

natCitizen Participation and Public Petitions Committee
Wednesday 1 May 2024
7th Meeting, 2024 (Session 6)

PE2021: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

Introduction

Petitioner David Peter Buckland and Graham Charlesworth

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to clarify the definition of protected animals contained in the Animal Health and Welfare (Scotland) Act 2006, and associated guidance, to ensure the feral sheep on St Kilda are covered by this legislation, enabling interventions to reduce the risk of winter starvation and the consequential suffering of the sheep.

Webpage <https://petitions.parliament.scot/petitions/PE2021>

1. [The Committee last considered this petition at its meeting on 28 June 2023](#). At that meeting, the Committee agreed write to the National Trust for Scotland, the St Kilda Soay Sheep Research Project, NatureScot, and OneKind.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new written submissions from OneKind, the Soay Sheep Project, the National Trust for Scotland, NatureScot, the Petitioners, and Dr Mary Harman, which are set out in **Annexe C**.
4. [The Committee received three written submissions prior to the last consideration of the petition](#).
5. [Further background information about this petition can be found in the SPICe briefing](#) for this petition.
6. [The Scottish Government gave its initial position on this petition on 9 May 2023](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 1,837 signatures have been received on this petition.

Action

8. The Committee is invited to consider what action it wishes to take.

Clerks to the Committee
April 2024

Annexe A: Summary of petition

PE2021: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

Petitioner

David Peter Buckland and Graham Charlesworth

Date Lodged

12 April 2023

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to clarify the definition of protected animals contained in the Animal Health and Welfare (Scotland) Act 2006, and associated guidance, to ensure the feral sheep on St Kilda are covered by this legislation, enabling interventions to reduce the risk of winter starvation and the consequential suffering of the sheep.

Previous action

We have written to and received responses from the Minister for Rural Affairs and Natural Environment and the Chief Veterinary Officer, which state that the sheep are not protected by the 2006 Act and that the Scottish Government's position on this has been consistent for many years.

We have also received a response from Roseanna Cunningham, then Cabinet Secretary for Environment, Climate Change and Land Reform, which confirmed that NatureScot view sheep as livestock but would defer to advice provided by the Chief Veterinary Officer.

We also contacted Mark Ruskell MSP and Alasdair Allan MSP who have raised parliamentary questions on this matter. We are now raising this petition following advice from Dr Allan.

Angus MacNeil MP has also written to the Minister for Rural Affairs and Natural Environment, but it remains unclear why the Scottish Government are ignoring the guidance accompanying the 2006 Act.

We have also received a letter from the National Trust for Scotland (NTS) noting their refusal to manage the sheep on St Kilda.

Background information

The St Kilda sheep have been feral since 1930, but millennia of domestication have altered their physiology, making them unsuited to life unmanaged.

Information suggests overpopulation contributes to a yearly average of 600 sheep dying of starvation each winter on Hirta alone.

NatureScot and NTS were unaware of the Scottish Government's position that the sheep are not protected under the 2006 Act, and had, before May 2020, viewed the sheep as livestock. This confusion means researchers have potentially committed multiple offences under the Wildlife and Natural Environment (Scotland) Act 2011 by releasing non-native "wild" animals without a licence between 2012 and 2020.

The Scottish Government position appears contrary to its own guidance on the Act, which includes all feral sheep as protected animals because domestication has left them reliant on man.

The consequence of allowing this confusion to persist will be to weaken the Act and allow unnecessary suffering, not only on St Kilda but potentially elsewhere in Scotland.

Annexe B: Extract from Official Report of last consideration of PE2021 on 28 June 2023

The Convener: The next petition, PE2021, which was lodged by David Peter Buckland and Graham Charlesworth, calls on the Scottish Parliament to urge the Scottish Government to clarify the definition of protected animals that is contained in the Animal Health and Welfare (Scotland) Act 2006 and associated guidance, to ensure that the feral sheep on St Kilda are covered by that legislation and to enable interventions to reduce the risk of winter starvation and the consequential suffering of the sheep.

I apologise—I have quite a long introduction.

The petitioners have told us that confusion over whether the sheep on St Kilda are considered to be livestock or wild animals is contributing to the unnecessary suffering and deaths of large numbers of the sheep population on the archipelago.

The SPICe briefing provides a helpful history of the sheep population on St Kilda. Research suggests that feral sheep have been present on the island of Soay since the bronze age. The briefing notes that, in 1931, the archipelago was sold to the Marquess of Bute, who subsequently bequeathed it to the National Trust for Scotland in 1957. The petitioners suggest that that means that the trust has ownership of the sheep and, therefore, responsibility for managing them.

