

Wildlife and Countryside Link response to the Crown Prosecution Service consultation on the Interim Guidance on Victims' Right to Review

Introduction

Wildlife and Countryside Link (Link) brings together 41 voluntary organisations concerned with the conservation and protection of wildlife, countryside and the marine environment. Our members practise and advocate environmentally sensitive land management, and encourage respect for and enjoyment of natural landscapes and features, the historic and marine environment and biodiversity. Taken together our members have the support of over eight million people in the UK and manage over 750,000 hectares of land.¹

This response is supported by the following nine organisations:

- Bat Conservation Trust
- Buglife - The Invertebrate Conservation Trust
- Environmental Investigation Agency
- Humane Society International/UK
- International Fund for Animal Welfare
- Royal Society for the Prevention of Cruelty to Animals
- Royal Society for the Protection of Birds
- World Society for the Protection of Animals
- WWF-UK

Consultation question 1: Do you agree the guidance is clear in respect of which decisions fall within the scope of the scheme?

Although there is clarity in respect of which decisions fall within the scope of the scheme the scheme is in itself too narrow. In particular we are concerned about the intention to limit the scheme to those offences listed in the Home Office Counting Rules (HOCR) and the intention to restrict access to the scheme to victims alone.

Several Link members already work closely with the Police and where possible the Crown Prosecution Service in the investigation and prosecution of wildlife crime offences. Such offences are many and varied but perhaps the most common are those under the Control of Trade in Endangered Species Regulations 1997 (COTES), the Wildlife and Countryside Act 1981, the Protection of Badgers Act 1992 and the Conservation of Species and Habitats Regulations 2010 (Habitats Regulations).

With very few exceptions wildlife crime is not featured in the HOCR despite the majority of offences being imprisonable, albeit of a summary nature. Consequently, such matters do not at present fall within the scope of the Victims Right of Review.

Wildlife crime has its victims; they may be amongst the most rare and vulnerable species of global flora and fauna. In November 2012 Janez Potočnik, the European Commissioner for Environment, said in a speech to a seminar on Access to Justice, "The fish cannot go to court – the environment is a public good that must be supported by a public voice."² Clearly

¹ Wildlife and Countryside Link is a registered charity (No. 1107460) and a company limited by guarantee in England and Wales (No.3889519).

² Commissioner Janez Potočnik's speech at the Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union and the European Commission seminar in November 2012, http://europa.eu/rapid/press-release_SPEECH-12-856_en.htm

the same can be said for all biodiversity and the Crown Prosecution Service should not only provide such a voice but should also be prepared to be as transparent as possible in your decision making. Doing so will also demonstrate that your statutory duty to have regard to biodiversity is being delivered.

It is vitally important that those who are not victims but have a legitimate interest and involvement in a case can represent the interests of biodiversity. R v Killick recognises the right of interested parties to bring judicial reviews and the need for public authorities to have a system of review. We believe that the Victims Right of Review must be extended to allow at least some interested parties access to that review process.

We do not have any further comments to make in relation to this consultation except to say that Link members are committed to working to ensure that where sufficient evidence allows and the public interest dictates wildlife crime is prosecuted. Unfortunately, there have been instances where some of our members have experienced difficulty in engaging with the Crown Prosecution Service and as a consequence we are left to wonder whether the evidence has been considered in an informed manner. Extending the scope of the Victims Right to Review would we feel not only do much to allay such fears but would also prevent our members having to consider resorting to the complaints procedure and possibly the Independent Assessor of Complaints.

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