

FINAL REPORT

**Review of the Derogation Process under Article
9(1)(a) of the EU Birds Directive**

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Executive Summary

The Department of Culture, Heritage and the Gaeltacht (DCHG) provides the legislative and policy framework for the conservation of nature and biodiversity in Ireland. The Birds Directive (Directive 2009/147/EC) on the conservation of wild birds is implemented in Ireland, *inter alia*, under the Wildlife Act. Under the terms of the Directive, all Member States of the EU are bound to take measures to protect all wild birds and their habitats.

Under Article 9(1)(a) Member States may derogate from these terms for one or more of the following reasons:

- public health and safety;
- air safety;
- prevent serious damage to crops, livestock, forests, fisheries and water;
- protection of flora and fauna.

This report provides a thorough assessment of the application and processes associated with Article 9 (1)(a).

A review of the 21 species that are listed on one or both of the Air Safety and the General Declarations for 2017/18 and a further two species that are not on the current Declarations, but that may be included, demonstrated that 10 species are showing increasing trends in Ireland, a further nine are declining and three are stable. Carrion Crow is very rare in Ireland and its current status is not fully known. Some of these species are of heightened conservation concern in Ireland and/or in Europe.

A desktop study formed the basis of a review of the extent of the issues in Ireland. Furthermore, a two-stage consultation process was undertaken to ensure that the consultation captures the broad range of stakeholders potentially affected. The first stage involved a targeted consultation with key stakeholder groups that have the relevant expertise to provide input, or who are most affected by the Declarations. The second stage involved a wider public consultation seeking views from other groups and the general population, as well as any additional submissions from groups involved in the targeted consultation. The objectives of the consultation process were to explore different options and ideas, collect a broad range of views on proposals, gather evidence and factual data, and to assess the possible impact of proposals on communities and various interest groups.

These consultations highlighted the need for more information and greater clarity relating to the Declarations and how they operate in Ireland. The consultations also demonstrated that there are organisations and groups with strong views relating to the processes and/or to some of the species on the list. Communication on how this legislation is transposed in other Member States highlighted the systematic use of Public Consultations where changes are being proposed. Increased communication between NPWS and targeted groups in this manner would help ensure transparency and the correct application of the Declarations.

There have been increased conflicts between humans and gulls in recent years, which seems to be consistent with increasing numbers nesting on roofs in towns and cities across Ireland. However, the inclusion of the three large gull species (Lesser Black-back *Larus fuscus*, Herring Gull *L. argentatus* and Great Black-backed *L. marinus*) on the 2017/18 General Declaration did not fully comply with the legislation, largely because alternative solutions to controlling the problem were not addressed

in the first instance. They were retained on the list in 2018/19 with a number of important caveats proposing further collaboration and research towards exploring alternative options in managing this issue.

This report contains several additional recommendations relating to improvements that might be made, and/or that might help NPWS to operate these Declarations efficiently into the future.

1. Introduction

The Department of Culture, Heritage and the Gaeltacht (DCHG) provides the legislative and policy framework for the conservation of nature and biodiversity in Ireland. The Birds Directive (Directive 2009/147/EC) on the conservation of wild birds is implemented in Ireland, *inter alia*, under the Wildlife Act. Under the terms of the Directive, all Member States of the EU are bound to take measures to protect all wild birds and their habitats.

Under Article 9(1)(a) Member States may derogate from these terms for one or more of the following reasons:

- public health and safety;
- air safety;
- prevent serious damage to crops, livestock, forests, fisheries and water;
- protection of flora and fauna.

In Ireland these derogations are achieved by the competent authority, the Minister for DCHG, by way of *Declarations* made under the European Communities (Wildlife Act, 1976) (Amendment) Regulations 1986, as amended. These Declarations are reviewed annually for publication in April each year. There are two Declarations for the most recent year (May 2017 – April 2018), comprising the general state-wide declaration and an air-safety declaration.

The present review provides a thorough assessment of the application and processes associated with Article 9(1)(a) through six chapters as follows (full details are presented in Appendix 9.1):

1. Introduction
2. Legislation: Overview of Article 9 and its transposition into Irish legislation.
3. Species: an assessment of the population status of the species included on the Declarations of 2017/18.
4. Extent of issues: the extent to which each of the species on the Declarations gives rise to the issues in Ireland. It also presents an overview of the results of two separate questionnaires relating to the General and the Air Safety Declarations that were circulated among stakeholders.
5. International approach: Overview of the approaches taken in England, The Netherlands and Denmark in relation to Article 9.
6. Public Consultations: Results of two stakeholder and public consultations.

2. Legislation

2.1 Background & objectives

This chapter reviews the legislative context of the use of Article 9(1)(a) of the EU Birds Directive in Ireland and refers to its use in the EU member states of England. Although this documents' focus is Article 9(1)(a), in order to clearly define the scope of Ireland's obligations under Article 9(1)(a), other relevant paragraphs including 9(2), 9(3) and 9(4), and Articles, including Article 7, 8 and 10 are referred to where relevant.

This review provides an overview of how Article 9 has been transposed into Irish legislation.

2.2 The EU Birds Directive

Directive 2009/147/EEC (the Birds Directive), provides a framework for the protection, management and control of all wild birds naturally occurring in the EU and lays down rules for their exploitation (Article 1).

The Directive provides for a suite of measures to be taken by Member States to maintain populations of all wild bird species. These include provision for the maintenance or re-establishment of habitats (Article 3), and provision for the establishment of Special Protection Areas for certain species (Article 4). Other measures include the requirement for Member States to encourage relevant research and work that will support the protection, management and use of wild birds (Article 10), and the requirement that any introduction of non-native species of birds into the wild will not negatively impact the naturally occurring wildlife of the area (Article 11).

Articles 5 to 8

Article 5 of the Directive provides for the establishment of a general scheme of protection for all wild birds. This includes a prohibition of, *inter alia*, the deliberate killing or capture of wild bird species, and any deliberate destruction, damage to or collection of their nests and eggs.

Article 6 places restrictions on the sale and keeping of bird species.

Article 7 makes provision for a system for managing the hunting (including falconry) of those birds listed in Annex II. This includes a requirement to ensure that birds are not hunted during the periods of their greatest vulnerability, such as the spring migratory period and during the breeding season. A Guidance document for the implementation of Article 7 in Member States (European Commission 2008) refers extensively to Article 9 and provides some guidance in terms of its use.

Article 8 prohibits the large scale and non-selective means of bird killing, in particular those listed in Annex IV of the Directive.

Member States may derogate from the provisions of Articles 5 to 8 in accordance with Article 9.

2.3 Article 9

<ol style="list-style-type: none">1. Member States may derogate from the provisions of Articles 5 to 8, where there is no other satisfactory solution, for the following reasons:<ol style="list-style-type: none">(a) —<i>in the interests of public health and safety,</i> — <i>in the interests of air safety,</i> — <i>to prevent serious damage to crops, livestock, forests, fisheries and water,</i> — <i>for the protection of flora and fauna;</i>(b) for the purposes of research and teaching, of re-population, of re-introduction and for the breeding necessary for these purposes(c) to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.2. The derogations referred to in paragraph 1 must specify:<ol style="list-style-type: none">(a) the species which are subject to the derogations;(b) the means, arrangements or methods authorised for capture or killing;(c) the conditions of risk and the circumstances of time and place under which such derogations may be granted;(d) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom;(e) the controls which will be carried out.3. Each year the Member States are required to send a report to the Commission on the implementation of paragraphs 1 and 2.4. On the basis of the information available to it, and in particular the information communicated to it pursuant to paragraph 3, the Commission shall at all times ensure that the consequences of the derogations referred to in paragraph 1 are not incompatible with this Directive. It shall take appropriate steps to this end.

2.3.1 General principles of the Article 9 derogation system

Article 9 allows Member States to derogate from the basic prohibitions listed above provided ALL three following conditions are fulfilled:

- there is no other satisfactory solution;
- one of the reasons listed in 9(1)(a), 9(1)(b), or 9(1)(c) applies;
- and the technical requirements of Article 9(2) are fulfilled.

Member States are obliged to submit an annual report to the European Commission on all derogations issued under Article 9. This is to ensure that the Commission can evaluate the rationale provided, and be assured that the consequences of these derogations are not incompatible with the Directive, *i.e.* they do not undermine the conservation of the species for which derogations have been granted. These derogations must be justified in relation to the overall objectives of the Directive, *i.e.* they should not lead to a situation where a species' population and range is reduced to such an extent that it becomes vulnerable or leads to an unfavourable conservation state.

A European Commission (2008) guidance document for hunting under the Birds Directive provides useful elaboration of provisions of Article 9. In this document, it is stipulated that “*derogations are ‘exceptions’ which allow for some flexibility in the application of a law*”.

2.3.2 No Other Satisfactory Solutions

The issue of other solutions is a mandatory approach for species listed in a derogation and the inter-relationship between the issue of other satisfactory solutions and the reasons for the derogation has to be underlined by each Member State.

After the analysis of the problem or specific situation that needs to be addressed, there remain two key questions to be addressed:

1. Are there other solutions? If so,
2. Will these resolve the problem or specific situation for which the derogation is sought?

Where another solution exists, any arguments that it is not satisfactory will need to be strong and robust (EC, 2008). In the Advocate General's Opinion in Case C-10/96¹, objectively verifiable factors and scientific and technical considerations are needed for derogations on the basis that there is no other satisfactory solution to a specific situation. For example, with regard to “other satisfactory solutions”, the extent to which predation is directly related to habitat loss, habitat deterioration or modification (e.g. loss of vegetation cover) or other environmental factors should be considered. Where such a direct relationship exists, it may be appropriate to consider predator control in combination with habitat restoration or better management of human activities. For example, predation of colonies of tern (e.g. *Sterna*) species by gull (*Larus*) species in some Member States may be related to a local increase in gull populations linked to increased food provided by poorly managed waste disposal sites (EC, 2012).

EC (2008) states that it is “*clear that another solution cannot be deemed unsatisfactory merely because it would cause greater inconvenience to or compel a change in behaviour by the beneficiaries of the derogation*”.

2.3.3 Derogations ‘in the interest of public health and safety and in the interests of air safety.

This derogation may be used where “Public health and safety may be locally affected where the presence or the feeding of birds causes a demonstrable risk to human health or increases risk of accidents. In many cases habitat alterations or exclusion of birds will be appropriate solutions. For example, at many airports, management measures are taken to prevent bird strikes with aeroplanes.

¹ Judgment of 12 December 1996, *Ligue royale belge pour la protection des oiseaux ASBL and Société d'études ornithologiques AVES ASBL v Région Wallonne*, case C-10/96, ECR 1996, p.6775.

2.3.4 Derogations ‘to prevent serious damage to crops, livestock, forests, fisheries and water’

With regard to ‘serious damage’ the European Court in its ruling on Case 247/85 noted that *‘the aim of this provision of the Directive is not to prevent the threat of minor damage’*². In this context, two aspects may be noted: the likelihood and extent of damage. The chance that damage might occur does not suffice. If damage is not yet apparent, past experience should demonstrate a high probability of the occurrence of damage. Furthermore, it should concern serious damage to an economic interest, indicating that this does not cover mere nuisance and normal business risk, and damage to other forms of property.

This raises the issue of the difference between ‘damage’ and ‘conflict’. The difference between the two needs to be underlined, as only the former is covered under the derogation system.

2.3.5 Derogations ‘for the protection of flora and fauna’

The case for using this derogation is likely to be strongest where it is linked to the maintenance of rare or threatened species, but is not limited to these species. It appears not to be a requirement in this case to demonstrate a likelihood of serious effect before applying the derogation.

2.3.6 Conservation status of species

Derogations should not be granted for species or populations with an unfavourable conservation status, which are declining within the European Union (or in a Member State considering exercising such derogations), whose area of distribution (breeding or wintering) is contracting, or with very low population levels, unless it can be clearly demonstrated that use of such derogations are beneficial to the conservation status of the species/population concerned. Any consideration of use of derogations for such species should only be in the framework of a conservation management plan for them, aimed at their recovery to favourable conservation status. The Commission is of the view that this conclusion is consistent with the Court judgement in case C-182/02. In that case, the Court confirmed that a hunting derogation will not be justified if it does not ensure the maintenance of the population of the species at a satisfactory level. The need to ensure the maintenance of the species population at a satisfactory level is not explicitly mentioned in Article 9. It seems that the Court took into account the general orientation of the Birds Directive set out in Article 2 and the 11th recital. Moreover, there is an analogy with Article 16 of Directive 92/43/EEC, which states that the derogation must not be “detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”. Therefore, the need to ensure the maintenance of the population of the species at a satisfactory level becomes a pre-condition for granting derogations. It should also be noted that Article 9(4) of directive 79/409/EEC also implies that the use of derogations must not be incompatible with the objectives of the directive.

2.4 Article 10

Article 10 requires Member States to encourage research and *“any work required as a basis for the protection, management and use of the population of all species of bird referred to in Article 1”*. The European Court of Justice confirmed that this provision creates an obligation for Member States and

² *The fact that a certain degree of damage is required for this derogation from the general system of protection accords with the degree of protection sought by the Directive.*” (judgment of 8 July 1987, Commission/Belgium, case 247/85, ECR 1987, p.3029 paragraph 56).

has to be transposed and implemented in national domestic legal orders³. Particular attention is required to be paid to research and work on subjects listed in Annex V. A number of categories of research listed in Annex V of relevance to Article 9, especially items (c) “listing of data on the population levels of migratory species as shown by ringing” and (d) “assessing the influence of taking wild birds on population levels”. Item (e) “Developing or refining ecological methods for preventing the type of damage caused by birds” is also relevant to species which may cause damage. The case-law of the Court of Justice underscores the importance of using the best available scientific information as a basis for implementing the Directive.

2.5 Situation in Ireland

2.5.1 Implementation into Irish law of the Birds Directive and the Article 9 derogation

In Ireland, the provisions of the Birds Directive are implemented through the Wildlife Act 1976 (as amended, hereinafter “the 1976 Act”), as well as through secondary legislation. This includes both the European Communities (Wildlife Act 1976) (Amendment) Regulations 1986 and the European Communities (Birds and Natural Habitats) Regulations 2011.

2.5.2 Key legislative provisions regarding protection of wild birds

With regard to the protection of wild bird species, section 22 of the 1976 Act makes it an offence to hunt a protected wild bird, injure a protected wild bird otherwise than while hunting it, willfully take or remove the eggs or nest of a protected wild bird, willfully destroy, injure or mutilate the eggs or nest of a protected wild bird, and to willfully disturb a protected wild bird on or near a nest containing eggs or unflown young.⁴

Derogation:

The derogations operated by Ireland under Article 9 of the Directive fall into general derogations and specific derogations:

General Derogations:

Derogations are made by the competent authority (the Minister for Culture, Heritage and the Gaeltacht) under Regulation 3(1) (a) of the European Communities (Wildlife Act 1976 (Amendment) Regulations 1986 (S.I. No. 254 of 1986), as amended.

Declarations are made by the Minister where the Minister is of the opinion that the species covered by the declaration cause serious damage to crops or to livestock or cause damage to fauna or represent a threat to public health and where the Minister is also satisfied that no other satisfactory solution exists. The Declarations make provision that for the purpose of preventing disease, injury or damage specified by the species referred to in the declaration, the said species may be captured or killed throughout a region by the owner or occupier of any property or the servant or agent of the

³ Judgement of 13 December 2007, Commission/Ireland, C-418/04, paragraphs 266-275

⁴ It is not an offence, *inter alia*, , to unintentionally injure or kill a protected wild bird while so engaged or engaged in agriculture, aquaculture, fishing, forestry or turbary, or to remove for conservation purposes or to destroy unintentionally the eggs or nest of a protected wild bird in the ordinary course of agriculture or forestry. Other exceptions apply to the construction of roads and archaeological works, or where an Order made by the Minister pursuant to section 24 which allows for the hunting of certain wild birds at particular times of year.

owner or occupier of the property by the means, arrangements or methods specified in the Declaration. Control methods allowed are by shooting with firearms or through the use of cages.

Derogations are also made by the competent authority under Regulation 3(1) (b) of the European Communities (Wildlife Act 1976 (Amendment) Regulations 1986 (S.I. No. 254 of 1986), as amended. Where the Minister is of the opinion that certain species represent a threat to air safety and is satisfied that no other satisfactory solution exists, (s)he makes a declaration that the said species may be captured or killed by any of the means, arrangements or methods set out in the Second Schedule of these Regulations, throughout the State by the owner or occupier of any property or the agent of the owner or occupier of any property on which a threat to air safety is represented by such species. Control methods allowed are by shooting with firearms and the use of cage traps. European Communities (Wildlife Act, 1976) (Amendment) Regulations, 1986.

Regulation 5 states that the Minister may appoint in writing a person to be an authorised person for the purposes of these Regulations.

Regulation 6 provides that an authorised person may, for the purposes of these Regulations:

- (a) enter on and inspect any lands on which he reasonably believes that killing or capturing of wild birds has taken place,
- (b) request the owner or occupier of any lands on which he reasonably believes that killing or capturing of wild birds has taken place to provide him with information about:
 - (i) the number if any, of wild birds killed or captured on such lands,
 - (ii) the means by which such wild birds have been killed or captured,
 - (iii) any poisons which may have been laid to kill birds including but without prejudice to the generality of the aforesaid information about the quantity, type and frequency of laying of poisons.

European Communities (Birds and Natural Habitats) Regulations 2011

Regulation 55(1) provides that any person may apply to the Minister for a derogation licence from complying with the requirements of the provisions of Regulation 53. Regulation 53(4) concerns the large scale or non-selective capture or killing of birds.

Regulation 55(2) provides that where there is no other satisfactory solution, the Minister may, following consultation with any other Minister or Ministers of the Government having relevant responsibilities or functions where appropriate, in respect of any species of naturally occurring bird in the wild state referred to in Article 1 of the Birds Directive, grant a derogation licence to one or more persons, where it is:

- (a) in the interests of public health and safety,
- (b) in the interests of air safety,
- (c) to prevent serious damage to crops, livestock, forests, fisheries or water,
- (d) for the protection of flora or fauna,
- (e) for the purposes of research or teaching, of re-population, of re-introduction or for the breeding necessary for these purposes, or
- (f) to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.

Regulation 53(3) provides that a derogation licence granted under paragraph (2) shall be subject to such conditions, restrictions, limitations or requirements as the Minister considers appropriate.

Regulation 53(4) provides that any conditions, restrictions, limitations or requirements to which a derogation licence under paragraph (2) is subject shall be specified therein.

Regulation 53(5) provides that a derogation licence granted under this Regulation is subject to the provisions of subsections (2) to (5) of section 14 of the Protection of Animals (Amendment) Act 1965.

Regulation 53(6) provides that derogation licence granted under paragraph (2) must specify:

- (a) the species which are subject to the derogation licence,
- (b) the means, arrangements or methods authorised for capture or killing,
- (c) the conditions of risk and the circumstances of time and place under which such derogation licence is granted,
- (d) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom, and
- (e) the controls which will be carried out.

Regulation 55(7) provides that the Minister shall forward to the European Commission each year a report on the derogations to which paragraph (2) relates.

Most recent Declarations made pursuant to European Communities (Wildlife Act, 1976) (Amendment) Regulations, 1986.

The Minister for Culture, Heritage and the Gaeltacht, pursuant to Regulation 3(1)(a) of the European Communities (Wildlife Act, 1976) (Amendment) Regulations, 1986 signed a State-wide declaration for the 12 month period from 1st May 2017 to 30th April 2018. A separate countrywide declaration was signed in respect of air safety.

The State-wide Declaration lists a number of wild bird species that may be captured or killed or otherwise interfered with on any property by any of the means, arrangements or methods set out below.

TABLE 2.1. STATE-WIDE DECLARATION (1ST MAY 2017 – 30 APRIL 2018)

Species	Rationale under Article 9(1)(a) of the Birds Directive	Method of capture or killing	Area/ time period covered
Hooded/ Grey Crow	Threat to public health and vector in the spread of animal diseases; prevent serious damage to livestock; protection of fauna, notably the nests and young of game birds)	Shooting with rifle or shotgun. Cage traps with or without decoys subject to conditions	State-wide; at specified times of year
Magpie	Threat to public health and vector in the spread of animal diseases; prevent serious damage to livestock; protection of fauna, notably the nests and young of game birds)	Shooting with rifle or shotgun. Cage traps with or without decoys subject to conditions	State-wide; at specified times of year
Rook	Reason: Prevent serious damage to cereal crops, brassicas and root crops such as potatoes and beet; prevent damage to livestock feedlots)	Shooting with rifle or shotgun	State-wide; at specified times of year
Jackdaw	Prevent serious damage to cereal crops, brassicas and root crops such as potatoes and beet; prevent damage to livestock feedlots)	Shooting with rifle or shotgun	State-wide; at specified times of year
Woodpigeon	Prevent serious damage to arable crops, including cereals, legumes and brassicas; threat to public health notably contamination of food storage)	Shooting with rifle or shotgun	State-wide at all times of the year
Feral Pigeon	Prevent serious damage to arable crops, including cereals, legumes and brassicas; threat to public health notably contamination of food storage)	Shooting with rifle or shotgun. Non meat based poison or anaesthetic bait may be used as a method of control but only under permit with prescribed conditions as issued by the National Parks and Wildlife Service prior to control action taking place	State-wide at all times of the year
Herring Gull Greater Black-backed Gull Lesser Black-backed Gull	Threat to public safety	Taking the nests or taking the eggs	Confined to an area of north Co. Dublin at all times of the year

Air safety declaration (1st May 2017 – 30 April 2018)

This declaration states that the Minister, being of the opinion that the species referred to below represent a threat to air safety and being satisfied that no other satisfactory solution exists, declares that any of the species listed below may be captured or killed according to the means set out in the Second Schedule to the European Communities (Wildlife Act, 1976) (Amendment) Regulations, 1986 throughout the State by the owner and occupier or agent or any owner or occupier of any property on which a threat to air safety is represented by any of the below species.

Species	
Black-headed Gull	Collared Dove
Common Gull	Common Buzzard (Dublin airport and Casement aerodrome)
Herring Gull	Eurasian Curlew (Dublin airport)
Greater Black-backed Gull	Barn Swallow (Shannon airport)
Lesser Black-backed Gull	Grey Heron (Shannon airport)
Rook	Mute Swan and Whooper Swan (Shannon airport)
Jackdaw	Golden Plover
Magpie	Hooded (Grey) Crow
Starling	Woodpigeon
Lapwing	Feral Pigeon

Specific Derogations:

These derogations are issued under the terms of Sections 22 and/or 42 of the Wildlife Acts 1976 to 2012 which make specific provision for the control of protected wild birds where they cause serious damage to food, livestock, poultry, agricultural crops, pen-reared wild birds, other fauna, flora, woodlands or forest plantations, fisheries, buildings or other structures and their contents or aquaculture installations. Derogations are issued in the form of licences and permits which are subject to individual application and consideration prior to any approval being granted. Site visits can and do form part of the evaluation process where necessary. Licences and permits are issued for specific defined periods, to specific persons. In addition specific control methods and areas of use are strictly defined.

Section 22(2) of the 1976 Act allows the Minister to make regulations disapplying section 22 in the case of those species of wild birds listed in Schedule III to the Act. The regulations must provide for specified areas and time periods for which any such disapplication will apply.

The bird species listed in Schedule III are as follows:

Bullfinch
Carrion Crow
Greater Black-backed Gull
Herring Gull
Hooded (Grey) Crow
House Sparrow
Jackdaw
Jay
Lesser Black-backed Gull
Magpie
Pigeons, including Woodpigeon, but not including carrier pigeons, racing homing pigeons or doves
Rook
Starling

2.6 The United Kingdom

Article 9.1(a) is transposed into UK legislation through the Wildlife and Countryside Act 1981. Section 1 of this Act provides protection for all wild birds and their nests. Section 4(3) provides a derogation of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if it was shown that this action was necessary for one or more of the following reasons:

- (a) preserving public health or public or air safety;
- (b) preventing the spread of disease; or
- (c) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, fisheries or inland waters.

An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in subsection (3)(c) unless he shows that as regards that purpose, there was no other satisfactory solution.

An authorised person is defined in section 27 of the 1981 Act as, *inter alia*,

- the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken;
- any person authorised in writing by the local authority for the area within which the action authorised is taken.

2.6.1 England

General Derogation licences

Natural England provides three General Licences under their Wildlife and Countryside Act 1981 (as amended) ('the 1981 Act') Sections 16(1)(i) and 16(5) as follows:

- GL04: To kill or take certain species of wild birds to prevent serious damage or disease, or stop serious damage to livestock, food, crops, growing timber, fisheries or inland water
- GL05: 'To kill or take certain species of wild birds to preserve public health or public safety;
- GL06: 'To kill for the conservation of other wild birds.

For the period 1st January 2018 to 31st December 2018, this licence permits 'Authorised Persons' to:

i: to kill or take any of the wild birds listed at (a) and (b) below, to take, damage or destroy their nests or to take or destroy their eggs:

- (a) Crow *Corvus corone*
Collared Dove *Streptopelia decaocto*
Lesser Black-backed Gull *Larus fuscus*
Jackdaw *Corvus monedula*
Jay *Garrulus glandarius*
Magpie *Pica pica*
Feral Pigeon *Columba livia*
Rook *Corvus frugilegus*
Woodpigeon *Columba palumbus*
- (b) Canada Goose *Branta canadensis*
Monk Parakeet *Myiopsitta monachus*

ii. to take, damage or destroy the nests, or to take or destroy the eggs of Herring Gull (*Larus argentatus*)

Land owners, occupiers or other authorised persons can use this general licence to carry out a range of otherwise prohibited activities against certain wild birds. Authorised persons do not need to apply for this general licence but must meet its conditions and follow its instructions and this must only be done to preserve public health or public safety. This licence cannot be used to kill birds causing damage to property, or nuisance. The conditions also set out that the user must be satisfied that legal (including non-lethal) methods of resolving the problem are ineffective or impracticable.

Specific derogations

A 'Class license' (CL03) is available to take certain species of wild birds trapped in food premises to preserve public health or public safety.

Individual licences can be applied for in instances where a given wild birds problem is complex.

Licence application form to disturb, kill or take wild birds and their eggs for public health and safety, air safety or to prevent disease or agricultural damage (A08)

Airports and aerodromes require a specific licence (CL12) 'To kill or take certain species of wild birds to preserve air safety.' This permits the licence holder to kill or take the following birds on from their aerodrome or within a 13km radius:

- Crows
- Canada Geese
- Egyptian Geese
- Great Black-backed Gulls
- Greylag Geese
- Herring Gulls
- Lesser Black-backed Gulls
- Mallards
- Ring-necked Parakeets
- Feral Pigeons
- Rooks

- Starlings
- Woodpigeons

The following birds can be killed or caught within a 250 metre radius of the aerodrome:

- Collared Doves
- Black-headed Gulls
- Common Gulls
- Jackdaws
- Lapwings
- Magpies

It is necessary to return an annual report form by 31st January each year to Natural England in order to be granted licence renewal.

2.7 References

European Commission (2008) Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds “The Birds Directive”.

European Commission (2012) Commission note on setting conservation objectives of Natura 2000 sites, Available at:

http://ec.europa.eu/environment/nature/natura2000/management/docs/commission_note/commission_note2_EN.pdf Last accessed 17th March, 2018.

3. Species status review

3.1 Background & objectives

This chapter aims to summarise the current status of the species listed in these Declarations (Table 3.1). The basis for the inclusion of species on the General Declaration was first discussed in a submission compiled in 1990 (J. Wilson *in litt*). That submission referred to five species that were listed as 'pests' (Hooded Crow, Rook, Jackdaw, Magpie and Woodpigeon), particularly in an agricultural context. It states:

"...the general perception [is] that these species are too numerous and cause too much damage and must be controlled by whatever means necessary. Most of these species are numerous, widespread and continually associated with causing damage in a variety of circumstances."

The submission reported a lack of relevant information on distribution and breeding success, and the need therefore to provide recommendations based largely on professional judgement. They listed the abovementioned species which are ubiquitous, numerous and traditionally associated with causing damage, especially where significant economic loss is the result. Atlas data were used to inform distribution, while damaging activities were largely based on claims from agricultural and game interests. This same submission also recommended timings for control, which were based on a combination of the most effective timing for removal as well as the timing of the issue.

That submission also mentioned the removal of Carrion Crow, Starling, House Sparrow and the three large gull species currently listed on the basis that they require specific methods of control, and/ or may be dealt with on an individual or localised basis, rather than general.

There have since been additional species included on the General Declaration and some modifications to the control period, probably the result of changing conditions and changing species pressures over time. The current list (Table 3.1) includes 10 species on the General Declaration and 21 species on the Air-safety Declaration. The assessment also includes a further two species that are not on the Declarations at present, but which may be included, namely Carrion Crow and House Sparrow. This chapter provides an overview of the occurrence and status of these species, details on population trends and estimates of abundance. An overview table at the end of the chapter provides any changes recommended to the timings or control measures.

Table 3.1. Species listed in the General and Air Safety Declarations for the period May 2017 – April 2018, together with the timescale for control, and previously recommended control measures (D = decoys, S = shooting, B = baiting, N = nest removal, T = trapping - = unspecified).

Species	Scientific name	Declaration	Control method	Air safety	Public safety	Public health (disease/contamination)	Damage to livestock	Damage cereal crops	Damage livestock feedlots	Protection fauna/game birds
Grey Heron	<i>Ardea cinerea</i>	Air safety ¹	-	Jan - Dec						
Whooper Swan	<i>Cygnus cygnus</i>	Air safety ¹	-	Jan - Dec						
Mute Swan	<i>Cygnus olor</i>	Air safety ¹	-	Jan - Dec						
Buzzard	<i>Buteo buteo</i>	Air safety ^{2*}	-	Jan - Dec						
Golden Plover	<i>Pluvialis apricaria</i>	Air safety	-	Jan - Dec						
Lapwing	<i>Vanellus vanellus</i>	Air safety	-	Jan - Dec						
Curlew	<i>Numenius arquata</i>	Air safety ²	-	Jan - Dec						
Black-headed Gull	<i>Larus ridibundus</i>	Air safety	-	Jan - Dec						
Common Gull	<i>Larus canus</i>	Air safety	-	Jan - Dec						
Lesser Black-backed Gull	<i>Larus fuscus graellsii</i>	General ³ , Air safety	N	Jan - Dec	Jan - Dec					
Herring Gull	<i>Larus argentatus</i>	General ³ , Air safety	N	Jan - Dec	Jan - Dec					
Great Black-backed Gull	<i>Larus marinus</i>	General ³ , Air safety	N	Jan - Dec	Jan - Dec					
Feral Pigeon	<i>Columba livia</i>	General, Air safety	SB	Jan - Dec		Jan - Dec				
Woodpigeon	<i>Columba palumbus</i>	General, Air safety	S	Jan - Dec				Jan - Dec		
Collared Dove	<i>Streptopelia decaocto</i>	General, Air safety	SB	Jan - Dec		Jan - Dec				
Swallow	<i>Hirundo rustica</i>	Air safety ¹	-	Jan - Dec						
Magpie	<i>Pica pica</i>	General, Air safety	TSD	Jan - Dec		Jan - Dec	Dec - May ⁴			Feb - Sep ⁴
Jackdaw	<i>Corvus monedula</i>	General, Air safety	S	Jan - Dec				Feb - Dec ⁴	Nov - May ⁴	
Rook	<i>Corvus frugilegus</i>	General, Air safety	S	Jan - Dec				Feb - Dec ⁴	Nov - May ⁴	
Hooded Crow	<i>Corvus corone cornix</i>	General, Air safety	TSD	Jan - Dec		Jan - Dec	Dec - May ⁴			Feb - Sep ⁴
Starling	<i>Sturnus vulgaris</i>	Air safety	-	Jan - Dec						

¹ Restricted to Shannon Airport only

² Dublin Airport (and Casement Aerodrome*)

³ Balbriggan area, 2017/18

⁴ Restricted period previously recommended for control likely to reflect the timing of the issue, and not the species requirements.

3.2 Methods

Data and literature sources

The information presented in this report is primarily based on the following surveys, data sources and publications:

- Countryside Bird Survey: ongoing annual census of common and widespread breeding birds, since 1998, funded by the National Parks and Wildlife Service and coordinated by BirdWatch Ireland. The most recent trends published by Crowe *et al.* (2017) and estimates by Crowe *et al.* (2014). Additional trend data kindly supplied by BirdWatch Ireland on behalf of the CBS partnership.
- Seabird 2000: the last thorough survey of seabirds across Britain and Ireland, undertaken between 1998 and 2002 (Mitchell *et al.* 2004). More contemporary information on gull trends and estimates have been extracted from the most recent Article 12 report (2013) generated for the 2008 – 2013 period (NPWS 2013).
- Irish Wetland Bird Survey: ongoing annual census of wintering waterbirds, since the winter of 1994/95, funded by the National Parks and Wildlife Service and coordinated by BirdWatch Ireland. Trends derived from data kindly supplied by BirdWatch Ireland on behalf of the I-WeBS partnership. Distribution information from Boland and Crowe (2012) and population estimates from Crowe and Holt (2013).
- Bird Atlas 2007-2011: Atlas survey undertaken during the breeding and non-breeding seasons between 2007 and 2011 (Balmer *et al.* 2013), and which established the current range of all bird species in Britain and Ireland in both the breeding and non-breeding seasons, together with an assessment of change.
- Birds of Conservation Concern in Ireland: The last review was in 2013 (Colhoun and Cummins 2013) resulting in a list of 127 species on the Red (37 species, high conservation concern) and Amber (90 species, medium conservation concern).
- Conservation status in Europe: Full details in BirdLife International (2004).

Analyses

Additional estimates of trends were generated for common breeding birds and for non-breeding wintering waterbirds in the recent short (last 5 years) and medium (last 10 years) terms using standard log-linear trend methods (full details presented in the literature sources identified above). Presenting trends for these three timescales allows a robust assessment of the current status of each species which is important for informing their future position on these Declarations.

3.3 Species Accounts

Grey Heron (*Ardea cinerea*)

Position on the current declaration 2017/18

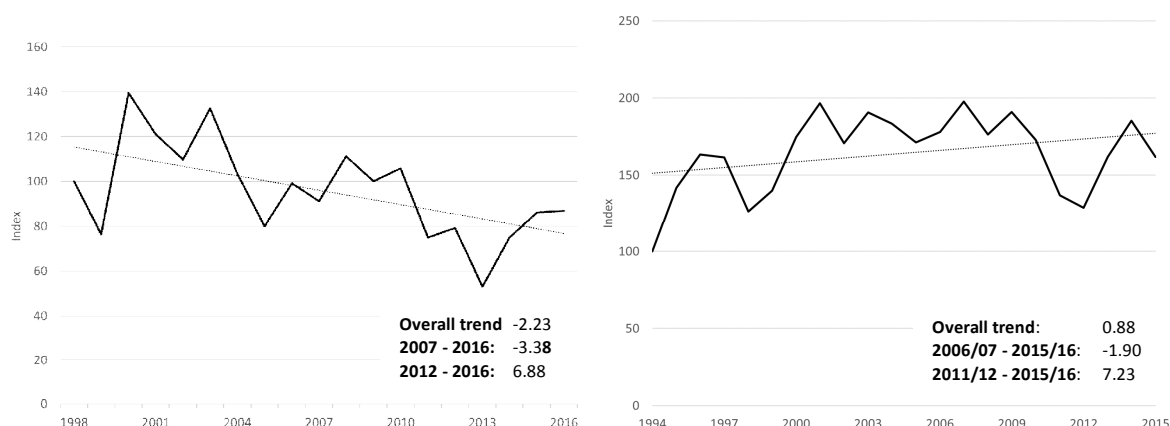
Issue (timescale for control)

- Air Safety, for Shannon Airport only (year-round)

Distribution

Grey Heron is a widely-occurring waterbird both in summer and in winter and is most often seen at or near wetlands. It has been recorded in most 10-kilometre squares across Ireland (78% breeding, 89% winter) with the exception of the uplands. During the breeding season it nests communally in heronries. Outside the breeding season, numbers are augmented by migrating birds from Britain and Northern Europe. During the winter, Inner Galway Bay (Galway), Cork Harbour (Cork), Lough Swilly (Donegal) and Clew Bay (Mayo) support highest numbers, each with between 54 and 130 individuals.

Population size and trend



Grey Heron is monitored by CBS and I-WeBS. However, the CBS is a generic sample-based survey, and is not an effective means of assessing ongoing trends in the breeding population of colonial species such as Grey Herons. The trend in wintering numbers is more reliable. It illustrates a stable trend overall, a decline in the medium term and a recent increase in the recent short-term. The decline was possibly driven by the three cold winters (2009/10 – 2011/12) meaning that the relatively large increase in the recent short term reflects a recovery in numbers. Their trend at a wider European scale has increased. Wintering numbers have been estimated at 1,870 in the Republic of Ireland.

Population status

Grey Heron is not listed as of conservation concern in Ireland, or at a European scale where it has been classified as *Secure*.

Whooper Swan (*Cygnus Cygnus*)

Position on the current declaration 2017/18

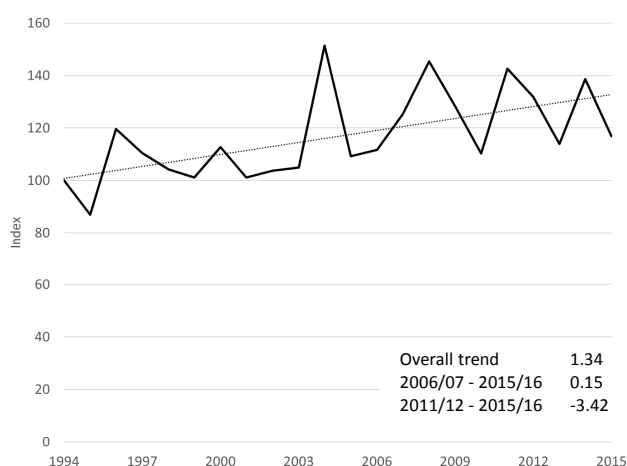
Issue (timescale for control)

- Air Safety, for Shannon Airport only (year-round)

Distribution

Whooper Swan is a waterbird migrant that breeds in Iceland and occurs in Ireland between late October and April. A very small number of birds remain in Ireland year round and there has been occasional breeding attempts in county Donegal. During the non-breeding (winter) months it is widely distributed, with flocks potentially ranging in size from single figures to several hundred, roosting on wetlands at night and feeding by day on nearby grasslands (daily movements of up to 30km are known). It was recorded in 54% of 10-kilometre squares across Ireland during the last atlas (Balmer *et al.* 2013). During the last full census (Crowe *et al.* 2015), the most important sites in the Republic of Ireland for this species are the Shannon Callows (465 birds, Offaly), Wexford Harbour and Slob (382, Wexford), River Suck (381, Roscommon) and Kilmacshane (365, Galway). There are known concentrations at a variety of wetlands north and south of the Shannon and Fergus Estuaries, and in close proximity to Shannon Airport, and regular movements between areas are likely. This site supported 246 birds during the last census.

Population size and trend



The Whooper Swan trend reflects an increasing population since the mid-1990s, perhaps showing stability in the past 10 years and a decline in the recent short-term. Because of the widespread nature of these birds away from wetlands, full censuses are undertaken every five winters, and the last census in 2015 showed a total of 15,104 birds in Ireland (Crowe *et al.* 2015), which was comparable to 2010. The European trend is increasing.

Population status

Whooper Swan is an Amber listed species of conservation concern in Ireland because of its rare breeding status, and also under two criteria because of its wintering population:

1. It represents a significant proportion (>20% by definition) of the wider European population.
2. 50% or more of the population is limited to 10 or fewer sites.

Whooper Swan is not listed as of conservation concern at a European scale where it has been classified as *Secure*.

Mute Swan (*Cygnus olor*)

Position on the current declaration 2017/18

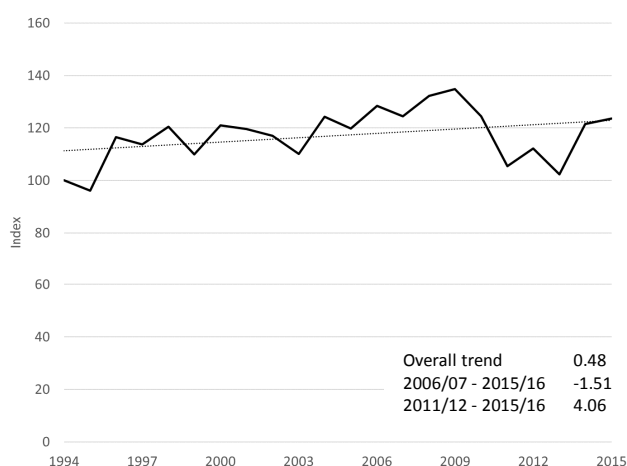
Issue (timescale for control)

- Air Safety, for Shannon Airport only (year-round)

Distribution

Mute Swan is a widely-occurring resident waterbird and is most often seen at or near wetlands. In terms of their distribution over 10-kilometre squares surveyed during the last atlas, 42% were recorded during the breeding season and 67% during the non-breeding season. The most important wintering sites are the Shannon Callows (Offaly), Lough Corrib (Galway) and Lough Swilly (Donegal), supporting between 295 and 397 individuals. There are known concentrations at wetlands in close proximity to Shannon Airport and Dublin Airport, but flight paths that include Dublin Airport would be very unlikely.

Population size and trend



Mute Swan trend has been broadly stable since the mid-1990s, showing a decline during the cold winters 2009/10 – 2011/12 which caused the decline shown for the recent medium-term trend and the increase shown in the recent short term reflects the recovery in numbers since of this population. The European trend is stable. A total of 7,120 individuals is estimated for the Republic of Ireland.

Population status

The Irish population of Mute Swan is a discrete population on a global scale, and it is because of this status that it is Amber-listed on Ireland's Birds of Conservation Concern in Ireland. Mute Swan is not listed as of conservation concern at a European scale where it has been classified as *Secure*.

Buzzard (*Buteo buteo*)

Position on the current declaration 2017/18

Issue (timescale for control)

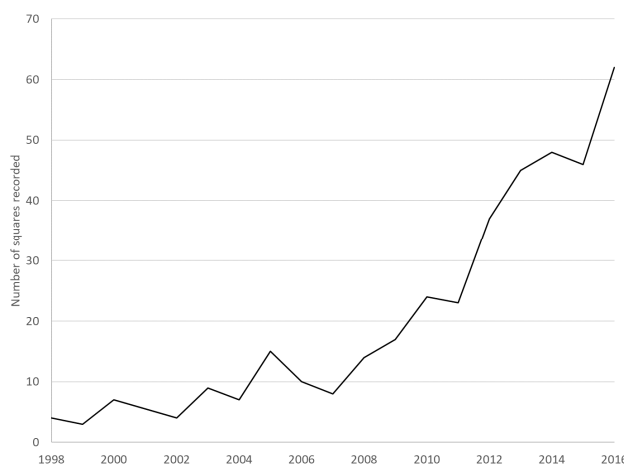
- Air Safety, for Dublin Airport and Casement Aerodrome only (year-round)

Distribution

Buzzard is resident remaining localised year-round. They had been exterminated from Ireland during the 19th century, and the population has since recovered in the past 40 years, with its distribution

having expanded south and west from its former stronghold in the northeast. They are territorial and flocks greater than family group size (usually up to five birds) are seldom seen, so their densities are relatively low. They are regularly recorded feeding over grasslands where they forage on small mammals.

Population size and trend



Buzzard is increasing in abundance and range in Ireland, but is not yet sufficiently widespread to be accurately monitored by the CBS. The figure above shows its increasing prevalence during the course of the CBS, increasing from four survey squares in 1998 to 62 squares in 2016. The European trend is increasing. A total of 1,500 breeding pairs have been estimated in Ireland.

Population status

Buzzard is not listed as of conservation concern in Ireland, or at a European scale where it is classified as *secure*.

Golden Plover (*Pluvialis apricaria*)

Position on the current declaration 2017/18

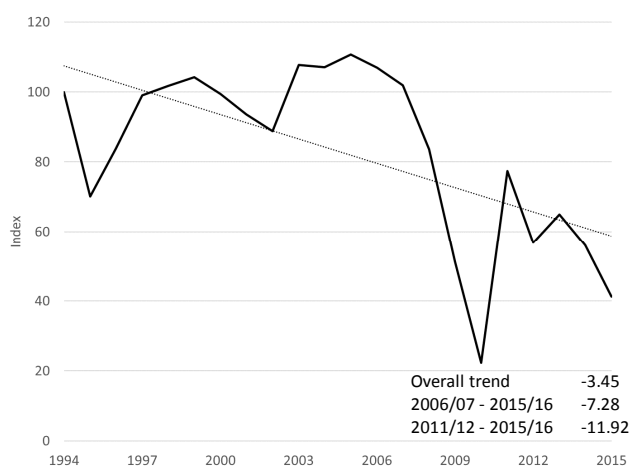
Issue (timescale for control)

- Air Safety (year round)

Distribution

Golden Plover occurs in Ireland year-round, but as part of two separate breeding and non-breeding populations. The Irish breeding population is highly localised and less than 150 pairs are restricted to uplands of the west and northwest. The wintering population is largely from the Icelandic breeding population, but also includes some migrants from the Russian/ Northern European breeding population, and occurs in Ireland between October and April. It is highly gregarious, numerous and widespread, with large flocks (mostly up to low thousands) congregating at a range of inland and coastal sites. They are occasionally found at distance from wetland sites on inland grasslands where they feed predominantly on earthworms. Their most important wintering sites are the Little Brosna Callows (Offaly/ Tipperary), Ballymacoda (Cork), the Cull and Killag (Wexford) and Lough Foyle (Donegal/ Derry), all of which support between 8,449 and 8,994 birds.

Population size and trend



Golden Plover has shown an ongoing declining trend since the mid-1990s. Its decline was especially severe during the cold snap (2009-10 – 2011/12), but it has continued to decline since. The European trend is also declining. Its population in Ireland has been estimated at 99,870.

Population status

Both the breeding and wintering populations are Red-listed birds of conservation concern in Ireland because its breeding population range declined by 70% in the past forty years, and its wintering population size declined by 50% in the 16-year period 1994 – 2010. Golden Plover is not of conservation concern at a wider European scale where it is classified as *Secure*.

Lapwing (*Vanellus vanellus*)

Position on the current declaration 2017/18

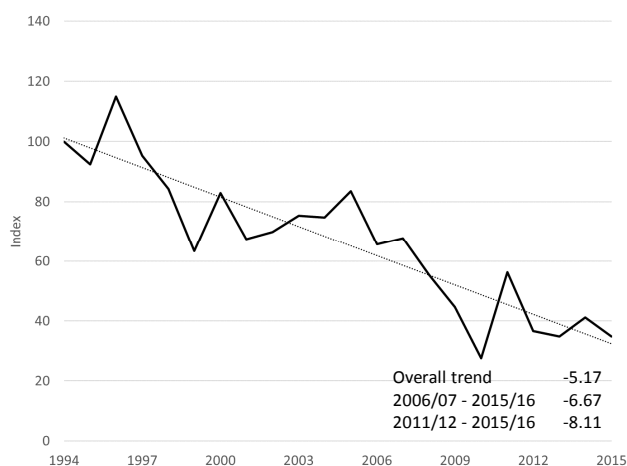
Issue (timescale for control)

- Air Safety (year round)

Distribution

Lapwing occurs in Ireland year-round, but like the Golden Plover it occurs in separate breeding and non-breeding populations. The breeding population is estimated at 2,000 pairs, but these are widely distributed and there are relatively few locations where large numbers are recorded nesting colonially. The wintering population occurs in Ireland between October and March. Similar to Golden Plover, with whom they often flock, Lapwing is highly gregarious, numerous and widespread, with large flocks (mostly up to low thousands) congregating at a range of inland and coastal sites. They are occasionally found at distance from wetland sites on inland grasslands where they feed predominantly on earthworms. Their most important wintering sites are Bannow Bay (Wexford), Tralee Bay (Kerry), Wexford Harbour and Slobbs (Wexford) and the Little Brosna Callows (Offaly/ Tipperary) which support between 5,249 and 6,775 birds.

Population size and trend



Lapwing has shown an ongoing declining trend since the mid-1990s. Like the Golden Plover, its decline was especially severe during the cold period (2009-10 – 2011/12), but it has continued to decline since. The European trend is also declining. Its population in Ireland has been estimated at 88,580.

Population status

Both the breeding and wintering populations are Red-listed birds of conservation concern in Ireland because its breeding population range declined by 70% in the past forty years, and its wintering population size declined by 50% in the 16-year period 1994 – 2010.

Lapwing is SPEC2 European Species of Conservation Concern (concentrated in Europe and with unfavourable conservation status in Europe) and its population has been classified as *Vulnerable*.

Curlew (*Numenius arquata*)

Position on the current declaration 2017/18

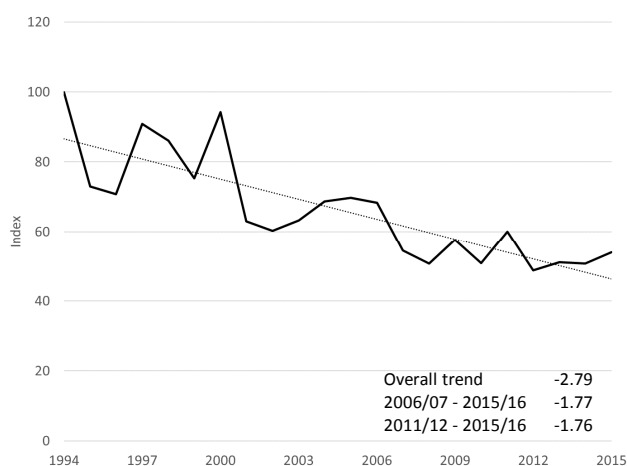
Issue (timescale for control)

- Air Safety, Dublin Airport only (year round)

Distribution

Curlew is a summer and winter migrant. The breeding population has suffered a large-scale decline in the past 40 years of conservation concern and is currently estimated at less than 130 pairs. The winter population much more numerous and widespread, but is declining globally. Largest flocks congregate at a range of inland and coastal sites, and it is also occasionally found at distance from wetland sites where they feed predominantly on earthworms and tipulid larvae. The most important wintering sites for this species are Lough Foyle (Donegal/ Derry), Lough Swilly (Donegal) and Cork Harbour (Cork) which support between 1,911 and 2,586 birds.

Population size and trend



Curlew has shown an ongoing declining trend since the mid-1990s. The European trend is also declining. Its population in Ireland has been estimated at 27,830.

Population status

Both the breeding and wintering populations are Red-listed birds of conservation concern in Ireland because its breeding population range declined by 70% in the past forty years and in the past 20 years, and its wintering population size declined by 50% in the 25-year period 1980 and 2005.

Curlew is SPEC2 European Species of Conservation Concern (concentrated in Europe and with unfavourable conservation status in Europe) and is classified as *Declining*.

Black-headed Gull (*Chroicocephalus ridibundus*)

Position on the current declaration 2017/18

Issue (timescale for control)

- Air Safety (year round)

Distribution

Among the most widespread of the gulls, this small-sized gull is found nesting at a variety of inland and coastal locations, where they nest in natural and man-made wetlands. It is an opportunistic feeder, foraging on insects, fish, seeds, worms, scraps, and carrion in towns, and also on human refuse, and on invertebrates in ploughed fields.

During the last atlas, it was recorded breeding in 17% of 10-kilometre squares, and during the non-breeding seasons in 70% of 10-kilometre squares. Its winter distribution is considerably more widespread, in part due to the dispersive nature of Black-headed Gull outside the breeding season, and also because additional birds migrate from elsewhere to winter in Ireland, largely from Britain, Northern Europe and from Continental Europe visitors. Lady's Island Lake (Wexford) and Inch Island (Donegal) are the most important breeding sites, while Dundalk Bay (Louth), the Blackwater Estuary (Cork) and Dublin Bay (Dublin) are the most important wintering sites.

Population size and trend

There was a 70% decline in the breeding population across Ireland (Republic and Northern Ireland combined) between the mid-1980s and Seabird 2000 (1998 – 2002) to 13,983 pairs, including 3,876 in the Republic alone. This decline was reported to have been driven largely by the decline at inland

colonies, possibly from predation by American Mink *Neovison vison* which has continued to expand its range across Ireland in recent decades. Monitoring at a sample of sites between 2010 and 2012 has indicated that some recovery in numbers has taken place, and that the national total, estimated at 9,318 pairs, is similar to the level recorded during the 1980s. The European trend is declining. Winter numbers are considerably higher and a total of 50,000 individuals was estimated from winter counts.

Population status

Black-headed Gull is Red-listed species of conservation because of a decline in numbers by more than 25% between 1980 and 2013, and because of a decline in breeding range by 70% or more in the past 20 years. This species is not of conservation concern at a wider European scale and has been classified as *Secure*.

Common Gull (*Larus canus*)

Position on the current declaration 2017/18

Issue (timescale for control)

- Air Safety (year round)

Distribution

Common Gull is the least numerous and least widely distributed of the gulls included in the declaration, with its breeding population very much restricted to the northwest of Ireland, and the north coast, where it nests on lake and offshore islands. Their winter distribution is considerably more widespread. During the last atlas, they were recorded in 17% and 50% of 10-kilometre squares during the breeding and non-breeding seasons respectively. The difference in numbers can be explained by the arrival of winter visitors outside the breeding season, from Britain, Iceland and Northern Europe. Lough Corrib (Galway) and Lough Mask (Mayo) are among the most important sites during the breeding season, while the North Wexford Coast (Wexford) and Lough Foyle (Donegal/ Derry) support highest wintering numbers.

They feed on fish and marine and freshwater invertebrates, both live and dead, terrestrial arthropods and invertebrates such as insects and earthworms, rodents, eggs, carrion, offal, reptiles, amphibians, plant items such as seeds and fruit, and also on human refuse.

Population size and trend

Numbers breeding in Ireland are relatively low (just 1,617 Apparently Occupied Nests during Seabird 2000), and a comparison with totals recorded during earlier censuses was not possible due to differences in coverage. However, it did appear that there had been an increase in numbers nesting coastally and a decline in inland nesting birds, the latter probably because of nest predation. Breeding numbers were more recently estimated at 1,927 (NPWS 2013) based on the increases shown at a sample of sites that were surveyed between 2010 and 2012. The European trend is declining. During the winter, numbers are considerably higher and estimated at 18,400.

Population status

Common Gull is Amber-listed on Ireland's list of Birds of Conservation Concern because of a 35% to 69% decline in breeding range in the past 20 years.

Common Gull is also a SPEC2 European Species of Conservation Concern (concentrated in Europe and with unfavourable conservation status in Europe). It is classified as *Depleted* because of a former

moderate decline across much or northwest Europe, and its population has not yet fully recovered to former levels preceding its decline.

Lesser Black-backed Gull (*Larus fuscus graellsii*)

Position on the current declaration 2017/18

Issue (timescale for control)

- Air Safety (year round)
- Public safety, Balbriggan area (breeding season)

Distribution

Lesser Black-backed Gull is a coastal gull species predominantly, traditionally nesting in concentrations on low-lying and undisturbed islands off the Irish coast. It also nests on inland lakes, mostly in Counties Galway and Mayo. It is very much a scavenging species feeding on fish discards. In recent decades it has begun exploiting food sources available in major towns and cities, and availing of suitable nesting habitats nearby (largely rooftops). Here the species has come into conflict with humans, through aggressively defending nests, scavenging discards and offered foods. Individual 'rogue' gulls with an especially aggressive nature have been known to take food directly from humans. They continue to become more numerous and prevalent throughout main towns and cities across Ireland. Throughout the year they are also regularly recorded foraging on farmland, especially in ploughed fields, largely in coastal counties.

They were recorded breeding in 17% of 10-kilometre squares and in 38% of squares outside the breeding season during the last atlas. Lough Mask (Mayo), Lambay Island (Dublin), Lough Corrib (Galway) and Cape Clear Island (Cork) support highest breeding numbers. Outside the breeding season, the Blackwater Estuary (Cork), and Ballycotton (Cork) support highest numbers.

Population size and trend

Numbers of Lesser Black-backed Gulls nesting in Ireland have shown an increasing trend since the mid-1980s. The European trend is also increasing. A total of 4,239 breeding pairs and 10,363 wintering individuals is estimated (NPWS 2013).

Population status

Lesser Black-backed Gull is Amber-listed species of conservation concern in Ireland because of a range decline of between 35% and 69% in the last 20 years. Furthermore, 50% or more of the population breeds at 10 or fewer sites. Lesser Black-backed Gull is not of conservation concern at a wider European scale and it is classified as *Secure*.

Herring Gull (*Larus argentatus*)

Position on the current declaration 2017/18

Issue (timescale for control)

- Air Safety (year round)
- Public safety, Balbriggan area (breeding season)

Distribution

Herring Gull is a coastal gull species, traditionally nesting in concentrations on low-lying and undisturbed islands off the Irish coast and also in small numbers on a small number of inland lakes, mostly in Counties Galway and Mayo. Lambay Island (Dublin) and Puffin Island (Kerry) are the most

important breeding colonies. The Herring Gull's winter distribution is also predominantly coastal, and Lough Foyle (Donegal/ Derry), Dundalk Bay (Louth) and the Blackwater Estuary (Cork) are the most important wintering sites. They were recorded breeding in 25% of 10-kilometre squares and in 47% of squares outside the breeding season.

Herring Gull is very much a scavenging species feeding on fish discards and formerly on rubbish tips. Throughout the year they are also regularly recorded foraging on farmland, especially in ploughed fields, largely in coastal counties. In recent decades they have begun exploiting food sources available in major towns and cities, and availing of suitable nesting habitats nearby (largely rooftops). As with the Black-backed Gulls, this species has come into conflict with humans, in protecting their nests during the nesting period, and scavenging discards and offered foods. Individual 'rogue' gulls with an especially aggressive nature have been known to take food directly from humans. They continue to become more numerous and prevalent throughout main towns and cities across Ireland.

Population size and trend

The breeding population suffered a 90% decline between the mid-1980s and early 2000s due to avian botulism, contracted while feeding on refuse tips. Just 6,235 pairs were recorded during Seabird 2000, with 5,514 in the Republic of Ireland. Since then, there has been some monitoring of approximately 45% of the estimated population at 12 sites, which demonstrated further declines. A contemporary estimate of 2,319 pairs was generated for the last Article 12 report (NPWS 2013). The European trend is increasing.

Population status

Herring Gull is Red-listed species of conservation because of a decline in numbers by more than 25% between 1980 and 2013, and because of a decline in breeding range by 70% or more in the past 20 years. This species is not of conservation concern at a wider European scale and it has been classified as *Secure*. The declines shown in Britain, Ireland and the Netherlands were compensated for by increases in most other European countries.

Great Black-backed Gull (*Larus marinus*)

Position on the current declaration 2017/18

Issue (timescale for control)

- Air Safety (year round)
- Public safety, Balbriggan area (breeding season)

Distribution

Great Black-backed Gull is a coastal gull species, traditionally nesting in concentrations on low-lying and undisturbed islands off the Irish coast. Its distribution in winter is also predominantly coastal. During the last atlas, they were recorded breeding in 11% of 10-kilometre squares and in were recorded in 44% of squares outside the breeding season. Lambay Island (Dublin), the Duvillaun Islands (Mayo) and St Patricks Island (Dublin) are the most important breeding colonies, while the Blackwater Estuary (Cork), Dublin Bay (Dublin) and Lough Foyle (Donegal/ Derry) are the most important wintering sites.

Great Black-backed Gull is a scavenger, feeding on fish discards. In recent decades it has begun exploiting food sources available in major towns and cities, and the species has come into conflict with humans, scavenging discards and offered foods. They continue to become more numerous and

prevalent throughout main towns and cities across Ireland. Throughout the year they are also regularly recorded foraging on farmland, especially in ploughed fields, largely in coastal counties.

Population size and trend

A total of 2,319 Apparently Occupied Nests was recorded during Seabird 2000, including 2,243 in the Republic, and representing a 28% decline when compared with the totals recorded during the mid-1980s. Some monitoring since at a selection of colonies has indicated that there has been some increase in numbers, and the estimate was revised upwards to 2,445 pairs. The European trend is increasing.

Population status

Great Black-backed Gull is Amber-listed on Ireland's list of Birds of Conservation Concern because of a 25% - 49% decline in abundance between 1980 and 2013, and a 35% to 69% decline in breeding range in the past 20 years. This species is not of conservation concern at a wider European scale and it has been classified as *Secure*.

Feral Pigeon (*Columba livia*)

Position on the current declaration 2017/18

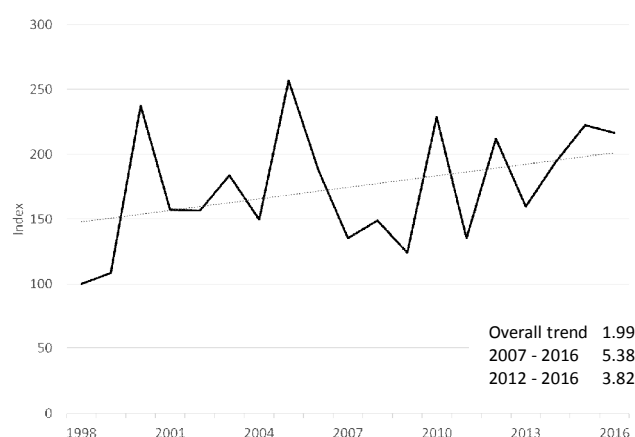
Issue (timescale for control)

- Air Safety (year round)
- Public health (disease/ contamination) (year round)

Distribution

Feral Pigeon is a resident and sedentary pigeon highly associated with urban and suburban habitats and human habitation. It has derived from the Rock Dove which is also present, largely along the western coastline. Feral Pigeon is most concentrated along the east and south coasts, and is absent from many parts of the west and midlands. It was recorded in 56% of 10-kilometre squares during the last atlas.

Population size and trend



Feral Pigeon numbers have fluctuated since the late 1990s, but the trend has shown an increase overall, and in the short and medium terms. The European trend is stable. Numbers in Ireland have been estimated at 5,000 individuals.

Population status

Feral Pigeon is not of conservation concern in Ireland or at a European scale, and it has been classified as *Secure*.

Woodpigeon (*Columba palumbus*)

Position on the current declaration 2017/18

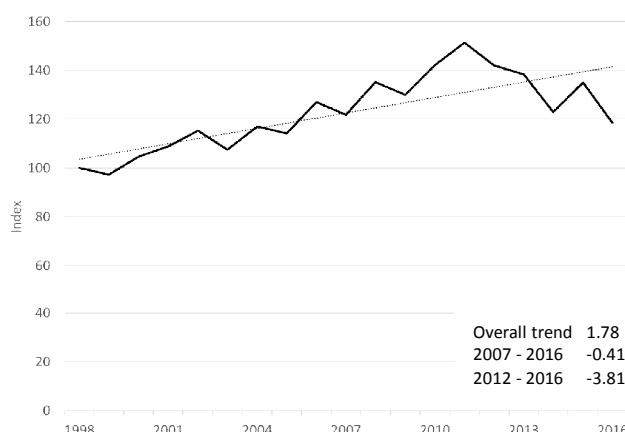
Issue (timescale for control)

- Air Safety (year round)
- Damage cereal crops (year round)

Distribution

Woodpigeon is resident, sedentary and highly numerous distributed throughout Ireland, and most concentrated along the east and south coasts. It was recorded in 95% and 92% of 10-kilometre squares during the breeding and non-breeding seasons respectively during the last atlas. They are highly congregatory, especially in farmland areas. They feed on crops, but also buds, shoots, seeds, nuts and berries. Woodpigeon is considered a pest among farmers growing cereals and often significant efforts are put in place to deter them from these areas.

Population size and trend



Woodpigeon numbers have shown an overall increasing trend since the late 1990s. However, numbers have begun to decline since 2010 which has resulted in the declining trend shown for the recent short term. The European trend is also increasing. Numbers in Ireland have been estimated at 2.8 million individuals.

Population status

Woodpigeon is not of conservation concern in Ireland or at a European scale and it has been classified as *Secure*.

Collared Dove (*Streptopelia decaocto*)

Position on the current declaration 2017/18

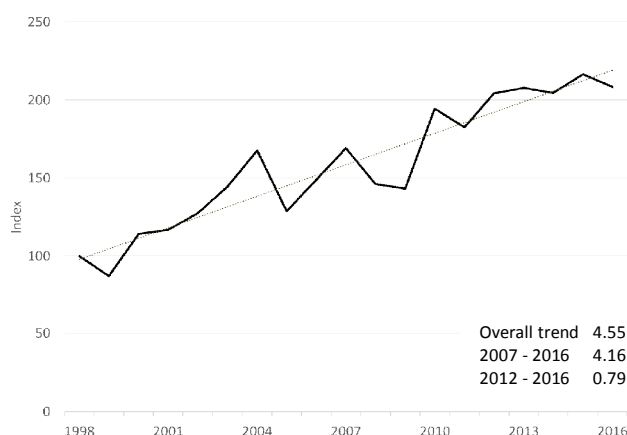
Issue (timescale for control)

- Air Safety (year round)
- Public health (disease/ contamination) (year round)

Distribution

Collared Dove is resident and sedentary, occurring in Ireland since the 1950s. Its population has since expanded, and it was recorded in 84% and 77% of 10-kilometre squares during breeding and non-breeding seasons respectively during the last atlas. Collared Doves occur in a variety of farmland, urban and suburban habitats, typically nest close to human habitation, wherever food resources are abundant and where there are trees available for nesting. They are known to exploit grain, weed seeds and livestock feed.

Population size and trend



Collared Dove numbers have shown an overall increasing trend since the late 1990s and its population has been estimated at 295,000 individuals. The European trend is also increasing.

Population status

Collared Dove is not of conservation concern in Ireland or at a European scale and its population has been classified as *Secure*.

Swallow (*Hirundo rustica*)

Position on the current declaration 2017/18

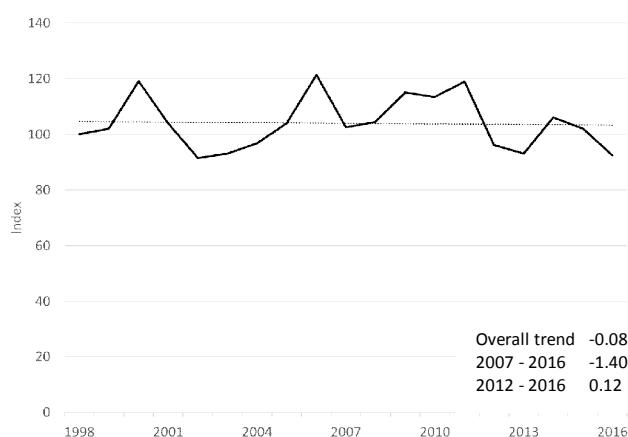
Issue (timescale for control)

- Air Safety, Shannon Airport only (year round)

Distribution

Swallow is a breeding migrant, largely associated with farm buildings, where they nest, usually in low densities. They are very widespread, recorded in 98% of 10-kilometre squares during the last atlas. Post-breeding aggregations, where birds congregate to roost in the weeks prior to migration are known to occur, but few locations have been identified.

Population size and trend



The Swallow trend has been broadly stable since the late 1990s, but with a notable decline in the recent medium term. The European trend is declining. They are highly abundant and have been estimated at 5.9 million individuals in Ireland.

Population status

Swallows are Amber-listed in Ireland's Birds of Conservation Concern in Ireland because of their conservation status at European scale. They are SPEC3 in Europe, meaning that they are concentrated outside Europe and have unfavourable conservation status within Europe, and they have been classified as *Depleted*.