In response to the petition, the Scottish Government stated its position that the St Kilda sheep should be regarded in the same way as unowned and unmanaged populations of wild deer and other wild animals. The response also sets out the Government's view on how the definition of protected animals in the 2006 act applies to the St Kilda sheep. It notes that the definition applies only if and when sheep are gathered up for a particular procedure and that they are otherwise considered to be living in a wild state.

Guidance on the 2006 act allows for animals that live in the wild but whose behaviour, life cycle or physiology is altered by being under human control to be classed as protected animals. However, the Scottish Government's view is that the sheep on St Kilda are an exception to that general guidance on the basis that they have adapted to live on St Kilda over many generations, so they are not dependent on humans in the same way that more recently escaped or released domesticated animals would be.

In response to the Scottish Government's submission, the petitioners questioned whether the sheep are really "free to move anywhere" on such small islands, particularly as the population increases. The petitioners also highlighted the research of the historian Professor Andrew Fleming, which shows that inhabitants of St Kilda combined fowling with sheep management, which suggests that the sheep were domesticated 10,000 years ago and have been feral only for less than 100 years, when the last inhabitants of St Kilda left.

We have also received a submission from Alasdair Allan MSP, which details the action that he has taken on the issue and further highlights the petitioners' concerns

that the interpretation of St Kilda sheep as non-native animals means that researchers might have committed numerous offences during the St Kilda Soay sheep project's triannual capture and release of the sheep population. Dr Allan has suggested that the policy on St Kilda sheep does not reflect best practice for the management of other animals in Scotland, and he reflected that, if the Scottish Government's position is accepted, there might be a moral and a legal duty to manage the sheep population on St Kilda to avoid mass starvation events.

Members will note in our papers that requests to make submissions in relation to the petition have been received from the National Trust for Scotland, researchers from the St Kilda Soay sheep research project and OneKind, the animal welfare charity.

There is a lot to unpack in all of that. I apologise for the fairly detailed exposition, but that is what was required. Do members have any comments or suggestions? In the first instance, given that they have asked to contribute, we might wish to seek views from the organisations that I mentioned.

David Torrance: I agree that we should write to the National Trust for Scotland, the St Kilda Soay sheep research project and OneKind, and also to NatureScot, to seek their views on what the petition calls for.

The Convener: Do members agree with the suggested action?

Members *indicated agreement.*

Annexe C: Written submissions

OneKind submission of 5 July 2023

PE2021/D: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

This statement is in response to petition PE2021. We do not propose to offer specific recommendations at this stage, merely to express our concern for the welfare of these sheep, to reflect on the challenges their somewhat unusual situation poses, as we understand it, and to urge that consideration is given to how the welfare of the sheep on St Kilda could be better protected, especially with regards to preventing starvation.

How to address concerns for the wellbeing of the sheep on the islands of St Kilda is complicated by the fact that they do not fit neatly into one of the categories humans have created for other animals. OneKind advocates for equitable protection to be given to each individual, regardless of whether they are 'wild', 'farmed', 'pet' or so on.

Nonetheless, legally, the protection afforded to animals, and who is responsible for that protection, are determined by the classification of the animal, and so it is necessary to clarify the status of these sheep.

The Scottish Government has stated the sheep on St Kilda should not be classified as feral, and therefore dependent on man, as the populations on each island are descendants of sheep who have been on the archipelago for many generations and have adapted to conditions there. The Government's statement also says that even if these sheep were brought under the protection of the Animal Health and Welfare (Scotland) Act 2006 there would be no positive duty of care to ensure welfare or prevent unnecessary suffering, as no 'owner', who would be the responsible party, has been identified.

Regardless of how the sheep are ultimately classified, the historic movement of a non-native, domesticated species to a remote island archipelago has created a situation with specific animal welfare risks. Although the original introduction of the sheep to these islands happened long ago, the situation seems to warrant our current society taking responsibility for the welfare of these sheep. Being on an island means that this population cannot be regulated by dispersal or predation and studies over decades have shown that high levels of winter starvation can occur. In this situation there is arguably a moral obligation, even if not a legal one, to attempt to prevent that starvation.

Although there is no legal duty of care for animals not 'under the control of man', there are precedents in Scotland of actions taken to prevent unnecessary suffering in wild animals. The most direct comparison is deer management, in which welfare and avoidance of winter mortality due to starvation are considered. Deer best practice guidance says that owners/managers of the land should aim to prevent welfare problems like starvation from arising.

Bodies who could potentially take responsibility for the sheep on the islands of St Kilda include NatureScot, as the Scottish Government's wildlife body, the National

Trust for Scotland, who own and manage the islands, or the researchers of the Soay Sheep Project, who have studied the sheep on Hirta for decades.

