



PERSECUTION

A review of bird of prey persecution in **Scotland 2007**



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**A review of the illegal killing
of birds of prey in Scotland
in 2007**

Contents

1	Introduction	2
2	Incidents during 2007	3
3	Poisoning incidents in Scotland in 2007	3
	Table 1: confirmed deliberate poisoning incidents during 2007	5
	Figure 1: confirmed poisoning incidents between 1987–2007	7
	Table 2: number of confirmed victims of deliberate poisoning between 1998–2007 (includes data from previous RSPB <i>Persecution</i> reports from 1998–2006)	7
4	Direct persecution other than poisoning	8
	Table 3: confirmed incidents of bird of prey persecution in Scotland during 2007	8
	Table 4: probable incidents of persecution in Scotland during 2007	9
5	Summary	10
6	The effects of illegal killing	11
	Golden eagle	11
	Hen harrier	12
	Buzzard	13
	Peregrine	13
	Red kite	13
7	Legislation and prosecution	14
	Prosecutions	15
8	Recommendations	16
9	Acknowledgements	18
10	Appendices and maps	19
	Map 1 – Poisoning and confirmed, probable and possible persecution in Scotland 2007	20
	Map 2 – Poisoning and confirmed, probable and possible persecution in Scotland 1997 to 2006	21
	Map 3 – Poisoning 1987 to 2006	22
	References	23

1 Introduction

On 9 August 2007, an adult female golden eagle from the only breeding pair in the Borders was found dead. Tests by the Scottish Agricultural Science Agency showed that the bird had been poisoned, having eaten bait laced with Carbofuran, a chemical banned from use since December 2001. This discovery led to widespread outrage among conservationists, the wider public and notably among Members of the Scottish Parliament. Shortly afterwards, Environment Minister Michael Russell MSP announced a Thematic Review, to be carried out by HM Inspector of Constabulary and HM Chief Inspector of Prosecutions, into the prevention, investigation and prosecution of wildlife crime.

We welcome the recommendations of the Thematic Review and look forward to their implementation. The deliberate and illegal killing of Scotland's birds of prey has been a prominent issue for many decades. This matter is of serious conservation concern as it undermines the populations of some of our most vulnerable bird species. It also discredits the international reputation of Scotland as a place that safeguards its natural heritage. The practice of eliminating all the possible predators of game on shooting estates was a routine procedure in the 19th and early 20th centuries, with little or no regard for the conservation status of the targeted birds and animals. This resulted in national and regional extinctions of a number of predatory birds and animals.

Many of these extirpated species, such as the buzzard or red kite, have made significant recoveries in recent years either through natural re-colonisation or through re-introduction by humans. This has followed a reduction in killing sufficient enough to allow these recoveries, as legislation to protect these species has been strengthened and attitudes towards predators have become more enlightened.

This generally positive trend has not been universal. The poor conservation status of some species of birds of prey (for example, golden eagles and hen harriers) remains of concern. It is clear that in some regions of Scotland, particularly in the uplands, 19th century attitudes and practices are still firmly entrenched amongst some of Scotland's 21st century land managers.

This is RSPB Scotland's 14th annual review of bird of prey persecution; it describes the extent of the known criminal destruction of birds of prey in Scotland during 2007. By their very nature, these offences are some of the most difficult to record, quantify and detect. This situation is recognised in the Thematic Review report. Much bird of prey killing takes place in remote areas on private ground, in circumstances where direct witnesses are few and far between. Material evidence can be easily concealed or destroyed by the

perpetrators and much of it must never come to light. Thus, the number of crimes outlined in this report must be regarded as a minimum figure.

2 Incidents during 2007

Incidents are classified as follows:

- “confirmed” cases – incidents where definite illegal acts were disclosed; that is the substantive evidence included birds or baits confirmed by the Scottish Agricultural Science Agency (SASA) as containing illegal poisons; an offence seen/found by a witness and/or confirmed by post-mortem, illegally-set traps etc
- “probable” cases – those where the available evidence points to persecution as by far the most likely explanation but where the proof of an offence is not categorical
- “possible” cases – where persecution is a possible explanation but where another explanation would also fit the known facts.

As with all preceding years’ reports, threats to raptors are quantified under two main headings:

- the use of poisons or poison baits
- direct persecution, i.e. nest destruction, shooting and trapping.

3 Poisoning incidents in Scotland in 2007

Poisoning may be considered to constitute the greatest actual or potential threat of all forms of persecution as it is totally indiscriminate. In contrast to shooting and to much trapping activity, which requires a sustained effort by the criminal concerned to produce a limited return, poisoning can have a substantial impact with only minimal effort. Poison baits continue to be lethal over a period of days or weeks and can kill multiple victims without further effort by the poisoner. Any poison bait used in the open within habitat used by birds of prey has the potential to kill those birds. This is true regardless of the intentions of the poisoner.

In this report, we document actual cases of poisoned raptors, incidents where only poison bait was found and the victim (if any) was not identified, and incidents where the victim was not a bird of prey but the location and circumstances put birds of prey at risk.

A total of 69 allegations or reports of poisoning activity in 2007 were received by RSPB Scotland (during 1999–2006 the average was 59). All but one reports came from identifiable individuals.

Of these, 37 were confirmed as pesticide abuse killing or threatening raptors (during 1999–2006 the average was 27) and one case involved the possession of pesticides suspected to be for an illegal purpose. Following 2006 being the worst year for bird of prey poisoning in Scotland for at least 25 years, the continued high number recorded in

2007 re-iterates how widespread this indiscriminate practice continues to be. Confirmed abuse incidents are summarised in Table 1.