Magpie (*Pica pica*)

Position on the current declaration 2017/18

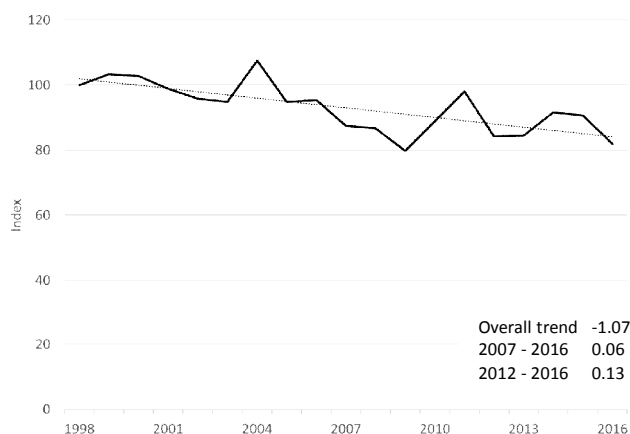
Issue (timescale for control)

- Air Safety (year round)
- Public health (disease/ contamination) (year round)
- Damage to livestock (Dec – May)
- Protection fauna/ game birds (Feb – Sep)

Distribution

Magpies are widely distributed throughout Ireland in a variety of habitats, especially urban, suburban and farmland. They were recorded in 96% of 10-kilometre squares during the last atlas. They are especially prevalent around suburban and urban environments. They are omnivorous and opportunistic foragers.

Population size and trend



Magpie has shown an ongoing declining trend since the 1990s, but this appears to be a recent pattern of change and is not reflected in the longer-term assessment shown by the last atlas which demonstrated small increases in abundance throughout the country. The European trend is also declining. It has been estimated that there are 740,000 individuals in Ireland.

Population status

Magpie is not listed as of conservation concern in Ireland or at a European scale and it has been classified as *Secure*.

Jackdaw (*Corvus monedula*)

Position on the current declaration 2017/18

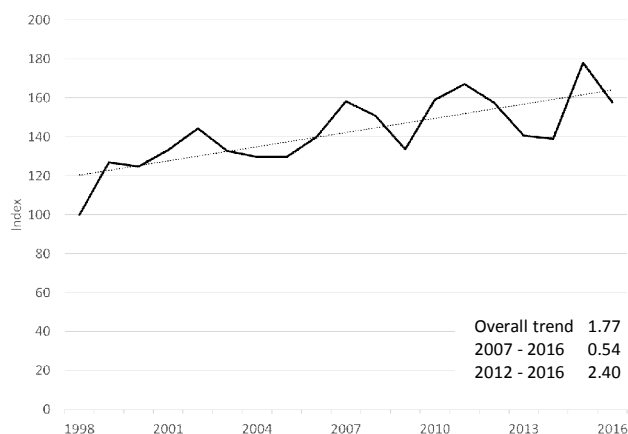
Issue (timescale for control)

- Air Safety (year round)
- Damage cereal crops (Feb – Dec)
- Damage livestock feedlots (Nov – May)

Distribution

Jackdaw is resident and widespread in Ireland, especially in farmland habitats, but are also prevalent in urban and suburban habitats. They were recorded in 95% of squares during the last atlas. They are omnivorous, often recorded feeding on grassland invertebrates, and are also prevalent around farmyards where they avail of any spilt grain and other livestock food that is available.

Population size and trend



Jackdaw has shown an ongoing increasing trend since the late 1990s. Its population has been estimated at 3 million individuals. The European trend is stable.

Population status

Jackdaw is not listed as of conservation concern in Ireland or at a European scale and it has been classified as *Secure*.

Rook (*Corvus frugilegus*)

Position on the current declaration 2017/18

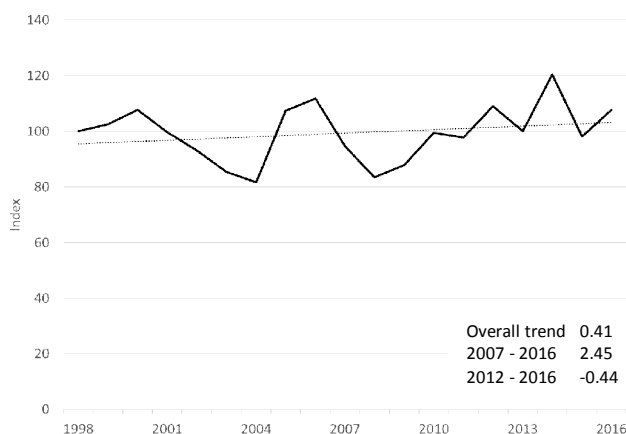
Issue (timescale for control)

- Air Safety (year round)
- Damage cereal crops (Feb – Dec)
- Damage livestock feedlots (Nov – May)

Distribution

Rook is a resident species and is widespread and highly numerous across Ireland, especially on farmland. It was recorded in 90% and 95% during the breeding and non-breeding seasons respectively during the last atlas. They are omnivorous and opportunistic, and are often seen on grasslands where they feed on grassland invertebrates. They are highly sociable, often seen in large flocks.

Population size and trend



The trend overall for Rook has been stable since the late 1990s, with an increase shown in the medium term. The European trend is stable. Numbers in Ireland have been estimated at 4.7 million individuals.

Population status

Rook is not listed as of conservation concern in Ireland or at a European scale and it has been classified as *Secure*.

Carrion Crow (*Corvus corone*)

Position on the current declaration 2017/18

- Not included on the Declarations for 2017/18

Distribution

Carrion Crow was previously the nominate subspecies, and was removed as a separate species from Hooded Crow (previously *C. c. cornix*) in 2003 (Parkin *et al.* 2003). The two species are largely exclusive in their distributions across Britain and Ireland. Here, Hooded Crow is found throughout most parts of Ireland and in high densities, while Carrion Crow is very rare, with only a small number of reports every year.

Population size and trend

Its occurrence in 2% of 10-km squares during the last breeding atlas represents a 25% increase in range in the past 40 years. It was reported as probably breeding in one east coast square in the Republic of Ireland and was confirmed breeding in several squares along the northeast coast of Northern Ireland.

Population status

Carrion Crow is not listed as of conservation concern in Ireland or at a European scale and it has been classified as *Secure*.

Hooded Crow (*Corvus cornix*)

Position on the current declaration 2017/18

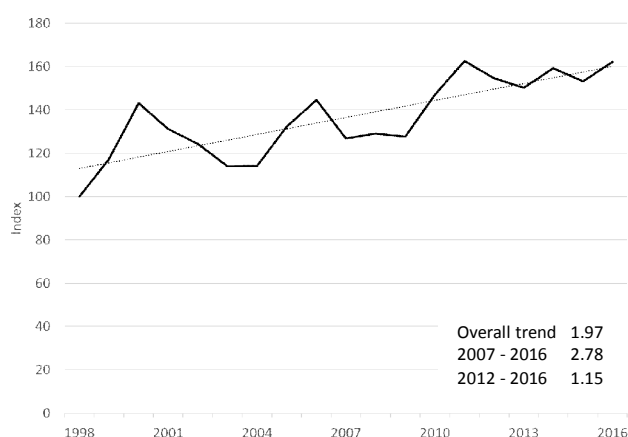
Issue (timescale for control)

- Air Safety (year round)
- Public health (disease/ contamination) (year round)
- Damage to livestock (Dec – May)
- Protection fauna/ game birds (Feb – Sep)

Distribution

Hooded Crow is a resident species that is highly widespread across Ireland and less numerous and congregatory than Jackdaw and Rook. It was recorded in 98% of 10-kilometre squares during the last atlas. Hooded Crows are highly associated with farmland. They are omnivorous and very much opportunistic feeders, regularly seen scavenging, feeding on human domestic waste, and feeding on grassland invertebrates. They are perceived to be pests, largely because of their prevalence, and also their opportunistic feeding behaviour.

Population size and trend



There has been an ongoing increase in Hooded Crow since the late 1990s and its population in Ireland has been estimated at 590,000. The European trend is stable.

Population status

Hooded Crow is not listed as of conservation concern in Ireland or at a European scale and it has been classified as *Secure*.

Starling (*Sturnus vulgaris*)

Position on the current declaration 2017/18

Issue (timescale for control)

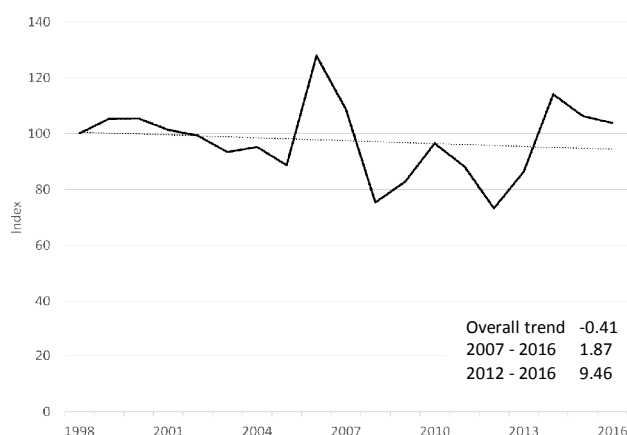
- Air Safety (year round)

Distribution

Starlings are resident with very widespread distribution in Ireland, occurring in 97% of 10-kilometre squares during both the breeding and non-breeding seasons during the last atlas. They are most strongly concentrated in low-lying pastoral farmland, where they feed on grassland invertebrates. During the winter, Ireland's breeding birds are joined by large numbers of winter migrants from

northeast Europe. Starlings are highly congregatory throughout the year, especially during winter. They are especially known for their large flocking movements (murmurations) in winter.

Population size and trend



Starling has remained broadly stable since the late 1990s, although there has been considerable fluctuation in their pattern of change. The European trend is declining. It has been estimated that there are 2.8 million individuals in Ireland.

Population status

Starlings are Amber-listed in Ireland's Birds of Conservation Concern in Ireland because of their conservation status at European scale. They are classified as *Declining* in Europe, and are SPEC3, meaning that they are concentrated outside Europe and have unfavourable conservation status within Europe.

House Sparrow (*Passer domesticus*)

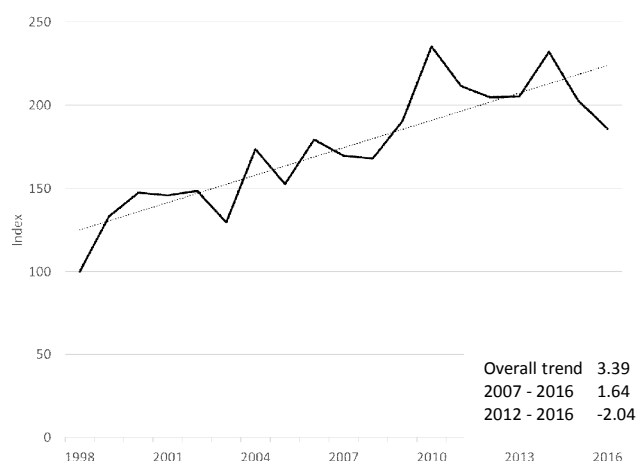
Position on the current declaration 2017/18

- Not included on the Declarations for 2017/18

Distribution

House Sparrows are resident with very widespread distribution in Ireland, occurring in 95% of 10-kilometre squares during the last breeding atlas. They occur in a wide variety of habitats, especially in farmland, and in urban areas.

Population size and trend



House Sparrow has shown an increasing trend since the late 1990s, but with a decline shown in the most recent 5-year period. This trend contradicts those in Britain and across much of Europe which have shown declines. The European trend is declining. It has been estimated that there are 2.5 million individuals in Ireland.

Population status

House Sparrows are Amber-listed in Ireland's Birds of Conservation Concern in Ireland because of their conservation status at European scale. They are classified as *Declining* in Europe, and are SPEC3, meaning that they are concentrated outside Europe and have unfavourable conservation status within Europe.

3.4 Overview of species status

In total, 23 species were assessed as part of this review, including 21 species that are listed on one or both of the Air Safety and the General Declarations for 2017/18 and a further two species that are not on the current Declarations, but are listed in the European Communities (Wildlife Act, 1976) (Amendment) Regulations 1986, as amended and therefore may be included in future. It includes 11 waterbirds, one bird of prey and 11 passerine or near-passerines. Of these species, 10 species are showing increasing trends in Ireland, a further nine are declining and three are stable. Carrion Crow is very rare in Ireland and its current status is not fully known. Some species are of heightened conservation concern in Ireland and/ or in Europe. An overview of the trends and status of the species included on the Declarations is presented in Table 3.2.

Table 3.2. Overview of the species listed on the Declarations, including details about their occurrence in Ireland and their status in Ireland and Europe.

Species	Declaration	Season*	Trend National	Trend Europe	National status (BoCCI)**	European status (BiE2)***
Grey Heron	Air safety	Y	↑	↑	●	●
Whooper Swan	Air safety	W	↑	↑	●	●
Mute Swan	Air safety	Y	→	↑	●	●
Buzzard	Air safety	Y	↑	↑	●	●
Golden Plover	Air safety	W	↓	↓	●	●
Lapwing	Air safety	W	↓	↓	●	●
Curlew	Air safety	W	↓	↓	●	●
Black-headed Gull	Air safety	W	↓	↓	●	●
Common Gull	Air safety	W	↓	↓	●	●
Lesser Black-backed Gull	General, Air safety	Y	↑	↑	●	●
Herring Gull	General, Air safety	Y	↓	↑	●	●
Great Black-backed Gull	General, Air safety	Y	↓	↑	●	●
Feral Pigeon	General, Air safety	Y	↑	→	●	●
Woodpigeon	General, Air safety	Y	↑	↑	●	●
Collared Dove	General, Air safety	Y	↑	↑	●	●
Swallow	Air safety	S	→	↓	●	●
Magpie	General, Air safety	Y	↓	↓	●	●
Jackdaw	General, Air safety	Y	↑	→	●	●
Rook	General, Air safety	Y	→	→	●	●
Carrion Crow	-	Y	-	→	-	●
Hooded Crow	General, Air safety	Y	↑	→	●	●
Starling	Air safety	Y	↓	↓	●	●
House Sparrow	-	Y	↑	↓	●	●

* Time of year each species occurs in Ireland (Y = year-round, W = winter, S = summer)

** Birds of Conservation Concern in Ireland, ● = Green-listed, ● = Amber, ● = Red (Colhoun and Cummins 2013)

*** Birds in Europe 2, ● = Secure, ● = Depleted, ● = Declining, ● = Vulnerable (BirdLife International 2004)

3.5 References

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4. Extent of issues

4.1 Background & objectives

This report aims to summarise the extent to which each of the species on the Declarations gives rise to the issues in Ireland. It also presents an overview of the results of two separate questionnaires relating to the General and the Air Safety Declarations that were circulated among stakeholders. The species listed on the specific Declarations are listed in Table 3.1.

4.2 Derogation circumstances

4.2.1 Public health and safety

Overview of the issue

Wildlife has been a source of infectious diseases transmissible to humans throughout history, and zoonoses with a wildlife reservoir constitute a major human health problem globally. Birds are susceptible to many of the bacterial diseases common to humans (Benskin *et al.* 2009), and *Salmonellae*, *Campylobacter*, *Listeria* and *E. coli*, have all been proven prevalent in a diverse range of bird species groups. The highest-risk species are those that are scavengers (acquiring bacteria from carcasses), those which feed on sewage outfall and landfill sites, and those which feed on the ground, where there is increased risk of ingesting faeces (such as at bird feeding stations, or in urban areas where large numbers of birds congregate). Migratory waterbirds, gulls, pigeons, corvids and a selection of other species are all implicated in this respect (Ferns & Mudge 2000, Baxter & Robinson 2007, Benskin *et al.* 2009).

While it is the threat of infectious diseases that is usually of greatest concern regarding birds and public health and safety, some species can pose direct conflict with humans during the breeding season, particularly when defending their nests and/ or broods. During these occasions, humans are perceived as potential predators and illicit a range of defensive reactions including attack, threat-display, distraction display, direct displacements, fleeing, etc., which are summarised by Simmons (1952). Some species are known for their defensive attacking behaviour by one or two individuals (Montgomerie & Waterhead 1988), or where in colonies can illicit mobbing behaviour where a large group of birds may work together (Clode *et al.* 2000) in an attempt at removing the predation threat.

To this end, there have been increasing reports of direct human conflict, in particular with large-sized gulls, in urban areas in recent decades, in parts of Europe (Calladine *et al.* 2006, Huig *et al.* 2016, Beasley 2017, Newton 2017) and North America (Clark *et al.* 2015). Furthermore, they have been implicated in the contamination of water sources, spreading of litter (through destruction of refuse bags left exposed) and noise pollution (especially during chick-rearing) (Calladine *et al.* 2006, Rock 2005). While these studies have shown an increase in aggressive behaviour during the chick-rearing stages (mid – late summer), they have also demonstrated that this conflict has extended beyond nesting birds, and that there is increasing conflict in public areas where humans are feeding the birds.

The apparently increasing rates of nesting gulls in towns and cities, together with the propensity of the greater public to feed the birds in parklands, will undoubtedly continue to increase conflict further into the future (Calladine *et al.* 2006, Coulson & Coulson 2009, Moon 2011). Unfortunately, managing the situation is complex due to many factors, most notably the longevity of the gulls,

ongoing availability of food sources (public feeding birds, exposed refuse), and their resilience and ability to re-nest (and thereby the 'moving on' of the problem where nests and eggs are tampered with). Thus, most of the research and reviews above highlight the need for further research to determine the most effective solutions, as well as the effectiveness of any mitigation that is implemented. The unfavourable conservation status of these birds must also be considered (Milner & Redpath 2013) prior to mitigation; especially if there has been a true displacement of nesting gulls away from their natural (largely island-nesting) habitats towards increased proportions of their populations nesting in towns and cities.

Application of the General Declaration in Ireland with respect to public health and safety

Contamination and human health

There are four species that have been included for reasons of public health due to disease and contamination, comprising Feral Pigeon, Collared Dove, Magpie and Hooded Crow. The allowable period for control of these species for this reason is year-round.

With the exception of Hooded Crow, all others are prevalent around dense human habitation. There is no information on the extent to which these species impact on human health in Ireland. However there is literature that supports the spread of diseases by these species. The threat posed by these species and reasons why they have been listed under this derogation can be pieced together in reviewing their general ecology and from a range of literature sources:

- The success of Feral Pigeons in urban settings has been attributed to many factors, including lack or low levels of predation (Sol *et al.* 1998), the availability of building ledges, overhangs, bridge structures for nesting and roosting (Sacchi *et al.* 2002, Ali *et al.* 2013), the lack of cold-stress in winter due to urban heat domes (Dobeic *et al.* 2011), and year-round food supply (Jokimaki & Suhonen 1998). They are capable of breeding all year round, and they now occur in high densities in many cities. Their excreta are deemed a major problem, mainly due to the soiling, but also public health. They have been identified as vectors for a number of pathogens that can be harmful to humans and domestic animals (Haag-Wackernagel & Moch 2004, Haag-Wackernagel *et al.* 2004, Moriarty 2008). *Chlamydia psittaci*, which causes psittacosis in humans, has been detected in the faeces of most Feral Pigeon populations (Heddema *et al.* 2006). Recent studies also isolated *Chlamydia abortus*, which causes abortion and foetal death in mammals, including humans (Sachse *et al.* 2012).
- Collared Dove first colonised Ireland in the 1950s, and it is now widespread across Ireland, and it is very much an urban species (Tratalos *et al.* 2007). It is a proven vector of Newcastle disease, which is a devastating disease of poultry (Terregino *et al.* 2003, Alexander 2011), as well as *Chlamydia psittaci* which affects humans (Gough and Bevan 1983, Donati *et al.* 2015).
- Magpie is widespread throughout a variety of habitats across Ireland and has been implicated as a vector of *Campylobacter* (Hudson *et al.* 1991).
- Hooded Crows have a known propensity to scavenge, and the fact that they are abundant, makes them candidates for environmental contamination. The prevalence of *Campylobacter* in Hooded Crows was shown to be high, due to its opportunistic feeding and scavenging behaviour (Robino *et al.* 2010).

Gulls and public safety

A further three species were included in the General Declaration in 2017/18, namely Lesser Black-backed Gull, Herring Gull and Great Black-backed Gull, for a specific area in north County Dublin. This was aimed as a pilot project, where the removal of a select number of nests of Herring Gull and

Lesser Black-backed Gulls was allowed as part of the derogation granted based on a public campaign, since May 2016 that highlighted concerns of a number of residents and businesses in north County Dublin (Balbriggan Community Group 2017).

Since the late 1990s, Herring Gull and Lesser Black-backed Gull have had an increasing presence in major towns and cities, and have begun nesting on rooftops. As opportunistic feeders, they have adapted to feeding on food waste that is provided from domestic refuse, or that is offered by members of the public. Incidents of conflict with members of the public with these gulls, together with Great Black-backed Gull which is also widespread in towns and cities, have become increasingly reported on by the Irish media. The nature of these incidents have been:

- Direct contact caused by birds defending their nests or broods
- Direct contact caused by birds opportunistically taking food directly from people
- Noise caused by roof-nesting gulls

In recent years, there has been increasing media attention drawn towards human conflict with gulls, and it is likely that there will be increasing pressure across Ireland for mitigation actions.

4.2.2 Air safety

Overview of the issue

Bird Strike Risk

Birds are an air safety hazard and present a risk of collision or bird strike with aircraft. This risk is considered to be greatest during take-off, approach, climb and landing. In terms of aircraft damage, many bird strikes will have no effect, however where damage occurs the effects can range from minor (e.g. Soldatini *et al.* 2010), where a strike may lead to an aircraft inspection, to catastrophic with structural failure which cannot be repaired. Bird strikes have caused aircrafts to abort take off, emergency land, and exceptionally have caused air accidents with fatalities (e.g. CAA 2001, CAA 2014).

Not all birds present a risk to air safety. Below a certain weight and where a strike involves a single bird, it is likely that there will be no bird-strike effect to the aircraft. However where there are multiple birds (>1), especially flocking species and heavier birds, the risk of aircraft damage increases.

The risk of bird strike and of aircraft damage will depend on the species present within the environs of an airport. This will vary with time of year, time of day and is likely to vary between years. The birds present at an airport on any given day may be part of local resident populations, migratory populations, transit flocks or opportunistic flocks. The number and occurrence of a species will vary over time with local, national and international population trends.

For some species within resident populations there may be some habituation to aircraft activity which lessens the risk of bird collisions. Conversely where migratory populations occur, there may be a greater risk of collision with aircraft, as migratory birds (*i.e.* seasonally passing species) will have no habituation to aircraft activity. Where there are breeding populations, similarly, young inexperienced birds will be at greater risk of collision.

The size of an airport, the aircraft being used and the frequency of flights will also determine the level of bird strike risk. For larger commercial aircraft bird strike certification standards are applied so that the aircraft structure is built to standards designed to minimise impacts from bird strike.

The UK Airport Operators Association (AOA) includes a list of some common hazardous birds. This is to provide an indication of the kinds that require consideration when assessing planning applications. The AOA states that other species may also have the potential to increase the hazard equally and that in general, large birds and flocking species present the greatest hazard.

The AOA list of “*some common hazardous birds (this list is not exhaustive)*”:

- *All wildfowl (Ducks, Geese and Swans)*
- *All large waterfowl (Herons, Egrets, Cormorants)*
- *Gamebirds (Pheasants & Partridges)*
- *Birds of prey*
- *Large waders (Lapwing, Curlew and Golden Plover)*
- *All Gull species*
- *All Pigeon species*
- *All Corvid species (crow family)*
- *Starlings*

[Reducing the risk of bird strike](#)

Best practice in the UK (AA 2014) and internationally (International Bird Strike Committee 2006) recommend that the risk of bird strike should be managed through:

- Reducing the risk of bird strike through management to reduce the occurrence of birds within airport property (e.g. long grass policy to deter feeding and roosting birds, netting drains and pools to prevent access by birds). Bird use of adjacent lands is also significant and steps taken should be taken to influence adjacent land use, and at the least monitor its use.
- Recording of bird use in the airport, implementing bird control measures and recording bird strike incidents.

The collection of data on bird use, activity, the use of control measures and their effectiveness is important to inform future actions. The collection of bird strike data is essential in terms of monitoring bird strike risk, *i.e.* which species are striking aircraft and what level of damage are they causing.

[Bird Strike and Air Safety in Ireland](#)

The Irish Aviation Authority provides Guidance material on Wildlife Strike reporting. It notes that birds and other wildlife can be a significant hazard to aviation. In order to compile statistics on the hazard and assess the effectiveness of any bird and wildlife control measures, it states that any suspected strikes should be reported to the National Bird Hazard Committee (IAA 2014).

Application of the Air Safety derogation in Ireland

To allow for the control of birds for the purposes of air safety in Ireland, airports can apply for a Derogation license. This license allows for the control of birds listed under the Air Safety Declaration.

The Air Safety Declaration under the European Communities (Wildlife Act) (Amendment) Regulations, 1986 (as amended), lists 21 species in its Schedule (Table 3.1). These species are considered to be a risk to air safety in Ireland and the Government is satisfied that no other solution exists, other than to capture, kill or otherwise interfere with those species listed. The methods of control are specified in the second schedule of the Regulations and are listed below:

- Shooting with rifle or shotgun.
- Poisoned or anaesthetic bait⁵
- Cage traps with or without live decoys.
- Traps, snares or nets approved under the Wildlife Act, 1976 (Approved Traps, Snares and Nets) Regulations, 1977 (S.I. No. 307 of 1977).

The above methods can be used by owners of properties on which a threat to air safety is represented by those species listed. In effect the Declaration is principally applied by airports.

Overall, there were between 85 and 148 confirmed bird strikes at Irish airports between 2013 and 2017 (IAA unpublished data), with an average over the five years of 123 strikes. The range of species between 2013 and 2017 involved in the strikes was highly varied between airports, and can be summarised as follows:

- Total number of species overall recorded involved in collisions with aircraft at Irish Airports was 50. Of these, there were 21 species that were recorded at one airport only.
- Swallow was the most prevalent with strikes reported at 79% of airports, followed by Meadow Pipit and Starling (56% airports).
- The greatest number of species recorded in strikes was at Shannon (40 species) and Dublin (28 species).

An overview of the questionnaire results provided by airport personnel is presented in Section 3.2. It shows that of the 11 main aerodromes contacted, responses were received from 10, nine of which apply the Derogation. The species of concern vary between airports. The lists include combinations of resident species (present year-round), and migrants that occur during the breeding or non-breeding seasons. Concerns about Woodpigeon and Hooded Crow were most prevalent. For most of the aerodromes, annual actions are implemented by most to minimise occurrence, largely through scaring or trapping. Further details are presented in Section 3.2.

4.2.3 Damage to crops, livestock, forests, fisheries and water

Overview of the issue

It is widely perceived that some wildlife species have a negative impact on farming (crops and livestock), forests, and fisheries and water. Conflicts involving birds are diverse in nature, and range from direct impacts, such as predation, and competition for or loss of resources, such as the impacts of grazing geese in reducing available grazing and in the loss of crop yield.

Crop damage is the degradation of crops through consumption, damage to roots, and can also be caused by trampling, where for example large flocks of waterbirds are implicated. Damage to fisheries is usually through direct consumption of fish, crustaceans or bivalves, especially from aquaculture operations, but also refers to free-living stocks (AEWA 2005).

With the exception of a small number of species-specific reviews (e.g. Starlings across the European Union, Feare *et al.* 1992), very little is known about the extent of the issue across Europe, or indeed globally.

⁵ *Note: Where the means of killing or capturing wild birds includes the laying or any poisons, the owner or occupier of land on which such poison is laid or caused to be laid shall comply with the provisions of subsections (2) to (5) of section 14 of the Protection of Animals (Amendment) Act, 1965 (No. 10 of 1965).

- Some broad-scale estimates of damage to crops have been estimated for waterbirds across Europe (van Roomen & Madsen 1992) and non-native waterbirds in Great Britain (Williams *et al.* 2010).
- Reported impacts on fisheries include direct foraging on free-living stocks of Salmon (Murton & Wright 1968), on the young of commercial species (Van Dam *et al.* 1995, Van Eerden 1997, Harris *et al.* 2008, Tierney *et al.* 2011, Russell *et al.* 2012). Infection of shellfish ponds by defecating gulls has also been reported (Monaghan *et al.* 1985). The impacts of birds on fisheries is difficult to quantify because of difficulties measuring the proportion of the stock being removed by predation.
- No literature was found that demonstrates the impacts of birds on forestry.

AEWA (2005) highlight the importance of acknowledging the conservation status of the species concerned, and provide recommendations on methods for:

1. Examining the extent of the problem, albeit focussed on waterbirds.
2. Tackling the issues.
3. Solutions for reducing the problem.

To date, the effectiveness of any control programmes is unclear because they are rarely evaluated.

Application of the General Declaration in Ireland with respect to livestock, forests, fisheries and water

The species on the General Declaration in Ireland with respect to livestock, forests, fisheries and water are listed for agricultural reasons. There are currently five species on the General Declaration for the reasons identified below. The allowable periods of control are restricted to those when the likelihood of damage is greatest:

- Damage to livestock: Magpie, Hooded Crow. Control is between December and May, during the peak lambing and calving period.
- Damage cereal crops: Woodpigeon, Jackdaw, Rook. Control is between November and May, during the early growth phases of the crop.
- Damage livestock feedlots: Jackdaw, Rook. Control is between November and May, during the period when livestock are housed and/ or fed large amounts of supplementary meal

As discussed above, there is very little evidence globally that informs on the extent to which bird give rise to these issues. Based on the responses received on the questionnaire (See Section 3.3), there was no objection to these listed species. However, Magpie was implicated in causing damage to livestock feedlots.

Some concern was expressed about breaches of some these derogations, specifically that:

- The derogation is being abused in relation to Woodpigeon which is subject to widespread recreational shooting for local and tourist hunters during the height of their breeding period.
- Better enforcement is needed. For example, rookeries are being targeted, the timing of which would be outside the period of control for this species.

4.2.4 Protection of flora and fauna (including game)

Overview of the issue

Under the General Declaration, a derogation may apply where a species has been shown to impact on native flora and fauna, or on game stocks. The principal application of this derogation in relation to birds has been where it has been shown that:

- a species is significantly hampering the breeding success of another species (e.g. a predator affecting a colony of seabirds, or on game stocks),
- a piscivorous species impacting on native fish populations (e.g. impacts of Cormorant on some native fish populations),
- a species is affecting the success or otherwise of another species due to competition for a resource (e.g. the presence of feral goose populations year round impacting on feeding conditions for wild and migrating wintering geese).

In the UK, raptors generate considerable concerns in relation to the predation of game stocks, livestock and pigeon racers (Kenward *et al.* 2001, Park *et al.* 2008). Corvid predation has also been reported on, and one study in the UK demonstrated that Red Foxes *Vulpes vulpes* and corvids were the most important nest predators, accounting for at least half of all predation events (Draycott *et al.* 2008), particularly of nests and chicks. Other studies have shown the impacts of corvids to be relatively low, especially in comparison with other predators (Park *et al.* 2008). Furthermore, in their review of 42 studies, the large majority from the UK, it was shown that there is little evidence that suggests there is a positive effect on resulting game stocks when corvids are controlled (Madden *et al.* 2015).

Application of the General Declaration in Ireland with respect to flora and fauna (including game)

There are two species, Magpie and Hooded Crow, on the General Declaration in Ireland with respect to the protection of flora and fauna, and game stocks. The allowable period of control is restricted to between February and September, during the bird breeding season up to and including the fledging period.

4.3 Targeted consultation with stakeholders

Separate questionnaires relating to the General and Air Safety Declarations were compiled and circulated to a selection of stakeholders (listed in Appendix 9.2). The General Declaration focussed on gathering details about the species included on the list, the requirement for additional species, and for comments on the current process. The Air Safety questionnaire included additional questions specific to the operations of this derogation at airports nationwide. These questionnaires are presented in Appendix 9.3).

4.3.1 General Declaration questionnaire

In total there were 17 responses to the general questionnaire, summarised as follows:

- Eleven from NPWS staff
- One from a farming organisation
- Three from hunting organisations
- One from a committee with concerns about gulls and public safety

- One from a game shooter and member of BirdWatch Ireland

Comments were received on all species that are presently on the General Declaration, and an overview of the responses provided is presented in Table 4.1. Some five participants recommended the inclusion of 14 additional species overall (Table 4.2), in relation to:

- Public health: 3 species
- Public safety: 2 species
- Crop damage: 1 species
- Livestock damage: 1 species
- Protection of game birds: 2 species
- Protection of native fauna: 8 species

One participant expressed concern about Starling, recommending that it is not added to the list. They acknowledged that flocks can damage livestock feeding areas in winter, and as a result, that farmers are tempted to poison them illegally. They recommended the need for study and promotion of ways to prevent such problems.

Some eight participants indicated that they have applied the derogation as follows:

- Balbriggan Community: Control of Herring Gulls nesting within the District for the purpose of public health and safety
- Game Shooter and member of Birdwatch Ireland: Has availed of derogations to control Hooded Crows and Magpies for the protection of breeding Curlew
- One commercial shooting operator: Pigeons, Feral Pigeons and some crow species when causing trouble to farmers.
- Countryside Alliance Ireland: Countryside Alliance Ireland (CAI) members continue avail of the derogation to ensure a timely solution for farmers to the ongoing problems of crop protection, serious risk to livestock, reducing the spread of animal diseases and the risk to public health.
- NPWS (2 participants): Protection of wader nesting sites. Also advising farmers on how to control and when to control. Wexford Harbour has been licensed in recent years to destroy nests of Great Black-backed Gull and Hooded Crow to protect a colony of Little Terns nearby.
- NARGC: Some of the NARGC's 25,000 members use the derogations to protect the nest and young of gamebirds, to prevent serious damage to farm animals and their feed lots, and for crop protection on behalf of farmers.
- ICSA: ICSA has previously availed of this derogation order, throughout each entire calendar year, to provide vermin control services to landowners (most of these are IFA members)

General comments on the derogations process were provided by seven participants. These submissions focused on a range of issues including recommendations regarding the derogation process; incorporating the views of stakeholders; concerns over methods of control and their implementation; and the application of Section 42 licences. Some of the main issues highlighted include:

- Concerns about misapplications, breaches and lack of regulation of the derogations.
- Concern over the competence of DHCG in matters of public health and safety regarding urban gulls.
- Lack of weight given to community and local knowledge regarding impacts of issues arising with urban gulls.