Any action taken to try to reduce levels of winter starvation could itself have an impact on the sheep and we urge that that animal welfare impact assessments are carried out on any proposed solutions, to ensure that the wellbeing of the sheep is prioritised.

Soay Sheep Project submission of 7 August 2023

PE2021/E: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

From the Soay Sheep Project (SSP), represented by Professors Dan Nussey and Josephine Pemberton, University of Edinburgh.

We thank the Citizen Participation and Petitions Committee for the opportunity to contribute to the committee's consideration of the petition.

We fully endorse the Scottish Government's current position on the status of these sheep as wild, based on best current knowledge of their history and biology. The petition centres on the statement: "St Kilda sheep have been feral since 1930, but millennia of domestication have altered their physiology, making them unsuited to life unmanaged." As we discuss below, Soay sheep have been living wild under natural selection, and adapting to their habitat on St Kilda for millennia, and there is no clear biological evidence that these sheep are meaningfully different to other wild mammal populations.

Soay sheep have existed on the island of Soay since before written records began and it is generally thought they have been there for 2-3,000 years (1). Their bones resemble those of Bronze Age domestic sheep (2) and genetically they are more closely related to the wild mouflon found in the Middle East, the ancestor of domestic sheep, than to most domestic sheep breeds (3, 4). It is clear that the St Kildans made expeditions from Hirta to Soay during which they caught Soay sheep for meat and wool (5). Soay is surrounded by steep cliffs with very limited landing spots and is inaccessible under all but calm sea conditions. Soay has no walls or enclosures to help gather sheep; Soay sheep scatter rather than flock under pressure and the St Kildans' capture method involved dogs with filed-down teeth that ran down individual sheep (6). This was opportunistic harvesting rather than any form of husbandry. Although there are no historical records either way, it is inconceivable to us that sufficient sheep were removed annually from Soay to avoid substantial natural winter mortality. Consequently, they have been living in a wild state for millennia. Consistent with this, they shed their fleeces naturally and do not have the problems with hooves, teeth and giving birth that are typical of domestic sheep. For these reasons we disagree with the petition's claim that Soays are 'unsuited to life unmanaged' or are 'reliant on man'.

It is the fate of all animals to die, and in wild animals this is often in large numbers as a result of natural processes including starvation, predation, infection, ageing and exposure to harsh weather. In most cases this is unseen – for example one rarely finds a dead blue tit, but the fact is that for the population to remain stable nine out of

every ten blue tit chicks that fledge each year must die. In the St Kilda islands, in some years, puffin chicks die of starvation in large numbers, unseen, in their burrows. The Soay sheep on Hirta are unusual in that our long-term study documents deaths precisely. The numbers and manner of deaths observed on Hirta are not unusual among wild large mammals. For example, the reindeer of Svalbard, the Saiga antelope of Kazakhstan and the wildebeest of the Serengeti have all been recorded dying in large numbers of starvation and disease as distinct from predation (7-9).

Soay sheep, living under the current regime on Soay and Hirta, are part of the cultural history of the St Kilda islands, cited in the World Heritage Site designation. The petitioners do not indicate what management to avoid winter mortality would look like, so we do so here. We estimate it would be necessary to annually remove around 600 Soays from Hirta, and 150 from Soay, each summer/autumn. From our personal experience, it would be totally impractical to catch this number alive (as well as hazardous to humans), shipping them off the islands would have its own welfare issues and the animals would have little live value after the first wave, so would presumably go to slaughter. A more practical alternative would be to shoot the number required on the islands. Aside from the issue of carcass disposal in such a remote location, we believe a large-scale, regular cull of a previously unmanaged population would have serious welfare implications for the remaining sheep (e.g. premature orphaning of lambs). This is also very unlikely to remove all winter mortality: red deer populations are regularly culled to reduce density, but there remains an independent effect of winter weather on mortality, which can be substantial in bad winters (10). Finally, any management of this nature will radically change the process of natural selection under which the animals have been living over millennia, changing the characteristics of this iconic Scottish animal.

The history and biology of Soay sheep on St Kilda are unique. The SSP has been studying the lives of these remarkable animals on Hirta for almost four decades. We feel the petition has presented complex issues in a narrow and factually inaccurate way – the sheep have been living wild far longer than claimed and evidence suggests they are well suited to life unmanaged. We do care about the welfare of these wild animals and we welcome considered discussion and appropriate action in relation to their welfare. We approached one of the petitioners via email to open detailed discussion of their concerns, but they declined the invitation. We will continue to have open and constructive discussions of the issues with stakeholders and the public who visit St Kilda.