The remains of a poisoned red kite, found in Perthshire in June 2007

Table 1: confirmed deliberate poisoning incidents during 2007

Month	Poison	Victim	Bait	Location	Area
Jan	Carbofuran	raven buzzard		Galashiels	Borders
Jan	Carbofuran	red kite		Glenshee	Perthshire
Feb	Carbofuran	cat	meat		Highland
Mar	Mevinphos		hare	Whitebridge	Inverness-shire
Mar	Carbofuran	carrion crow (2) buzzard magpie	rabbit hare (13)	Greenlaw	Borders
Mar	Carbofuran	buzzard		Leadhills	South Lanarkshire
Apr	Carbofuran	cat (2)		Ayr	South Ayrshire
Apr	Carbofuran	buzzard (3)	hare (5) rabbit (5)	Greenlaw	Borders
Apr	Carbofuran	buzzard		Greenlaw	Borders
Apr	Aldicarb	dog	rabbit	Gorebridge	Midlothian
Apr	Carbofuran	buzzard		Greenlaw	Borders
Apr	Carbofuran	red kite		Wanlockhead	South Lanarkshire
Apr	Carbofuran	red kite			Nairn
May	Carbofuran	peregrine		Ayr	South Ayrshire
May	Carbofuran		pigeon	Ayr	South Ayrshire
May	Carbofuran		rabbit hare	Greenlaw	Borders
May	Carbofuran	red kite		Aberarder	Inverness-shire
May	Carbofuran	buzzard		Elvanfoot	South Lanarkshire
May	Carbofuran	peregrine (2)	pigeon	Pitcaple	Aberdeenshire
May	Carbofuran	red kite		Tomintoul	Moray
May	Malathion	peregrine	pigeon	Carron Valley	Stirlingshire
Jun	Carbofuran	buzzard	rabbit (3) hare (2)	Grantown-on-Spey	Inverness-shire
Jun	Carbofuran	buzzard	rabbit	Grantown-on-Spey	Inverness-shire
Jun	Carbofuran	red kite		Logiealmond	Perthshire
Jul	Carbofuran	raven		Ballater	Aberdeenshire
Aug	Alphachloralose		[possession]	Southernness	Dumfries & Galloway
Aug	Carbofuran/Isofenphos	red kite		Crieff	Perthshire
Aug	Carbofuran	golden eagle		Peebles	Borders
Aug	Chlorpyrifos	red kite		Doune	Stirlingshire
Sep	Carbofuran	buzzard			Borders
Sep	Carbofuran	buzzard		Greenlaw	Borders
Sep	Carbofuran/Isofenphos	red kite		Crieff	Perthshire
Oct	Carbofuran/Isofenphos	red kite		Crieff	Perthshire
Oct	Chlorpyrifos	red kite		Doune	Stirlingshire

Month	Poison	Victim	Bait	Location	Area
Nov	Methaldehyde		bread	Pollok	Glasgow
Dec	Alphachloralose	buzzard		Grantown-on-Spey	Inverness-shire
Dec	Carbofuran	red kite		Castle Douglas	Dumfries & Galloway
Dec	Carbofuran	buzzard	rabbit	Grantown-on-Spey	Inverness-shire

As has been the norm in recent years, Carbofuran has continued to dominate as the “poison of choice” in the vast majority of incidents recorded, despite the fact that this substance was withdrawn from approval as a legitimate agricultural pesticide in December 2001. Unfortunately, there seems to be little evidence suggesting a decline in the use of this chemical. Indeed, it featured in 30 of the 37 (81.1%) incidents confirmed in 2007, compared to 78.5% of the total of 161 incidents confirmed from 2002–2006. Since 1988, when the first case was made known to RSPB Scotland of carbofuran illegally used as a poison for killing wildlife, its abuse has become widespread, and since 1997, it has been the most widely abused pesticide for killing wildlife.

This position was formerly held by alphachloralose; this chemical is only available to the public at low concentrations in rodenticide products, approved only for killing mice. Products containing alphachloralose at higher concentrations (including for control of birds such as feral pigeons) can only be bought, held and used by pest controllers under licence. However, it has continued to feature in a small number of incidents each year.

The monthly distribution of confirmed poisoning incidents in 2007 was similar to that noted in previous years, with a major peak in the spring and a smaller secondary peak in the autumn.

As shown in Figure 1 overleaf, in four out of the last five years, at least 35 confirmed incidents of poison abuse have occurred.

Figure 1: confirmed poisoning incidents between 1987–2007

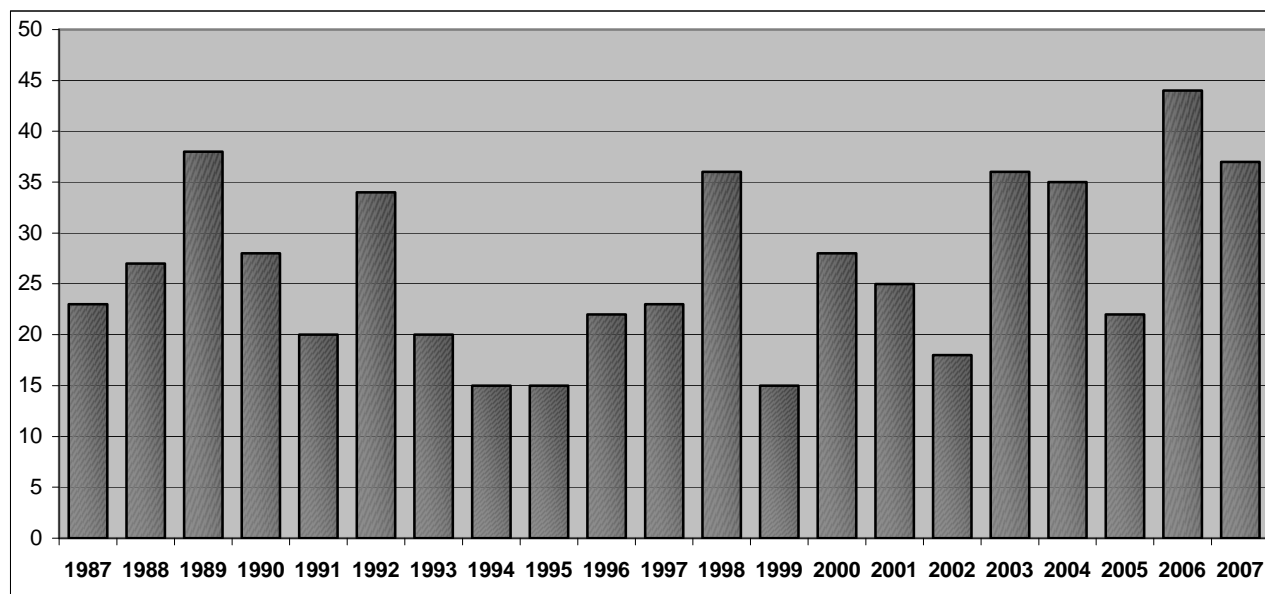


Table 2 documents the number of confirmed victims of poison abuse recorded since 1998. Whilst widespread species such as buzzards and corvids (included under other bird species) are, predictably, the most numerous victims, it is undoubtedly the number of scarce species, of international conservation concern, such as red kite, golden eagle and white-tailed eagle that provide the most shocking testament to the indiscriminate nature of this criminal practice. As many of these birds were discovered in remote areas by accident, one can appreciate that the figures are indicative of a much bigger problem.