- Inhuman control measures reportedly used such as live Hooded Crow and Magpie decoys used in Larsen traps that are not of sufficient dimensions to allow them to move and exercise freely.
- Recommendation that EC (Wildlife Act, 1976)(Amendment) Regulations, 1986 (as amended) should be reviewed and amended to restrict control of species under the Declarations to persons liable to be affected by serious damage or their agents only.
- Request that the Minister issues and publishes the updated nationwide Declaration before the present one expires in order to negate the occurrence of a period of uncertainty and prohibition of the control of certain wild bird species, and allow farmers to adequately protect their crops.
- Recommendation that the use of birds of prey should be included in the method of control for all the relevant bird species in the forthcoming Declarations.
- Recommendation that personnel involved in controlling Hooded Crow and magpies should be made explicitly aware of what the reasons are for controlling them, and that the control dates specific to the issues. Further recommendation that it would be better to have a year-round control period for all reasons, or exclude breeding season unless it is for the protection of rare breeding waders.
- Recommended review of Section 42 licences, as Section 42 licences can only be applied for when damage has already occurred. By allowing these birds to be controlled under derogation it would allow for the prevention of serious damage to livestock and the nests and young of gamebirds.
- Recommendation that the grain growers section of the IFA should be included as major stakeholder.
- Suggestion to clarify if gamebirds reared for shooting are classified as livestock with respect to the application of the General Declaration.

Table 4.1. Overview of responses from 17 participants who contributed to the General Declaration initial review, with their feedback on whether or not the species should be retained on the list, removed, and where further clarification or research is required.

Species	Responses overall	Remain	Remove	Review/ Research	Rationale (removal/ review)	Rationale (retain/ broaden)
Lesser Black-backed Gull	7	4	2	1	Remove from Declarations and control under Wildlife Act, 1976 - 2012, Section 42 permission if necessary. Seabirds are under considerable pressure. Educate the public on how to minimise conflict. Other options have not been fully explored.	
Herring Gull	9	5	3	1	Remove from Declarations and control under Wildlife Act, 1976 - 2012, Section 42 permission if necessary. Remove from the Declaration list – this species is Red listed (90% decline in numbers in 15 years leading up to 2000). Remove from list until up to date population numbers determined through national survey. Seabirds are under considerable pressure. Educate the public how to avoid conflict. Other options have not been fully explored.	Breeding too close and in large numbers; noise; faecal contamination; aggressive foraging; property damage; injury; Implicated in Anti-microbial resistance dissemination and potential vector role; denial of normal use of home, garden, maintenance; negative impacts on business and schools and clubs; rapid expansion and escalation of issues; damage to other species.
Great Black-backed Gull	7	4	2	1	Remove from Declarations and control under Wildlife Act, 1976 - 2012, Section 42 permission if necessary. Seabirds are under considerable pressure. Educate the public how to avoid conflict. Other options have not been fully explored.	
Feral Pigeon	7	7				
Woodpigeon	6	4		2		Retain but tighten up control reasons. Declarations are being abused to provide cover for widespread recreational shooting for local and tourist hunters during Woodpigeon's breeding period. Clarify that this is not over stubble but actual standing crop
Collared Dove	7	4	3		Remove, unlikely to cause serious damage. Another 2 respondents indicated not a problem in their areas.	
Magpie	9	7		2	Retain and Review: Amend control reasons and dates, which are confusing for people reading them, people are unaware that for certain reasons they cannot be controlled all year round.	Include control for purposes of loss of livestock feeds in troughs.

Review of the Birds Directive Article 9(1)(a) Derogations Process

Species	Responses overall	Remain	Remove	Review/ Research	Rationale (removal/ review)	Rationale (retain/ broaden)
Jackdaw	8	5		3	Retain and Review: Clarify where this species can be targeted.	Protection of game crop to be included as reason for control
Rook	8	5		3	Retain and review Clarify where this species can be targeted. This respondent indicated they have seen rookeries targeted and recommended that birds should only be allowed to be culled at the point of damage. Amend control reasons and dates, which are confusing for people reading them, people are unaware that for certain reasons they cannot be controlled all year round.	Include control for purposes of loss of livestock feeds in troughs. Protection of game crop to be included as reason for control
Hooded Crow	9	7		2	Retain and review Amend control reasons and dates, which are confusing for people reading them, people are unaware that for certain reasons they cannot be controlled all year round.	Include control for purposes of loss of livestock feeds in troughs. To clarify if gamebirds reared for shooting can be classified as livestock.

Table 4.2. Species recommended for review for inclusion on the General Declaration.

Species		Rationale
Black Swan	<i>Cygnus atratus</i>	Potential competition with native species, although numbers remain low in Ireland.
Greylag Goose	<i>Anser anser</i>	Potential competition with native species/ conflict with farmers that may impact on wintering (wild) populations.
Canada Goose	<i>Branta canadensis</i>	They gather in significant numbers on water bodies, displace important native species and can be a health risk/contaminant to public water sources.
Egyptian Goose	<i>Alopochen aegyptiaca</i>	Potential competition with native species.
Rose-ringed Parakeet	<i>Psittacula krameri</i>	Feral species capable of population expansion and competition with native species.
Buzzard	<i>Buteo buteo</i>	Damage to livestock, protection of young gamebirds (does damage to young Pheasants and young/ adult partridges).
Harris Hawk	<i>Parabuteo unicinctus</i>	Escaped falconers birds potentially threaten Peregrine Falcon genetics.
Lanner Falcon	<i>Falco biarmicus</i>	Escaped falconers birds potentially threaten Peregrine Falcon genetics.
Saker Falcon	<i>Falco cherrug</i>	Escaped falconers birds potentially threaten Peregrine Falcon genetics.
Lesser Black-backed Gull	<i>Larus fuscus</i>	Difficult to distinguish from other Herring Gull, and they may move into nesting areas previously used by Herring Gulls since displaced.
Great Black-backed Gull	<i>Larus marinus</i>	Difficult to distinguish from other Herring Gull, and they may move into nesting areas previously used by Herring Gulls since displaced.
Raven	<i>Corvus corax</i>	Damage to livestock, protection of young gamebirds.
Starling	<i>Sturnus vulgaris</i>	Food safety and hygiene.
Bullfinch	<i>Pyrrhula pyrrhula</i>	Crop damage.

4.3.2 Air Safety Declaration questionnaire

There were a total of 11 responses provided from ten aerodromes in relation to the air safety questionnaire. And the results are summarised below:

- Frequency with which Air Safety Derogation is applied in the past 10 years:
 - Annually: Dublin, Shannon, Kerry, Donegal, Cork, Sligo, Knock.
 - At least three times: Baldonnell, Weston
 - Not at all: Connemara/ Aran Islands airfields
- In terms of the threat of bird strike all airports considered that this threat was present year round, with the exception of Knock, Kerry and Weston where the threat was deemed to be seasonal (non-breeding season (Sep – Apr) at Knock and breeding season (Apr – Sep) at the other two airports.
- All airports use scaring as a method of control. Only three airports use controlled shooting of individuals and two used trapping of birds with their removal from the area. The frequency of application of these methods is summarised as follows:
 - Scaring with birds of prey: 1 airport (annually), 2 (at least three times in the past 10 years)
 - Scare gun/ shooting over individuals: 9 (annually), 1 (at least seven times in the past 10 years)
 - Controlled shooting of individuals: 3 (annually), 1 (at least seven times in the past 10 years), 2 (prior to 2007)
 - Trapping and removal of individuals: 2 (annually)

Woodpigeon, Hooded Crow, Rook and Starling were of widest concern, as reported by at least nine airports, while greatest concern was expressed in relation to Lapwing, Black-headed Gull, Lesser Black-backed Gull, Herring Gull and Starling (4 – 5 airports) (Fig. 4.1). At

an airport level, Dublin, Kerry and Cork airports indicated highest concern, about 14, 11 and 9 species (Table 4.3).

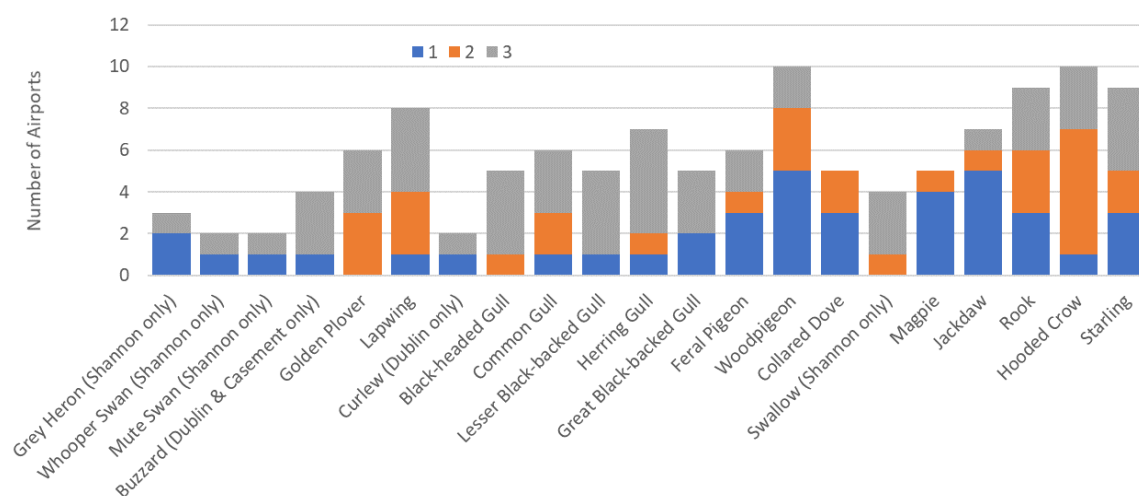


Figure 4.1. Level of concern provided by 10 aerodromes about their level of concern relating to each of the species on the Declaration, illustrating the ratings supplied by, from 1 (low concern) to 3 (high concern).

Table 4.3. Level of concern indicated by each airport about each species.

Species	Dublin	Shannon	Knock	Cork	Kerry	Connemara	Sligo	Donegal	Baldonnell	Weston
Grey Heron										
Whooper Swan										
Mute Swan										
Buzzard										
Golden Plover										
Lapwing										
Curlew										
Black-headed Gull										
Common Gull										
Lesser Black-backed Gull										
Herring Gull										
Great Black-backed Gull										
Feral Pigeon										
Woodpigeon										
Collared Dove										
Swallow										
Magpie										
Jackdaw										
Rook										
Hooded Crow										
Starling										
Total HIGH concern	14	6	3	9	11	0	0	6	5	0
Total MEDIUM concern	3	1	2	3	1	0	4	2	6	3
Total LOW concern	1	5	3	1	9	3	6	8	2	2

Just one airport commented on additional species that should be considered for inclusion, namely:

- Light-bellied Brent Goose *Branta bernicla hrota*
- Cormorant *Phalacrocorax carbo*
- Mute Swan *Cygnus olor*
- Red Kite *Milvus milvus*
- Little Egret *Egretta garzetta*

Baldonnell commented:

- Racing pigeon is a seasonal threat. Flocks pose immediate, if fleeting, risk,
- Gulls (particularly Herring Gulls) appear to be increasing in prevalence and are noticeably more common in normal meteorological conditions.
- Diurnal flocking of Starlings and Woodpigeons create risk.

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5. International Best Practice Review

Across Europe, Member States have used a diversity of approaches in delivering Article 9. This chapter provides an overview of the approaches of three other Member States, namely Denmark, The Netherlands, and England. Key personnel were asked to provide comment on:

- the process by which they select and list bird species under the derogation,
- how they approach reviewing their lists, and
- how they approach adding new species.

5.1 Overview of responses

5.1.1. Denmark

Consultee

Anders Jensen

MSc Forestry, Wildlife Manager and GDBA

Nature management – Hunting team

Ministry of Environment and Food of Denmark

General approach

A central database has been used since 2011 to manage requests for all derogation requests from all stakeholders, including members of the public, and for further follow-up, such as reporting. The stakeholder must present a valid problem and the area affected. For most requests the process is automated and the request is granted. For other requests, which relate to species of conservation concern, migratory or sensitive species the request is dealt with manually and the Danish Nature agency is included in the decision process.

The control can be performed by anyone with a hunting licence. The reporting must be returned online (number of controlled individuals/adults, juveniles, eggs or nests/ whether or not the performed control had any effect) within 30 days of the end date of the permit.

In all cases hunting licenses are required each year and bag returns are monitored so there is good information on numbers taken. The control of some species such as Woodpigeon and crows, is permitted without license although specific permission is required to perform control outside hunting season. A specific online request is required for all other species.

Any given permission generally specifies a maximum number of individuals, or for a pre-defined area, such as where rooks start building a new colony. Denmark evaluates their derogations on the basis of the yearly statistics, which is efficiently and easily managed with the help of the online database.

The Municipalities/ Local Authorities in Denmark are not directly involved in the legal processes associated with the Declarations. They only perform control, and some of them run campaigns based on the public needs. Denmark has nine local wildlife consultants (at the nature agency) responsible for issuing permits in their region. The Municipalities apply to these wildlife consultants (via the online application system), and the wildlife consultants have close dialogue with the municipalities.

Key issues

There is increasing pressure in Denmark regarding control of urban gulls (public health and safety), Cormorant (with respect to fisheries) and wintering geese (crop damage). For these species, Denmark advocates a wider management plan approach based on adaptive management:

- a working group that includes statutory agencies, NGO representatives and experts, agree on objectives and actions to maintain populations in favourable conservation status, while accounting for other (e.g. economic and recreational) interests.
- Agreements include setting a population targets to reduce agricultural/fisheries conflicts.
- In some cases hunting/ control is required to maintain stable populations. As part of the adaptive management procedures, adjustment to harvest is made annually subject to population status. This has required streamlining of monitoring and assessment activities.

Regarding urban gulls, and arising from the adaptive management procedures, the following control options are permitted and heavily regulated under license:

- there has been agreement to open the hunting season for Herring Gull.
- Some control is allowed during the breeding season – oiling of the eggs is the recommended approach

It is possible to get a permit for removing nests that are prior to the hatching stage with the purpose of avoiding establishment of new colonies. But this option is only possible for Rook and Cormorant.

5.2.2. The Netherlands

Consultee

Marlies Sanders
Wageningen Environmental research
Biodiversity and Policy
Wageningen University and Research

General approach

All birds are protected and it is forbidden to kill them, or to disturb or destroy their nests during the breeding season or to destroy their resting places. An exemption is almost always required if someone wants to disturb nests (including for research) or kill birds. A few bird species are on the national exemption list including: Woodpigeon, Canada Goose, Crow and Jackdaw. This means that these animals may be killed all year, provided there is or might be damage to crops and/ or fauna. There are several conditions attached to this exemption.

In the case of protected species in the Netherlands, an initiator of an activity provides an ecological study of present protected species in the plan area, including the possible consequences of the activity for the protected species, alternatives, mitigation measures etc., when making an application for a permit. The municipality assesses whether the application for a permit is complete, including the ecological study and sends it to the

provincial authority. The provincial authority assesses the ecological study including the proposed mitigating measures of the application. They give a statement of no reservations, possibly with additional conditions, when the study is well-conducted and the effects on the bird populations are mitigated or compensated. All protected species present in a plan area are included in the exemption.

The granting of a derogation is always tailor-made and an assessment is made for each situation separately. Any derogation shall always be granted under conditions including mitigating and compensatory measures to be taken. Almost all applications for a derogation are dealt with regionally. Only in exceptional cases the national government grants the derogation (for example for national projects).

Key issues

The process is different for damage control, for example, the damage of geese to agricultural crops. A wildlife management unit makes a wildlife management plan for a certain area for a predefined period of time, occasionally up to 5 years, reports the number of animals killed every year according to the plan and afterwards the plan is evaluated and adjusted. A management plan covers an area, and is not specific for a certain species. Several species can be included in a management plan. The provincial authority assesses the plan and approves it. A request for an exemption can always be submitted if there is a nuisance or damage from birds or other animals. This must be accompanied by an ecological study into the effects on the population, effects on the habitat, possible alternatives, etc. If the application is well-conducted, an exemption will usually be granted under conditions.

In the case of gulls, the initiators first have to investigate what the effect is on the population, why possible alternatives do not work (e.g. making roofs unattractive for gulls, etc.) and which compensation and mitigation measures they plan to take before an exemption is granted. Civil society organizations, such as Vogelbescherming, follow this process and may object and go to court if they think that the application is insufficiently substantiated. The judge then determines who is right and defines the next steps.

5.2.3. England

Consultee

Ivan Lakin

Ornithologist Specialist (Specialist Services & Programmes)

Natural England (NE)

General approach

Since the Protection of Birds Act (PBA), 1954, Britain's legal framework has taken the approach of protecting all wild birds, eggs and nests, and then describes exemptions to this protection, such as listing quarry species, and latterly introduced licensing to reflect derogations described in the Birds Directive. Government agencies with powers to issue licences can exercise flexibility built into the legal framework to issue different types of licences, such as general licences, individual licences, organisational licences, class licences etc., but of course restricted to the licensable purposes as set out by the legal framework.

The earliest versions of the Wildlife & Countryside Act (WCA), 1981 transposed the Birds Directive into domestic legislation and married this with the cultural and socio-economic influences reflected in the aforementioned PBA, 1954. This process carried forward a list of species already recognised as commonly causing damage to crops, livestock etc; colloquially known as the 'pest list'. In the early-1990s, the Act was amended to remove the 'pest list' (listed in one of its Schedules). To enable authorised persons to continue to control these bird species, they were consequently transferred into the General Licences.

Generally speaking, there is less conservation concern for species listed under the General Licences, due in part to their historic abundance and thus frequency of causing problems. Natural England issues a suite of General Licences annually. This type of licence is the lowest level regulatory burden, transferring the onus of responsibility of legal use onto the end user, thus removing unnecessary administrative burden and allowing flexibility of use. As mentioned above, there is a host of other types of licences that NE can issue due to the way the WCA, 1981 is written; Class Licence is an example of these.

In relation to the General Licence, the onus on the end user to familiarise themselves with the conditions and recommendations of the licence, which must or should be adhered to. Species are listed specifically for each license type, including:

- i. to catch alive or kill wild birds to preserve public health or public safety (licence GL05)
- ii. to catch alive or kill wild birds to protect plants and wildlife (licence GL06)
- iii. to catch alive or kill certain wild birds to prevent serious damage or disease (licence GL04)
- iv. and 13 others.

These licenses include crows, pigeons, doves and geese. Lesser Black-backed Gull is included on several of these, including i-iii above. There are no requirements for information for returns. These are annual, generally same as previous years, and no public consultation is required. There is a periodic review, when the need arises. One recent addition has been the Ring-necked Parakeet. When proposed changes are more significant and of wider public interest, a public consultation is launched. This occurs periodically, no set timetable and instead is prompted by new evidence – a change in the conservation status of a species (for example Herring Gull), or a new problem (e.g. introduced Ruddy Ducks threaten globally endangered White-headed Duck).

There is no compliance monitoring regime in place in relation to GLs, as there is for other types of licences. If sufficient concern is raised about abuse of the GLs, changes can be made to them, such as adding/ amending notes/ recommendations attached to these licences.

Class licenses include licenses to kill or take birds for air safety purposes, including. The current list includes large-sized/ flocking species, and does not include and birds of prey or small passerines. There are separate species lists for 13km and 250m radius of the aerodrome. Class Licenses also includes 3 other bird licenses, including:

- i. to survey barn owls to assess the potential impacts of development proposals (licence CL29),

- ii. to catch certain birds trapped on food premises (licence CL03), and
- iii. to set up feeding stations for hen harriers on grouse moors in northern England (licence CL25).

To avail of Class licenses, registration is required and returns are required. The requirement for additional species is subject to public consultation. Annual reporting is a condition of Class Licences.

Natural England issues licences to permit actions against protected species that would otherwise be illegal under Section 16 of the Wildlife and Countryside Act 1981 (as amended). In all cases, NE reacts to evidence (e.g. Herring Gull situation). Also, alternative options need to be explored and the users of the license must explore non-lethal methods of control. The UK Police Force are also involved in support and will prosecute/ investigate complaints. They remain the main enforcement agency for wildlife related crime. NE also holds enforcement powers which it uses in relation to breaches of the licences it issues.

Key issues

Roof-nesting gulls and conflict with the public has become a large issue, with polarised views. The gulls are administered through the General License relating to public health and safety. The conservation status of Lesser Black-backed Gull and Herring Gull is of growing concern and licensed action is treated as a last resort. A licence cannot be issued to resolve nuisance if roof nesting gulls are delaying development or to prevent damage to property. Alternative methods to resolve a problem must be attempted or considered and shown to be either ineffective or impracticable before licensed action can be considered.

Public consultation was launched – among significant stakeholders and the wide public. The returned information was analysed, and assured to influence the decisions that NE takes to making changes to the General License.

Herring Gull is on several of the General Licenses, and the removal of nests and eggs is permitted. There is no limit on the numbers of nests/ eggs that are taken. NE is currently unable to quantify use of the GLs. Formerly, individuals could also be culled outside breeding season. It became red-listed (Birds of Conservation Concern), and following a public consultation one licensed action relating to Herring Gull was removed from the Public Health and Safety, which is killing/ taking of birds. Thus, to obtain permission to kill/ take chicks or adult birds (at any time of the year), persons will need to allow for an individual licence. However, NE clearly stress that the GL relating to Public Health and Safety, especially in respect of listed gull species, is NOT a cull licence.

Some licences are seasonal. With specific regard to gulls and Public Health & Safety, since this is an issue that can arise at any time of the year, albeit predominantly during the breeding season, technically the GL does permit take/ kill throughout the year.

5.2 Useful resources

- UK General Licenses: <https://www.gov.uk/government/collections/general-licences-for-wildlife-management>
- UK Class Licenses: <https://www.gov.uk/government/collections/class-licences-for-wildlife-management>

6. Public Consultation

6.1 Introduction

The public consultation in relation to the Review of the Derogation Process under Article 9(a) of the EU Birds Directive was developed in accordance with the Department of Public Expenditure and Reform's *Consultation Principles & Guidance*. These principles were developed as part of the *Open Government Partnership National Action Plan 2014-2016* and aim to improve consultation by public bodies with citizens, civil society and others. To achieve this aim, the document sets out three key principles of consultation:

1. Consultation must be genuine, meaningful, timely, balanced and aim to achieve real engagement, which leads to better more informed decision-making.
2. Consultation should be targeted at and easily accessible to those with a clear interest in the issues involved.
3. There should be systematic effort to ensure that interested and affected parties have the opportunity to take part at all stages of the process.

The document also identifies a number of practical issues that need to be considered in the course of implementation. These include setting out the objectives of the consultation process; defining timescales; identifying stakeholders; adopting appropriate methods, timing and duration of consultation; providing information to enable informed decision-making; providing feedback; and conducting a review of the consultation process.

In consultation with the National Parks and Wildlife Service (NPWS), and with the above principles and practical considerations in mind, Aniar Ecology designed a two-stage consultation process to ensure that the consultation captures the broad range of stakeholders affected. The first stage involved a targeted consultation with key stakeholder groups that have the relevant expertise to provide input, or who are most affected by the Declarations. The second stage involved a wider public consultation seeking views from other groups and the general population, as well as any additional submissions from groups involved in the targeted consultation. The objectives of the consultation process were to explore different options and ideas, collect a broad range of views on proposals, ensure that the opinions of all interested individuals and groups were sought in relation to future Declarations, gather evidence and factual data, and to assess the possible impact of proposals on communities and various interest groups.

6.2 Phase 1: Targeted consultation

Together with the NPWS, Aniar Ecology identified key stakeholders to participate in the targeted consultation. These included a variety of environmental, farming, sporting and community groups, as well as a number of airports and airfields operating in the country (Appendix 9.2). In order to incorporate the views of stakeholders at the earliest stage possible, the consultation took place at the start of the review process in parallel with the review of existing declarations (detailed in Interim Report 1 and 2 submitted to NPWS) and relevant national and European legislation (detailed in Interim Report 3 submitted to the NPWS).

A short online survey was designed to capture the initial views of targeted stakeholders in relation to the derogation process for 2018-2019 and future years. As there are two Declarations, namely the general State-Wide declaration, as well as another that deals specifically with air-safety, two separate surveys were necessary to reflect the different contexts in which the Declarations are applied. One survey was administered to all major airports and airfields in operation in the country, and the second more general survey was administered to all other stakeholders identified (see Appendix 9.3).

In both cases, a web-based survey was considered an appropriate form of consultation as it allows for quick, targeted engagement and the provision of feedback in a cost-effective and timely manner. The surveys (Appendix 9.3) were administered via email and designed to place minimum burden on stakeholders. Participants were provided with an introduction to the review process and a brief description of the issues involved. Participants were also informed that they would have a further opportunity to contribute to the review process during the wider public consultation phase commencing in March/April 2018.

10 participants completed the airport survey, while the general survey yielded a total of 18 responses, providing a total of 28 responses in the targeted consultation. In a number of cases, additional data were sought from stakeholders, primarily in relation to bird strike, control measures and data recording at airports. The data generated from the survey and follow-up communications were used to inform the review of existing declarations, including the review of listed species (summarised in Interim Report 1), the review of the extent to which each species give rise to a number of issues (summarised in Interim Report 2), and the review of national and European legislation (summarised in Interim Report 3), as well as the preliminary recommendations on the Declarations for 2018/2019 and future years (Interim Report 4). Further information and results from the stakeholder survey are available in these documents.

6.3 Phase 2: Public consultation

The second phase of the consultation process involved a broader public consultation. The reviews outlined above in turn informed a public consultation information document that was made available to interested parties and the general public to enable them to make informed comments during the wider public consultation (Goggins et al., 2018) (see Appendix 9.4).

The public consultation document includes:

1. A background to the review process and the issues involved.
2. A summary of the review of species status, distribution, timing of listed species, including their populations and threats, rationale for their inclusion, methods of control.
3. A summary of the review of extent to which bird species give rise to public H&S, air safety, damage to crops relevant bodies, groups etc. livestock, forests, fisheries, water, and protection of flora and fauna.
4. A summary of the review of relevant national and European legislation and how this impacts decision-making.
5. Guidelines for making a submission to the public consultation.

The information in the public consultation document was presented as such as it is context appropriate and easy to understand for people with an interest in the issues covered. The document was made freely available to download from the NPWS website so as to increase accessibility.

The submissions process for the public consultation was open from 26th March to 4th May 2018. A number of promotional opportunities were availed of to encourage the public to engage with the submission process. The public consultation was published on the NPWS website, and advertisements were placed in a number of national newspapers including The Irish Times, The Irish Independent, The Irish Examiner, and The Irish Farmers Journal. Interested parties were invited to make submissions either via email or standard post, and the respective addresses were provided. Interested parties were also informed about the consultation guidance document and were directed to the NPWS website for more information. A copy of the press notice is provided in Appendix 9.5.

In total, 12 submissions were received. Of the 12 submissions received, 11 were received by email and 1 was received by post. 7 submissions were from organisations and groups that were previously invited to take part in the targeted consultation. 2 submissions were from individuals associated one of other of the organisations or groups involved in the targeted consultation, and 3 submissions were from members of the public.

The submissions detailed in this document contain a wide variety of views, perspectives and opinions. **Inclusion in this document does not necessarily mean that the views expressed are shared or supported by Aniar Ecology, DCHG or NPWS.** Descriptions of individual submissions are intended to give the reader an overview of the material that is contained in the longer original submission. Where an individual submission is referred to, a corresponding reference number is provided to allow that submission to be read in full. Copies of the submission documents cited are provided in Appendix 9.6.

6.4 Summary of key points raised in submissions

The following is a summary of the key points raised in the submissions. Each of these points, as well as the complete submissions included in Appendix 9.4 of this report and any additional material received as part of the public consultation process, was given due consideration in this Final Report.

In their submission, **BirdWatch Ireland** stated that *“all derogations under Article 9 must meet the specific and precise legal requirements of that article and with European Court of Justice case law which provides legal clarity on compliance.”* **BirdWatch Ireland** said that they are *“concerned that the State is failing in its legal obligations to comply with the specific detail in Article 9 of the Birds Directive.”* And that *“[t]he process by which the government grants derogations needs to be addressed.”*

BirdWatch Ireland expressed the need for resources *“to be allocated to public awareness raising opportunities of the ecological requirements of species and their behaviour and ways in which people can live with birds.”* Additionally, they feel that *“funded research into the cause of specific problems and solutions in the locations where some communities are feeling the pressure, especially during the breeding season, from living with birds such as Gulls is urgently required.”*

BirdWatch Ireland stated that implementation of Article 9 of the Birds Directive *“must be*

undertaken in a scientifically robust way and in compliance with previous European Court of Justice case law.” They went on to outline the conditions under which it is possible to derogate under Article 9 of the Birds Directive, as clarified by the European Court of Justice Case Law, and listed several EU member state cases that required clarification of the spirit and implementation of Article 9.

BirdWatch Ireland raised a number of concerns in relation to the 2017/2018 Declaration. They are of the view *“that the granting of the derogation to take the eggs and nests of the three listed Gull species does not satisfy the specific requirements of Article 9 of the Birds Directive and these species should be removed from the 2017/2018 Declaration and any future Declarations.”* They also expressed concerns about the derogation for Hooded Crow, Magpie, Rook, Jackdaw, Woodpigeon and Collared Dove.

BirdWatch Ireland stated, *“that a full review of the Article 9 process would go beyond the State Declarations and also include a review of the Specific Derogations/consents for the killing of birds granted under Article 9 and contained in the Irish reports to the Commission under reporting obligations (Article 9(4)).”* They feel that this *“includes a much broader suite of consents not included in the public consultation material. Therefore, it is our view that this review of Article 9 is not comprehensive and not complete.”*

Regarding air safety, **BirdWatch Ireland** state: *“Some of the species on the derogation list for air safety purposes are species of conservation concern not only in Ireland but in Europe. These species include Curlew, Golden Plover, Lapwing, Swallow, Common Gull and Black-headed Gull. It is very important therefore that those concerned with the conservation of our common natural heritage and application of the European Union laws established to protect wild birds can have confidence and faith in the Irish government’s application of the Article 9 process to derogate from the protection of wild birds.”*

BirdWatch Ireland state that it is *“not confident in the Article 9 derogation process as implemented in Ireland. Considering that several of the species impacted by the derogation are red listed across Ireland and Europe, the issues with implementation must be rectified and the tests must be completed appropriately.”*

In their submission, the **Chartered Institute of Ecology and Environmental Management (CIEEM)** expressed concern with the inclusion of three species of gull on the state-wide Declaration for May 2017 – April 2018. They note *“that these three species are currently listed on the Birds of Conservation Concern in Ireland as a result of declines in their breeding populations and ranges”,* and, in particular, *“the Herring Gull is included on the Red-list, because its breeding population has declined by more than 50%, and its breeding range by more than 70%.”* They question *“why these species cannot be removed from this list altogether – unless there is available scientific-led data and evaluation that does support the derogation.”*

Regarding air safety, **CIEEM** state that *“[i]t is disappointing to see that curlew is still on the list despite its severe population decline across Ireland and, on account of this decline, consideration should be given to its complete removal from future lists. However, it is recognised that this species may present a risk to aircraft and that their safety is paramount and it is welcomed that it is currently only on the list for Dublin airport.”*

CIEEM *“considers that any review such as this should be informed by a review of scientific*

literature and evidenced-based results". They state that, "there is an apparent lack of supporting scientific evidence to justify the inclusion of certain species on the 2018 -2019 derogation list, which is concerning."

Balbriggan Community Group provided a comprehensive submission in relation to the inclusion of gulls on the State-wide Declaration. The submission amounted to approximately 15 emails, as well as supporting documentation including reports, letters, audio files, webcast and email correspondence with various NGOs, government departments and agencies (see Table 6.1). Some documents and emails were duplicates and so only considered once. The consultancy team also obtained additional related material (email correspondence, reports, letters, audio files, etc.) from the DCHG on request of the **Balbriggan Community Group**.

Table 6.1: Summary of submission made by Balbriggan Community group

Submission received	Date	Supplementary documentation received	Document type
Email	23 April	Wild Birds Derogation process - final submission paper 23rd April 2018.	MS Word
Email	12 April	Submission supplement - material from our meeting with Dr. McMahon in January 2018.docx	MS Word
Email	11 April	Summary Submission papers to the 2018 Review on 11th April 2018 - to be addressed by the Review in conjunction with all prior relevant submission materials.docx Eoghan-Murphy-Gull-Report-ack.pdf Lynn Boylan MEP correspondence to Min. Harris and Min. Madigan.pdf Email correspondence with DCHG Email correspondence with FCC	MS Word PDF PDF Email Email
Email	11 April	Email correspondence with Director of Service at Fingal County Council (FCC)	Email
Email	5 April	Lynn Boylan MEP correspondence to Min. Harris and Min. Madigan.pdf	PDF
Email	4 April	mp3 of the awake programme RTE 22-Nov-2017 - edited down recordings of gull calls and noises for Report November 2017.mp3	MP3 MP3
Email	4 April	Derek Mooney and Niall Hatch in Howth 2- aug – 2015.mp3 Drive Time Interview RTE 1 Friday 11th March - BI Stephen Newton.mp3 Tony Murphy and Stephen Newton 19th July 2017.mp3	MP3 MP3 MP3
Email	4 April	Community Report on serious negative impacts of urban gull issues_104pg.pdf	PDF
Email	3 April	Copies of email correspondence with Department of Culture, Heritage and the Gaeltacht, Department of Health and Department of Housing, Planning and Local Government	Email
Email	29 March	Copies of email correspondence with BirdWatch Ireland (BWI) July to December 2016	Copies of email correspondence (19 files)

Email	28 March		
Email	26 March	Public i-link from Dublin City Council (https://dublincity.public-i.tv/core/portal/webcast_interactive/289224)	Webcast
Email	23 March		
Email	23 March		
Email	20 March	Seagulls report translation.docx Cardiff Council Seagulls Report - App 3 230317.docx	MS Word MS Word

In their summary submission paper **Balbriggan Community Group** state that “[t]he current State-wide Review of the EU Birds Directive Derogations process provides a unique and timely opportunity for a Declaration to be made by DCHG which properly and necessarily aligns the Irish State-wide position on public health and safety grounds with that of all of our EU neighbours including in particular Northern Ireland, Wales, England, Scotland, Spain, France and the Netherlands – thus affording due, equal, very important and rights-based protections to Irish citizens.”