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National Trust for Scotland submission of 8 August 2023

PE2021/F: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

Thank you for the invitation to comment on petition PE2021, relating to the definition of sheep on St Kilda, which are currently considered – and managed – as a wild animal population.

We appreciate the interest shown by the petitioners and recognise their concerns for the welfare of the sheep. While we believe that the existing regulatory framework should be maintained and explain our reasoning below, we are open to discussion on how the many elements which make St Kilda so special can be managed, now and in the future.

We would be pleased to provide the Committee with further oral or written evidence as needed.

St Kilda

St Kilda is an island archipelago 40 miles into the Atlantic from the nearest land in the outer Hebrides. The islands are Scotland's only dual World Heritage Site (WHS), recognised internationally for the significance of their wildlife and their cultural heritage. The islands are now uninhabited, with the final 36 islanders evacuated in 1930.

The National Trust for Scotland became the custodians of St Kilda in 1957, when the islands were bequeathed by the 5th Marquess of Bute. Since then, the Trust has cared for the natural and cultural heritage of the islands, providing access for visitors and supporting research into these unique islands.

The World Heritage inscription for St Kilda highlights the cultural landscape of the islands, the evidence of human occupation under extreme conditions, the superlative scenery, and the importance to terrestrial and marine biodiversity.

Soay sheep

The Soay sheep on St Kilda are the remnants of some of the earliest sheep which came to be domesticated, and which reached Europe around 3,000 to 4,000 years

ago. The retention of wild traits in this population has allowed for its survival under the often harsh conditions of St Kilda.

The continuing existence of this population has provided biologists with an opportunity to study population dynamics in a wild group of mammals. The research can help inform wider concerns, such as the impact of climate change on wild animal populations.

The Soay sheep are included in the [UNESCO World Heritage inscription](#): “The feral Soay sheep are also an interesting rare breed of potential genetic resource significance.”

Welfare in wild animal populations

Domesticated animals are used for food, for producing materials, or as pets. As such, they interact with humans much more closely than wild animals and humans have a responsibility for their wellbeing and health while they are in human care.

Wild or feral animals are not subject to the same level of human intervention, and the same level of interaction is neither possible nor appropriate. The welfare of wild animal populations is still important, and there are a number of regulatory controls and protections. In caring for wild animal populations on the Trust’s estate, we carefully follow all relevant guidance and legislation and are mindful of public opinion.

Scottish Government guidance on the St Kilda Soay sheep population

In managing the Soay sheep population appropriately, we have sought to follow Scottish Government guidance.

In June 2009 we received a letter from the Cabinet Secretary for Rural Affairs and the Environment, which stated:

“From the veterinary and animal health perspective, the Rural Directorate has traditionally considered these animals to be effectively “wild”, that is, they have no owner, they are not situated on agricultural land, they are not considered to be either a domestic or captive population that is managed, they are not destined for the food chain, and they are not intended for intracommunity trade. On that basis, they have been considered to be exempt from almost all animal health and welfare legislation and the associated administrative responsibilities placed on farmers as ‘animal keepers.’”

In February 2020, we were copied into a letter to Mr David Buckland and Mr Graham Charlesworth from the Agriculture and Rural Delivery Directorate stating that:

“The Scottish Government considers that, for the purposes of welfare legislation, the St Kilda sheep should be regarded in the same way as an unowned and unmanaged population of wild deer or other animals.”

The provisions of the Animal Health and Welfare (Scotland) Act 2006 did not apply as: “the current populations of sheep on St Kilda...can now be considered as distinct

kinds that are not ‘commonly domesticated’”, the sheep are not gathered for a particular procedure, and “are feral animals ‘living in a wild state.’”

In March 2022 we were copied in to a letter from the Directorate for Agriculture and Rural Economy to Mr Graham Charlesworth restating the position that: “due to their unique history of adaptation to life on St Kilda without management over many generations could be considered as distinct kinds that are not “commonly domesticated” in the British Islands”, and that the 2006 Act does not apply as “the sheep are ‘living in a wild state.’”

St Kilda Management Plan for 2022-23

The National Trust for Scotland manages St Kilda in conjunction with a number of stakeholders, including the Scottish Government, NatureScot, and the Comhairlie nan Eilan Siar. Our current management plan (2022-2032) has been endorsed by our stakeholders, and now approved by the United Nations Educational, Scientific and Cultural Organisation (UNESCO). The management plan references the Soay sheep population:

“The feral Soay sheep, so much a feature of the landscape, represent an ancient breed, descendants of the most primitive domestic sheep found in Europe. They provide a living testament to the longevity of human occupation of St Kilda and, in addition, are a potentially significant genetic resource.”