Table 2: number of confirmed victims of poison abuse between 1998–2007 (includes data from previous RSPB *Persecution* reports from 1998–2006)

Year	Species								Total
	Red kite	Golden eagle	White-tailed eagle	Buzzard	Peregrine	Raven	Other bird species	Animals	
1998	4	2		23	2		3	9	43
1999	1	2		7		2		1	13
2000	4	3		23			15	1	46
2001	10	1		9			9	2	31
2002	1	2	2	7	2		28		42
2003	10		1	23	3	4	33	1	75
2004	3			40	3		5	3	54
2005	2	1		14		2	3		22
2006	5	2		26	1	6	4	1	45
2007	12	1		15	4	2	3	4	41
Total	52	14	3	187	15	16	103	22	412

4 Direct persecution other than poisoning

Direct persecution typically involves one of the following methods:

- nest destruction – removal or killing of eggs or young and/or physical removal of nest
- shooting
- use of uncovered spring traps – on poles or on the ground, with or without bait
- use of cage traps – with either live or dead bait.

Seventy-eight reports were received by RSPB Scotland in 2007 in which persecution of this type was alleged (between 1999–2006 the average was 81). Three allegations came from anonymous sources; the remainder were from identifiable individuals.

Of these, 17 were “confirmed” (as defined previously) and 30 were classed as “probable” cases of persecution. The confirmed incidents are detailed in Table 3, with a summary of probable incidents in Table 4.

In the remaining 31 cases there was either insufficient evidence to either substantiate or disprove the original report, or there was clear evidence that the allegation was not correct or malicious.

Table 3: confirmed incidents of bird of prey persecution in Scotland during 2007

Month	Method	Victim	Location	Area
Mar	Shot	buzzard (2)	Howgate	Midlothian
Mar	Unknown	goshawk	Jedburgh	Borders
Mar	Shot	peregrine	Kinghorn	Fife
Apr	Nest destroyed – eggs removed	golden eagle	Lewis	Western Isles
Apr	Crow cage trap – not checked for >24hrs	buzzard	Ellon	Aberdeenshire
Apr	Shot	hen harrier	Wanlockhead	Dumfries & Galloway
May	Shot	short-eared owl	Wanlockhead	Dumfries & Galloway
May	Set spring-trap in illegal circumstances		Grantown-on-Spey	Inverness-shire
Aug	Unset hawk trap		Westruther	Borders
Aug	Dead in crow cage trap	kestrel	Kirriemuir	Angus
Aug	Shot	buzzard (2)	Turriff	Aberdeenshire
Sep	Shot	buzzard	Newtonmore	Inverness-shire
Sep	Shot	buzzard	Grantown-on-Spey	Inverness-shire
Sep	Caught in spring-trap	barn owl	Alford	Aberdeenshire
Nov	Shot	buzzard	Dunecht	Aberdeenshire
Nov	Shot	buzzard	Minishant	South Ayrshire
Dec	Shot	buzzard	Elgin	Moray



Hen harrier chicks, Strathclyde, June 2007

Table 4: probable incidents of persecution in Scotland during 2007

Month	Circumstances	Victim	Location	Area
Mar–Apr	Evidence of recent shooting near deserted, but previously occupied, nest site	peregrine	Sanquhar	Dumfries & Galloway
Mar–May	Nest failed; adult and chicks disappeared	peregrine	Glenshee	Perthshire
Mar–May	Nest failed; adult and chicks disappeared – vehicle seen below crag on 2 occasions	golden eagle	Glenshee	Perthshire
Apr	Set spring trap found where it had probably fallen off an adjacent post		Grantown-on-Spey	Inverness-shire
Apr	Eggs disappeared (repeat of previous years)	peregrine	Tweedsmuir	Borders
Apr–May	Adult female disappeared during incubation period	peregrine	Thornhill	Dumfries & Galloway
Apr–May	Eggs and re-laid second clutch removed from nest	peregrine	Dolphinton	South Lanarkshire
May	Fully lined nest found empty; adult female from pair disappeared – same as previous 2 years	hen harrier	Douglas	South Lanarkshire
May	Eggs disappeared from nest – no signs of predation	hen harrier	Douglas	South Lanarkshire
May	Found dead in crow cage trap	merlin	Heriot	Borders
May	Pole trapping site found		Grantown-on-Spey	Inverness-shire
May	Feathers found inside, outside and 20 m from crow trap	buzzard	Brechin	Angus
May–Jun	Eggs and adult female disappeared	hen harrier	Darvel	East Ayrshire

Month	Circumstances	Victim	Location	Area
May-Jul	Both adults disappeared	hen harrier	Muirkirk	East Ayrshire
Jun	Eggs disappeared from nest – no signs of predation	hen harrier	Muirkirk	East Ayrshire
Jun	Nest failed for fifth successive year	hen harrier	Crawford	South Lanarkshire
Jun	Eggs disappeared from nest – no signs of predation	peregrine	Crawford	South Lanarkshire
Jun-Jul	Eggs and adult female disappeared	hen harrier	Darvel	East Ayrshire
Jul	Injured bird with apparent shot wound found	buzzard	Strathdearn	Inverness-shire
Jul	Large chicks disappeared from nest – no signs of predation	hen harrier	Muirkirk	East Ayrshire
Oct	Bird with injured wing, consistent with shooting, found	tawny owl	Dyce	Aberdeenshire

5 Summary

Overall, the known level of continuing persecution is still very much a cause for concern. Raptors' ecological characteristics make them particularly vulnerable to any additional mortality caused by deliberate killing. Raptors tend to be long-lived, breed slowly and produce few young. In respect of the hen harrier, a species specially protected under UK and EU legislation, the situation remains critical to the extent that its population and range is held far below its natural level in Scotland and elsewhere in the UK. Poisoning is a serious threat to the success of the red kite and white-tailed eagle re-introduction programmes (Morton *et al*, 1998) and may pose a long-term threat to the stability of the golden eagle population (Whitfield *et al*, 2007).