In their final submission paper **Balbriggan Community Group** state that “[t]he 2018.19 Derogation for urban gulls needs to fully acknowledge the public health criterion, needs to be multi-year in high-density situations - for review again in 2023, needs to be state-wide, provided by Local Authority managed services, and needs to be supported by proper, widespread publicity, public education, specific measures around food waste, inspection and enforcement, and genuine, imaginative and funded research and conservation measures.” They add that “[t]he Review is a timely opportunity and an essential contributor to an urgently needed, rounded public administration response to this extremely serious issue.”

Cork Airport “wish to have Buzzard added to species for Cork Airport Air Safety Declaration due to its large size and the potential damage that may be caused to an aircraft and the potential injury to airline passengers and increased numbers sighted daily on or in the vicinity of the airfield. Also ATC staff attacked last summer by nesting Buzzards in the vicinity of the ATC Tower.”

In their submission, **daa** state that “[a]ll of the species listed in the current air safety declaration are widely known to constitute hazards to aviation, based on national and international experience and research. The position of daa is that they should all remain listed in the declaration, in order to support a full range of measures to protect the safety of aircraft operations.” They go on to state that “the capture or killing of any species of bird on the airfield is only carried out as a last resort, after all other efforts to discourage or deter have failed.”

Daa note that “two additional large and heavy species – namely the Brent Goose (*Branta bernicla*) and the Red Kite (*Milvus milvus*) – are being detected with increasing frequency either on the airfield (Red Kite) or on adjacent lands (Brent Goose).” They state that “it may become necessary in the future to apply to have these species included in the air safety declaration, in which event daa will provide data to support such an application.”

The **Countryside Alliance Ireland (CAI)** “supports the current Derogation format and issuing

nationwide declarations on an annual basis, as this translates into protective measures being in place to ensure a timely solution for farmers to the ongoing problem of crop protection."

CAI *"request that the Minister issues and publishes the updated nationwide declaration before the present one expires", as "[t]his negates the occurrence of a period of uncertainty and prohibition of the control of certain wild bird species, and allows farmers to adequately protect their crops."*

CAI *"strongly believe that the use of birds of prey should be included in the method of control for all the relevant bird species in the forthcoming declarations."*

The **National Association of Regional Game Councils (NARGC)** *"use the derogations for the protection of game birds reared for shooting, for the protection of endangered birds including native grey partridge of which we have projects to get them re-established in the wild, to prevent serious damage to farmers livestock and their feed lots and their crops on whose land our clubs shoot over."* They find that the derogations for the birds listed works well, but they would *"like a foot note added to point out that game birds reared for shooting are livestock"*. Here, they cite a recent case in the UK *"case No. CO/4133/2014 taken against natural England and the Department for the Environment Food and Rural Affairs in the summary of the approved judgment by Mr Justice Ouseley note 16 stated that livestock includes any animals kept which includes any game birds reared for shooting."*

The **NARGC** *"would like to add to the derogation buzzards and ravens."* They state that *"Buzzard's numbers have increased alarmingly over the past fifteen years and are now causing reportedly more damage to livestock, fauna including the young of gamebirds than grey crows or magpies. Section 42 licenses to control them are slow and the damage they are doing is open to interpretation, the damage is done by the time it is granted if granted. To include them in the derogation at specific times of the year will prevent serious damage to livestock and fauna including the nests and young of gamebirds."*

Regarding ravens, the **NARGC** state that Raven numbers *"have also increased and they are causing serious damage to livestock specifically young lambs born on the hills and are now reportedly causing more damage to these than foxes, having them included in the derogation at specific times would prevent serious damage."*

In their submission (**REF: 2018Art9(1)a/001**), a member of the public felt that *"consideration should be given to designating Greycrows and Magpies as vermin with an all year round cull and outside the derogation process."* They felt that *"Farmers don't want to make these applications... so an alternative method of having/getting a derogation licence would be great"*, and suggested that *"the onus should be passed from the farmer to the hunter who will be more inclined to apply for the derogation to ensure all is within the regulation."*

An individual working as a Conservation Ranger with the NPWS (**REF: 2018Art9(1)a/002**) wanted *"clarification in relation to the declaration for Rooks/Jackdaws."* They have *"had a number of incidents where Rooks have been targeted at Rookeries"*, and asked if can *"be clarified if control must occur where the damage is occurring and also that young/eggs/adults at nests sites may not be controlled."*

They also sought *“clarification in relation to shooting of wood pigeon on stubble fields (crops already harvested)”*, as *“[t]his is widely occurring and should be specifically mentioned as to whether it is permitted or not to rule out any confusion by those partaking in the activity.”*

A member of the public made a submission (**REF: 2018Art9(1)a/003**) regarding maintenance of roadside hedges/verges.

A member of the public expressed concern with the disappearance of wildlife in Ireland (**REF: 2018Art9(1)a/004**) and stated that *“[e]very effort should be made to help and protect them.”*

In their submission (**REF: 2018Art9(1)a/005**), an individual who has *“been actively involved in the south east of Ireland working for farmers controlling birds such as rook, jackdaw, wood pigeon, feral pigeon and collard dove”* expressed concern over the rising population of the aforementioned species and the damage they cause to cereal crops. They state that it is difficult to control bird populations by means other than shooting, and that it is very often not possible to shoot on fields that are being damaged due to safety, noise disturbance and other reasons. They state that they *“must be able to continue using the neighbouring stubble fields for safe shooting and decoying birds which is best practice.”*

All of the issues raised above, as well as the complete submissions included in Appendix 9.4 of this report and any additional material received as part of the public consultation process, was given due consideration in this Final Report submitted to NPWS.

7. Final recommendations

In May of each year, the Minister for Culture Heritage and the Gaeltacht issues two Declarations with respect to Article 9 Derogations, namely the General and Air safety Declarations that include a list of species, together with the allowed timing of control, and control methods. Recommendations on the 2018/19 Declarations are presented in Appendix 9.7.

Recommendations for future implementation of Article 9 fall under two main categories:

- Species: recommendations relating to the species on the lists.
- Procedures and processes: relating to mechanisms in place and others that could be considered.

7.1. Species lists

During this review, it was difficult to assess the extent of the issues, and the extent to which the individual species on the Declaration lists posed significant problems, because there has been relatively little published scientific evidence, or systematic data collection specifically for this purpose. Some of the recommendations below identify mechanisms that could remedy this limitation over time.

As a result of this lack of information, it was not possible to assess the merits of including or excluding many of the species on the Declaration lists. However, reasonably good information now exists on the current distributions of these species, and on their status, which enables informed decisions about control (both from a timing and a conservation perspective). Table 7.1 highlights some of the changes now recommended to the timing and/ or control methods that have been recommended in recent years, the last for 2018/19. The species lists, timing and control methods should continue to be reviewed regularly, especially should further information become available on the extent to which these species and issues are impacting.

Table 7.1. Recommendations to control periods and/ or control methods.

Declaration	Species	Revision recommended	Rationale
<u>TIMING</u>			
Air-safety	Golden Plover	Jan-Mar, Oct-Dec	Applies to wintering and passage populations only. Breeding season distribution highly localised and dispersed
Air-safety	Swallow	Apr - Sep	Breeding migrant, does not occur in Ireland outside these months. Ongoing inclusion on the basis of individual birds to be discussed - small size and potential for damage
Public safety	Gull species listed	Apr - Jul	Nesting period of these gulls
Public health	All listed	-	No change - the species involved are generally present in high densities in urban environments year-round and the timing of the issue is therefore not restricted
Damage to livestock	All listed	-	Timing mostly coincides with the period when animals are housed, and/ or lambing - no change
Damage cereal crops	All listed	-	Timing difference between corvids and Woodpigeons may be due to differences in crop types - Woodpigeon can be controlled year round and the others in all months other than January - no change necessary
Damage livestock feedlots	All listed	-	Timing mostly coincides with the period when animals are housed (Nov - May) - no change
Protection fauna/ game birds	All listed	-	Timing coincides with rearing of young, Feb - Sep - no change
<u>CONTROL METHOD</u>			
Air-safety	All listed	-	Mostly scaring takes place, with some trapping reported (Buzzards). Recommended that scaring continues as first option where feasible, especially relating to species of conservation concern.
Public health	All listed	-	Shooting previously recommended for all. The pigeons can be baited, while the corvids can be trapped with or without decoys. Standard mechanisms of catching these groups - no change to recommendation
Damage cereal crops	All listed	-	Shooting previously recommended for all - no change to recommendation
Damage livestock feedlots	All listed	-	Shooting previously recommended for all - no change to recommendation
Protection fauna/ game birds	All listed	-	Corvids, can be trapped with or without decoys. Standard mechanisms of catching this group - no change

Other recommendations with respect to the species lists include:

1. Ireland's birds are continually subjected to a variety of threats and pressures, and there are many examples where populations have been significantly and adversely affected, some over a relatively short space of time. It is essential that the Derogations process acknowledges this potential for change. In this respect, it is imperative that there is (1) routine and ongoing monitoring of the status of the species on the list, and (2) sufficient flexibility in future protocols to ensure that appropriate actions may be taken to ensure that bird populations nationally are not impacted by this process.
2. Requests for additional species, such as those requested additions as part of this project, should be subject to Public Consultation (note point 12 below). In the first instance the following questions should be addressed prior to public consultation:
 - Has adequate evidence been supplied justifying the requested addition – if not then further details should be sought about the nature of the impact of the species.
 - Have all solutions been reviewed? If not then there should be a recommendation to explore all solutions to the problem.
 - If evidence has been supplied and other solutions evaluated, then the proposed inclusion of that species on the list should be publicised by way of a public consultation.
 - Is the species of known poor status nationally and/or internationally (including status and trends). If the answer to this is yes, then non-cull and targeted control periods should be mandatory.
3. Consideration should be given to the control mechanisms relating to species of conservation concern in Ireland, and/ or globally. Feasible non-cull options should be implemented wherever possible.
4. A thorough assessment of all options for the control of gulls which were added to the General Declaration in 2017/18 is essential for full compliance with the EU Birds Directives.
5. The allowable control period should be curtailed, for each species, to the period that the species occurs in Ireland (migratory species), and is causing that specific problem. Where possible, control during the breeding season, and/or passage periods should be totally avoided. To some extent this has been included in the table above, but further assessment of available data, and/ or further evidence is needed to validate the timings recommended.

7.2. Procedures and processes

6. A key recommendation arising from this review is that the current Declarations alone do not provide sufficient details. There is a lack of clarity in a number of areas, leading to confusion regarding the application of the Declarations (refer to Section 4.3 above). Further details about the processes and the species that are included on the Declarations, in addition to information on when and how a derogation may be applied for, should be made available, for example through the NPWS website.

There are some useful examples of how such information is made available elsewhere (e.g. UK⁶).

7. Routine assessments of ongoing status of species that are included on the Declarations should be implemented – ideally every 3-5 years, or more regularly for those species that are showing significant declines. Where a species is in poor conservation status nationally (e.g. breeding Curlew), and/or at a wider scale (e.g. Starling), and/or where a significant decline is evident, then an assessment is required on the potential impacts on the species of retaining the species on the Declarations, or indeed of any control.
8. For species that are vulnerable to habitat loss, and/or are in unfavourable status in Ireland, an adaptive management programme could be useful. This has worked well in Denmark and the Netherlands for swans and geese where there are conflicts with respect to crop damage, and for and Cormorants where there have been conflicts with fisheries. This process facilitates engagement with relevant stakeholders and the productive of holistic plans that allow targeted controlling of individuals, but that minimises impacts on the national populations of these species (e.g. Smith et al. 2008, Madsen et al. 2017). It is this process that was recommended for the gulls for 2018/19.
9. All Derogations under Article 9 1(a) should be supported by robust scientific evidence. The Declarations in Ireland should not be treated as licenses to cull. In all cases, there should be a thorough review of all feasible options for removing a problem, and non-culling options should be considered in the first instance.
10. Where a license is issued in relation to species of poor conservation concern, then timely and appropriately formatted reporting on the actions and outcomes is essential. These reports should be submitted within a short period of the end date of the license to enable assessment of the success or otherwise of the derogation, and further and timely decisions about future actions. Additional information supplied on the NPWS website (see point 1 above) should also include recommendations on reporting formats and the specific details required by NPWS.
11. Engaging targeted stakeholders, and or the wider public should be considered before additions or removals of species from the lists. This will ensure that all concerns are received, and these should be addressed in any decision making. Such consultations should be timely, providing sufficient time for feedback, assessments and decision-making.
12. There should be a review of the consultation stakeholder list. Consideration should be given to adding additional stakeholders including CIEEM and Local Authorities to this list. Furthermore, there have been issues relating to some fisheries species in the past (e.g. Cormorant). Inland Fisheries Ireland are included in the consultations and it would be worthwhile ensuring that an active participant is available and contributing to the Declarations process.
13. Updated declarations should be published before existing Declarations expire. This would require any prior consultation to have been completed by at least February each year to provide sufficient time for NPWS to review responses and act accordingly.

⁶ UK General Licenses: <https://www.gov.uk/government/collections/general-licences-for-wildlife-management>, UK Class Licenses: <https://www.gov.uk/government/collections/class-licences-for-wildlife-management>.

14. Mechanisms used in other countries that could be considered to help expediate derogation requests include:
- Online facility for logging requests – this could be implemented through a simple online questionnaire that would channel relevant information. This would minimise direct contact with NPWS at these early stages, while ensuring the information is gathered in a concise manner.
 - Online facility for reporting on the derogation, and for feedback.
 - Resource availability from the early autumn to review the current Declarations and any comments or queries that have been submitted.

8. Acknowledgements

We are grateful to the partnerships of the Countryside Bird Survey (CBS) and the Irish Wetland Bird Survey (I-WeBS) for the provision of trend data that helped inform species status. Jackie Hunt and Gavin Fennessy were very helpful with their inputs relating to the air-safety issues. We are hugely grateful to all stakeholders and respondents who inputted on the questionnaires and to the Public Consultation.

References

References are listed at the end of each corresponding chapter.

9. Appendices

Appendix 9.1 Full details of the interim reports presented to NPWS during the present contract and incorporated into this overall report.

- Interim Report 1: *Ecological Status of Species listed on the Declarations*. Prepared by Olivia Crowe, Gary Goggins and Derek McLoughlin. February 2018.
- Interim Report 2: *Extent of the Issues warranting Article 9 Derogations in Ireland*. Prepared by Olivia Crowe, Jackie Hunt, Gavin Fennessy, Gary Goggins and Derek McLoughlin. March 2018.
- Interim report 3: *Review of legislation with regard to Article 9(1)(a) of Birds Directive for Ireland and England*. Prepared by Derek McLoughlin, Olivia Crowe and Gary Goggins. March 2018.
- Interim report 4: *Recommendations on the Declarations for 2018/19*. Prepared by Derek McLoughlin, Olivia Crowe and Gary Goggins. April 2018.
- Interim Report 5: *Public Consultation*. Prepared by Dr Gary Goggins, Dr Olivia Crowe and Dr Derek McLoughlin. May 2018.
- Interim Report 6: *International approach to delivering Article 9 of the European Birds Directive*. Olivia Crowe, Derek McLoughlin and Gary Goggins. June 2018.

Appendix 9.2 Stakeholder consultees

General Declaration Questionnaire

BirdWatch Ireland

NARGC

Countryside Alliance Ireland

ICMSA

Irish Farmers Association

Irish Cattle and Sheep Farmers Association of Ireland

Irish Country Sports Association

Balbriggan Residents Committee

National Parks and Wildlife Service

Air Safety Questionnaire

Dublin Airport

Shannon Airport

Cork Airport

Ireland West Airport, Knock

Donegal Airport

Kerry Airport

Waterford Airport

Weston Airport

Irish Air Corps

Sligo Airport

National Bird Hazard Committee

Aer Arann Islands Service

Appendix 9.3 Questionnaires circulated

General Declaration Questionnaire

Q1. The list of species that are included in the State Wide Declaration for 2017-2018 is provided. Please indicate if you feel there should be a change in status (e.g. remove from or add species to the list; amend reasons for control, etc.) of any of the listed species for the 2018-2019 Declaration and future years by providing a short rationale in the space provided.

Q2. Have your group/organisation previously availed of this derogation? If so, please provide details (how, why, etc.).

Q3. If there are other species you consider should be included in the 2018-2019 Declaration and future years please list in the space below and provide rationale.

Q4. Please provide any additional comments in the space provided.

Q5. Please include your name and/or the name of the organisation/group you represent and preferred contact details.

Air Safety Questionnaire

Q1. Please provide your name, contact details and those of your airport or airfield

Q2. Please indicate the approximate frequency with which you have applied the Air Safety Derogation at your airport or airfield (options: Annually, At least three times, At least seven times, Prior to 2007, Not at all)

Q3. How would you describe the threat of bird strike at your airport/ airfield? (Options: Year-round, Seasonal throughout the breeding season months - mainly April to September, Seasonal throughout the non-breeding season - mainly September to April).

Q4. Indicate the approximate frequency of any control methods that you have applied in the past 10 years for each of Scaring (with birds of prey), Scaring (scare gun/ shooting over flocks), Controlled

shooting of individuals, Poisoning, Trapping/removal from the area. (Options: Annually, At least three times, At least seven times, Prior to 2007, Not at all).

Q5. For each of the species that is included on this Declaration, please rate your level of concern, between 0 (no concern) to 3 (high level of concern and control is required).

Q6. Please provide any additional comments that may help us with our review.

Appendix 9.4 Public consultation information document



An Roinn
Cultúir, Oidhreacht agus Gaeltachta

Department of
Culture, Heritage and the Gaeltacht

Review of the Derogation Process under Article 9(1)(a) of the EU Birds Directive

Public consultation

The Department of Culture, Heritage and the Gaeltacht (DCHG) is seeking views in relation to the Derogation Process under Article 9(a) of the EU Birds Directive.

1. Executive Summary

The Department of Culture, Heritage and the Gaeltacht (DCHG) is seeking views in relation to the Derogation Process under Article 9(1)(a) of the EU Birds Directive including submissions relating to:

- the species included on the derogation list, including species status and distribution, period for which the species is listed, population status and threats, rationale for their inclusion, and methods of control.
- the extent to which these species give rise to issues regarding public health and safety, air safety, damage to crops, livestock, forests, fisheries, water, and protection of flora and fauna.
- National and European legislation in relation to the EU Birds Directive, in particular Article 9(1)(a)
- Recommendations for future Declarations, including the species and process involved.
- Any other issues in relation to Article 9(1)(a) of the EU Birds Directive

This public consultation forms part of DCHG's five-yearly review of the derogation process. This review process includes a full review of the extent of the issues pertaining to species included on the derogation list (Declaration), the ecological status of these species, and overview of the approach of several other EU member states towards Article 9(1)(a).

The public consultation process will close at 17.00 on 4th May 2018.

2. Introduction and context

The Department of Culture, Heritage and the Gaeltacht (DCHG) provides the legislative and policy framework for the conservation of nature and biodiversity in Ireland. The Birds Directive (Directive 2009/147/EC) on the conservation of wild birds is implemented in Ireland, *inter alia*, under the Wildlife Act. Under the terms of the Directive, all Member States of the EU are bound to take measures to protect all wild birds and their habitats.

Under Article 9, Member States may derogate from these terms for one or more of the following reasons:

- public health and safety;
- air safety;
- prevent serious damage to crops, livestock, forests, fisheries and water;
- protection of flora and fauna.

In Ireland these derogations are achieved by the competent authority, the Minister for DCHG, by way of *Declarations* made under the European Communities (Wildlife Act, 1976) (Amendment) Regulations 1986, as amended. These Declarations are reviewed annually for publication in April each year. There are two Declarations for the most recent year (May 2017 – April 2018), comprising the general state-wide declaration and an air-safety declaration.

This consultation document is aimed at providing information to inform stakeholders and the wider public about the current Declarations. It draws information from more detailed reports on species status, the extent of issues to which these species give rise, and legislation surrounding these Declarations.

3. Policy overview

3.1 The EU Birds Directive

Directive 2009/147/EEC (the Birds Directive), provides a framework for the protection, management and control of all wild birds naturally occurring in the EU and lays down rules for their exploitation (Article 1). The Directive provides for a suite of measures to be taken by Member States to maintain populations of all wild bird species. These include provision for the maintenance or re-establishment of habitats (Article 3), and provision for the establishment of Special Protection Areas for certain species (Article 4). Other measures include the requirement for Member States to encourage relevant research and work that will support the protection, management and use of wild birds (Article 10).

3.2 Articles 5 to 8 of the EU Birds Directive

Article 5 of the Directive provides for the establishment of a general scheme of protection for all wild birds. This includes a prohibition of, *inter alia*, the deliberate killing or capture of wild bird species, and any deliberate destruction, damage to or collection of their nests and eggs.

Article 6 places restrictions on the sale and keeping of bird species.

Article 7 makes provision for a system for managing the hunting (including falconry) of those birds listed in Annex II of the Directive. This includes a requirement to ensure that birds are not hunted during the periods of their greatest vulnerability, such as the spring migratory period and during the breeding season. A Guidance document for the implementation of Article 7 in Member States (European Commission 2008) refers extensively to Article 9 and provides some guidance for its use.

Article 8 prohibits the large scale and non-selective means of bird killing, in particular those listed in Annex IV of the Directive.

Member States may derogate from the provisions of Articles 5 to 8 in accordance with Article 9.

3.3 Article 9 of the EU Birds Directive

The text from Article 9 of the EU Birds Directive is as follows:

5. Member States may derogate from the provisions of Articles 5 to 8, where there is no other satisfactory solution, for the following reasons:
- (d) —*in the interests of public health and safety,*
— *in the interests of air safety,*
— *to prevent serious damage to crops, livestock, forests, fisheries and water,*
— *for the protection of flora and fauna;*
 - (e) for the purposes of research and teaching, of re-population, of re-introduction and for the breeding necessary for these purposes
 - (f) to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.
6. The derogations referred to in paragraph 1 must specify:
- (f) the species which are subject to the derogations;
 - (g) the means, arrangements or methods authorised for capture or killing;
 - (h) the conditions of risk and the circumstances of time and place under which such derogations may be granted;
 - (i) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom;
 - (j) the controls which will be carried out.
7. Each year the Member States are required to send a report to the Commission on the implementation of paragraphs 1 and 2.
8. On the basis of the information available to it, and in particular the information communicated to it pursuant to paragraph 3, the Commission shall at all times ensure that the consequences of the derogations referred to in paragraph 1 are not incompatible with this Directive. It shall take appropriate steps to this end.

3.4 General principles of the Article 9 derogation process

Article 9 allows Member States to derogate from the basic prohibitions listed above provided ALL three following conditions are fulfilled:

- there is no other satisfactory solution;
- one of the reasons listed in 9(1)(a), 9(1)(b), or 9(1)(c) applies;

- and the technical requirements of Article 9(2) are fulfilled.

Member States are obliged to submit an annual report to the European Commission on all derogations issued under Article 9. This is to ensure that the consequences of these derogations are not incompatible with the Directive, *i.e.* they do not undermine the conservation of the species for which derogations have been granted. These derogations must be justified in relation to the overall objectives of the Directive, *i.e.* they should not lead to a situation where a species' population and range is reduced to such an extent that it becomes vulnerable or leads to an unfavourable conservation state.

A European Commission (2008) guidance document for hunting under the Birds Directive provides useful elaboration of provisions of Article 9. In this document, it is stipulated that "*derogations are 'exceptions' which allow for some flexibility in the application of a law*". The conservation objective, however, remains for the species to which the derogation applies.

4. Derogation circumstances

4.1 Public Health and Safety

Wildlife has been an important source of infectious diseases transmissible to humans throughout history, and zoonosis⁷ with a wildlife reservoir constitutes a major human health problem globally. Birds are susceptible to many of the bacterial diseases common to humans (Benskin *et al.* 2009), and *Salmonellae*, *Campylobacter*, *Listeria* and *E. coli*, have all been proven prevalent in a diverse range of bird species groups.

Some species can pose direct conflict with humans during the breeding season when defending their nests and/or broods. There have been increasing reports of direct human conflict, in particular with large-sized gulls, in urban areas in recent decades, in parts of Europe (Calladine *et al.* 2006, Huig *et al.* 2016, Beasley 2017) and North America (Clark *et al.* 2015). Furthermore, they have been implicated in the contamination of water sources, spreading of litter (through destruction of refuse bags left exposed) and noise pollution (especially during chick-rearing). This aggressive behaviour is heightened during the chick-rearing stages (mid – late summer). However, this conflict has extended beyond nesting birds, and there is increasing conflict in public areas where humans are feeding the birds. Specifically, individual 'rogue' gulls are known to take food directly from humans.

In Ireland there are four species currently on the General Derogation that have been included for reasons of public health due to disease and contamination, comprising Feral Pigeon, Collared Dove, Magpie and Hooded Crow. The allowable period for control of these species for this reason is year-round.

A further three species were included in the General Declaration in 2017/18, namely Lesser Black-backed Gull, Herring Gull and Great Black-backed Gull, for public safety reasons for a specific area in north County Dublin. This was aimed as a pilot project, where the removal of a select number of nests and eggs of Herring Gulls, Greater Black-back Gulls and Lesser Black-backed Gulls was allowed as part of the derogation granted.

4.2 Air safety

⁷ Zoonoses are infectious diseases of animals that can naturally be transmitted to humans

Birds are an air safety hazard and present a risk of collision or bird strike with aircraft. This risk is considered to be greatest during take-off, approach, climb and landing. In terms of aircraft damage, many bird strikes will have no effect, however where damage occurs the effects can range from minor (e.g. Soldatini *et al.* 2010), where a strike may lead to an aircraft inspection to catastrophic with structural failure which cannot be repaired.

To allow for the control of birds for the purposes of air safety in Ireland, airports can apply for species to be included in the Air Safety Declaration. These species are considered to be a risk to air safety in Ireland and the Minister is satisfied that no other solution exists, other than to capture, kill or otherwise interfere with those species listed.

4.3 Damage to crops, livestock, forests, fisheries and water

It is perceived that many wildlife species have a negative impact on farming (crops and livestock), forests, and fisheries and water. Conflicts involving birds are diverse in nature, and range from direct impacts, such as predation, and competition for or loss of resources such as reducing available grazing and in the loss of crop yield. Crop damage is the degradation of crops through consumption, damage to roots, and can also be caused by trampling.

The species currently on the General Declaration in Ireland with respect to livestock, forests, fisheries and water are listed for agricultural reasons. There are currently five species on the General Declaration for the following reasons:

- Damage to livestock: Magpie, Hooded Crow. Control is between December and May, during the peak lambing and calving period.
- Damage cereal crops: Woodpigeon, Jackdaw, Rook. Control is between November and May, during the early growth phases of the crop.
- Damage livestock feedlots: Jackdaw, Rook. Control is between November and May, during the period when livestock are housed and/ or fed large amounts of supplementary meal

4.4 Protection of flora and fauna

Under the General Declaration, a derogation may apply where a species has been shown to impact on native flora and fauna, or on game stocks. There are two species, Magpie and Hooded Crow, currently on the General Declaration in Ireland with respect to the protection of flora and fauna, and game stocks. The allowable period of control is restricted to between February and September, during the bird breeding season up to and including the fledging period.

5. Overview of species listed on Declarations for 2017/2018

A total of 23 species are being assessed as part of this review, including 21 species that are listed on one or both of the Air Safety and the General Declarations for 2017/18 and a further two species that are not on the current Declarations, but that may be included. The list includes 11 waterbirds, one bird of prey and 11 passerine or near-passerines. Of these species, 10 species are showing increasing trends in Ireland, a further nine are declining and three are stable. Carrion Crow is very rare in Ireland and its current status is not fully known. Some species are of heightened conservation concern in Ireland and/or in Europe. An overview of the trends and status of the species included on the Declarations is presented in Table 1.

Table 1. Overview of the species listed on the Declarations, including details about their occurrence in Ireland and their status in Ireland and Europe.

Species	Declaration	Season*	Trend National	Trend Europe	National status (BoCCI)**	European status (BiE2)***
Grey Heron	Air safety	Y	↑	↑	●	●
Whooper Swan	Air safety	W	↑	↑	●	●
Mute Swan	Air safety	Y	→	↑	●	●
Buzzard	Air safety	Y	↑	↑	●	●
Golden Plover	Air safety	W	↓	↓	●	●
Lapwing	Air safety	W	↓	↓	●	●
Curlew	Air safety	W	↓	↓	●	●
Black-headed Gull	Air safety	W	↓	↓	●	●
Common Gull	Air safety	W	↓	↓	●	●
Lesser Black-backed Gull	General, Air safety	Y	↑	↑	●	●
Herring Gull	General, Air safety	Y	↓	↑	●	●
Great Black-backed Gull	General, Air safety	Y	↓	↑	●	●
Feral Pigeon	General, Air safety	Y	↑	→	●	●
Woodpigeon	General, Air safety	Y	↑	↑	●	●
Collared Dove	General, Air safety	Y	↑	↑	●	●
Swallow	Air safety	S	→	↓	●	●
Magpie	General, Air safety	Y	↓	↓	●	●
Jackdaw	General, Air safety	Y	↑	→	●	●
Rook	General, Air safety	Y	→	→	●	●
Carrion Crow	-	Y	-	→	-	●
Hooded Crow	General, Air safety	Y	↑	→	●	●
Starling	Air safety	Y	↓	↓	●	●
House Sparrow	-	Y	↑	↓	●	●

* Time of year each species occurs in Ireland (Y = year-round, W = winter, S = summer)

** Birds of Conservation Concern in Ireland, ● = Green-listed, ● = Amber, ● = Red (Colhoun and Cummins 2013)

*** Birds in Europe 2, ● = Secure, ● = Depleted, ● = Declining, ● = Vulnerable (BirdLife International 2004)

6. Declarations for 2017/2018

6.1 General Declaration (1st May 2017 – 30 April 2018)

The Minister for Arts, Heritage and the Gaeltacht, pursuant to Regulation 3(1)(a) of the European Communities (Wildlife Act, 1976) (Amendment) Regulations, 1986, as amended, signed a State-wide declaration for the 12 month period from 1st May 2017 to 30th April

2018. A separate countrywide declaration was signed in respect of air safety. The State-wide Declaration lists a number of wild bird species that may be captured or killed or otherwise interfered with on any property by any of the means, arrangements or methods set out in Table 2 below.

Table 2. State-wide declaration (1st May 2017 – 30 April 2018)

Species	Rationale under Article 9(1)(a) of the Birds Directive	Method of capture or killing	Area/ time period covered
Hooded/ Grey Crow	Threat to public health and vector in the spread of animal diseases; prevent serious damage to livestock; protection of fauna, notably the nests and young of game birds)	Shooting with rifle or shotgun. Cage traps with or without decoys subject to conditions	State-wide; at specified times of year
Magpie	Threat to public health and vector in the spread of animal diseases; prevent serious damage to livestock; protection of fauna, notably the nests and young of game birds)	Shooting with rifle or shotgun. Cage traps with or without decoys subject to conditions	State-wide; at specified times of year
Rook	Reason: Prevent serious damage to cereal crops, brassicas and root crops such as potatoes and beet; prevent damage to livestock feedlots)	Shooting with rifle or shotgun	State-wide; at specified times of year
Jackdaw	Prevent serious damage to cereal crops, brassicas and root crops such as potatoes and beet; prevent damage to livestock feedlots)	Shooting with rifle or shotgun	State-wide; at specified times of year
Woodpigeon	Prevent serious damage to arable crops, including cereals, legumes and brassicas; threat to public health notably contamination of food storage)	Shooting with rifle or shotgun	State-wide at all times of the year
Feral Pigeon	Prevent serious damage to arable crops, including cereals, legumes and brassicas; threat to public health notably contamination of food storage)	Shooting with rifle or shotgun. Non meat based poison or anaesthetic bait may be used as a method of control but only under permit with prescribed conditions as issued by the National Parks and Wildlife Service prior to control action taking place	State-wide at all times of the year
Herring Gull Greater Black-backed Gull Lesser Black-backed Gull	Threat to public safety	Taking the nests or taking the eggs	Confined to an area of north Co. Dublin at all times of the year

6.2 Air safety Declaration (1st May 2017 – 30 April 2018)

This declaration states that the Minister, being of the opinion that the species referred to below represent a threat to air safety and being satisfied that no other satisfactory solution exists, declares that any of the species listed below may be captured or killed according to the means set out in the Second Schedule to the European Communities (Wildlife Act, 1976) (Amendment) Regulations, 1986, as amended, throughout the State by the owner and occupier or agent or any owner or occupier of any property on which a threat to air safety is represented by any of the below species.