And in terms of management approach states:

“Across the archipelago, the sheep will continue to be treated as feral animals with a presumption against intervention, except in exceptional circumstances (e.g. a serious outbreak of disease that threatens the sheep populations). The sheep were confirmed by the Scottish Government as non-native species in 2020. The Trust will continue to comply with Scottish Government legislation relating to St Kilda’s sheep populations.”

Our response to the petition

We are grateful for the ongoing interest from the petitioners relating to the welfare of this important sheep population. We believe that the existing regulatory framework should be maintained. While the Soay sheep population originates from domestic animals, they are now classed as wild animals. As such, they go through their natural life-cycle with minimum human interference. It is well documented that their population fluctuates, but does so in accordance with other wild animal population dynamics. As our management plan currently states, in exceptional circumstances we may consider intervention which is in response to animal welfare. It is important to note that we would only be in a position to do this when we have staff resident on the island in the spring and summer months. This does not coincide with the period of maximum mortality for the sheep during the winter months.

The Soay sheep are one of the factors that contribute to the universal values which make St Kilda such an important World Heritage Site. Their presence on a world-famous island, visited by many, puts this population in view in a way that other wild animal populations, such as goats or deer are often not, but the fundamental

distinction between domestic and wild animals remains. The sheep retain their natural population dynamics and many of their natural instincts and behaviours which are valued by visitors.

The National Trust for Scotland is open to discussion on how the Outstanding Universal Values of St Kilda can be managed, now and in the future. We are always interested in explaining our work as a charity, and the value of the heritage that we care for.

Nature Scot submission of 14 August 2023

PE2021/G: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

Thank you for your email of 04 July 2023 seeking NatureScot's views on the action called for in Petition PE2021 lodged by David Peter Buckland and Graham Charlesworth.

As Scotland's nature agency, we advise the Scottish Government on biodiversity, geodiversity and the natural elements of our landscapes and seascapes. We have several roles in relation to protected areas, directly managing some, providing advice on the management of others and monitoring the condition of Sites of Special Scientific Interest (SSSI) and Natura sites. We provide advice on wildlife management, including non-native species issues. Our remit does not specifically cover animal welfare, although NatureScot takes this issue very seriously and has a [position statement on wildlife welfare](#).

Protected areas

NatureScot does not have any significant concerns about the impacts of these feral sheep on the special features of the protected areas on St Kilda. The sea cliffs of Hirta are the highest in the UK, reaching 426m, and St Kilda has some of the most extensive and best examples of maritime sea cliff vegetation in Europe. The impacts of sheep grazing on this vegetation are monitored and the condition of this habitat has been assessed as being 'favourable maintained'. The sheep are part of the cultural landscape of St Kilda, which is considered to be of outstanding universal value as part of the UNESCO World Heritage Site.

Non-native species

The law on non-native species in Scotland (section 14(1) of the Wildlife and Countryside Act 1981) was amended in 2012 to make it an offence to 'release any animal to a place outwith its native range' or 'otherwise causes any animal outwith the control of any person to be at a place outwith its native range'. Cattle and sheep that are managed on hill grazings are not considered to be released for the purpose of the Act because they are kept in such a way that they can be gathered for husbandry purposes, or when they need to be contained in an enclosed area.

The feral sheep on St Kilda are unmanaged and living in a wild state. They cannot be easily gathered or contained in an enclosed area. Therefore, if anyone releases one of these animals from their control, it is considered to be a release under the

1981 Act. In July 2020, NatureScot issued a non-native species licence to the St Kilda Soay Sheep Research Project permitting the release of Soay sheep captured as part of the project on St Kilda. Prior to this date, the researchers were unaware of the change in the law that meant they needed a licence.

Change in guidance

The Petitioners are seeking clarification of the guidance on the Animal Health and Welfare (Scotland) Act 2006 to include feral sheep on St Kilda to be covered by the definition of protected animals. The current guidance states that livestock, poultry, horses, cats and dogs should be considered as protected animals whether they are in captivity or living wild as "feral" animals because their breeding and living conditions have previously been under human control. Therefore, any change in the guidance on feral livestock could be considered to apply to feral goats and feral cats as well. This is however a policy decision for Scottish Government to consider.

Such a change would affect a significant number of landowners across Scotland. For example, there were at least 45 populations of feral goats in Scotland in 1993, many of them on islands. There are feral cats in many parts of Scotland and in 2017 RSPB recorded confirmed presence of feral cats on 31 Scottish islands. There may be unintended consequences if some landowners decide to remove the populations of feral livestock on their land rather than take on the burden of their welfare.