It is apparent that the number and nature of the incidents discovered vary substantially from year to year. The nature of the reports received and the choice nature of most of them means that making a statistically rigorous assessment of the trends is very difficult. Nevertheless, it is our view that:

- raptor persecution has been in generally long-term decline, particularly in the lowlands and North and West Highlands
- this decline is slowing or may have ceased
- for some species and in some habitats there is – in contrast – no evidence of a decline in persecution
- illegal killing continues at wholly unacceptable levels and is still a significant threat to some scarce species and some populations of other protected species.

The number of incidents detected will be a very small proportion of the total. The true level of illegal killing of raptors is very difficult to measure due to the nature of the terrain in which these offences take place and the secrecy surrounding such criminal activities. However, 2007 was the worst year we have recorded for the poisoning of red

kites in Scotland, and there are substantial areas of suitable habitat unoccupied by breeding birds of prey as a direct result of continued persecution. The level of confirmed cases of illegal poisoning recorded over the last five years suggests that these offences continue to be widespread. As in previous years, the distribution of 2007 incidents, as shown by the maps in the Appendices, enforces the fact that incidents are not evenly or randomly spread throughout the country, but are largely concentrated in the upland areas of the east and south, co-incident with the distribution of game shooting interests, particularly driven grouse moors. Indeed, a geographical analysis of the distribution of poisoning incidents has shown that the illegal use of poison baits to control predators is disproportionately associated with grouse moors in Scotland (Whitfield *et al*, 2003).

6 The effects of illegal killing

Golden eagle

The shocking news that a golden eagle had been found poisoned in the Scottish Borders stunned everyone involved in the conservation of wildlife in Scotland and the rest of the UK.



Lothian & Borders Police Wildlife Crime Officer Mark Rafferty with the body of the golden eagle poisoned in Peebleshire in August 2007

The case is a particularly tragic one as the dead bird was the female of the only breeding pair of golden eagles found in the Scottish Borders, the pair having nested successfully unmolested for many years. In fact, at the time, the pair was rearing a chick, and thankfully the young bird was semi-independent but being fed by both parents. There were significant concerns for the chick's welfare so a food supply was organized to ensure the young bird continued to thrive.

This incident is reflective of the more general findings by Whitfield *et al.* (2007). Their study found strong evidence that in regions associated with grouse shooting, persecution was influential in the distribution of this iconic species. Areas with persecution were associated with a higher number of vacant territories. In contrast, where persecution had declined, at sites away from grouse moor areas, occupancy had tended to increase. Examining changes in territorial occupancy, they found no strong evidence for the influence of any constraints other than persecution.

In the central and eastern highlands of Scotland where grouse moor management predominates, the golden eagle population continues to decline such that increasingly large areas of suitable habitat are unoccupied by breeding pairs. In the case of the Scottish Borders eagle pair, one can only speculate as to the fate of the young birds produced by the successful breeding pair over the last ten years, but suffice to say that despite good productivity, further occupation of suitable territories has not occurred.

Hen harrier

Previous research into the hen harrier (Bibby and Etheridge, 1993; Etheridge *et al.*, 1997) indicates that this bird is heavily persecuted on managed grouse moors with productivity significantly lower in these areas compared with breeding attempts elsewhere in the uplands.

Whitfield *et al.*, 2008, found good evidence that hen harrier persecution was due to grouse moor interests. Human interference was an important cause of breeding failures and was only recorded on land with an employed gamekeeper. Gamekeepers were implicated or confirmed as responsible for breeding failure due to interference. The study also highlighted that when human interference is prevalent and when the frequency of observer monitoring of harrier breeding attempts is low, then simple records of the number of observed failures (even if these could all be accurately ascribed to interference) will underestimate the actual number of failures due to interference.

In 2007, a significant number of hen harrier breeding attempts, particularly in south-eastern Strathclyde, failed suspiciously, with human interference strongly suspected. This evidence was uncovered through rigorous monitoring of the area by members of the local Raptor Study Groups and RSPB Scotland staff. Of particular concern is the fact that many of these failures occurred within the Muirkirk and North Lowther Uplands Special Protection Area (SPA), notified

by the Scottish Government due to its importance for breeding hen harriers on a UK and EU scale.

Regardless of the number of recent confirmed records of persecution, the empirical evidence still shows the species to be continually absent from or declining in large areas of apparently suitable grouse moor habitat, including sites where it was well established in the recent past, for example in north and east Scotland (Summers *et al*, 2003)

Buzzard

This species continues its welcome return to much of lowland eastern and southern Scotland, despite this being an area that is still marred by human persecution in some places. Fourteen buzzards were confirmed poisoned in 2007 (25 in 2006) and a further nine were found shot. They remain the most widely killed species of raptor.

The evidence that buzzard populations seem increasingly resilient to the effects of this illegal killing is one of the strongest empirical indicators of some overall long-term decline in general levels of raptor persecution, particularly poisoning, although on a local level, problem areas still persist. There remain parts of the uplands where buzzards should be present, but are noticeably absent.

Peregrine

Scottish Raptor Study Group data consistently identify poorer breeding performance by peregrines on managed grouse moors than on other upland land-use areas. In a situation similar to that of the hen harrier, several breeding attempts in 2007 failed suspiciously, often with a concurrent disappearance of adult birds; in several cases, this was a repeat of several previous years' incidents. Hardey *et al* (2003) showed a consistently higher percentage of nest failure in areas managed for grouse shooting than those outwith these areas.

Red kite

This species became extinct because of sustained persecution in Scotland throughout the late 19th century (Holloway, 1996); the red kite is currently being re-introduced in joint projects run by Scottish Natural Heritage and RSPB Scotland, with significant and welcome support from local landowners and communities. This work has been predominantly successful. However, the most substantial threat to this success comes from the poisoning and killing of the re-introduced birds, particularly in the north of Scotland. The red kites' feeding behaviour makes them extremely vulnerable to poison baits.

Since the re-introduction of this species began in Scotland in 1989, a total of 58 birds have been confirmed as the victims of deliberate poisoning. As mentioned earlier, 2007 was the worst year for deliberate poisoning of red kites in Scotland since the re-introduction schemes began in 1989, with no less than 12 casualties. Ten of these birds were found on sporting estates. Analysis to measure the effect of poisoning on long-term population change will be completed in 2008.

7 Legislation and prosecution

Following the killing of the golden eagle in the Borders, politicians from all political parties along with landowners and countryside organisations joined in the condemnation of the continued killing of one of Scotland's most iconic species. A debate in the Scottish Parliament about wildlife crime was held on 4 October. RSPB Scotland prepared a briefing paper prior to the debate and commented that the Scottish Government could be asked to:

- ensure the appointment of at least one full-time Wildlife Crime Officer in each Scottish police force
- clarify contentious issues, including the availability of penalties and the admissibility of evidence
- review the penalties currently available to the courts and ensure all wildlife crime is centrally recorded
- take steps to ensure consistent application of rules on admissibility of evidence and application of access legislation, in order to ensure the public benefits of prosecuting wildlife crime.

The Parliamentary motion said:

"That the Parliament notes the collaborative work being undertaken by a variety of agencies to fight wildlife crime and commends the enthusiasm and commitment of those involved in that fight; regrets that, despite these efforts and some highly successful prosecutions, 2006 was the worst year ever for recorded wildlife poisoning incidents and figures so far for 2007 show no improvement; condemns those responsible for such acts which destroy vital parts of our natural and national heritage while damaging our international reputation, and welcomes the thematic inspection of arrangements for the prevention, investigation and prosecution of wildlife crime which will be undertaken by HM Chief Inspector of Constabulary in association with HM Chief Inspector of Prosecutions in Scotland which will make recommendations by 31 March 2008." —[Michael Russell MSP, Environment Minister.]

An amendment added "and urges Ministers to ensure that each Scottish police force appoint at least one full time police wildlife crime co-ordinator; wildlife crime cases are prosecuted wherever possible by fiscals with specialist training; and guidance is produced which pulls together all legislation relevant to wildlife crime for use by landowners, managers and their staff, and further urges that Ministers monitor the effectiveness of such guidance and report back to Parliament."

Both motions were passed unanimously and RSPB Scotland was pleased that so many important points were raised in the chamber and looked forward to contributing to the Thematic Review. RSPB Scotland congratulated the Partnership Against Wildlife Crime Scotland (PAWS) partners in ensuring wildlife crime remained at the top of the political agenda.

The Thematic Review panel commenced work during winter 2007/8. The panel used a mixture of direct interviews and questionnaires along with meetings with all Scottish forces and officials in each Crown Office Procurator Fiscal Service (COPFS) area. The panel also attended various partnership meetings and seminars. In addition, all wildlife crime cases reported to COPFS from the beginning of 2006 until November 2007 were obtained and all aspects of the prosecution examined.

'Natural Justice: A joint thematic inspection of the arrangements in Scotland for preventing, investigating and prosecuting wildlife crime' (<http://www.scotland.gov.uk/Resource/Doc/218661/0058716.pdf>) was published on 8 April 2008. The report highlighted the need for a clear wildlife crime reduction strategy from the Scottish Government and for an inclusive national partnership structure to take this forward.

The recommendations included:

- that ACPOS develops and implements a minimum standard of investigation to ensure that wildlife crime is thoroughly investigated throughout Scotland and the skills of supporting agencies are appropriately used
- that each police force in Scotland designates a lead senior officer to take oversight of wildlife crime issues and progress them locally
- that each police force in Scotland has a full-time wildlife crime co-ordinator to act as a focal point for investigations and partnership working
- that there is full implementation of the stated specialist wildlife prosecutor role within the Crown Office and Procurator Fiscal Service.

RSPB Scotland welcomed the report and the 24 main recommendations. It is hoped that the work undertaken by the review panel and submissions given by police, partner organisations and members of the public will be seen to lead to a real reduction of wildlife crime incidents in the coming years.

Prosecutions

Four 2006 incidents, still pending when the report for 2006 was written, were concluded in 2007.

- A Borders gamekeeper was convicted of firearms offences and the use of electronic calling devices at Addinston Farm, Carfrae, Borders on 10 May 2006. At Duns Sheriff Court on 24 January 2007, Gavin Donaldson plead guilty to failing to comply with the conditions of a firearms certificate, under section 1(2) of the Firearms Act (1968) and of using an electronic decoy to kill a wild bird under section 5 (1) (D) of the Wildlife and Countryside Act 1981. He was fined £100 for the first charge and admonished on the latter.

- A Moray gamekeeper was convicted of poison and firearms offences at Innes House Estate, Moray, on 29 November 2006. At Elgin Sheriff Court on 30 April 2007, Michael Royan pleaded guilty to possession of Carbofuran for use in an offence, and possession of Cymag and Alphachloralose, offences under Section 18 (2) and 15 (A) of the Wildlife and Countryside Act 1981, and of failure to store Section 1 ammunition securely under the Firearms Act 1968. He was fined £250 for each offence – a total of £1,000.
- A Perthshire gamekeeper appeared at Perth Sheriff Court on 1 May 2007, accused of taking a protected bird at Edradynate Estate on 21 February 2006. The charge against David Campbell, under Section 1 (1) (A) of the Wildlife and Countryside Act 1981, was found not proven.
- A Borders gamekeeper was convicted of possessing and possession for use of proscribed pesticides, possession of and possession for use illegal traps, positioning an article to injure a wild bird, using an article to kill a wild bird and causing unnecessary suffering to a live pigeon at Blythe Farm, Borders, on 3 August 2006. At Selkirk Sheriff Court on 4 June 2007, George Aitken plead guilty to eight charges under Sections 5 (1) (A), 5 (1) (B), 15 (A) and 18 (2) of the Wildlife and Countryside Act 1981 and Section 1 (1) (A) of the Protection of Animals Act 1911. He was sentenced to 220 hours of Community Service.