Table 3. Species listed on the air safety declaration (1st May 2017 – 30 April 2018):

Species	
Black-headed Gull	Collared Dove
Common Gull	Common Buzzard (Dublin airport and Casement aerodrome)
Herring Gull	Eurasian Curlew (Dublin airport)
Greater Black-backed Gull	Barn Swallow (Shannon airport)
Lesser Black-backed Gull	Grey Heron (Shannon airport)
Rook	Mute Swan and Whooper Swan (Shannon airport)
Jackdaw	Golden Plover
Magpie	Hooded (Grey) Crow
Starling	Woodpigeon
Lapwing	Feral Pigeon

7. Guidelines for submission

The Department of Culture, Heritage and the Gaeltacht (DCHG) is seeking views in relation to the Derogation Process under Article 9(1)(a) of the EU Birds Directive including submissions relating to:

- the species included on the derogation list, including species status and distribution, period for which the species is listed, population status and threats, rationale for their inclusion, and methods of control.
- the extent to which these species give rise to issues regarding public health and safety, air safety, damage to crops, livestock, forests, fisheries, water, and protection of flora and fauna.
- National and European legislation in relation to the EU Birds Directive, in particular Article 9(1)(a)
- Recommendations for future Declarations, including the species and process involved.
- Any other issues in relation to Article 9(1)(a) of the EU Birds Directive

Written submissions and observations may be made by writing to:

Wildlife Licensing Unit
National Parks and Wildlife Service
Department of Culture, Heritage and the Gaeltacht
90 North King Street
Dublin 7 D07 N7CV

Mark Submissions: ~~%~~Article 9a Consultation+

Or by Email to:

npws.derogationart9@gmail.com

The closing date for receipt of submissions and observations is 17.00 on 4th May 2018.

All submissions must include the full name and address of the person making the submission and where relevant the name of the body or organisation represented. Please note that responses to this consultation are subject to provisions of the Freedom of Information Act 2014. Confidential or commercially sensitive information should be clearly identified in your submission, however parties should also note that any or all responses to the consultation are subject in their entirety to the provisions of the FOI Acts and may be published by the Department.

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- Soldatini, C., Georgalas, V., Torricelli, P., Albores-Barajas, Y.V. 2010. An ecological approach to birdstrike risk analysis. *European Journal of Wildlife Research* 56: 623–632.

Appendix 9.5 Copy of press notice



minutes, the crew made the very difficult decision to stop CPR and make Capt Fitzpatrick's body secure. The Achill lifeboat continued searching for her three colleagues, along with the Sligo-based Rescue 118 helicopter.

The inquest heard how Capt Fitzpatrick had been pronounced dead at 9.27am at Mayo General Hospital, but co-pilot Dr Fitzgerald noted that it would be more correct to state that she was dead on being recovered by the lifeboat. She confirmed a deposition from Deputy State Pathologist Dr Linda

Mulligan that the cause of Capt Fitzpatrick's death was due to drowning, and there were no contributory factors.

Helicopter wreckage and diver Courtney Gibbons told the inquest how he and colleague Leading Seaman Donal O'Sullivan had recovered the body of co-pilot Capt Mark Duffy from the helicopter wreck about 36 metres of water some 100m from Blackrock Island. Dr Fitzgerald confirmed a deposition from Deputy State

Pathologist Dr Michael Curtis that Capt Duffy had died from multiple injuries sustained in the helicopter crash. Given the extent of his injuries, his death could have been almost instant, Dr Fitzgerald noted.

Mr Whyte said that after the helicopter wreckage was lifted, the search area was extended out. "In my opinion, everything that could be done was done under very challenging conditions," he said.

The coroner confirmed cause of death for Mr Ormsby and Mr Smith as being lost at sea. She adjourned the proceedings

under section 26 of the 1962 Coroners' Act at the request of Insp Gary Walsh of Belmullet Garda.

Insp Walsh confirmed that a joint Garda/Health and Safety Authority (HSA) investigation had been delayed by documentation sought from "different parties".

a number of measures to regulate political campaigning and advertising online.

transfer of European users' data to US: Business This Week

An Roinn Cultúir, Oidhreachta agus Gaeltachta
Department of Culture, Heritage and the Gaeltacht

Comhairliúcháin Poiblí

Tá an Roinn Cultúir, Oidhreachta agus Gaeltachta ag iarraidh tuairimí gearrleasbhóirí, páirtithe iasbhara agus an phobail i ndáil leis na b'vótaas Maolaithe faoi Airteagal 9(1)(a) de Threoir Eanáil AE do 2010/2019 agus blianta dá éis.

Soláthrafaíonn an Roinn an croílár reachtaíochta agus beartaíocht chun an dlí agus an bhithéigheacht in Éirinn a chosaint. Cultúir, Tíreolaíocht, Oidhreachta, Inter alia, faoi na hAchtanna um Fíadhlúthraíocht. Faoi Airteagal 9, fíadhlúthraíocht na hÉirinn agus a ghairníocht a chosaint.

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Investigates boys' toilets

linked any of the pupils on the list.

While the issue is not the subject of a Garda investigation, an internal inquiry will be carried out.

Principal of Davis College, Stephen Gilbert, issued a statement indicating that the safety and wellbeing of all of their students was his top priority.

"We are taking this issue extremely seriously, and immediately took steps to address it with both the affected students and student body at large. This work is continuing."

OLIVIA KELLEHER AND CARL O'BRIEN

Chief career

the newspaper's chief executive.

He went from there to Mr. an private investment company, Irelandia Investments, and then to Ryanair in 1996, about one year after its

nationalisation. Mr O'Neill is survived by his son, Emmet, and daughter, Emma, and siblings Joe, Sally, and

John. He married Abigail O'Neill, a sister of business magnate Denis O'Brien. Their son, Emmet, has since carved

reer for himself in business. BARRY O'HALLORAN

Paramilitaries



Dissident group in execution threat to drug dealers

The uncle of a man shot dead by dissident republicans has said he feels "sickened" by the emergence of another group which has threatened to "execute" drug dealers.

William Allen - whose nephew Andrew was killed by Republican Action Against Drugs (RAAD) in 2012 - said no group had the right to threaten or attack anyone.

"They'd be doing their own communities as well as everybody else in Northern Ireland a favour if they would just go away," he said.

In a statement to the Irish News, an organisation calling itself the Irish Republican Movement said that anyone involved in the drug trade within nationalist communities

must "cease immediately" or face death. It was accompanied by a photograph of five armed, masked men posing in front of a Tricolour.

The group is understood to be made up of a breakaway section of the dissident republican organisation Oglagh na hÉireann, which announced a ceasefire earlier this year.

Sinn Féin ML A Gerry Kelly called on the new group to "disband and get off the back of the community".

"It seems this latest group has emerged from yet another split which is testament to the lack of any cohesion, strategy, support or credibility within dissident republican circles," he said.

FREYA MCCLEMENTS

Travel

Industrial action looms at Aer Lingus

Aer Lingus is facing possible industrial action over a decision by the airline to withdraw unilaterally from an internal dispute resolution mechanism, the trade union Fórsa has warned.

The chairwoman of the Fórsa trade union's services and enterprise division Gillian White said the move represented a fundamental breach of an agreement reached to resolve a previous dispute over pensions.

Speaking at the union's services and enterprise division conference in Galway yesterday, she maintained that management at Aer Lingus walked away from the internal disputes resolution board "because it was not getting its way on everything".

The airline contended that the internal dispute resolution mechanism at the company had been used as a tool to slow down the implementation of business changes.

It said it could not continue to absorb the annual costs associated with the internal dispute resolution board "without extracting real value".

The Fórsa conference debated and passed an emergency motion that called on the union to "take action to ensure that Aer Lingus complied with a union-management agreement covering staff consultation".

MARTIN WALL

Public Consultation

The Department of Culture, Heritage and the Gaeltacht (DCHG) is seeking views of stakeholders, interested parties and the public in relation to the Derogations Process under Article 9(1)(a) of the EU Birds Directive for 2010/2019 and future years.

The Department provides the legislative and policy framework for the conservation of nature and biodiversity in Ireland. The Birds Directive (Directive 2009/147/EC) on the conservation of wild birds is implemented in Ireland, later alia, under the Wildlife Act. Under the terms of the Directive, all Member States of the EU are bound to take measures to protect all wild birds and their habitats.

Under Article 9, Member States may derogate from these terms for one or more of the following reasons: public health and safety; air safety; prevent serious damage to crops, livestock, forests, fisheries and water; protection of flora and fauna.

In Ireland these derogations are achieved by the competent authority, the Minister for Culture, Heritage and the Gaeltacht, by way of a Declaration made under the European Communities (Wildlife Act, 1976) (Amendment) Regulations 1986, as amended. These Declarations are reviewed annually for publication in May each year. This public consultation forms part of the Department's five-yearly review of the derogation process.

A consultation guidance document containing further information is available to view or download on the website of the National Parks and Wildlife Service at www.npws.ie.

The closing date for submissions is Friday, 4 May 2018.

Submissions are invited from all interested parties and should be submitted to the Department's consultants ANIAR Ecology via e-mail to: nps.development@aniar.com with 'Article 9a Consultation' in the subject bar.

Or post to: Wildlife Licensing Unit National Parks and Wildlife Service Department of Culture, Heritage and the Gaeltacht 90 North King Street Dublin 7 D07 N7CV

Mark Submissions: "Article 9a Consultation"

Please note all submissions must include the full name and address of the person making the submission and where relevant the name of the body or organisation represented. Confidential or commercially sensitive information should be clearly identified in your submission. However parties should also note that any or all responses to the consultation are subject to their suitability to the provisions of the EU Act and may be published by the Department.

Appendix 9.6 Complete submissions cited

REF: BirdWatch Ireland



BirdWatch Ireland Submission on the Review of Derogation process under Article 9(a) of the EU Birds Directive.

Introduction

BirdWatch Ireland welcomes the opportunity to contribute to this public consultation. The scope of this public consultation as outlined in the narrative on the Survey Monkey webpage, however, is regrettably narrow and unclear in places. The narrative also does not provide complete information for an adequate review of the derogation process in Ireland since it only lists Article 9 (a) of the Directive. In addition, the correct numbering for this article is 9(1)(a). A complete review of the derogation process in Ireland would include examination of the other relevant articles which are 9(2), 9(3) and 9(4). Article 9(1)(a) cannot be examined in isolation from the other articles, legally speaking. Furthermore, the narrative lists the 2017/2018 and the 2018/2019 Declarations as well as listing the declarations which are made for air safety. However, the Survey Monkey form only covers the State-Wide Declaration which causes concern that we are not able to comment on this. In addition, other processes, outside of the State Declarations, are used to grant derogations. These are outlined in 2016 report by the Irish Government¹ to the European Commission under Article 9(3) of the Birds Directive and this process should also be included in any review of the Birds Directive Article 9 derogation process in Ireland.

Since this specific online survey only refers to the State-Wide Declarations, this is what the focus will be in the response by BirdWatch Ireland. However, BirdWatch Ireland wishes to state that **all derogations under Article 9** must meet the specific and precise legal requirements of that article and with European Court of Justice case law which provides legal clarity on compliance. We are also concerned that the public consultation does not provide any evidence that we can evaluate to support the inclusion of certain species on the Declarations. There may be supporting documentation available but this has not been presented. As part of our response, in the first instance, we will provide information on the European Court of Justice Case law on the requirements which must be met in order to allow for derogations under Article 9.

In summary, BirdWatch Ireland is concerned that the State is failing in its legal obligations to comply with the specific detail in Article 9 of the Birds Directive. The process by which the government grants derogations needs to be addressed. This is said within the context of growing public calls for culls of Gulls, Cormorants and Brent geese, amongst other species. This is major concern as these species try and survive within a human environment and to whom blame is attributed for the decline in fishing opportunities, amongst other activities. And within the context of subjective reactions and responses to noise, bird fouling etc. Resources need to be allocated to public awareness raising opportunities of the ecological requirements of species and their behaviour and ways in which people can live with birds. In addition, funded research into the cause of specific problems and solutions in the locations where some communities are feeling the pressure, especially during the breeding season, from living with birds such as Gulls is urgently required. BirdWatch Ireland is not

¹ http://cdr.eionet.europa.eu/ie/eu/habides/envvrt9hw/Directive_2009-147-EC_-_Article_9_3_-_2016_-_Appendix_3_-_Specific_Derogations.xls/manage_document

against the implementation of Article 9 of the Birds Directive however it must be undertaken in a scientifically robust way and in compliance with previous European Court of Justice case law.

1.0 The Three Tests of Article 9 of the Birds Directive - European Court of Justice Case Law

The European Court of Justice (ECJ) has clarified that the possibility to derogate under Article 9 is subject to three conditions: First, the Member State must restrict the derogation to cases in which there is **no other satisfactory solution** as outlined in the first line of Article 9; secondly, the derogation must be based on at least one of the reasons listed exhaustively in Article 9(1)(a), (b) and (c); thirdly, the derogation must comply with the **precise** formal conditions set out in Article 9(2), which are intended to limit derogations to what is strictly necessary and to enable the European Commission to supervise them. A further condition that needs to be met, after the previous three have been met, is related to conservation status of the species concerned. Derogations should not be detrimental to the conservation of the species involved, which means that monitoring and assessment is needed for bird species as well. This latter point is outlined in Article 9(3) where it states ... *'the Commission shall at all times ensure that the consequences of the derogations referred to in paragraph 1 are not incompatible with this Directive'* which aims to ensure the conservation of wild bird species'.

The public consultation narrative outlines Article 9(1)(a) and the reasons for which a derogation may be granted. However, this cannot be undertaken in isolation from the first line of Article 9(1) or the subsequent subsections of Article 9. The first line of Article 9 states that *Member States may derogate from the provisions of Articles 5 to 8, **where there is no other satisfactory solution.***

Derogations can only be given out where no other satisfactory solution or alternative exists. It is clear though that to pass this test in a court that the information to inform the decision to derogate must be scientifically robust. The problem has to be identified and defined before an alternative method can be devised and a solution can be found. The problems and the solutions should have a scientific and evidenced-based underpinning. It seems reasonable to state as a general proposition that any determination that another solution is unsatisfactory should be based on objectively verifiable factors, and that close attention needs to be paid to the scientific and technical evaluation of these. **No information has been presented within the public consultation documents on what alternative solutions have been tried and tested in order to support past or future derogations for any of the species listed in the 2017/2018 Declaration.**

In addition Article 9(2) lists the detail that the derogation must specify and this includes in Article 9(2)(c) that **'the conditions of risk and the circumstances of time and place under which such derogations may be granted.** This means that the conditions of risk to public health, to public safety etc as outlined in Article 9(1)(a) must be specified. The word 'specify' means 'to identify clearly and definitely' according to the Oxford English Dictionary². In the 2017/2018 Declaration the reasons for control are listed but the **conditions of the risk** are not. What is the level of threat to public health? What is the level of threat to public safety?

The European Court of Justice has adjudicated over numerous member state cases which were required clarification of the spirit and implementation of Article 9. BirdWatch Ireland lists several cases in the following paragraphs and these can be found on the European Court of Justice Curia website³.

² Web page ref: <https://en.oxforddictionaries.com/definition/specify>

³ https://curia.europa.eu/jcms/jcms/j_6/en/

Case C-118/94 and Case C-159/99 provide precise wording on the requirements of governments under Article 9 on other satisfactory solutions. The Judgement of C-118/94 states:

Article 9(1) of Directive 79/409 on the conservation of wild birds, which provides for the possibility for the Member to derogate from the general prohibition on hunting protected species laid down in Articles 5 and 7 of the Directive **where there is no other satisfactory solution and for one of the reasons listed exhaustively therein**, and Article 9(2), which **defines the precise formal conditions** for such derogations, must be interpreted as authorizing the Member States to grant those derogations only by measures which refer in sufficient detail to the factors mentioned in Article 9(1) and (2). In a sphere in which the management of the common heritage is entrusted to the Member States in their respective territories, faithful transposition of Directives becomes particularly important.

Case C- 247/85 provides clarity on Article 9(1) and 9(2) and again specifies the requirement that the derogation must firstly comply with the test that there are no other satisfactory solutions and secondly outlines that the conditions of risk must be detailed and precise.

Court Judgement: The removal or destruction of nests is necessary only in specific cases in which the higher-ranking interests of public health and security must override the protection of **birds** and their habitats. The Belgian rules provide for a derogation which is not sufficiently delimited in fact, the derogation is not limited to **specific situations in which there is no other satisfactory solution** than the destruction or removal of nests, **in fact, it cannot be maintained that all nests built against houses and adjoining buildings always represent a danger to health. Furthermore, the derogation does not comply with the formal requirements set up by the Birds Directive that is it does not specify the conditions of risk** and the circumstances of time and place in which the derogations may be granted or the controls which will be carried out. The derogation provided for in the Belgian law does not comply with the prohibition contained in Article 5 of the Birds Directive and is too general in nature to be justified by Article 9 of the Birds Directive.

Case C-10/96, Case: 236/85 also address the requirement that no other satisfactory solution is the precursor to allowing for derogations under Article 9.

Case 262/85 outlines the legal obligation to specify the **conditions of risk and precise circumstances of time and place** under which a derogation may be granted.

Court Judgement: The Italian government has not put forward any evidence proving that it was necessary to include jay and magpie on the Italian list of **birds** which may be hunted in order to prevent serious damage to crops, livestock, forests, fisheries or water and that no other satisfactory solution existed. Neither has it indicated the reasons for which the listing of those species was, in its view, the only satisfactory solution to prevent serious damage. Finally, the provision in question does not specify the conditions of risk and the circumstances of time and place under which the derogation may be granted or the controls which will be carried out. Therefore, the inclusion of jay and magpie amongst the **birds** which may be hunted cannot be justified by the third indent of Article 9(1)(a) of the Directive.

2.0 Blanket Derogations

The 2017/2018 Declaration includes blanket derogation to allow the killing of species at any time of the year, by anyone, and anywhere. This goes against the specifics required under Article 9(2)(d) where the derogation must specify the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom. **ECJ case law C-159/99** would call this into question that 'Although Article 9 therefore authorises wide derogations from the general system of protection, it must be applied appropriately

in order to deal with precise requirements and specific situations'. In addition, the judgement in **C-247/85** also suggests that the reasons justifying the grant of a derogation to a broad category of people should be compelling and clearly specified in the derogation⁴.

3.0 2017/2018 Declaration

In the 2017/2018 State-wide Declaration the opening paragraph of this Declaration states that the 'Minister.... being of the opinion that the species referred to in Schedule 1 to this declaration represent a threat to public health or safety or are likely to cause serious damage to crops or to livestock or are likely to cause damage to fauna and being satisfied that no other satisfactory solution exists, hereby declares....'. There are two issues here: 1. The opinion that there is threat to public health and/or safety must be based on fact and supported by evidence of impacts, 2. The declaration lists 'the likelihood' that birds would cause damage. 'Likelihood' implies probability but this does not mean that it is definite. The impacts of the bird species listed should be 'proven' and based on scientific evidence. The ECJ Case Law on Article 9 clearly shows that derogations are granted for exceptions and must be underpinned by robust scientific evidence to determine if alternative solutions have been identified, tried and tested; that the derogation request complies clearly with one of the options under Article 9(1)(a); and if the conditions of risk and other requirements of Article 9(2) are complied with.

BirdWatch Ireland would like to also query why Statutory Instrument 254 from 1986 is used as the basis for this Declaration and not the 2011 Birds and Habitats Regulations which outline in great detail the requirements to derogate under Article 55?

3.1 Inclusion of Gulls in the 2017/2018 Declaration

BirdWatch Ireland is alarmed by the inclusion of three Gull Species in the 2017/2018 Declaration. The Declaration allowed for the taking of the eggs and nests of these species in Balbriggan in North County Dublin due to a threat to public safety. The species in question are Herring Gull (*Larus argentatus*), Great Black-backed Gull (*Larus marinus*) and Lesser Black-backed Gull (*Larus fuscus*). Of particular concern is the inclusion of Herring Gull as the conservation status of this species short and long trend for this species is 'decline'⁵ according to the most recent available survey and it is for this reason that the species is Red Listed as a Bird of Conservation Concern in Ireland⁶. However, BirdWatch Ireland is equally concerned that due process is undertaken to meet the specific and precise requirements of Article 9.

In 2017 BirdWatch Ireland requested information under the Freedom of Information and Access to Information on the Environment legislation to source the evidence which would underpin the tests carried out to meet the requirements of Article 9 of the Birds Directive and to support the inclusion of these three species in the 2017/2018 Declaration. In particular we sought to ascertain what alternative solutions were tested in order to support the derogation to allow the removal of the eggs and nests of 3 Gull species in Balbriggan. The documentation we were provided with did not include any detail on systematic exploration or testing of other satisfactory solutions to address identified pressures or problems in Balbriggan. We were provided with information from concerned members of that community there who had tried ad hoc methods on their own properties. There was no scientific

⁴ European Commission – 2008 - Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds" "The Birds Directive".

⁵ http://cdr.eionet.europa.eu/Converters/run_conversion?file=/ie/eu/art12/envuvesya/IE_birds_reports-14328-144944.xml&conv=343&source=remote#A184_B

⁶ Colhoun K and Cummins S (2013), "Birds of Conservation Concern in Ireland 2014 –2019". Irish Birds. 9: 523–544

analysis of the problems or evidence-based approaches to solutions. This is not satisfactory and is a breach of Article 9 of the Birds Directive.

There was no information provided which would provide any clarification on what the threat to public safety was from these gull species. The Department of Culture, Heritage and the Gaeltacht had sought information from the Health Service Executive (HSE) on whether there was any evidence of a potential threat to public health from gulls and the HSE stated that there was no scientific evidence to support this. The HSE also stated that there was potential for the gulls to cause a considerable nuisance and upset but there was no quantification of any impacts on public safety though the Derogation was for an impact on public safety. We ask what are the public safety grounds for including the three gull species in the Declaration? The proof of the conditions of risk as specified in Article 9(2)(c) are not provided for within the 2017/2018 Declaration.

Therefore, BirdWatch Ireland is of the view that the granting of the derogation to take the eggs and nests of the three listed Gull species **does not satisfy the specific requirements of Article 9 of the Birds Directive and these species should be removed from the 2017/2018 Declaration and any future Declarations:**

- ☐ Article 9(1) : no evidence of alternative solutions to the derogation having been tried in a scientifically robust manner.
- ☐ Article 9 (2)(c) : The conditions of risk have not been explained or spelled out in the Derogation and the HSE letter states that there is no health risk and there is no mention of a risk to public safety.
- ☐ Article 9(2) (d) : The derogation order given to the Community groups is scant on detail on how many eggs or nests can be removed, what to do if there are chicks in the nest, what happens the eggs, or who should undertake the task. There is a request that the Community Groups must report back on their activities but there is no detail given on what kind of information this should include: numbers of nests, numbers of eggs, locations, species in question etc.

3.2 Other Species on 2017/2018 Declaration.

Hooded Crow (*Corvus corone*)

Blanket and all year derogation is questionable. The reason for control -that the species is a threat to public health and as a vector for the spread of animal diseases needs to be proven. In particular, The reason for control should include For the Protection of Fauna and notably the nests and young of Little Tern, Curlew, Lapwing, Hen Harrier and other ground nesting birds as required. All articles of Article 9 need to be adhered to and evidence supplied of the alternative solutions which have been tested under Article 9(1), the conditions of risk etc under Article 9(2)(c) and the specifications under Article 9(2)(d).

Magpie (*Pica pica*)

The conservation status for breeding Magpie populations is decline according to the most recent Countryside Bird Survey report 1998-2016 Crowe, O., Coombes, R.H., Tierney, T.D., Walsh, A.J., O'Halloran, J., 2017. *Countryside Bird Survey Report 1998-2016*. Birdwatch Ireland, Wicklow⁷. BirdWatch Ireland questions the all year blanket derogation to allow the killing of Magpie for the reason of Threat to Public health and as a vector in the spread of animal diseases. All articles of Article 9 need to be adhered to and evidence supplied of the alternative solutions which have been tested

⁷ Crowe, O., Coombes, R.H., Tierney, T.D., Walsh, A.J., O'Halloran, J., 2017. *Countryside Bird Survey Report 1998-2016*. Birdwatch Ireland, Wicklow.

under Article 9(1), the conditions of risk etc under Article 9(2)(c) and the specifications under Article 9(2)(d).

Rook (*Corvus frugilegus*)

BirdWatch Ireland is unclear of what the term livestock feedlots refers to. Also, we are unclear as to why there is one month of respite for this species in January. All articles of Article 9 need to be adhered to and evidence supplied of the alternative solutions which have been tested under Article 9(1), the conditions of risk etc under Article 9(2)(c) and the specifications under Article 9(2)(d).

Jackdaw (*Corvus monedula*)

BirdWatch Ireland is unclear to what the term livestock feedlots refers in an Irish context. Also, we are unclear as to why there is one month of respite for this species in January. All articles of Article 9 need to be adhered to and evidence supplied of the alternative solutions which have been tested under Article 9(1), the conditions of risk etc under Article 9(2)(c) and the specifications under Article 9(2)(d).

Wood Pigeon (*Columba palumbus*)

BirdWatch Ireland has concerns that there is no respite from the derogation for the entire year for this species. We are also concerned that Wood Pigeon is a migratory species and ask if the state is in compliance with any requirements to ensure that EU populations of this species are satisfactory. All articles of Article 9 need to be adhered to and evidence supplied of the alternative solutions which have been tested under Article 9(1), the conditions of risk etc under Article 9(2)(c) and the specifications under Article 9(2)(d).

Collared Dove (*Streptopelia decaocto*)

The stated reason for control as a Threat to public health needs to be quantified and presented along with any future declaration. All articles of Article 9 need to be adhered to and evidence supplied of the alternative solutions which have been tested under Article 9(1), the conditions of risk etc under Article 9(2)(c) and the specifications under Article 9(2)(d).

April 13 2018

Oonagh Duggan: Assistant Head of Division-Policy and Advocacy, oduggan@birdwatchireland.ie .

ENDS

REF: BirdWatch Ireland (further submission)

BirdWatch Ireland makes the following submission as part of the Review of the Article 9 derogation process. In our previous submission through the Survey Monkey form we outlined concerns in relation to the application of the Article 9 focusing mostly on the general declaration 2017/2018. In this submission we focus on the air safety declaration.

We also stated previously that a full review of the Article 9 process would go beyond the State Declarations and also include a review of the Specific Derogations/consents for the killing of birds granted under Article 9 and contained in the Irish reports to the Commission under reporting obligations (Article 9(4)) and [available here](#). This includes a much broader suite of consents not included in the public consultation material. Therefore, it is our view that this review of Article 9 is not comprehensive and not complete.

Air safety is obviously of prime importance and measures must be taken to ensure air safety and to reduce the potential for collision of aircraft with birds. Some of the species on the derogation list for air safety purposes are species of conservation concern not only in Ireland but in Europe. These species include Curlew, Golden Plover, Lapwing, Swallow, Common Gull and Black-headed Gull. It is very important therefore that those concerned with the conservation of our common natural heritage and application of the European Union laws established to protect wild birds can have confidence and faith in the Irish government's application of the Article 9 process to derogate from the protection of wild birds. Article 9 in its totality needs to be implemented to the letter of the law (i.e. Birds Directive and European Court of Justice case law).

In the case of air safety, Article 9 (2) specifies, where there is no other satisfactory solution to the killing of birds, that derogations must specify

- (a) the species which are subject to the derogations;
- (b) the means, arrangements or methods authorised for capture or killing;
- (c) the conditions of risk and the circumstances of time and place under which such derogations may be granted;
- (d) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom;
- (e) the controls which will be carried out.

Finally Article 9(4) states that "On the basis of the information available to it, and in particular the information communicated to it pursuant to paragraph 3, the Commission shall at all times ensure that the consequences of the derogations referred to in paragraph 1 are not incompatible with this Directive. It shall take appropriate steps to this end." This implies that the derogations must not impact on the conservation of the species. This requires that up-to-date knowledge is available of species populations, threats and pressures to ensure that populations will not be impacted negatively by the derogation. Also, it means that the reporting to the Commission is of a high quality to ensure confidence that derogations are not affecting populations.

The 2018/2018 Declaration for Air Safety falls far short in this regard in that there is insufficient information contained therein which would demonstrate that requirements of Article 9 (2) are being met. This is an issue which needs to be addressed. BirdWatch Ireland is not confident in the Article 9 derogation process as implemented in Ireland. Considering that several of the species impacted by the derogation are red listed across Ireland and Europe, the issues with implementation must be rectified and the tests must be completed appropriately. We will also be raising the matter with our partners in the BirdLife Europe network.

Kind regards,

Oonagh Duggan

Oonagh Duggan

Assistant Head of Division-Policy and Advocacy

BirdWatch Ireland | Unit 20 Block D | Bullford Business Campus | Kilcoole | County Wicklow | Ireland

www.birdwatchireland.ie

REF: Chartered Institute of Ecology and Environmental Management (CIEEM)

CONSULTATION

Response Document



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Review of the Derogation Process under Article 9(1)(a) of the
EU Birds Directive

Submission on the Article 9a Consultation

to

National Parks and Wildlife Service

The Department of Culture, Heritage and the Gaeltacht

04 May 2018

Introduction to CIEEM

The Chartered Institute of Ecology and Environmental Management (CIEEM), being the leading membership organisation supporting professional ecologists and environmental managers in Ireland and the United Kingdom, welcomes the opportunity to participate in this consultation process.

CIEEM was established in 1991 and has more than 5,000 members drawn from local authorities, government agencies, industry, environmental consultancy, teaching/research, and voluntary environmental organisations. The Chartered Institute has led the way in defining and raising the standards of ecological and environmental management practice with regard to biodiversity protection and enhancement. It promotes knowledge sharing through events and publications, skills development through its comprehensive training and development programme and best practice through the dissemination of technical guidance for the profession and related disciplines.

Amongst others, CIEEM is a member of:

- National Biodiversity Forum (Ireland)
- Irish Forum on Natural Capital (working group member)
- The Environmental Science Association of Ireland
- Europarc Federation
- IUCN – The World Conservation Union
- Professional Associations Research Network
- Society for the Environment
- United Nations Decade on Biodiversity 2011-2020 Network
- The UK All Party Parliamentary Group on Biodiversity
- The UK Environmental Policy Forum

CIEEM has approximately 250 members in Ireland who are drawn from across the private consultancy sector, NGOs, government and semi-state agencies, local authorities, academia and industry. They are practising ecologists and environmental managers whose work involves sustainably managing habitats - terrestrial and aquatic habitats (marine and freshwater) - and species.

Comments from CIEEM

CIEEM welcomes the opportunity to participate in the consultation process in respect of Review of the Derogation Process under Article 9(1)(a) of the EU Birds Directive.

The review has been undertaken by ornithological experts who are members of the CIEEM Ireland Policy Working Group which comprises experienced, Irish-based, practitioners and specialists with a wide breadth of knowledge across the ecological and environmental management spectrum in Ireland.

.....

CIEEM would like to make a number considered comments on the consultation document, as follows:

Public safety

We should like to draw attention to following:

Under Article 9 one of the key requirements for derogation is that there is no other satisfactory solution. Regarding the public safety risk posed by gulls, the licensing authority must ensure that the applicant has adequately considered all possible alternatives, for example, denying nesting opportunities in areas of high public use, or implementing a more rigorous litter management scheme. Only where these methods have been implemented and proved ineffective could the DCHG confirm that there is no other satisfactory solution.

The state-wide Declaration for May 2017 – April 2018 allowed for the taking of nests and eggs of Herring Gull, Greater Black-backed Gulls and Lesser Black-backed Gulls in the vicinity of Balbriggan, Co. Dublin for reasons of public safety. However, it is noted that these three species are currently listed on the Birds of Conservation Concern in Ireland as a result of declines in their breeding populations and ranges. In particular, the Herring Gull is included on the Red-list, because its breeding population has declined by more than 50%, and its breeding range by more than 70%.

On page 7 of the consultation document, at Section 3.4, it is noted that derogations may not be incompatible with the Birds Directive if they could undermine the conservation of the species for which derogations have been granted. Considering that the breeding populations of these gull species are currently of very poor conservation status, it seems reasonable to conclude that the taking of their nests and eggs could be contrary to Article 9 of the Birds Directive.

Further, in respect of the inclusion of Herring Gull, Greater Black-backed Gull & Lesser Black-backed Gull for threat to public safety at an area of north Co. Dublin, no clear scientific based evidence/justification is provided in relation to the this. On pages 7 and 8 the consultation document refers to a 'pilot scheme' in relation to 'rogue' gulls taking food directly from people. While we are aware of the general issues of such instances, as highlighted in the media in recent years, where is the scientific based evidence that would be required to justify the inclusion of these species on this derogation (e.g. the number of

instances/conflicts involved, the nature of the instances involved, other possible solutions available etc.)?

Similarly, the lack of information pertaining to the 'pilot scheme' - which is of direct relevance here - is of concern. For example, what is the nature of the pilot scheme, what is its enforcement, what is the nature of its monitoring/reporting, what is the timeframe and how will the removal of eggs/nests of relevant species be linked to success or not etc.?

Considering the increased media attention about this issue in recent years, it is possible that similar derogations for gulls at sites of high public usage may be requested in future years. Where this is the case, it is considered that the DCHG should request an assessment of the potential impact of such measures on the conservation status of the relevant gull species by a competent ecologist, in order to ensure that the derogation would *"not lead to a situation where a species' population and range is reduced to such an extent that it becomes vulnerable or leads to an unfavourable conservation state"*. If such a derogation would have a significant impact on the breeding population of one or more of these species (e.g. affecting more than 1% of national breeding pairs), then it would appear not be in compliance with the Birds Directive, in which case the DCHG should not grant a derogation licence. All derogations should be evidence – based.

In conclusion therefore, it is disappointing to see that these gull species still appear on the general list for the area in north Co. Dublin. While it is welcomed that the licence is restricted to a small geographic location, it is questioned why these species cannot be removed from this list altogether – unless there is available scientific-led data and evaluation that does support the derogation but which is not provided in the consultation document.

Air safety

No clear scientific based evidence is given in the consultation document to justify the inclusion of several bird spp. in relation to air safety and specific airfields. In particular, we should like to draw attention to following:

- Airfields that have bird scaring programmes in place: these may help form the basis of highlighting the species of potential relevance regarding air safety specific to each airfield. Such programmes may also identify the stage at which scaring techniques are not adequate - such that the capturing/killing of the particular bird species is the only option under derogation, but none of this information is provided in the consultation document.
- Where bird species information is lacking for a particular airfield, e.g. where there is no bird scaring programme in place, an on-going monitoring programme would help in highlighting the species of potential relevance regarding air safety specific to each airfield. The information provided for this consultation is lacking in this regard.
- Where bird-related activities (whether monitoring, scaring and/or control) currently occur at an airfield, there is simply not sufficient information provided in the public consultation document in its current form to allow understanding of the context relevant for each airfield.

It is disappointing to see that curlew is still on the list despite its severe population decline across Ireland and, on account of this decline, consideration should be given to its complete removal from future lists. However, it is recognised that this species may present a risk to aircraft and that their safety is paramount and it is welcomed that it is currently only on the list for Dublin airport.

GENERAL COMMENTS

It is noted in Table 1 (page 9) that the bird population trends are not referenced so it is not clear where these data come from. Also, should not the trends be evaluated in terms of significance - e.g. as available through the Countryside Bird Survey (CBS)?

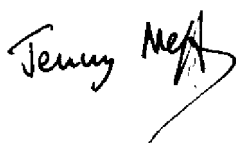
CIEEM considers that any review such as this should be informed by a review of scientific literature and evidenced-based results. As stated above, there is an apparent lack of supporting scientific evidence to justify the inclusion of certain species on the 2018 -2019 derogation list, which is concerning.

CIEEM requests that the Department look into this in greater detail and provides the necessary evidence to support the derogation proposals.

.....

CIEEM members are knowledgeable about the natural heritage of Ireland and, as a professional body representing practicing ecologists, CIEEM is well placed to advise on specific areas of wildlife legislation now and in the future.

CIEEM would welcome any opportunity to discuss any proposed changes in relation to derogations under Article 9 and is willing to assist as appropriate, at any stage, including reviewing/commenting on proposed amendments to Article 9 derogations as they become available.



Jenny Neff BSc(Hons). MSc(Ecol). CEcol CEnv FCIEEM

Vice-President (Ireland) of the Chartered Institute of Ecology and Environmental Management (CIEEM)

REF: Balbriggan Community Group

Submission to the 2018 Review of the EU Wild Birds Directive Derogations Process:

Submission:

This Document is a continuance of material as already submitted and recommended to the Derogations Review Project Team as itemised at Appendix A.

From:

The overall submission including this and prior documents and emails has been provided by the committee (undersigned) acting on behalf of the community in Balbriggan and its districts (CiB), on the basis of a major community petition – across eight major housing estates, businesses, Schools and clubs.

The petition was collected through the summer of 2016 and submitted to the Minister and to the Secretary General of the then Department for Arts, Culture, Heritage and an Gaeltacht, and specifically, and also addressed to the National Parks and Wildlife Service (NPWS).

That community petition and all related CiB actions and materials since – including our evidence-building and our major Community Report submitted to the Departments on 4th December 2017 have had and retain widespread community support and the ad idem support of all of the elected public representatives for Balbriggan and its districts

Summary case and a signed declaration:

Foreword.

This document presents a summary of the submission-in-total to the Wild Birds Derogation Review process from the Balbriggan community through the committee (CiB, undersigned) formed in May 2016 to seek urgent assistance from the competent authorities with serious, escalating urban gull issues.

The bulk of our submission comprises our Community Report submitted to the Departments on 4th December 2017, along with the ‘Balbriggan file’ held by DCHG since May 2016 – that ‘Balbriggan file’ was to have been provided by DCHG directly to the Review as agreed with us in writing on 4th October 2017, but was only actually provided by the Department eight weeks into the Review at our pointed request.

The ‘Balbriggan files’ is to include all relevant correspondence and evidential documents on the issue from and provided by our community, and from our public representatives. Should the Department have failed to provide any of that material, for any reason, we have offered the Derogations Review Project Team (DRPT) on-line access to our entire file, on a freely-given trust basis to the DRPT should the team request it of us. Transfer of our files can be achieved by sharing a mail password.

This document also refers to and is accompanied by additional important material, email and documents relating to important developments that have arisen since our Community Report was submitted to the Departments on 4th December 2017.

All intended submission contents for the Review are itemised in Appendix A and the DRPT is asked to verify that this material has been received by the team.

CiB will respond as quickly as possible to any requests for clarifications or additional material, if/as arising, from either the DRPT or from DCHG. We will adhere to any reasonable timelines set.

Summary submission:

The current State-wide Review of the EU Birds Directive Derogations process provides a unique and timely opportunity for a Declaration to be made by DCHG which properly and necessarily aligns the Irish State-wide position on public health and safety grounds with that of all of our EU neighbours including in particular Northern Ireland, Wales, England, Scotland, Spain, France and the Netherlands – thus affording due, equal, very important and rights-based protections to Irish citizens.

Such an alignment will initiate a prudent, essential, urgent and overdue public administration response to the rapidly escalating public health and public safety threat posed by un-resisted expansion and entrenchment of high-density urban gull colonies in wholly inappropriate areas such as housing estates, schools, food outlets, workplaces and high amenity areas.

The fact that the Irish position is demonstrably and fundamentally at odds with all of our EU neighbours, and indeed with ordinary common sense and prudential life-lessons from human experience, is both bewildering and of huge concern to our community and to all of our elected public representatives viz. our TDs, our Councillors and our MEP, each of whom have individually, jointly and persistently expressed their serious concerns about the urban gull issue to the pertinent Departments and Ministers based on the depth, seriousness and incontrovertible nature of the evidence provided. The cross-party and cross-Parliament acceptance and support for our community position and objectives should be of strong material relevance to the DRPT. The contents of the Balbriggan Community Report submitted to the Departments on 4th December 2017 are factual, verifiable and essentially pose these questions to the authorities:

‘What justification of any kind is there for the DCHG policy-based continuation of the described circumstances, public health and safety risks, and wider negative impacts on communities, especially given that the non-harm measure being sought is prevalent across Europe in identical circumstances and under identical legislation?’

Isn’t it abundantly clear that Europe, under the Birds Directive, has decided that ‘there is no other satisfactory solution’ and that frustration of breeding in designated areas ‘has no significant impact on overall populations’ as birds relocate to breed?’

CiB is acutely aware from our own research, and we believe the authorities are also aware and indeed have acknowledged publicly that many other communities are as badly impacted by the issue as is our community.

Yet our competent authorities remain woefully slow to genuinely acknowledge the urban gull problem and the serious public health and safety threats that it is posing, and even in recent official correspondence (attached with this document) have, lamentably, been ‘passing the book’.

The public administration response to the problem in the State in terms of both policy and operational practices across a wide range of what are historically and typically commonplace and prudent public

health and safety disciplines including public education, monitoring, inspection, enforcement and risk alleviation interventions has been and remains seriously deficient. These deficits in the administrative response are rapidly becoming culpable in the light of deep, incontrovertible evidence. Given the detailed knowledge and evidence of the problem that has been held now for a considerable time within the competent authorities, the uncivilised conditions and serious risks continuing to be imposed on communities are totally unacceptable.

In a collective position there is in fact no valid reason or justification – on any grounds – for the authorities to allow the urban gull problem to continue to escalate unaddressed and to perpetuate further the glaring anomalies between the Irish position – specifically in relation to the protection of citizens - and the rest of Europe. On the contrary, there are compelling, serious, evidence-based reasons which warrant an urgent, prioritised and concerted public administration response from the competent authorities in the legitimate, rights-based interests of citizens.

Implementation of a fit-for-purpose public health and safety Derogation is an urgent policy matter that needs to be addressed and as such is at the core of the remit for the Review. Existing policy has been exclusively based on claimed dramatic depletion of gull species based on recorded drops in coastal areas and has never paid any heed to the explosion in the urban populations, the role of landfill in growing and sustaining huge numbers (although NPWS people attended landfills to monitor bird control measures and ensure non-harm results, and acknowledged under Freedom of Information in 2016 that closure of landfill exported flocks into urban areas. A total of 209 pairs of gulls nesting in urban areas **nationally** was recorded in the Seabird 2000 national census. Our Community Report documented comparatively alarming numbers in just a small area of Balbriggan in 2017. CiB urges the DPRT to bring reality and truth to bear on the policy going forward.

CiB has already provided the full conversation (emails in the latter half of 2016) undertaken with Birdwatch Ireland (BI), from which BI dropped out unilaterally in December 2016. We have also provided full recordings from National radio interviews undertaken by BI after the Balbriggan Derogation in 2017, and we retain several newspaper clips that are consistent with the radio interviews. The reason we have submitted that material is to show the genuine attempt by our community to engage with the public face of the bird conservation sector of Irish society. The DPRT can make its own assessment of how that went for us, and the relevance of this perspective will be clear from the following views as stated..

The following is a link to BI's web statement about the Balbriggan Derogation in 2017:

<https://www.birdwatchireland.ie/OurWork/PolicyAdvocacy/PositionregullsinBalbrigganMay2017/tabid/1598/Default.aspx>

We will make one point viz. that we cannot find anywhere on the record a statement from BI that in any way acknowledges the serious negative impacts of high-density gull flocks living, breeding and expanding rapidly in communities. Other than that point we will leave it to the DPRT to assess the implications of BI's contribution to date in the whole evidential context.

We understand and respect the passion, beliefs and dedication of conservationists and acknowledge that our world is a better place as a result of the conservation effort. We nonetheless make the point that human rights and the prudent protection of public health and safety are paramount, and we repeat that nest and egg removal in designated areas is the prevalent, non-harm legal measure – under the Birds Directive, uncontested across Europe, for reasons of public health and safety. And every aspect of our contention has been evidentially verified in the material that we have provided to DCHG since May

2016 and latterly to the DRPT. Our MEP Lynn Boylan is herself an ecologist, and her office in Europe has verified, validated and in fact augmented our evidence using the EU Parliament's reference libraries.

We also acknowledge that from a conservation perspective, research into the urban gull situation here may very well be necessary, despite the abundance of such research already in existence across Europe and upon which pertinent European policy and operational practices have been based for years. Leiden University's multi-year research in Amsterdam – much of which underpinned the Raad Van Staadt's ruling in August 2016 is a case in point, and there are many other live and recent examples including Calais in Northern France, Hereford City, Cardiff City, and several Scottish Authorities.

Furthermore, special habitat management initiatives, flock relocation efforts and managed food source measures and perhaps special feeding locations (replace landfill but not in urban settings) might even be necessary – and such are well documented around the world for other wildlife species in close conflict with people, though not for huge ranging bird flocks. These matters would/will require time, dedication and resources to match well-meaning intentions and desires. It is already two years since our community wrote to the authorities seeking help with the gull issue, and we are entering a third season now. Urban gull pairs are producing three chicks per season and we see and feel the impacts of such proliferation acutely as 2013 (Balleally closure) was year zero, the new breeders since last year were hatched here, and three such generations are 'in the air' now.

We are a maritime fishing community where 'seagulls' are very well understood compared to general urban areas that are just waking up (literally) to the issue now. Images of seagulls figure on local organisation logos, club crests and local publications and websites – they are a normal part of maritime life, and in their correct places are beautiful and impressive creatures. We know, however, when there is something wrong. Having six herring gull nests on one semi-detached house, with eighteen eggs, and three more nests on another house 30 metres away, and having eight nests on a supermarket overlooking the delivery bays, and having all of our primary schools besieged by increasingly aggressively foraging gull flocks – that is not conservation, it is infestation and it must not continue unaddressed. Any persistence with a public policy that allows – indeed compels - this to state of affairs to continue to happen and escalate indefinitely, or worse, that seeks to coerce people to live with this - that is sheer folly, and such policy in any form continued after this Review will be and will be seen to be a gross dereliction of a public duty and trust by the responsible authorities.

If in fact the underlying bird conservation objective, e.g. from hard-line people who attribute blame for the situation to human causes, is to nurture through either stealth (because there is no organisation between one impacted area and another), or through laissez-faire inertia, and thereby finesse a ubiquitous, high-density, un-resisted urban gull species into being accepted by an unsuspecting general public come what may with the species behaviours an encroachments, that strategy is doomed to abject failure with inevitable consequences that we believe will ultimately be catastrophic for the species, and indeed for many other smaller species until a sensible and sustainable approach is adopted. The Royal Society for the Protection of Birds issued their considered and bleak assessment of the future for urban gulls across the UK after the British Parliament had a national debate in February 2017 – the Hansard Report of which has previously been provided to DCHG, and was included in our Community Report.

If the bird conservation sector of our society continues to object on a singular-agenda basis to a balanced, non-harm public administration response to the urban gull issue we believe such a stance will very soon bring discredit and a sharp diminution of what historically has been a default public trust and goodwill, generally, unthinkingly and unquestioningly given to the conservation sector. Digging in for a 'what we have we hold approach' and 'non-specific funding, from no likely source, for non-specific research for no clear objective, and demands that communities put up with uncivilised conditions and

serious public health risks indefinitely – given the available knowledge – before accepting a non-harm state-wide Derogation, that will be tantamount to demanding a ransom for the legitimate rights of communities for civilised living conditions, and free and safe use of homes, schools and amenities. We would hope that the bird conservation sector will come to understand that perspective on the issue. Communities hurting from the negative impacts of high-density colonies already perceive it to be so.

Our community has no qualms with the ‘research’ proposition but it cannot delay a public administration response to the problem, and our MEP put that case succinctly in her February 2018 correspondence to the Ministers of the Departments. It is totally unacceptable to our community to be forced to live any longer and indefinitely with the conditions described in our Community Report, and evidenced as far back as May 2016, in any circumstances, and particularly supposedly pending some putative, undefined research. We first sought help with the issue in May 2016 and we pose this question now:

“What genuine progress has been made by the competent authorities to date and what are the true prospects and realistic timeframe now of a proper public administration response?”

There is ample evidence (Rock et al. e.g. as we provided previously in the 2011 Survey published for Cardiff City Council), and in the sustained decline of coastal numbers despite the surge of urban flocks, that urban gulls do not and will not revert to the traditional coastal habitat of seagulls. And there is disagreement anyway within the bird conservation sector about whether it would be desirable for thousands of urban gulls to reverse their urbanisation. Pubescent gulls generally breed close to where they were hatched and reared, presumably due to success of their parents and colony instincts. These facts speak to DCHG’s stated intention to us on 16th March last to persist with their annual ‘wait-and-see’ Derogation Declaration approach because of potential fluctuations in species numbers nationally. In previous submission material and again in this document we point to the need for a multi-year Derogation in high-density urban colony situations, and to the existence of such policy across Europe for the same reasons that we have outlined. Un-resisted urban life has clearly been chosen by the species – and citizens’ protection and safety are being majorly compromised pending an appropriate administrative response to the negative impacts of the species urbanization in high density colonies.

The Balbriggan community has pursued its case in a quiet, evidence-based, law-abiding, robust and dignified manner enlisting broad support from all sections of our community and the unanimous support of our public representatives. We have repeatedly offered the Department opportunities (untaken) to visit and meet people in serious difficulties, and in our Community Report we have offered to facilitate such visits by the DRPT if that would be useful. We have adopted a socially responsible and extremely patient approach to the issue.

Communities suffering what can rightly be termed gull infestations have very many compelling reasons to admonish and challenge the public administration response to the urban gull issue to date, in particular the response from NPWS, but also from the DCHG itself, and from DHPLG, specifically in the Local Authority and operational services context – where complete knowledge of the issue, the evidence and the impacts on communities has resided for two years.

While this ground is not directly pertinent to the DRPT or the terms of reference as published for the Review contract, the fact of the matter is DCHG and NPWS have repeatedly stated that the Review is State-wide and “will address all perceived threats”, and latterly only under intense political questioning and the substantial weight of evidence have clarified that “the Review will take account of public health and safety, will take account of what is happening in Europe, and will produce an interim report in April

which will inform the 2018.19 Derogation". We have noted that the Review was not advertised in traditional national media – and have asked DCHG how it will address all perceived threats if areas impacted by the issue don't know about the Review. DCHG did not answer our question. If necessary, we will seek to have it asked again in different fora where replies are mandatory.

It will be apparent from correspondence in the Balbriggan file that DCHG and the Local Authority (working under DHPLG) have continually passed the book back and forward to each other. We have attached a letter from the DHGLP Minister's office dated 29th March 2018 and email communications yesterday between us and FCC. As well as being unseemly, it is a source of dismay to our community to see such a blatant disregard for people and the impacts of urban gulls – that disregard evident in both government bodies with responsibility in the matter.

We must hope therefore that the Review Report will straighten out the Derogation policy position, which is in the remit, and that is why we have described the current public administration non-response above that largely derives from a policy deficit in DCHG "primarily" to quote DHPLG. And we believe that recognition of the public health issue and the true position across the EU might compel the authorities to assemble a proper public administration response. We do not believe we are overstating the potential role of the Review in this matter.

We restate here that our community welcomed with considerable relief and appreciation the Derogation that was declared by Minister Humphreys in 2017, notwithstanding the partial nature of it as it was constructed by the Department following a key meeting between our TDs and the Minister in February 2017. We understand that granting this Derogation was mainly a political decision based on the evidence submitted and a proper and forthright interpretation of the situation by both the Minister and our five TDs. We also acknowledge the significant work and sustained support of all of our public representatives since 2016 and up to the recent influential correspondence to the Ministers which they undertook jointly for our community.

In our view, there were three serious deficits in the partial Derogation 2017.18 as constructed by DCHG which must each be corrected by the DRPT for future Derogations, starting on 30th of April 2018..

The first unjustifiable deficit was the withholding of the 'public health criterion' from the reasons given for the Derogation and we await with keen interest to see what the DRPT and DCHG will do to improve on the 2017.18 Derogation in the imminent Declaration, especially given the undertakings made by DCHG in late January this year.

The second deficit was the failure to acknowledge the need for a multi-year Derogation given a) the known gull breeding and colony-building strategies, and b) the negative implications of year-on-year uncertainty about DCHG's Derogation intentions for the setup of (Local Authority?) managed services – specifically, inherent difficulties for planning, budgeting, tendering, contract management, logistics and public communications that will be caused by uncertainty every year.

These considerations have been raised repeatedly with DCHG and have repeatedly been ignored. When the 'public health' criterion is accepted, all roads towards an effective public administration response must be cleared. If DCHG persist with their annual 'wait-and-see' approach with its anniversary on day one of the egg laying season, with no managed services, thereby minimising any opportunity for interventions – that will speak clearly to their real agenda. It is clearly within the remit of the DRPT to recommend a multi-year Derogation to match the 5-year Review cycle, and we would urge you to make such a recommendation in the interim report.

The third unjustifiable deficit in the 2017.18 Derogation Declaration was the fact that it was confined to Balbriggan and some of its districts while ‘the proverbial dogs on the street’ and the Department knew/know that the urban gull issue and its impacts are ubiquitous and escalating rapidly. The Minister told Howth TDs in 2017 that the Review would address all threats. We know that other communities are now calling for a proper public administration response, and the Dublin City Council proceedings from June 12th 2017 must surely amplify this point.

The three deficits as described reflect DCHG’s entrenched and persistent resistance to and continued ambivalence towards acknowledging the need for the ‘public health’ criterion to be transparently expressed in the public policy statement for which the Department has statutory responsibility, legal authority, complete autonomy and at this stage, in our view, both a moral and societal obligation to implement. If gulls on a family home or a supermarket are a public health threat this year, they will be such a threat every year until they have learned to move away. Ergo DCHG insistence on single-year ‘wait and see’ Derogations is either illogical and counterintuitive, or it exposes the Department’s true agenda to frustrate a Derogation grudgingly given, which in turn exposes what will be tantamount to non-acceptance of and a disrespect for the implications of the public health ground for the Derogation.

Our community should be afforded proper protection and our legitimate rights. No community should have to go to the lengths that are proving necessary to convince competent, trusted authorities to protect citizens from a serious threat. Our motivation has been the protection of our families and wider community with no harm whatsoever to birds. It is clear that for some time now very many millions of fellow EU citizens living with the exact same circumstances, under the exact same legislation have enjoyed uncontested the due protection of their competent authorities for many years now. If the same rights and protection are to be denied to Irish citizens we will relentlessly pursue and challenge the cause(s) of such denial, whence it emanates and whatever putative justifications for it supposedly exist – until a proper administration response is instituted.

As of now we are reliant on the DRPT to reach the right conclusions and recommendations in the correctly balanced interests and rights of people and of the protection of gull species, with clear priority where it must reside – i.e. with people. We have stated a number of times previously that our preference would be to see a comprehensive and balanced public administration response which would enable us to close our file. We cannot and will not do that until a proper public administration response is instituted.

We understand that the Review project is substantial, being state-wide and covering all species, and we believe we fully understand the challenges of the urban gull issue from a citizen-focussed perspective. Notwithstanding a clear sense of incongruity that we hold about the fact that as a community we are being routed, two years after we first sought assistance - by the Government Department with the statutory responsibility for and legal authority over all of the pertaining issues - through a wild bird ecology-focussed Review to vindicate our constitutional rights as Irish citizens, we have made our submission on behalf of our community in good faith, with substantial evidence and as much due diligence as possible in our life circumstances.

We expect that the authorities realise that we will continue and escalate our activities, including bringing the entire Balbriggan file to the European Commission if necessary. The DRPT Report will form part of the wider consideration of urban gull issues, Derogations and ultimately managed solutions driven by local authorities. As with the Balbriggan file, if necessary, and given that the Department cited the EU Birds Directive to our community in July 2016 as their basis for taking no action on the issue, we will ask for the Review Report to be brought, by our MEP to the EU authorities for detailed benchmarking against existing EU policy and practices under the common legislation, and under the

now universally adopted 'One Health' policy. This backdrop rightly places the Review Report firmly in the EU environment where many millions of EU citizens, including circa 1.5 million on this island are properly protected.

To fully illustrate what we are saying here, the following text has been agreed between CiB and our community's MEP since she wrote to Ministers Madigan and Harris in February:

Deputy Louise O'Reilly arranged for CIB to meet MEP Lynn Boylan in February 2018. Lynn Boylan MEP affirmed that the issue of Antimicrobial Resistance (AMR) within urban gull populations is one that is well documented across the Member States and tallies with the concerns outlined in the Balbriggan Community Report which was shared with the authorities on 4th December 2017 and outlined in their correspondence with DCHG dating back to as far as May 2016.

The EU Environment, Public Health and Food Safety Committee of which Ms Boylan is a member is looking at the huge public health issue of AMR. Using the library services of the European Parliament, Ms Boylan has confirmed that Member States are actively taking precautionary measures against urban gull populations on the grounds of public health. These Member States include, France, Spain, the Netherlands, Scotland, England and Northern Ireland. The Scottish Parliament has carried out a very detailed analysis of the issue of urban gulls and also on the effectiveness of various measures that can be taken.

The MEP, therefore finds it bizarre that DCHG are quoting EU law Directive 2009/147/EC as the reason for their inaction when there is clearly a derogation available to the Irish Government to take measures to protect the public health of Irish Citizens and it is being widely availed of by other Member States.

CiB summarises here our views as to the public administration response needed urgently to begin addressing the urban gull issue:

CiB stands over the detailed recommendations that we made in our Community Report submitted on 4th December 2017 to the three Departments, DCHG, DHPLG, DoH, and to Fingal County Council (FCC) and to the Principal Environmental Health Office at FCC.

In each of the following areas, CIB suggests that best practices in neighbouring countries already dealing with this issue should be examined and emulated – and CiB understands that DCHG undertook that the Review would take account of such in EU countries in its Reports.

Public Policy requirements.

1. A State-wide Derogation Declaration enabling the non-harm removal of gull species' nests and eggs for reasons of public health and safety, incorporating a multi-year structure to achieve effective results over time and with certainty in high-density colony situations in designated location types viz. residential, schools and food outlets
2. The Derogation needs to run in synchronicity with the five-year period that marks the Derogations process Review cycle, thus catering for the known breeding and colony-building

habits of gull species whereby pubescent gulls return to the site where they were hatched, resulting in the formation and expansion of colonies;

3. Managed services are needed for the operational aspects of the Derogation; the 5-year cycle proposed will cater for planning, budgeting, tendering, logistical and public communications considerations for service delivery in impacted regions;
4. Schools in impacted areas need specific assistance in dealing with this issue
5. A concerted public communications effort is necessary to clearly explain such policy developments and the need for them. Comprehensive communications will be needed to correctly inform the general public, the media and the political system; In 2017, DCHG scarcely explained and did not defend the partial Derogation; for the current Review, DCHG only posted details on the website, even though it has been billed by DCHG as dealing with “all perceived threats”;
6. Health and Safety protections for workers (and nearby general public) encountering bird detritus concentrations e.g. on roofs need to be revised and upgraded to match standards in our neighbouring countries where strict regulations apply for the use of respiratory safety equipment and for the correct methods for decontamination of affected sites prior to work commencing and to avoid local dispersal.
7. A sustained, concerted (Councils, Local Authorities and the HSE) publicity and public education campaign is necessary to change public behaviours in relation to food waste management and in relation to deliberate feeding of gulls. Enhanced inspection and enforcement measures – such as those being evolved across the EU - will most likely be necessary.

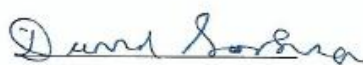
We undersigned members of CiB, with the support of our community and with the unanimous support of all of our public representatives, and with a compelling incontrovertible evidence-base since May 2016, submit this document to the DRPT in good faith as a supplement to all material in Appendix A which we also have asked should be considered by the Review Project Team. If the DRPT has any requirement to meet us, or to meet people who contributed e.g. Case Study evidence to our Community Report, we will be happy to facilitate such subject to reasonable notice.



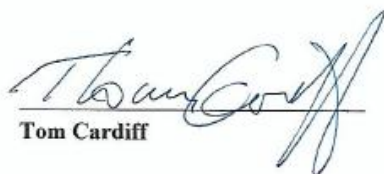
Gerry Coffey



Don Costigan



Dave Sorensen



Tom Cardiff

Appendix A

Itemisation of overall submission contents:

CiB is conscious that our submission has been somewhat fragmented, due to circumstances and changing dynamics. We apologize for inconvenience caused to the DRPT in having to content-manage this, and we have tried to be prompt and thorough.





As undertaken, we have drawn up this Appendix to list what we regard as the identifiable items of content that we regard as comprising our submission – essentially as a checklist for ourselves and for the DRPT. The items are not sequential.

Item 1 is this document sent by email comprising 13 pages and accompanied by other emails and documents as attached with this document. Collectively, this item is essentially











1. A summary of the main components of our community's case
2. An addendum/collection point for important matters, items arising and related additions to case-making since we submitted our Community Report to the Departments on 4th December 2017 viz.
 - the DCHG clarification that the Review will take account of public health and safety, the position in Europe, and will produce an interim Report which will inform the 2018.19 Derogation Declaration
 - The intervention of our five TDs with the Minister DCHG, DoH & DHPLG Just before Easter where they asked for a considered response from the Departments to our Community Report– **we request that the DRPT seek from DCHG a copy of the joint letter from our five TDs to Ministers Madigan, Harris and Murphy, and a copy of**

- any replies issued by the Departments to the TDs; we have attached a copy of a reply from DoH to us, and a copy of a reply from DHPLG to the TDs where responsibility for the issue is attributed to Minister Madigan**
- The intervention of our MEP with Ministers DoH and DCHG in February – We provided a copy of MEP Boylan’s letters to Ministers Harris and Madigan; **at the time of submission MEP Boylan has not received any reply from DCHG, and has received an acknowledgement from DoH and an undertaking that the issues raised would all be considered and a reply would issue.**
 - the combined implications of the above items and consequential further pertinent case-making for what CiB identified in this document as three serious deficits in the 2017.18 Derogation that must be corrected by the Review
 - a) recognition of the public health criterion
 - b) multi-year operation of the Derogation in designated circumstances
 - c) State-wide status of the Derogation respecting scale and public health
 Emails from 10th and 11th April pertaining to a), b) and c) between CiB and FCC and DCHG have been attached with this submission document in the email carrying it to the DRPT.
 - 3. The Balbriggan Community Report as submitted to the Depts. On 4th December 2017 including five mp3 audio files
 - 4. The Balbriggan file held by DCHG, including our community petition, all of our correspondence, evidential documentation provided, all correspondence on our behalf from our public representatives – **this file to have been provided to DRPT by the DCHG, and alternatively, available to the DRPT on request from CiB if required.**
 - 5. CiB’s full correspondence file with Birdwatch Ireland from July 2016-December 2016, and subsequent media BI interventions after the 2017 Derogation
 - 6. A public-link to the proceedings of Dublin City Council on 12th June, 2017, specifically a debate on negative impacts of urban gulls across the city and a council motion to convene a Stakeholders Forum; our assessment of the significance of those proceedings, the outcome of the vote and the manner in which that was influenced by the legal advice read out to the Council Chamber before the debate; Relevance to the DRPT Report being a clear indication of the scale of the urban problem.
 - 7. An English translation acquired by our MEP Lynn Boylan of the Annual Report 2015 by the Dept. of Hygiene and Sanitation of the Municipal authority in Calais, Northern France;
 - 8. Documents from the Cardiff (Wales, UK) Council on their approach to urban gull issues – including a detailed study and report from Professor Peter Rock (gull expert) of Bristol University.




Sent to Aniar up to and excluding this document:

	'Aniar Ecology NPWS'	RE: Article 9a Consultation	Mon 09/04/201...
	'Aniar Ecology NPWS'	RE: Article 9a Consultation	Sat 07/04/2018 ...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Wed 28/03/201...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Mon 26/03/201...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Fri 23/03/2018 ...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Fri 23/03/2018 ...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Tue 20/03/2018...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Tue 13/02/2018...
	@ Aniar Ecology NPWS (npws.derogationart9@gmail.com)	Ownership of responsibility for addressing urban gull issues	Wed 11/04/201...
	@ Aniar Ecology NPWS (npws.derogationart9@gmail.com)	FW: Copies of our email correspondence with Birdwatch Ireland (BWI) ...	Thu 29/03/2018...

Received from Aniar up to 9th April

	'Aniar Ecology NPWS'	RE: Article 9a Consultation	Mon 09/04/201...
	'Aniar Ecology NPWS'	RE: Article 9a Consultation	Sat 07/04/2018 ...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Wed 28/03/201...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Mon 26/03/201...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Fri 23/03/2018 ...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Fri 23/03/2018 ...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Tue 20/03/2018...
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	'Aniar Ecology NPWS (npws.derogationart9@gmail.com)	Ownership of responsibility for addressing urban gull issues	Wed 11/04/201...
	'Aniar Ecology NPWS (npws.derogationart9@gmail.com)	FVV: Copies of our email correspondence with Birdwatch Ireland (BWI) ...	Thu 29/03/2018...

Sent Gmails – community report and audio files

To: npws.deroga., HC, HC, ...	Article 9a Consultation - Dear Review Project Team, This email is from the Balbriggan community committee. we are using a gmail : 	Apr 4
To: npws.deroga., HC, HC, ...	Article 9a Consultation - Dear Review Project Team, This email is from the Balbriggan community committee. we are using a gmail : 	Apr 4
To: npws.deroga., HC, HC, ...	Article 9a Consultation - Dear Review Project Team, This email is from the Balbriggan community committee. we are using a gmail : 	Apr 4


REF: Balbriggan Community Group (further submission)

Wild Birds Derogation process - State-wide Review 2018

This is the final submission document to the Review from the community committee formed in Balbriggan, Co. Dublin in May 2016 to seek assistance from the National Parks and Wildlife Service (NPWS) and Fingal County Council (FCC) with regard to serious public health and safety issues, and other serious issues, impacting our community as a result of high density urban gull colonies forming and expanding rapidly in residential areas, on and around our schools, on and around various food outlets and also on various clubs and amenity areas – in short, throughout communities.

The members of the core community committee who have made this submission – including all previous materials sent to the designated email address for the Review and all contents of the Balbriggan case file held by the Department of Culture, Heritage and an Gaeltacht (DCHG) – all summarised at Appendix A - are signatories as follows:


Gene McKenna


Gerry Coffey


Don Costigan


Dave Sorensen


Tom Cardiff

The core community committee listed here were supplemented by a further twelve people from across the Balbriggan community who canvassed eight housing estates, clubs and several businesses for support for the major petition submitted in October 2016 to seek action on the urban gull issues from the above-named authorities. These people can be contacted through the C/O address below for verification purposes if required.

The C/O postal address for any written correspondence puposes and for compliance with the Review requirements for an address is

[REDACTED]

The email addresses for the community committee are as follows:

[REDACTED]

[REDACTED]

C/o phone numbers for the community committee are [REDACTED]

The community committee hereby request a receipt for all materials listed in Appendix A and a confirmation from the Derogations Review Project Team that all of the material has been and/or will be fully considered in the Review process.

Outline:

The previously submitted material (Appendix A) contains the detail, evidential material and analysis the underpins the case for a State-wide Derogation enabling systematic, non-harm removal of gull species nests and eggs from designated urban areas, on a multi-year basis, for reasons of public health and safety until the risks and threats under prudent and socially acceptable levels of control.

This document contains strategic-level questions and observations that speak to national policy and logistical and considerations towards dealing with the issue

The fundamental case that there are serious, multi-faceted and rapidly escalating problems with urban gulls has been proven beyond any doubt unless Ireland is to remain at complete odds with the rest of Europe and is to continue to ignore blatant evidence thus letting this problem escalate..

DCHG has many questions to answer in relation to policy deficits and delays in recognising and acting on the issue within its species and habitat management and Derogation remits.

Local Authorities in affected regions have also been remiss in that there is clear evidence of acute awareness of the issue (Dublin City Council and FCC proceedings as recorded on the public-i archives in 2016). They are clearly caught in a short-sighted 'cost fear' mind-set and to date have been content to await national policy development by DCHG. There are clear obligations in respect of public health, public education and awareness, food waste management, inspection and enforcement regimes as yet receiving no attention in the urban gulls' context.

The 'media' generally under-treats the issue with a misguided and ill-judged humour-leaning approach, shallow thinking and as yet a failure to join up all of the dots towards a real picture and an informed appreciation of the issue.

Bird conservationists who have rowed in on the issue universally downplay the negative impacts of urban gull colonies on communities and repeatedly call for 'research' without specifying purposes, scope or target outcomes that will address the negative impacts. They are also ignoring what are 'harmful, invasive species type impacts of gulls as the species converts to being inland, urban, rural and national.

