

# CONSULTATION

## Response Document



**7th Quinquennial Review of Schedules 5 and 8 of the  
Wildlife and Countryside Act (1981)  
(Joint Nature Conservation Committee)**

**July 2021**

# Introduction to CIEEM

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

CIEEM was established in 1991 and has over 6,000 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.

CIEEM is a member of:

- Scottish Environment Link
- Northern Ireland Environment Link
- Wales Environment Link
- Wildlife and Countryside Link
- Environmental Policy Forum
- IUCN – The World Conservation Union
- Professional Associations Research Network
- Society for the Environment
- Greener UK
- Irish Forum on Natural Capital (working group member)
- National Biodiversity Forum (Ireland)
- The Environmental Science Association of Ireland

## **Chartered Institute of Ecology and Environmental Management**

Chartered Institute of Ecology and Environmental Management

Grosvenor Court, Ampfield Hill, Ampfield, Romsey, SO51 9BD

01962868626 | [enquiries@cieem.net](mailto:enquiries@cieem.net) | [www.cieem.net](http://www.cieem.net)

Company Number: RC000861 | Registered Charity (England and Wales): 1189915

# CIEEM Response

## 1. General Comments

- a. We welcome the opportunity to participate in this review and we would be happy to provide further information on our comments. Please contact Jason Reeves (CIEEM Head of Policy and Communications) at [JasonReeves@cieem.net](mailto:JasonReeves@cieem.net) with any queries.
- b. We are very disappointed in the short timeframe for providing comments on the review and are concerned that such an important consultation was launched with such limited publicity and promotion to potential consultees.
- c. Similarly, we are concerned that the consultation asks for comment and evidence only on the addition or removal of species when the most significant proposal for change is the criteria used for selection of species.

## 2. Introducing New Selection Criteria

- a. Whilst current nature protection measures are not perfect, and we are certainly not against review and improvement, the proposed new selection criteria seem ill thought-through and unevidenced.
- b. Under the new criteria, Britain's statutory nature conservation bodies will only pursue scheduling of a species when an animal or plant is in danger of extinction in Great Britain (i.e. GB Red Listed species). Intervention at this stage is likely to be too late to save the species from extinction and support recovery. We should not be waiting for a species to be in danger of extinction before protecting it.
- c. Although European Protected Species are automatically proposed for listing on the schedules in England and Wales in *this* review, the overall direction of travel appears to be to move solely to species that are GB Red Listed (i.e. those facing imminent threat of extinction in Britain).
- d. The review suggests restricting protection to GB Red Listed species – those facing imminent threat of extinction under *current* circumstances. Imminent threat means those classified under IUCN rules as nationally Endangered (E) or Critically Endangered (CR). GB nationally/regionally Least Concern (LC), Near Threatened (NT) and Vulnerable (VU) species will no longer be eligible. By definition, 'Vulnerable' (VU) species are those with an appreciable risk of extinction in the near future. The proposed approach suggests a shift to a high-risk strategy of allowing species to decline to the point of extinction before intervening to try and rescue them, rather than using a more sophisticated management strategy to prevent them reaching this point.

- e. It is also extremely concerning to see that Data Deficient (DD) species are excluded, when this should trigger use of the precautionary principle.
- f. The IUCN Red List is a mechanism used principally to indicate global extinction risk, although the IUCN provides guidance for adapting the listing to regional and local situations. Red Listing is a helpful tool to identify species that are in need of intervention. However, its exclusive use to select and prioritise species for action is not what the Red List is intended for and the suggestion in the QQR7 for almost solely relying on Red Listing is inappropriate. IUCN guidance<sup>1</sup> specifically identifies automatic use of Red List categories in policy as an "inappropriate use".
- g. IUCN guidance explains that the category of threat simply provides an assessment of the extinction risk under *current* circumstances. This would mean that the implications of climate change and other human-induced pressures (that continue to grow) are only measured at their current impact levels.
- h. If this mechanism were to be adopted there would need to be regular survey and data collection for all species to keep the GB Red Lists up to date. Note that the IUCN update their global Red List at least twice a year. It is unclear how ongoing survey and evidence gathering would be resourced by governments to maintain the accurate information required.
- i. We also want to highlight that the Law Commission review of wildlife law<sup>2</sup> says that factors other than risk of extinction should be considered for species protection, such as the role of a species in an ecosystem.
- j. We note also that the review is unclear in its distinction between England and Wales and with Scotland. Beyond the reference to European Protected Species not being listed on the Scottish WCA Schedule 5 and being covered under the Habitats Regulations, the review information does not clarify current listings for Scotland. It is not at all clear from the document how governments will address the geographical variations in the Schedules. The accompanying spreadsheet of currently listed species covers only England and Wales. It is worth remembering that subnational regions have their own unique species.