A further two ongoing court cases, dating from alleged offences in 2006, have been continued into 2008:

- An Aberdeenshire gamekeeper is due to re-appear at Aberdeen Sheriff Court in connection with a number of alleged offences under the Wildlife and Countryside Act 1981.
- A Lanarkshire gamekeeper is due to re-appear at Lanark Sheriff Court in connection with a number of alleged offences under the Wildlife and Countryside Act 1981.

8 Recommendations

The Scottish Government, in launching and subsequently publishing the results of the thematic inspection of arrangements for the prevention, investigation and prosecution of wildlife crime, recognised that more effective enforcement of wildlife legislation remains a high conservation priority; as mentioned above, the report's recommendations are welcomed. Previously, the Criminal Justice (Scotland) Act 2003 and Nature Conservation (Scotland) Act 2004 greatly improved the scope for better and more effective wildlife crime policing. The Scottish Government and Members of the Scottish Parliament are to be congratulated on this legislation. We also approve of the recent new provisions made under the reviewed Open General Licences. The continued excellent working relationship and

data-sharing protocol between the National Wildlife Crime Unit and the RSPB is also to be welcomed.

The key to building on the high priority given by the Scottish Government to tackling wildlife crime, of which the illegal killing of birds of prey is a key component, is the effective use of the legislation through robust enforcement. Because incidents involving rare species, will, by their nature, be detected less often than those involving commoner species, enforcement priorities should recognize that the investigation of any incident involving a common species might represent the only opportunity to tackle a pattern of offending affecting the rarest species. Any consideration of the scale of illegal activity, and its impact on populations, must incorporate all available published research on the population dynamics of the persecuted species, as well the relatively low number of confirmed offences that are directly witnessed.

We are committed to working with the representative bodies of game shooting interests and exemplar estates, to encourage good practice and marginalise illegal activity. This should work in tandem with education, other Scottish Government policies (such as cross compliance through the rural payments system), and wider awareness raising. RSPB Scotland recommends that:

- Scottish Chief Constables appoint at least one full-time Wildlife Crime Officer (WCO) – a serving police officer – in each Scottish force with a fully trained network of part-time WCOs in support (whilst still recognising the valuable contribution that full-time civilian WCOs do and should continue to contribute)
- Chief Constables ensure that middle managers within the police service understand the importance and significance of effective action against wildlife crime and allow both full-time and part-time WCOs the time and resources to work effectively
- there should be thorough consideration of revocation of firearms certificates for those convicted of wildlife crime offences
- the Scottish Courts use the powers granted by the Criminal Justice (Scotland) Act 2003 to jail those involved with serious wildlife crime offences. This could have a strong deterrent effect
- the Scottish Government should conduct a further review of the penalties available to the courts, and the use of these penalties in wildlife crime cases. We consider that levels of fines should be based on the damage that has been caused to the natural heritage (for example killing a rare or vulnerable species should attract higher fines)
- cases of wildlife crime should be prosecuted by specialist Environmental Fiscals
- the network of specialist Environmental Fiscals should be increased and enhanced training provided
- the Crown Office Environmental Fiscals' Forum should ensure that as many cases as possible proceed to trial with charges representing the ecological seriousness of cases

- the Crown Office Procurators Fiscal Forum should review cases that have stalled and learn lessons from cases that have failed
- the Scottish Government and Prosecutors must take steps to ensure the consistent application of rules on admissibility of evidence in order to ensure the considerable public benefits of prosecuting wildlife crime
- the Scottish Government must ensure that the work of the Scottish Agricultural Science Agency (SASA) and the Veterinary Laboratories Agency (VLA) continues to be supported via appropriate funding
- the Campaign Against Illegal Poisoning should be reviewed and revised
- the list of proscribed chemicals listed in the Nature Conservation (Scotland) Act 2004 is reviewed regularly
- the Scottish Government and Rural Payments Inspectorate (SGRPID) must continue to investigate those in receipt of public land management payments, when wildlife crime offences are committed, and assess whether breaches of cross compliance (and other relevant conditions) have occurred
- SGRPID continues to review the open general licences (which permit the control of 'pest' species) to ensure they conform fully with the present conservation status and scientific knowledge of the alleged 'problem species' concerned and with proper reference to the EU Birds and Habitats Directives
- The National Wildlife Crime Unit (NWCU) must be resourced appropriately to ensure the continuity of the Unit. Future NWCU actions should be targeted towards Scottish conservation and wildlife crime priorities
- there must be a clear link between the NWCU, WCO networks, partner organisations and Procurators Fiscal
- there should be a central system for the recording of wildlife crime incidents and prosecutions in Scotland
- the Partnership Against Wildlife Crime (Scotland) (PAWS) should take a central role in providing advice to the Scottish Government in implementing the findings of the Thematic Review of Wildlife Crime
- representative bodies of land managers should lead from the front, working with the police by reporting crimes to stop illegal activity, and expel any members prosecuted for wrongdoing.

