

# Code of Practice for Species Control Provisions in Wales

## Consultation Response Form

### Section 1: About you

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### Section 2: Your response

Please respond in the space below the relevant question.

#### Question 1: What comments do you have on the draft code of practice?

We broadly support this draft Code of Practice for the use of Species Control Provisions. Our key points are:

- We welcome the approach to include all relevant information on the scope and use of the powers in this Code by 'environmental bodies' in Wales as defined in the Act as the Welsh Minister (WG) and Natural Resources Wales ( NRW ).
- We note the draft Code states that, except for certain circumstances, it would not be appropriate to apply the provisions to INNS which are already widespread. We anticipate a significant expectation to use the powers for these species and have already fielded some enquiries from the public about this. We therefore strongly recommend that supporting communications are developed by providing a brief and less technical summary to go alongside the Code to endorse this important message to the public.
- These are new powers for which NRW is currently unfunded and Welsh Ministers or NRW are likely to have to bear the control costs. It is difficult to quantify the resource required at this stage but could be considerable as illustrated by the potential costs for eradicating Top Mouth Gudgeon so NRW would welcome further discussion with WG on resourcing these provisions. Officers will need training in several implementation aspects including: using the legislation or potential alternatives such as Community Protection Notices; using powers of entry and gaining access to land, survey and surveillance methodologies; developing management prescriptions and the provision and content of Agreements or Orders.

We have also provided more specific comments which include the following key points -

- Agreements or Orders should include a requirement for biosecurity measures to be in place as part of their implementation.
- It would be very useful to clarify if the intention is for these provisions to be used in conjunction with plant health orders.

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- It is important the Code notes the issue of SCA or SCO does not override the requirement to comply with other legislation. It should also make clear that other consents / exemptions / agreements may also be required to fulfil the aims of a Species Control Agreement or Order eg a herbicide agreement.
- It is vital that ongoing surveillance should be part of SCAs and SCOs to ensure eradication of a species from a site has been successful.

We note the draft Code states that, except for certain circumstances, it would not be appropriate to apply the provisions to INNS which are already widespread. NRW anticipate there is likely to be significant expectation to use the powers for these species and as a result we welcome the clarification in the Code on this.

In going forward, we recommend that consideration is given to developing supporting communications by providing a less technical, plain language summary to go alongside the Code to help communicate this important message to the public.

The Code does not mention biosecurity in implementing Species Control Agreements or Orders. We think this is a critical omission that should be explicitly addressed within the Code. Species Control Agreements or Orders should include a requirement for biosecurity measures to be in place as part of their implementation.

We also note Paras 1 & 3 of the introduction refer only to NRW having responsibility for using these provisions. To be consistent with the rest of the Code and to avoid the Introduction being potentially misleading, it should state that 'environmental bodies' in Wales includes the Welsh ministers and NRW - and Paras 1 & 3 should also refer to Welsh Ministers if it is going to specifically reference NRW.

There is uncertainty within the Code as to the relevance of the use of the provisions in relation to plant health legislation. There is potential that an invasive non-native species is a pest to plants in Wales and using species control provisions would be an additional method of ensuring action on the relevant species. If the intention is for the provisions to be used in conjunction with plant health orders, it would be very useful to clarify this within the Code.

We believe there will be a need to provide training in several aspects of Code implementation including: using the legislation and potential alternatives such as Community Protection Notices; using powers of entry and gaining access to land, survey and surveillance methodologies; developing management prescriptions and the provision and content of SCAs and SCOs.

We note there is no mention of other legislation requirements being needed such as SSSI assent/consent or felling licences. It is important the Code notes the issue of SCA or SCO does not override the requirement to comply with other legislation. We would also like to see the Code being clear that other consents / exemptions / agreements may also be required to fulfil the aims of a Species Control Agreement or Order eg herbicide agreement.

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The Code is not explicit on the responsibility for enforcement, therefore we presume that the enforcement provisions under the Wildlife & Countryside Act apply - so it would be helpful if this could be clarified before the Code is finalised.

It is vital that ongoing surveillance should be part of SCAs and SCOs to ensure that eradication of a species from a site has been successful. We feel the Code would also benefit from having a review period built in to it to ensure that it remains current with the latest good practice.

### Question 2: Is the proposed code of practice clear to understand and practical to implement?

- Yes
- No (If no, why?)

NRW has been in discussion with WG over the development of the draft Code and while we broadly support it, we have in addition to our points in question 1 above, some further points to strengthen it and give greater clarity as follows -

2.1 paragraph 6 requires further explanation of the rapid response protocol. The GB Non Native Species Strategy has protocols but we are not aware that similar protocols have been published for Wales.

Paragraph 14, section 2.4.2 and elsewhere indicates that ‘the scope also extends to animals that are re-introduced to Wales within their natural range but which are no longer normally present in the wild, where this is the result of unlicensed human actions. This includes animals listed on Part 1B of Schedule 9 to the Wildlife and Countryside Act 1981’. Suggest that 'reintroduced' is replaced with 'released' throughout the document as the former term suggests done in a formal way, but this specifically applies to ‘unlicensed’ ie illegal actions.

Section 2.4.2 refers to application of the guidance to ‘reintroduced’ animals no longer normally present. However, it fails to mention the caveats in the act namely that it is

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having a significant adverse impact biodiversity etc and that there is no other way of dealing with this impact (section 6(4) of the Act). This is covered in section 3.3.1 but it is misleading not to have it mentioned in 2.4.2.

Para 21 This should reference the IUCN guidelines on Conservation translocations.

Para 24 states "may need a licence under the Habitats Regulations". If so there may be a conflict between this and need to satisfy Favourable Conservation Status test.

Para 28 – circumstances in which the species control provisions could be applied to widespread non-native species – The first bullet suggests an Order could be applied to eradication programmes being carried out by ‘environmental authorities’. However eradication programmes are also carried out by other organisations/3rd parties and we consider that the Code should cover the possibility of issuing an Order for such programmes if they are of a satisfactory standard (eg will satisfy the objectives of the GB INNS Strategy).

Para 28 bullet 3 - The Code should consider whether the use of the provisions should be restricted to where INNS are having a detrimental effect on designated sites. The Code should also clarify whether it should be used where the detrimental impact is on other priority biodiversity such as protected species, Section 42 or Section 7 species.

3.2 para 38 - We suggest the Code needs to clarify the situation with regard to common land.

Para 39 and 40 We feel the Code should clarify what the definition of dwelling within the context of the provisions and whether they would apply to gardens and buildings associated with dwellings or the whole curtilage for example.

**Question 3: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:**

These are new powers for which NRW is currently unfunded. In implementing these provisions under the Code of Conduct NRW, depending on specific circumstances, is in most cases likely to have to bear the cost of control of the INNS. If NRW is unable to fund the implementation of an agreement or order there is a risk that the species in question would

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establish and spread. NRW would welcome discussion with WG on resourcing species control provisions.

The resources required include but are not limited to setting up the processes, training staff, staff time to assess the priorities, issue orders/agreements, carry out work, monitor compliance, support enforcement, resources to implement agreements or orders.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, put a cross (X) in the box: