by whom? The licence applicant, the AWERB or the Home Office assessor – the document is aimed at all of these. Can the section include an indication of when any of these potential harms would either require licensing or mean that the methods would not normally be permitted?

Section 6.4

3.29 Some adult animals (males especially) have significantly increased body mass at breeding time and this needs to be accommodated. However, if collars are too loose, legs can get entangled as the animal scratches its neck.

3.30 This section also refers to established “guidelines” but where are they to be found?

3.31 In the third paragraph, the sentence in the middle - “The weight of pregnant...” - is unclear.

3.32 Again, the information alluded to in the final paragraph needs to be made available centrally.

Section 7.6

3.33 The comma after “specified” in the second paragraph makes the meaning confusing. What is this sentence really saying about non Schedule 1 methods?

3.34 The methods alluded to in the final paragraph should be set out in advance in the protocol.

Section 8

3.35 There should perhaps be more clarity about assessing / recording competence.

Section 8.2

3.36 When multiple Named Animal Care and Welfare Officers (NACWO) service a PEL it should be recorded which officer is dedicated to, and has the relevant experience for, advising on work at the POLE.

Section 8.5

3.37 Through feeding or medical treatment, a wild animal may become more fit prior to release. This could have population consequences which need to be taken into account when small genetic pools exist.

Appendix 3

3.38 A comment here asks whether information about the documented adverse effects of tagging is required. The WAWC would suggest that such information is highly relevant and should be made easily accessible to the users of the Advice Note. At this stage we are unable to offer a comprehensive resource but as an example we would point to material concerning the tagging of marine mammals, including:

- Walker et al, A review of the effects of different marking and tagging techniques on marine mammals *Wildlife Research*, 2012, **39**, 15–30 <http://dx.doi.org/10.1071/WR10177>

- Field et al, Refining instrument attachment on phocid seals *Marine Mammal Science*, 28(3): E325–E332 (July 2012).

Appendix 4

3.39 Paragraph A4.5 - The comment regarding the requirement to treat animals needs to be clarified.

3.40 Finally, while we appreciate that this is a draft document, we would suggest that numbering pages and paragraphs would make it easier to respond to future consultations.

4. Further information

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