### **3. Comment on Specific Taxa Groups**

#### ***a. Introduction***

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<sup>1</sup> <https://portals.iucn.org/library/sites/library/files/documents/Rep-2009-007.pdf>

<sup>2</sup> See 2.88 ([https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/11/lc362\\_wildlife\\_vol-1.pdf](https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/11/lc362_wildlife_vol-1.pdf))

- i. We are extremely concerned that the proposal to remove legal protection from species has not been accompanied by any evaluation of the impacts of de-listing. We know that we do not have good enough evidence for many of our species and, until we do, a precautionary approach must be used.
- ii. We do not know what impact unrestrained impacts (development without mitigation, persecution, etc.) will have on these species, thus, this action would be irresponsible and against the precautionary principle

### ***b. Reptiles***

- i. We note that under the proposed criteria, protection would be removed from the four widespread species of reptile (adder, common lizard, grass snake and slow worm). Some of these species – adder in particular – already appear to be locked into a significant decline that might be greatly exacerbated if, for example, developers no longer had to translocate them and provide new habitat, or if they were not protected from persecution by members of the public.
- ii. There is the potential for even the more widespread and common species, such as slow worm, to be killed in quite large numbers if their protection is removed. This could be devastating for their populations.

### ***c. Bats***

- i. Although transferred over in this review as European Protected Species, the new criteria would remove protection from all of the bat species currently on Annex II of the Habitats Directive (Bechstein's bat, barbastelle, greater and lesser horseshoe bats). In fact, only the mouse-eared and grey long-eared bats are classed as CR or E nationally, so all other bats would lose their current protection under the Wildlife and Countryside Act 1981 (WCA) if the GB Red List was used as the only criteria for protection.
- ii. We simply do not have sufficient data regarding the populations and habitat use for most bat species and thus cannot consider removing their protection without first understanding the impacts of de-listing.

### ***d. Other Mammals***

- i. Under the new criteria the hedgehog (classed as VU) would not merit inclusion, despite strong arguments currently for it to be included for protection under the Conservation Regulations.

- ii. Red squirrel could be de-listed, despite numerous threats to the species in Britain.
- iii. Pine marten (CR in England and Wales but not nationally), and mountain hares – both persecuted species – could also be de-listed under the new criteria.
- iv. Harbour seals could also be de-listed – despite being in decline. The potential impact of disturbance when hauled out and pupping would have unknown consequences on populations of both grey and harbour seals.

#### **4. Reasoning for the New Selection Criteria**

- a. We are concerned that this proposed change to the criteria is being seen as an easy fix by governments to facilitate development. We are not against change and the current system is by no means perfect, but species protection policy should be first and foremost about protecting and restoring nature – as stated in government policy.
- b. In our view it would be a mistake to assume that the proposed criteria are likely to result in developments going ahead more quickly or with fewer delays. If the intention is to make development more streamlined, there are other ways to achieve this. Engineering detailed design and other environmental mitigation can run alongside ecological mitigation works, and it has already been shown that the planning system and environmental mitigation works are not delaying release of land for housing. Similarly, when ecological advice is sought at the appropriate stage (i.e. at project conception) any such delay is minimised. Quite apart from such factors, it is simply not acceptable to remove current protections merely to facilitate development.

#### **5. Interacting with Other Policy**

- a. It is unclear how the new selection criteria would align with other policy and legislation, such as Biodiversity Net Gain, which could potentially be completely undermined because it will result in much lower baselines.
- b. It is also unclear how the new selection criteria would align with international conventions obliging the UK to protect and restore nature (e.g. Bern and Biodiversity conventions). Specifically, the Bern Convention requires signatories to give particular attention to Vulnerable and Endangered species (contrary to the review suggestion of only using Critically Endangered and Endangered). The UK will still need to comply with its international obligations.
- c. The new criteria would result in fewer species, with less protection, in fewer places. Species diversity is key in ensuring habitat stability, maintenance and condition. Habitat diversity is one of the key factors in resilience to climate change, so this policy is likely to

adversely impact our ability to cope with climate change and is counterintuitive to the UK's ambition to meet its climate change adaptation targets.

- d. Species protection often has a positive knock-on effect for retaining and/or creating green space for people. This can contribute to the provision of open space which has benefit for local communities and provides social value. As the recent Dasgupta Review pointed out, *"Our economies, livelihoods and wellbeing all depend on our most precious asset: nature. We are part of nature, not separate from it."*

## **6. Conclusion**

- a. The UK is one of the most nature-depleted countries on Earth, with nature still declining. This review is incompatible with government ambitions for nature recovery (e.g. the 25 Year Environment Plan and the Environment Bill's species abundance targets).
- b. Using the IUCN Red Listing approach is not a scientific basis for identifying species of principal importance for the purpose of maintaining and enhancing biodiversity in Britain. Red Listing could be used to aid prioritisation of the degree of conservation effort, but this is different and quite separate from deciding whether to intervene or not.
- c. CIEEM strongly opposes the changes as they stand, and believes that only a full consultation on these proposals will provide the opportunity to rigorously examine them in detail and identify a scientifically robust and ecologically sound approach. We call on governments to clarify the purpose of changing the selection criteria and to conduct a full impact assessment on the proposed changes.