Our politicians, with some notable exceptions, historically treat animal rights issues with fear and aversion – a true 'hot potato'.

Thousands of urban gull breeding pairs are producing three chicks every season and are forming high-density, extended contiguous colonies in urban areas.

In the collective, impacted human communities are in a continuous 'perfect storm' pending a proper public administration response to the issue.

Strategic questions to be considered and answered by the Review in the absence of such work and deliberations in the responsible Government Department – DCHG.

1. Does DCHG believe that human communities must accept and live with the hugely and wide-ranging and escalating negative impacts – including serious public health and safety issues - of un-resisted urban gull colonies as evidenced in the Balbriggan Community Report submitted in December 2017?

If “yes” – how does the Department justify that?

If “no” how does the Department justify a hugely delayed and “bizarre” policy response to quote our MEP based on detailed and verified policy and operational response comparisons across the EU?

2. Does DCHG accept that the Derogation for reasons of public health and safety (ph&s) is in fact the most important of the legal provisions for a Derogation – and as such listed first in the legislation above all other reasons?

Having declared itself “non-competent in matters of ph&s” into the Dáil record in 2016, having pointedly withheld the ‘public health’ criterion from the partial 2017.18 Derogation, and having retained its self-declared “non-competence in ph&s” position throughout 2017 – despite a long history of autonomously derogating for reasons of ph&s, despite a statement from the HSE/HSPC and Dept. Health officials in October 2016 that “this is entirely a matter for DCHG, and despite identical statements from FCC and DHPLG – in January 2018 DCHG was in a position to reply to a PQ from Clare Daly that the Review “will take account of ph&s”.

What happened in January 2018 to suddenly restore DCHG competence in ph&s? Has the Derogation Review Project Team supplemented its obvious ecology expertise with clinical medical expertise to achieve ph&s competence – or has a sensible re-appraisal finally in fact occurred in DCHG and a realisation that ph&s in the urban gulls' context is primarily a matter of common sense?

The knowledge, evidence and understanding acquired by the Balbriggan community about Antimicrobial Resistance (AMR) and the clear, global implication of urban gulls – specifically – in the risk/threat profile is truly frightening – to quote Asst. professor McMahon in his ECOEYE interview (previously provided). The reason that we acquired that knowledge was that we were forced by DCHG refusal to act on the issue to research further and further into the faecal contamination risks from urban gulls. In that research we moved from landfill EPA regulations into and through scientific studies in Ireland, across the EU and in fact globally. And the urban gulls risk profile is uniform and very much heightened compared to normal ambient risk.

The AMR risk facts are confirmed by our MEP and the policy and operational practices in relation to urban gulls are documented in the EU Parliament’s reference libraries – a fact confirmed in writing to Ministers Madigan and Harris on 28th February 2018 – cc’d to the Review Project Team.

If DCHG do not address the three deficits (a) public health recognition, b) multi-year needed in high density situations, and c) the problem is much wider than Balbriggan) that we have identified in the 2107.18 Derogation from this year on,

we will ask our MEP to bring the entire Balbriggan File, including this Review to the European Commission to ask Irish citizens are not being afforded the same protections as millions of EU citizens in the same circumstances, under the same legislation.

If that DCHG statement in PQ response January 2018 to Clare Daly that the Review “will take account of public health and safety and what is happening in the EU” can be taken fully at face value in the light of the full set of evidential materials – then there is an inescapable and immutable imperative now for a comprehensive, state-wide, multi-year ph&s-based Derogation in respect of high density urban gull colonies. Anything less than this will mean that DCHG is knowingly and calculatedly exposing human communities to serious risk.

And such a comprehensive Derogation will not harm one single bird.

3. Does DCHG accept that urban gulls are posing serious difficulties in schools? Does DCHG believe that the evidence provided to the Department is false or exaggerated? How has DCHG reached any assessment of that evidence?

Does DCHG think it is either necessary or even alright for schools to be besieged by aggressively foraging gull flocks – impacted on school policy in relation to hygiene concerns, yard-time, additional close supervision of food breaks and heightened health and safety and duty of care concerns? All such were notified to DCHG in writing repeatedly by a School Principal in 2016 – along with thousands of euro in damages recurring for three years from gull colonies, DCHG did not reply to the Principal until six months after her letter, and subsequently did not include that school in the zoned Derogation area. We notified DCHG that all of our primary schools (and senior schools) are having serious gull issues; DCHG has never acknowledged the schools issue to date.

Has DCHG and the Review project Team noted the MEP’s statement that European countries across the continent are acting on the urban gulls issues in schools?

4. Does DCHG accept that scientifically known urban gull ecology means that:
- a) 4 year old pubescent gulls return as close as possible to their hatched site to breed, thus forming localised, contiguous, and expanding colonies?
 - b) Urban gulls are increasingly staying put virtually the whole year round – meaning the old propaganda about being bad neighbours for a few weeks in the summer is arrant nonsense?
 - c) As long as they are un-resisted, urban gulls’ encroachments on civil life will continue to expand and deepen
 - d) With ideal breeding conditions, no significant predator, no effective food plateau and no permitted resistance from humans courtesy of deficient, ageing DCHG policy – the evidenced urban gull issues and ph&s risks are set to escalate indefinitely until a proper species and habitat management

policy that sensibly incorporates social and civil responsibility as a priority?

Is the truth of the matter, at present, that DCHG and the bird conservation sector believe that a *laissez-faire* hands-off approach to the establishment of a nationwide urban/rural gull species is in fact a correct policy irrespective of the species increased encroachments on human habitats? Or is it that the current and evolving situation is some kind of accident fuelled by huge resource cuts in DCHG, a dysfunctional policy line to the situation on the ground, an inability of a knowing conservation sector to acknowledge the problem, and the fact that there is, as yet, no organised connections and realisation between impacted communities to inspire social unrest about the issue?

5. If, as seems very likely from the Hansard Report of the UK urban gull debate, the Scottish Government's research programme, and from the subsequent press statements issued by the Royal Society for the Protection of Birds, the UK government proceeds with lethal controls on urban gull populations – is DCHG attuned to the potential implications for Ireland?

Professor Peter Rock has tracked UK gulls moving along our east and south-east coast and all the way down through France and the Iberian Peninsula.

Will DCHG want Ireland to be a safe haven for massive UK gull flocks that will surely have the intelligence to flee a lethal control programme?

The Dutch control programme approved by the Raad Van Stadt for reasons of public health and safety in August 2016 includes all measures up to and including culling, and inbuilt provision in the ruling – without leave to appeal - to continue with the most effective measures once the research phase of the programme has been completed

Is DCHG considering the implications for public opinion here when full public awareness of the UK and wider EU position on urban gulls, the scientifically proven AMR risk profile?

Where is DCHG now on the recognition/policy/action spectrum in relation to the urban gull issue and proper and due regard for citizens?

Is DCHG considering its own responsibilities and position if the Irish policy position remains far behind the proper policy curve on this issue?

5. Concluding remarks

The core community committee and the wider cross-community group who formed to act on the urban gull issue in our town and districts are men and women almost all aged in our sixties, all parents and many are grandparents.

None of us have any desire to harm birds, nor have we sought any harm measures against the birds.

Our motivation was and has been common-sensed life experience and the protection of health, safety and ordinary civilised living conditions against an obvious, a serious and a rapidly escalating threat.

Our action on this issue has had and retains the unanimous and persistent support of every one of our public representatives.

We are asking the Review Project Team to carefully consider what has sustained our actions since May 2016.

Any objective examination of the Balbriggan file and indeed the wide and deep evidence points firmly to a serious public policy failure and concomitant public duty failures on the Local Authority side of this issue, the more-so as it drags on into at least one more breeding season with no sign of a proper public administration response.

Will we wait until the problem is so bad that culling will be essential/ will we wait until we start stacking up serious injuries and rising, unexplained community -acquired AMR in places with uncontrolled high-density gull colonies – like the proven gull-linked ESBL outbreaks in Miami hospitals cited in our Community Report?

Or will we wake up know to the urgent need for a non-harm, risk prevention strategy that aligns us with every one of our neighbouring countries?

This Review bears no apparent resemblance to its predecessor in 2013 if you compare the 2013 Report to what is on the Terms of Reference of the 2018 version. The urban gull issue is clearly linked to landfill closure based on all relevant precedents and DCHG's own FOI release in 2016. Baleally landfill closed in Spring 2013. We started to notice increased numbers almost immediately and the first generation bred by Baleally's exported flocks returned to breed in 2016, a marked increase in 2017 – see the case studies in the Community Report and again now in 2018 – with no appreciable public administration response this year.

If Derogation 2018.19 has any of the 2018.19 deficits, we will challenge it immediately in every way available to us – because, based on the Derogation format and timing that DCHG is insisting on keeping - that will in effect add another generation of gulls in 2019 before any prospect of a real public administration response emerges.

The 2018.19 Derogation for urban gulls needs to fully acknowledge the public health criterion, needs to be multi-year in high-density situations - for review again in 2023, needs to be state-wide, provided by Local Authority managed services, and needs to be supported by proper, widespread publicity, public education, specific measures around food waste, inspection and enforcement, and genuine, imaginative and funded research and conservation measures.

The Review is a timely opportunity and an essential contributor to an urgently needed, rounded public administration response to this extremely serious issue.

**** text ends here – Appendix A (2 pages) is overleaf ****

Appendix A

Itemisation of overall submission contents:

CiB is conscious that our submission has been somewhat fragmented, due to circumstances and changing dynamics. We apologize for inconvenience caused to the DRPT in having to content-manage this, and we have tried to be prompt and thorough.







As undertaken, we have drawn up this Appendix to list what we regard as the identifiable items of content that we regard as comprising our submission – essentially as a checklist for ourselves and for the DRPT. The items are not sequential.











Item 1 is this document sent by email comprising 13 pages and accompanied by other emails and documents as attached with this document. Collectively, this item is essentially

1. A summary of the main components of our community's case
2. An addendum/collection point for important matters, items arising and related additions to case-making since we submitted our Community Report to the Departments on 4th December 2017 viz.
 - the DCHG clarification that the Review will take account of public health and safety, the position in Europe, and will produce an interim Report which will inform the 2018.19 Derogation Declaration
 - The intervention of our five TDs with the Minister DCHG, DoH & DHPLG Just before Easter where they asked for a considered response from the Departments to our Community Report– **we request that the DRPT seek from DCHG a copy of the joint letter from our five TDs to Ministers Madigan, Harris and Murphy, and a copy of any replies issued by the Departments to the TDs; we have attached a copy of a reply from DoH to us, and a copy of a reply from DHPLG to the TDs where responsibility for the issue is attributed to Minister Madigan**
 - The intervention of our MEP with Ministers DoH and DCHG in February – We provided a copy of MEP Boylan's letters to Ministers Harris and Madigan; **at the time of submission MEP Boylan has not received any reply from DCHG, and has received an acknowledgement from DoH and an undertaking that the issues raised would all be considered and a reply would issue.**
 - the combined implications of the above items and consequential further pertinent case-making for what CiB identified in this document as three serious deficits in the 2017.18 Derogation that must be corrected by the Review
 - a) recognition of the public health criterion
 - b) multi-year operation of the Derogation in designated circumstances
 - c) State-wide status of the Derogation respecting scale and public healthEmails from 10th and 11th April pertaining to a), b) and c) between CiB and FCC and DCHG have been attached with this submission document in the email carrying it to the DRPT.
3. The Balbriggan Community Report as submitted to the Depts. On 4th December 2017 including five mp3 audio files
4. The Balbriggan file held by DCHG, including our community petition, all of our correspondence, evidential documentation provided, all correspondence on our behalf from our public representatives – **this file to have been provided to DRPT by DCHG, and alternatively, available to the DRPT on request from CiB if required.**




5. CiB's full correspondence file with Birdwatch Ireland from July 2016-December 2016, and subsequent media BI interventions after the 2017 Derogation
6. A public-link to the proceedings of Dublin City Council on 12th June, 2017, specifically a debate on negative impacts of urban gulls across the city and a council motion to convene a Stakeholders Forum; our assessment of the significance of those proceedings, the outcome of the vote and the manner in which that was influenced by the legal advice read out to the Council Chamber before the debate; Relevance to the DRPT Report being a clear indication of the scale of the urban problem.
7. An English translation acquired by our MEP Lynn Boylan of the Annual Report 2015 by the Dept. of Hygiene and Sanitation of the Municipal authority in Calais, Northern France;
8. Documents from the Cardiff (Wales, UK) Council on their approach to urban gull issues – including a detailed study and report from Professor Peter Rock (gull expert) of Bristol University.

Sent to Aniar up to and excluding this document:

	'Aniar Ecology NPWS'	RE: Article 9a Consultation	Mon 09/04/201...
	'Aniar Ecology NPWS'	RE: Article 9a Consultation	Sat 07/04/2018 ...
	'Aniar Ecology NPWS'	RE: EU Birds Directive, Article 9(a): Stakeholder survey	Wed 28/03/201...
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Added since this Appendix was submitted on Wednesday 11th April:

- **Thursday 12th April, email containing the McMahon document**
- **Monday 23rd April, email containing Balbriggan community Committee's last submission paper to the Review – to which this Appendix is attached.**

REF: Cork Airport

To whom it may concern,

We at Cork Airport wish to have Buzzard added to species for Cork Airport Air Safety Declaration due to its large size and the potential damage that may be caused to an aircraft and the potential injury to airline passengers and increased numbers sighted daily on or in the vicinity of the airfield. Also ATC staff attacked last summer by nesting Buzzards in the vicinity of the ATC Tower.

Regards,

Kieran O'Regan Cork Airport Wildlife Control Co-ordinator

REF: daa

daa cuideachta phoiblí theoranta
Príomhoifig, Aerfort Átha Cliath,
Co. Bhaile Átha Cliath, K67CC01,
Éire

T: 353-1-814 1111
F: 353-1-814 4120
www.daa.ie

daa public limited company
Head Office, Dublin Airport,
Co Dublin, K67CC01,
Ireland



30 April 2018

Wildlife Licensing Unit
National Parks and Wildlife Service
Department of Culture, Heritage and the Gaeltacht
90 North King Street
Dublin 7 D07 N7CV

Dear Sir

Re: **EU Birds Directive -
Review of Derogation Process under Article 9(1)(a)**

In relation to the derogation offered under Article 9(1)(a) of the EU Birds Directive, daa welcomes the scope afforded to deal with species which adversely affect the safety of aviation.

All of the species listed in the current air safety declaration are widely known to constitute hazards to aviation, based on national and international experience and research. The position of daa is that they should all remain listed in the declaration, in order to support a full range of measures to protect the safety of aircraft operations.

Intense scaring operations continue to be directed on the airfield against all of the listed species, including those for which the declaration is specific to Dublin Airport. These operations are carried out in conjunction with careful habitat management, intended to deter birds from the airport and its immediate environs. The capturing or killing of any species of bird on the airfield is only carried out as a last resort, after all other efforts to discourage or deter have failed; it remains, however, an essential element in the control and management of the threat to air safety posed by bird hazard.

Regarding the list of species in the declaration, daa has previously advised that two additional large and heavy species – namely the Brent Goose (*Branta bernicla*) and the Red Kite (*Milvus milvus*) – are being detected with increasing frequency either on the airfield (Red Kite) or on adjacent lands (Brent Goose). It may become necessary in the future to apply to have these species included in the air safety declaration, in which event daa will provide data to support such an application.

An Bord Stiúirthóirí | Board of Directors: Niall Greene, Patricia King, Colm McCarthy, Paul Mehlhorn, Barry Nevin, Eric Nolan, Paul Schütz (German), Denis Smyth, Gerry Walsh, Dalton Philips – Príomhfheidhmeannach/Chief Executive

Oifig Chláraithe: Aerfort Bhaile Átha Cliath, Co. Bhaile Átha Cliath. Uimhir Chláraithe: 9401 Éire
Registered Office: Dublin Airport, Co. Dublin. Registered Number: 9401 Ireland

The assistance and understanding of the National Parks and Wildlife Service in relation to the Air Safety Declaration is acknowledged by daa.

Yours sincerely

A handwritten signature in black ink, reading "Gerry Keogh". The signature is written in a cursive, flowing style.

Gerry Keogh
Wildlife Control Manager

REF: Countryside Alliance Ireland (CAI)



Tuesday 1st May 2018

Wildlife Licensing Unit
National Parks and Wildlife Service
Department of Culture, Heritage and Gaeltacht Affairs
90 North King Street
Dublin 7
D07 N7CV

Dear Sir/Madam,

Ref: Article 9a Consultation

Countryside Alliance Ireland (CAI) is an expert and informed rural campaigning organisation and we promote the countryside, country sports and the rural way of life. We are an all-Ireland membership organisation representing over 11,000 individual members.

We reflect the views and concerns of a broad range of rural people and their livelihoods and we welcome the opportunity to provide comment on the control of certain wild bird species and the declarations as made by the Minister in exercising the powers conferred on her by Section 3 of the European Communities (Wildlife Act, 1976) (Amendment) Regulations 1986 (S.I. No. 254 of 1986).

CAI supports the current Derogation format and issuing nationwide declarations on an annual basis, as this translates into protective measures being in place to ensure a timely solution for farmers to the ongoing problem of crop protection. However, we request that the Minister issues and publishes the updated nationwide declaration before the present one expires. This negates the occurrence of a period of uncertainty and prohibition of the control of certain wild bird species, and allows farmers to adequately protect their crops.

In addition, we strongly believe that the use of birds of prey should be included in the method of control for all the relevant bird species in the forthcoming declarations. Using birds of prey is a valuable method for the control of certain wild bird species and has many advantages, especially in areas where the use of firearms and cage traps is not suitable. In addition, we support the declarations in respect of air safety and offer the National Parks and Wildlife Service no further comments on this issue.

If you require any additional information or should have any queries, please do not hesitate to contact us on 01 690 3610 or info@caireland.org.

Yours sincerely

LYALL PLANT
Chief Executive

T Dublin: 01 690 3610
Belfast: 028 9263 9911
E info@caireland.org
W www.caireland.org

Republic of Ireland Office:
Courtclough Shooting Grounds
Balbriggan
Co. Dublin K32 KD99

Northern Ireland Office:
64a Dows Road
Belfast
BT8 8LB

Countryside Alliance is a company limited by guarantee registered in England and Wales Company number 5227778 VAT registered number 238 4645 43.

REF: National Association of Regional Game Councils (NARGC)

The NARGC represents 25,000 plus members in over 900 clubs throughout the Country. As a body we are probably the largest users of derogations. We use the derogations for the protection of game birds reared for shooting, for the protection of endangered birds including native grey partridge of which we have projects to get them re-established in the wild, to prevent serious damage to farmers livestock and their feed lots and their crops on whose land our clubs shoot over.

As a whole we find the derogations for the birds listed work well, but would like a foot note added to point out that game birds reared for shooting are livestock (in a recent case in the UK case No. CO/4133/2014 taken against natural England and the Department for the Environment Food and Rural Affairs in the summary of the approved judgment by Mr Justice Ouseley note 16 stated that livestock includes any animals kept which includes any game birds reared for shooting).

In relation to other birds we would like to add to the derogation buzzards and ravens.

Buzzard's numbers have increased alarmingly over the past fifteen years and are now causing reportedly more damage to livestock, fauna including the young of gamebirds than grey crows or magpies. Section 42 licenses to control them are slow and the damage they are doing is open to interpretation, the damage is done by the time it is granted if granted. To include them in the derogation at specific times of the year will prevent serious damage to livestock and fauna including the nests and young of gamebirds.

Ravens number have also increased and they are causing serious damage to livestock specifically young lambs born on the hills and are now reportedly causing more damage to these than foxes, having them included in the derogation at specific times would prevent serious damage.

Seamus Heraty
NARGC Predator Control Officer

REF: 2018Art9(1)a/001

From:

Sent: 03 May 2018

To: npws.derogationart9@gmail.com

Subject: Review of the derogation of the EU birds directive

In relation to your review of the derogation process, I hope you could consider some of the following:

I think consideration should be given to designating Greycrows and Magpies as vermin with an all year round cull and outside the derogation process.

I observed them continually raiding nests and hunting in hedge rows in a coordinated fashion. Last summer I observed 2 grey crows intimidate a pigeon from its nest only to snatch the young. Pigeons breed most of the year with the spring and summer months being the most prevalent. I have also seen them on more than one occasion flying with eggs in their beak.

Allowing these to be culled all year round will not put the population of Greycrows or Magpies at risk as they are a very wary bird and difficult to hunt.

Farmers don't want to make these applications - they are too busy- so an alternative method of having/getting a derogation licence would be great. I suggest the onus should be passed from the farmer to the hunter who will be more inclined to apply for the derogation to ensure all is within the regulation.

REF: 2018Art9(1)a/002

From:

Sent: 26 April 2018

To: npws.derogationart9@gmail.com

Subject: Article 9a Consultation

I would like clarification in relation to the declaration for Rooks/Jackdaws. I have had a number of incidents where Rooks have been targeted at Rookeries. Under specie type it just has Rook – does this mean in order to prevent serious damage occurring to cereal crops, brassicas and root crops such as potatoes and beet a person is entitled to control rooks by shooting at Rookeries. Can it be clarified if control must occur where the damage is occurring and also that young/eggs/adults at nests sites may not be controlled. This needs to be cleared up.

I would like clarification in relation to shooting of wood pigeon on stubble fields (crops already harvested). This is widely occurring and should be specifically mentioned as to whether it is permitted or not to rule out any confusion by those partaking in the activity.

Regards

REF: 2018Art9(1)a/003

From:

Sent: 23 April 2018

To: npws.derogationart9@gmail.com

Subject: Article 9a Consultation

I would like to make a submission in relation to the above with particular regard to road side verges/hedges. The situation on our countries roads every summer would be laughable if not for the fact that it presents a danger to road users. I have organized the hedge cutting along a 3 km stretch of road with a couple of branches of about 1km to the sides every year for the past 15 yrs collecting monies from approx 25 persons so am very familiar with the issues.

The situation I have found is as follows:

The season is closed from 1st of March to 1st of Sept.

The county council have an exemption to cut back verges/hedges within this closed period on the grounds of safety but do not usually undertake this work due to lack of funds or unless there were roads works due on a stretch of road and they would cut it back to facilitate the roadworks. Even so the exemption has been challenged though I don't know the final outcome but it has effectively shut down almost all council cutting within the closed season in west cork, see link attached <https://www.irishexaminer.com/ireland/gardaiaacute-quizzed-council-worker-over-hedge-cutting-344520.html>

The land owner is responsible for the hedges on his/her land with a bounds to a public road but are not exempt from the cutting ban within the closed period.

The time when cutting is most required coincides with the height of the tourist season, approx July on wards especially in the case of bracken which only comes out mid April on wards but can close the visibility on the road up to a meter on each side by July. I can show you a picture of a clean shaven road cut in February that looks like a jungle in July.

My frustration is that the road side hedge or verge cannot be cut back when it's needed most on the grounds of road safety by the land owner under the current legislation. Recently an exemption in the law for the need for a felling license has been inserted in the case of dangerous trees within 10 meters of a public road, a welcome improvement in aiding road safety.

We need the same sort of clarity and exemptions with roadside hedges/verges allowing the land owner to cut back dangerous growth at any time on the grounds of road safety. I am not advocating that this include every hedge, just road side hedges/verges or areas traveled by the public(walk ways etc).

Here is a link from the UK which allows cutting at any time on public highways and byways for safety reasons only. They also have recommendations on height clearances which many a bus driver/lorry driver would love to see implemented/enforced.

<http://www.torbay.gov.uk/media/2983/hedge-cutting.pdf>

Yours sincerely,

REF: 2018Art9(1)a/004

From:

Sent: 18 April 2018

To: Wildlife Licensing Unit

National Parks and Wildlife Service

Department of Culture, Heritage and the Gaeltacht

90 North King Street

Dublin 7 D07 N7CV

Subject: Article 9a Consultation

I am 77 years of age and always loved field sports, shooting and fishing. About 25 years ago I gave up shooting completely due to the noticable decline in game and other bird numbers. The winter flocks of teal, widgeon and mallard have all but dissappeared. The grouse, plover, curlew, snipe and woodcock are either gone completely or are very scarce. Even the humble crows are few and far between.

I would hazard a guess that farming practices such as drainage, reclamation, and over-stocking plus all the building during the boom has "Destroyed" habitat. Every form of wild life has been affected. Animals, insects, birds, and fish. Their food chain is nearly gone and with it they will go too.

We were told that the difference between us and wild-life was that we had humanity. No. What we are is better killers than them. The lowest human beings in the world can speak up and fight for their right to life. But the wild-life can not. Every effort should be made to help and protect them. We are taking more and more of the planet, they have less and less. Banning shooting completely should be on the cards if deemed necessary. You have the scientists and information on what is required. We have such a small amount of wild-life in Ireland, are we soon going to have none. For the sake of a few Euros income in the winter in particular will we destroy and kill off what remains. Be brave and stand up to vested interests. The future looks bleak when every thing is gone, "what is money worth".

Yours

REF: 2018Art9(1)a/005

From:

Sent: 04 May 2018

To: npws.derogationart9@gmail.com

Subject: Article 9a Consultation

I would like to thank you for giving me the opportunity of airing my views on the review of the Derogation Process under Article 9(1)(a) of the EU Birds Directive.

I have over the past 20 years been actively involved in the south east of Ireland working for farmers controlling birds such as rook, jackdaw, wood pigeon, feral pigeon and collard dove. This work is done during the months of July right through to middle of September, at a time when these birds cause huge damage to crops of cereal farmers.

Over the past years I have not seen any decrease in numbers of above mentioned birds, if anything I would say that the population is on the increase, notably the numbers of rook, jackdaw, feral pigeon and wood pigeon.

The best examples I can give you of the increasing population of birds, is when you travel the country and see thousands of rooks and jackdaw on fields of freshly cut silage. These are the same birds in the same numbers that will later in the year be attacking cereal crops. Due to the increase in size of our towns and cities the feral pigeon population is on the increase. Then we have the wood pigeon that are making great use of new habitats we provide them with, small plantations of trees cropping up in every area of Ireland. The only time you will realise how strong the population of wood pigeon is when you walk into a field of cereal where the pigeon have joined the crows and are doing incredible damage. Where best for the general public to view our wood pigeon population is to travel the M50 motorway out of Dublin in the direction of the airport. Then witness the thousands of wood pigeon that flight over the motorway on a daily basis coming and going to our cereal farmers crops from July to September.

This huge migration of wood pigeon is a massive concern to cereal farmers of the area and is also a hazard to Dublin airport and the safety of aircraft taking off and landing.

How do we control this increasing population of wood pigeon, crow ect.. The only way is by shooting when all other methods have failed. Birds quickly get to know after a few days of use that gas guns, scare crows ect are not a treat.

Where then can we cull pigeon and crow!! Of course the best place is on the fields that are being damaged, but very often it is not possible to shoot on these fields for many reasons, 1. Safety – shooting in the direction of dwellings, farm yards or public roads – 2. Noise disturbance to local residents – 3. the noise disturbance to livestock cattle and particularly to horses – 4. Danger with overhead powerlines and telephone cables.

So for the above listed reasons and the fact that these out of control bird numbers have to be controlled, the hunters must be able to continue culling pigeon\crow on land that is safe in the area to do so. Shooting safely on farmer's fields away from the public view, away from dwellings ect is best practise. We can't shoot feral pigeon, crow and wood pigeon in areas of grain stores why? Safety to farm staff and damage to buildings so we must be able to continue using the neighbouring stubble fields for safe shooting and decoying birds which is best practise. We can't shoot pigeon ect in or near airports due to safety and security issues, again the birds will have to be controlled on neighbouring areas stubble fields for safe shooting.

I do understand that in many parts of Europe the population of wood pigeon-crow-feral pigeon ect are on the decrease, but the opposite is the case in Ireland, the damage and loss to Irish cereal farmers is huge and we have to be able to continue to help to protect their business, it is in the nation interest to do so.

I do hope you take my views on board and that I will hear from you soon with an update on the review,

Yours Sincerely,

Appendix 9.7 Recommended declarations for 2018/19

As the Declarations are reviewed annually for publication in April each year, the final report was not be available before the 2018/19 Declarations were published. Therefore, in order to inform the 2018/19 list of Declarations, provisional recommendations were made.

These provisional recommendations are made with a focus on compliance with EU legislation. The provisional recommendations outlined in this report will be reviewed in the final report delivered to the DCHG, and it is considered premature to provide greater detail prior to review of the public consultation.

In order to ensure legal compliance with the EU Birds Directive, it is essential that Member States only derogate from the basic prohibitions provided in Articles 5 to 8 when **ALL** three following conditions are fulfilled:

- there is no other satisfactory solution;
- one of the reasons listed in 9(1)(a), 9(1)(b), or 9(1)(c) applies;
- and the technical requirements of Article 9(2) are fulfilled.

With the exception of gulls, the recommendation was that the list for 2018/19 general declaration remains the same as 2017/18 (See Tables A9.2a and A9.2b). These species are all in favourable conservation status, as recorded through national monitoring programmes.

Following the significant concerns expressed by a local community group in north County Dublin, the three large gull species, Herring Gull, Lesser Black-backed Gull and Great Black-backed Gull were included on the General Declaration in 2017/18, for the removal of nests and eggs. During the 2017 breeding season, a total of 168 nests were removed.

Notwithstanding the genuine complaints expressed, the recent inclusion of the gulls on the General Declaration falls short of compliance with Article 9 of the Birds Directive for the following reasons:

- There has not been a thorough review of other solutions properly set out and appraised;
- The status of one of the three gulls (namely Herring gull) is highly unfavourable at a national and biogeographic scale;
- The effects of direct mitigation actions being taken on the species concerned are not measurable.

This contrasts with other species listed on the declaration for which other solutions are likely not practicable, and through annual monitoring programmes, they are deemed to have a favourable conservation status.

Therefore, the inclusion of the gulls on the General Declaration in 2018/19 can only be recommended pending full compliance with Article 9, and the following actions should be included in any consideration:

1. A robust review of all options is undertaken and programme of action is determined for 2018/19 with inputs from all key stakeholders. This review should take into consideration, and aim to explore, the feasibility of all suitable actions, as well as potential impacts of each of these actions on the species concerned.
2. A steering group should be established comprising a Local Authority, NPWS, gull action group, NGO (e.g. BWI), independent expert, and if possible should also include an international conservation representative with experience in this respect. A Chair,

independent of all key stakeholders groups, should be appointed. The principal function of the SG would be to agree on and oversee actions implemented in 2018/19, and should ensure appropriate reporting on the outcomes of any agreed actions.

3. Should direct intervention (*i.e.* removal of nests, eggs, etc.) be agreed in 2018/19, then it should be subject to a strict research programme of work ensuring that the results of any actions are measurable. Such a research programme should typically include the following:
 - a. Identification and delineation of study areas. A combination of 'treatment' and 'control' sites should be considered.
 - b. The extent of this issue should be measured over time, potentially, and not necessarily exclusively, through a widely-circulated questionnaire with a range of questions aimed at addressing the scope and severity of the issue. A range of individuals from the public and a range of sectors should be targeted.
 - c. An assessment of the impacts on the species concerned needs to take into consideration the impacts on their populations at national scale. There has been a shift in their distributions away from natural nesting areas on low-lying coasts and islands towards towns and cities. An updated assessment of nesting totals, at least at a regional scale, is needed to enable definition of the extent of direct control actions. This information is also needed to enable an assessment of impacts of any agreed actions.
4. This review and any actions arising should also set out to address the issue of food availability in towns and cities from exposed refuse, offered food, etc.

Table 5.1. State-wide declaration (1st May 2017 – 30th April 2018)

Species	Rationale under Article 9(1)(a) of the Birds Directive	Method of capture or killing	Area/ time period covered
Hooded/ Grey Crow	Threat to public health and vector in the spread of animal diseases; prevent serious damage to livestock; protection of fauna, notably the nests and young of game birds)	Shooting with rifle or shotgun. Cage traps with or without decoys subject to conditions	State-wide; at specified times of year
Magpie	Threat to public health and vector in the spread of animal diseases; prevent serious damage to livestock; protection of fauna, notably the nests and young of game birds)	Shooting with rifle or shotgun. Cage traps with or without decoys subject to conditions	State-wide; at specified times of year
Rook	Reason: Prevent serious damage to cereal crops, brassicas and root crops such as potatoes and beet; prevent damage to livestock feedlots)	Shooting with rifle or shotgun	State-wide; at specified times of year
Jackdaw	Prevent serious damage to cereal crops, brassicas and root crops such as potatoes and beet; prevent damage to livestock feedlots)	Shooting with rifle or shotgun	State-wide; at specified times of year
Woodpigeon	Prevent serious damage to arable crops, including cereals, legumes and brassicas; threat to public health notably contamination of food storage)	Shooting with rifle or shotgun	State-wide at all times of the year
Feral Pigeon	Prevent serious damage to arable crops, including cereals, legumes and brassicas; threat to public health notably contamination of food storage)	Shooting with rifle or shotgun. Non meat based poison or anaesthetic bait may be used as a method of control but only under permit with prescribed conditions as issued by the National Parks and Wildlife Service prior to control action taking place	State-wide at all times of the year
Herring Gull Greater Black-backed Gull Lesser Black-backed Gull	Threat to public safety	Taking the nests or taking the eggs	Confined to an area of north Co. Dublin at all times of the year

Table 2. Air safety declaration (1st May 2017 – 30th April 2018)

Species	
Black-headed Gull	Collared Dove
Common Gull	Common Buzzard (Dublin airport and Casement aerodrome)
Herring Gull	Eurasian Curlew (Dublin airport)
Greater Black-backed Gull	Barn Swallow (Shannon airport)
Lesser Black-backed Gull	Grey Heron (Shannon airport)
Rook	Mute Swan and Whooper Swan (Shannon airport)
Jackdaw	Golden Plover
Magpie	Hooded (Grey) Crow
Starling	Woodpigeon
Lapwing	Feral Pigeon