9 Acknowledgements

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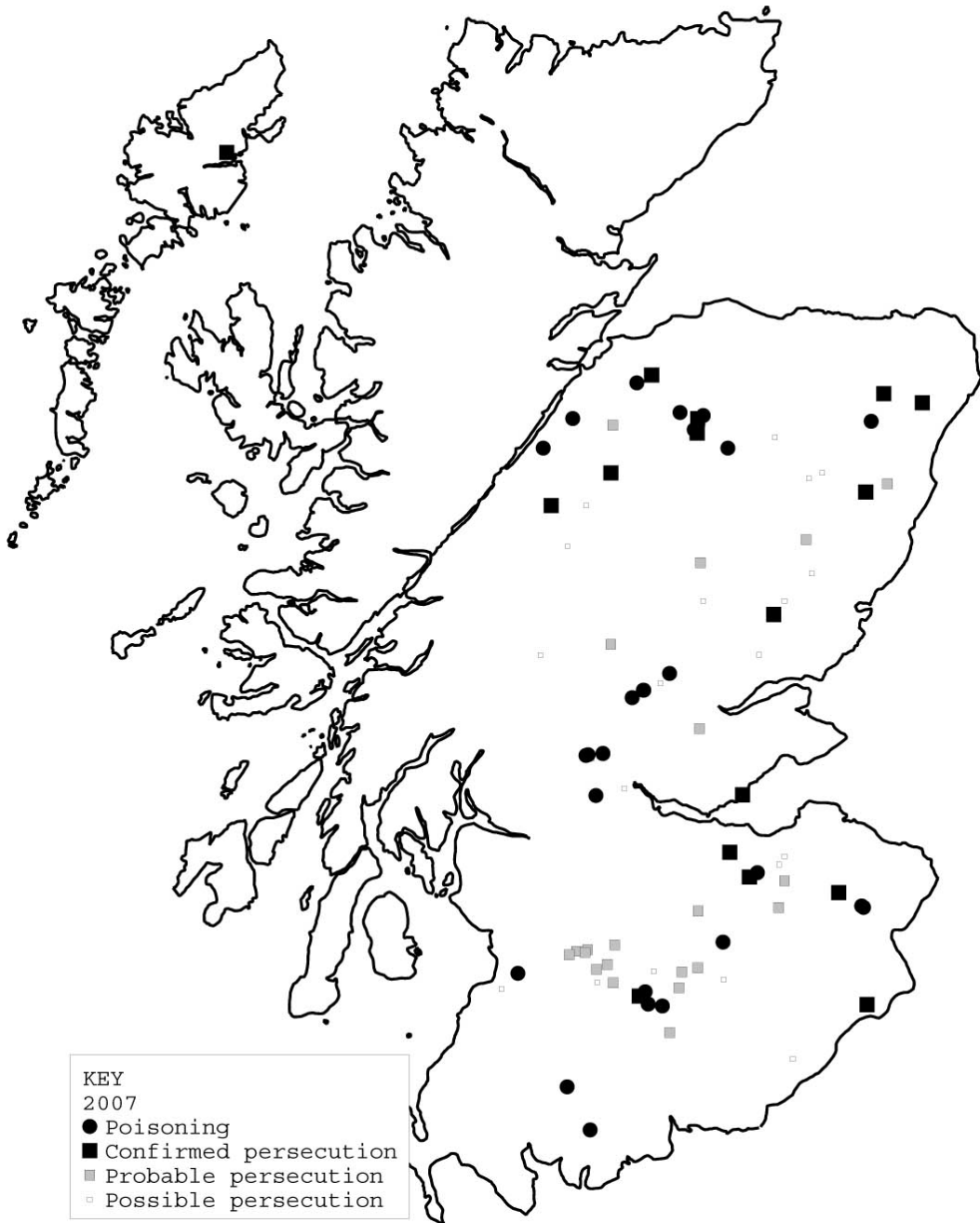
10 Appendices and maps

Map of 2007 incidents

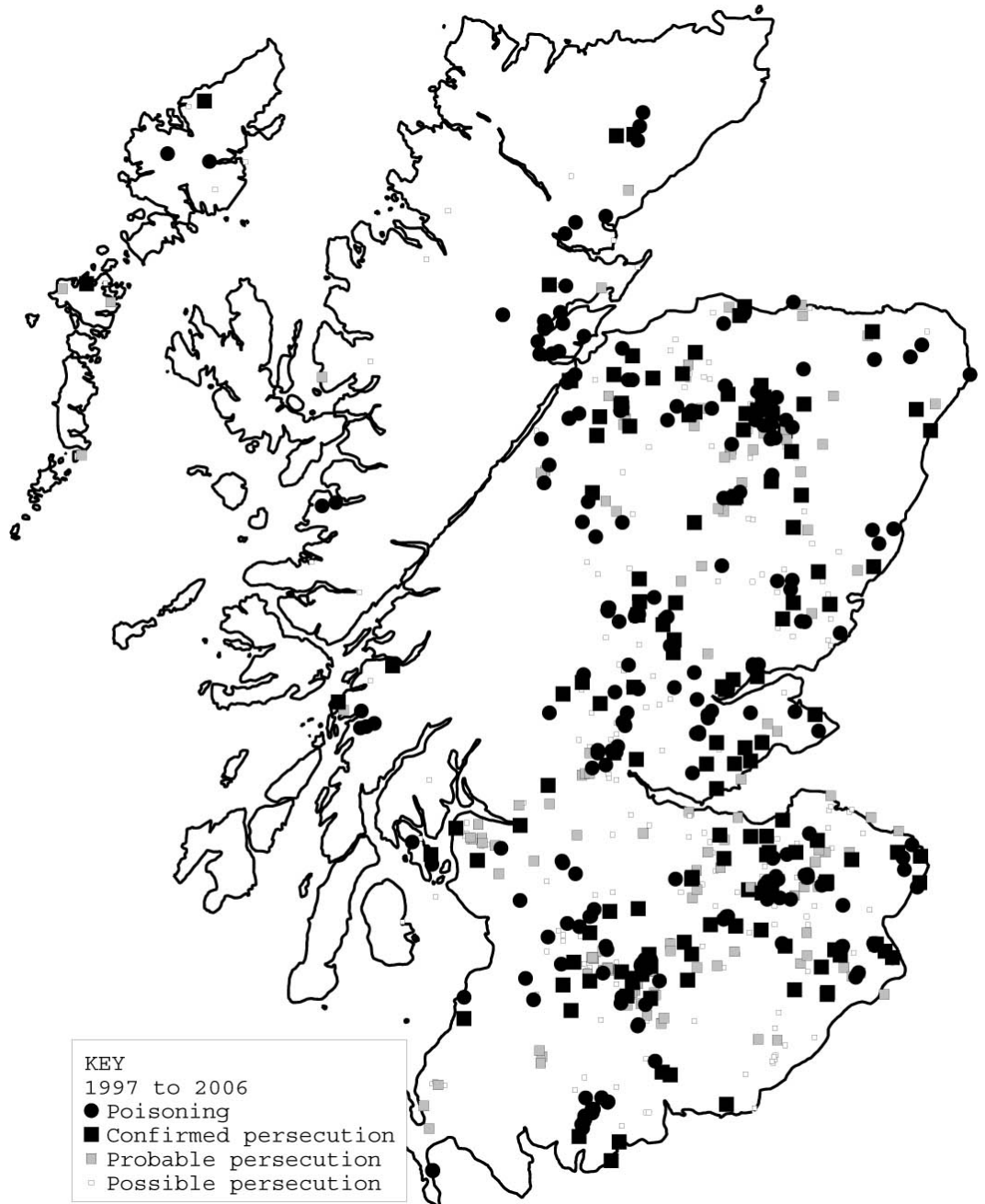
Map of confirmed poisoning incidents 1998-2007