Petitioner submission of 9 October 2023

PE2021/H: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

We respectfully suggest that the submissions by the Soay Sheep Project (SSP), National Trust for Scotland (NTS) and NatureScot raise some novel aspects that warrant comment.

Wild or feral

MSPs must by now be thoroughly confused as to whether the sheep on St Kilda are 'wild' or 'feral'. The Home Office provides clear definitions in [an advice note accompanying](#) the Animals (Scientific Procedures) Act 1986:

"A 'wild' animal species is one that has never been cared for or farmed by humans, and is not descended from domesticated individuals

A 'feral' animal is an animal living in the wild but descended from domesticated individuals."

The Soay and Boreray sheep on St Kilda are breeds of domesticated sheep (*Ovis aries*) and are clearly 'feral' and not 'wild' animals. The differentiation is pivotal to understanding our petition and the guidance to the legislation.

Despite this, SSP has, for a number of years, been pushing a ‘wild sheep’ narrative, the inference being that their death from starvation is ‘natural’, and we do not need to consider their welfare.

Scottish Government (SG) and NTS appear to be following SSP’s lead.

In their submission NTS use the word ‘wild’ sixteen times and ‘feral’ only five times, with four of those in quoted phrases, including the UNESCO World Heritage Site inscription (in which the feral sheep are cited for their cultural importance, not as wildlife).

NTS quote two SG letters to us: in Feb 2020 the sheep were ‘*feral animals living in a wild state*’; by March 2022 they are ‘*sheep living in a wild state*’ and the word ‘feral’ has disappeared. In the SG submission ‘wild’ is used ten times and ‘feral’ only three times (all within quoted phrases).

FOI202100253172 (2023-08-01 Appeal Review) has revealed some confusion within SG as to whether the sheep are ‘wild’ or ‘feral’ but one email gets it right:

“Scientifically speaking they are clearly feral, i.e. descendants of previously domesticated animals now living and breeding in a wild state”.

NatureScot

Interestingly, NatureScot do not appear to be toeing the ‘wild sheep’ line, perhaps because, until copied into the Chief Veterinary Officer’s February 2020 letter to us, they classed the sheep as ‘livestock’. In their submission, ‘wild’ appears twice and ‘feral’ eight times.

NatureScot provide a link to their Position Statement on Wildlife Welfare. We offer one particularly pertinent quote from this document:

“...we do not consider death itself to be a welfare issue for the individual animal. What is important is managing the manner in which an animal lives and dies to avoid suffering”.

NatureScot are correct in pointing out that our petition may have implications for other feral animals in Scotland but only because the current SG interpretation of the AHW Act calls into question their ‘protected animal’ status.

NatureScot are wrong to suggest that we are seeking a change to the guidance to the AHW Act. On the contrary, we are merely asking that recent ambiguities are clarified by MSPs, and the guidance be followed by SG.

Their final paragraph states:

“Such a change [sic; clarification?] would affect a significant number of landowners across Scotland. ... There may be unintended consequences if some landowners decide to remove the populations of feral livestock on their land rather than take on the burden of their welfare.”

This is highly misleading because the AHW Act default setting is that landowners are not “responsible” and are therefore not subject to the ‘omission’ element of the Act.

Soay Sheep Project

The Hirta sheep are ideal for research into evolutionary genetics because of the high natural selection pressures on a population that suffers frequent winter starvation. FOI2021_00518 has revealed that SSP have advised NTS against intervening to reduce the suffering of the sheep. Included in the list of reasons is the following:

“From the perspective of the sheep research project, any form of management would make the populations less interesting for study and it would be likely that the researchers involved would eventually stop.”

Clearly SSP have a financial (and existential) interest in maintaining the status quo but is it ethical to actively campaign against measures to improve the welfare of their Village Bay study animals, especially when their arguments against intervention are extended to the rest of Hirta and, indeed, all three flocks of sheep on the archipelago?

SSP appear to have forgotten their early research, which concluded that physiological changes associated with domestication were responsible for the Soays' unusually high rate of population growth compared to truly wild sheep (see passage on page 3 of [Dr Allan's submission](#), quoted from a book co-edited by Professor Pemberton). The same author describes the effects on the Soays of the consequent starvation as ‘savage’.

We do not intend to get into arguments about the practicalities or economics of welfare management, except to say that the researchers gather 50-60% of their study sheep every August and, in our opinion as vets who have worked in the Western Isles for many years and are used to working with North European short-tailed breeds, non-lethal interventions to prevent overpopulation and dramatically reduce suffering (on Hirta at least) would be perfectly feasible.

The SSP version of the history of the Soays is highly selective. We recommend that MSPs read Professor Fleming's *Soay Sheep: The back-story*, in its entirety, since it describes the St Kildans' management of the Soays and Borerays and the importance they placed on Soay wool and meat.