Map of all persecution 1998-2007

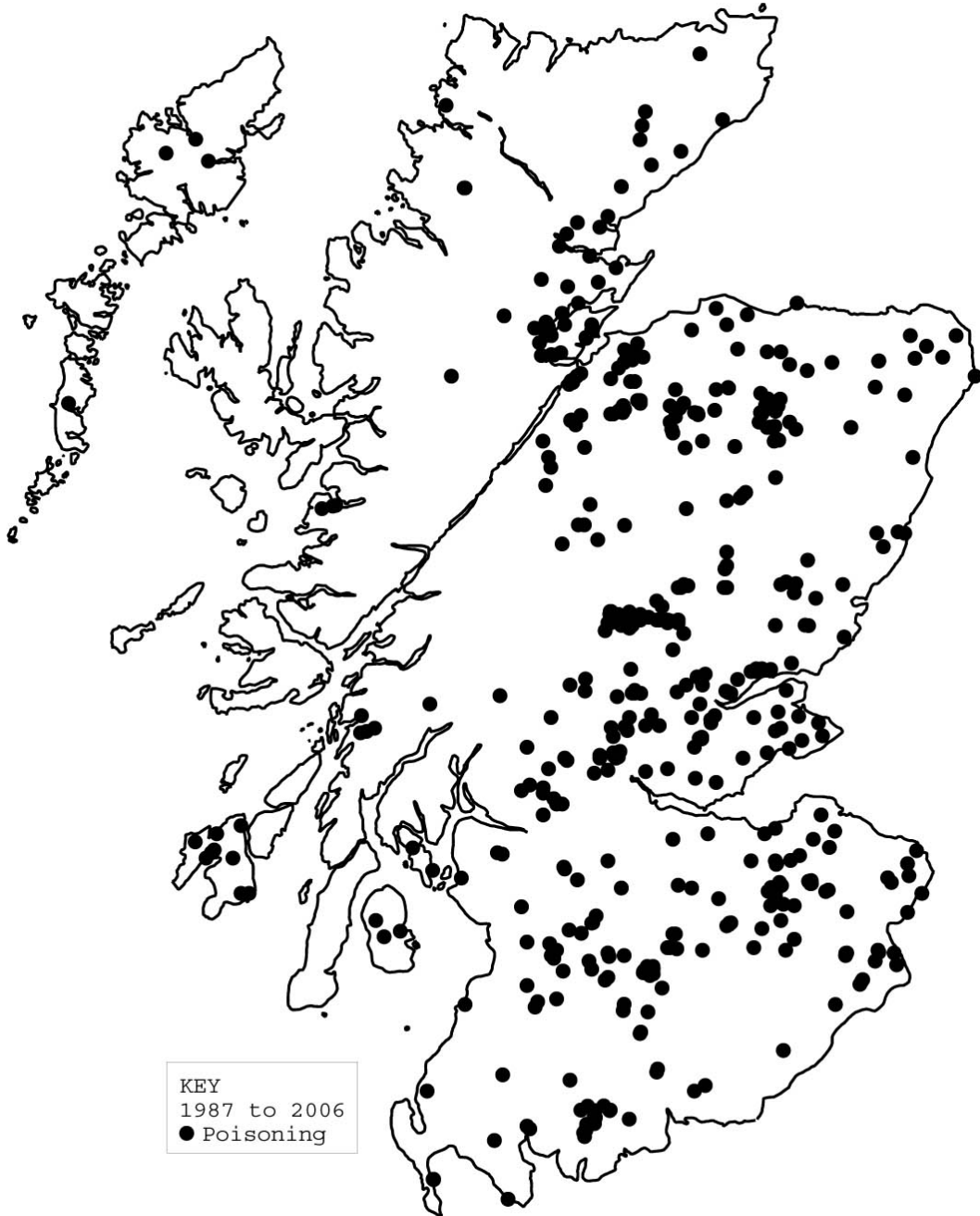
Map 1 – Poisoning and confirmed, probable and possible persecution in Scotland 2007



Map 2 – Poisoning and confirmed, probable and possible persecution in Scotland 1997 to 2006



Map 3 – Poisoning 1987 to 2006



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RSPB Scotland annually records incidents relating to bird crime. All wild bird crime incidents should be reported as soon as possible to your local police Wildlife Crime Officer (WCO) or the RSPB. Please call one of our offices below. If the matter is less urgent, you can report online at www.rspb.org.uk/reportacrime

For more information on birds and the law, contact:

RSPB Scotland Headquarters

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RSPB Scotland is part of the RSPB, which speaks out for birds and wildlife, tackling the problems that threaten our environment. Nature is amazing – help us keep it that way.

We belong to BirdLife International, the global partnership of bird conservation organisations.



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www.rspb.org.uk/scotland

Golden eagle by Mark Hamblin (rspb-images.com)

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