Finally, may we suggest that MSPs consider the winter starvation of cattle and horses in Oostvaardersplassen as a more apposite comparison to St Kilda than the Saiga antelope of Kazakhstan or the wildebeest of the Serengeti. As in St Kilda, the animals were feral, had no predators and could not disperse or migrate. However, Oostvaardersplassen is far more accessible, and images of starving animals led to public outrage and welfare interventions were rapidly introduced. With St Kilda, there is minimal public disquiet simply because the public cannot go there in the winter months when the sheep are dying.

Dr Mary Harman written submission, 17 April 2024

PE2021/I: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

Sheep on Boreray and Soay.

All descriptions of the St Kilda islands that mention livestock refer to cattle, horses, and for some time goats, being kept only on Hirte, the main island, where areas around the village were also cultivated.

Sheep were not shorn; the wool was shed naturally in the summer, and generally they were caught and the fleece plucked off: 'rooing' before it fell off.

The earliest reference to sheep specifically on Boreray and Soay is by Moray, c 1682, describing both islands as having good quality pasture, the ewes regularly bearing twins. From the mid seventeenth century there is general agreement that the sheep on Soay belonged to the proprietor.

MacAulay [1758], a Gaelic speaker, refers to some management practices; older ewes were taken to Boreray where better grazing extended their lambing years; it was difficult to catch sheep on Soay either to fleece them or to take some back to Hirte.

A number of nineteenth century authors refer to islanders visiting Soay, sometimes for several days, to fleece sheep; one says all the wool was requisitioned by the proprietor, another that the islanders retained half of it as payment; some say that fleece was not taken every year. Visits were also made to take sheep off for food, including in winter for a New Year feast; a small payment was made to the proprietor; on at least on occasion [1886] carcasses were salted for the winter and twenty were sent back to the proprietor the following year. The flesh had a good flavour. Mrs MacLachlan noted in her diary sheep being taken from Soay every year between 1906 and 1909, including on two different occasions receiving a wedder.

The sheep on Boreray belonged to individual islanders who paid an annual grazing fee for each animal. Trips of several days were made to Boreray to collect eggs and to fleece the sheep, and to take sheep off; Ferguson (1885) refers to ropes being used to land sheep on Boreray and to remove them, several authors refer to taking sheep off Boreray for slaughter, including Mrs MacLachlan who noted this every year between 1906 and 1909. The last account of this practice refers to a hazardous trip in October 1926, when the men struggled to return in wind and heavy seas, arriving back at 2 am. There are unlikely to may have been many later trips as by 1928 the total population had declined to 36.

The various accounts indicate that for the two centuries before the evacuation sheep were probably removed from Soay for food in most years, and were fleeced in some years, while more regular expeditions to Boreray were made to fleece their own sheep and to put sheep on or take them off, generally for slaughter. It is probable that the islanders, knowing of shepherding practices on Harris and adjacent islands, would have castrated a number of ram lambs to reduce rams fighting, and would attempt to limit the population to the carrying capacity of the grazing. It seems likely

that some management of the sheep on all the islands was carried out from the time the islands were stocked with sheep, as happened for at least the last four centuries on other offshore islands such as the Flannans and the Shiant isles.

In the late nineteenth century, the importance of cheese made partly from ewes milk, and tallow, as rent payments declined, while tweed increased; and tweed was also purchased by an agent on the mainland in the twentieth century, so the wool crop assumed greater importance economically.

Note about the author

Dr Harman has visited and stayed on St Kilda many times and participated in an expedition to Boreray. She has researched and written a definitive history of St Kilda: *An Isle called Hirte: a History and Culture of St Kilda to 1930*.

Petitioners written submission, 18 April 2024

PE2021/J: Ensure the definition of protected animals in the Animal Health and Welfare (Scotland) Act 2006 applies to the sheep on St Kilda

We wish to inform the Committee of a development resulting from [the National Trust for Scotland's submission of 8 August 2023 to the Committee](#), in particular the statement:

“In June 2009 we received a letter from the Cabinet Secretary for Rural Affairs and the Environment, which stated:

‘From the veterinary and animal health perspective, the Rural Directorate has traditionally considered these animals to be effectively “wild”, that is, they have no owner, they are not situated on agricultural land, they are not considered to be either a domestic or captive population that is managed, they are not destined for the food chain, and they are not intended for intracommunity trade. On that basis, they have been considered to be exempt from almost all animal health and welfare legislation and the associated administrative responsibilities placed on farmers as ‘animal keepers.’”

This quotation from a letter is being used to support the National Trust for Scotland position that the sheep on St Kilda are not ‘protected animals’ under the Animal Health and Welfare (Scotland) Act 2006 (AHWA) (the subject of our petition). However, given the date of the letter, we suspect that it does not relate to the animal welfare legislation per se but rather to the Bluetongue regulations, which required all sheep on uninhabited offshore islands to be vaccinated against Bluetongue virus, with a deadline for completion of 30 June 2009. Considering the practical difficulty of vaccinating every sheep on the archipelago, we surmise that this letter was motivated by expediency—providing an exemption from the Bluetongue requirements—and does not represent a considered opinion on the status of the sheep under the AHWA.

We maintain that National Trust for Scotland does own the sheep on St Kilda ([see Dr A. Allan MSP submission](#)) yet Scottish Government appear to have accepted the National Trust for Scotland position that the sheep have no owners. On that premise

it is true that the sheep are ‘... **exempt from almost all animal health and welfare legislation and the associated administrative responsibilities placed on farmers as ‘animal keepers’**. Note the ‘**almost all**’: out of the more than 150 pieces of animal health and welfare legislation that affect livestock and farmers in Scotland at any given time, the AHWA is one of very few that would apply to feral sheep. Furthermore, given that this letter was written just three years after the enactment of the AHWA, with the guidance making it clear that feral sheep are protected animals, we do not believe that it is plausible that this letter relates to the animal welfare legislation.

The use of this passage from a 2009 letter raises a number of pertinent questions:

- Why, in 2017, did the National Trust for Scotland Senior Nature Advisor write a published letter to the editor of the Hebridean Naturalist journal conceding that the sheep were protected animals under the Animal Health and Welfare Act (while disputing our assertion that NTS had ‘responsibility’ for them – a differentiation that has significance under the AHWA) (1)?
- Why, in 2012, in a three-year DEFRA-funded study, were the Boreray and Soay sheep not included in the national database of non-native wild animals (2)?
- Why, until made aware of our letter to the Chief Veterinary Officer (Scotland) in 2020, did Scottish Natural Heritage believe the sheep to be livestock, not wild animals (3); and, by extension, why, between 2012 and 2020 did neither Edinburgh University Animal Welfare Ethical Review Body nor the Home Office alert the Soay Sheep Project of the requirement, under the Wildlife and Countryside Act, for a licence to release the sheep after capture?

The quoted passage from June 2009 may well be the premise for the ‘**consistent position**’ that the Cabinet Secretary for Rural Affairs and Islands referred to in a letter to Dr Alastair Allan MSP in 2022:

“...for the purposes of welfare legislation, the St Kilda sheep should be regarded in the same way as an unowned and unmanaged population of wild deer or other wild animals. This has been the consistent position of the Scottish Government and the previous Scottish Executive for many years” (4).

When the Minister was asked by Angus MacNeil MP for documentary evidence of this ‘consistent position’ taken by Scottish Executive, none was forthcoming (5).

One has to question whether this is an instance of extraordinarily poor communication by the Scottish Executive 15 years ago or, possibly, a much more recent re-interpretation of the letter, prompted by our expressed opinion that the published National Trust for Scotland management plan for the St Kilda sheep of ‘non-intervention’ was incompatible with the Animal Health and Welfare Act.

The Scottish Government has withheld this “June 2009” letter from our Freedom of Information request (6) and National Trust for Scotland has refused to release the letter in full (7). We believe it is not in the public interest for the quoted passage from the June 2009 letter to be used to support the National Trust for Scotland and

Scottish Government position but then for the public to be refused access to the full text.

May we urge the Petitions Committee to request access to the letter in full (and any associated communications) so that the quoted text may be viewed in its intended context.

References:

- (1) Luxmoore R. 2017 Letters to the Editor Hebridean Naturalist: Journal of Curragag Outer Hebrides Natural History Society, 17: pp 78-80
- (2) [Roy et al. 2012 - Defra project report - Non-native species in Great Britain.pdf](#)
- (3) Roseanna Cunningham MSP, Cabinet Secretary for Environment, Climate Change & Land Reform; June 2020 letter to Dr Alasdair Allan MSP; ref: 202000037834
- (4) Mairi Gougeon MSP, Cabinet Secretary for Rural Affairs and Islands; 29 March 2022 letter to Dr Alasdair Allan MSP; ref: 202100203017
- (5) Mairi Gougeon MSP, Cabinet Secretary for Rural Affairs and Islands; 22 April 2022 letter to Angus MacNeil MP; ref: 202200295930
- (6) [Scottish Government FOI release](#)
- (7) Philip Long; CEO, National Trust for Scotland; letter 27 February 2024