

BASC response to Natural England's wildfowling guidance review consultation

Executive summary

BASC believes that the changes proposed by Natural England in its "Wildfowling Guidance Review" consultation will be a detrimental step for both wildfowling and conservation.

The proposals, if implemented, will:

- Introduce more bureaucracy for both wildfowling and Natural England advisers on the ground
- Introduce disproportionate restrictions on wildfowling in contravention of the Regulators' Code, the Principles of Better Regulation and the Growth Duty
- Cause Natural England to contravene its 'General Purpose' with regard to the Natural Environment and Rural Communities Act 2006

BASC believes that the granting of wildfowling consents to wildfowling in England will be improved by removing the unnecessary maximum visit condition; by introducing a simpler assessment system; and by introducing a minimum consent duration of at least 20 years.

It is crucially important that proposals be evidence-led, rather than decision-led or speculative. When there is sufficient evidence that a regulatory intervention is required, proposals should meet the five principles of better regulation set out in the Regulators' Code. Many of the proposals included in this consultation would be unnecessary, and would go against the principles of the Regulators' Code for the following reasons:

- They are not evidence-based
- They are not a response to priority risks
- They do not recognise the compliance record of those being regulated
- They do not consider the impact on business
- They would create unnecessary regulatory burden which could be achieved by less burdensome means

Many of the proposals also go against the five principles of better regulation by being disproportionate and not targeted toward solving a particular problem. The principles of good regulation state that regulators should only intervene when necessary, and when a specific problem is identified that could be solved by intervention. In this case, Natural England has provided no evidence base with which to support the proposal, and no problem-solving basis upon which to intervene.

BASC believes that Natural England should consider the burden of any additional regulation on wildfowling, who are already regulated by Natural England far more than other outdoor space users. We would draw attention to point 1.1 of the Regulators' Code: "Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity."

In light of this technical and wildfowling-specific consultation being open to the general public, BASC urges Natural England to ensure that the responses it receives to this consultation are weighted, with responses from wildfowlers, who are the community affected by these proposals, prioritised over those from the general public.

The British Association for Shooting and Conservation

The Wildfowlers' Association of Great Britain and Ireland (WAGBI) was founded by Stanley Duncan in 1908. Stanley Duncan was a wildfowler and naturalist and his objective in forming the Association was to safeguard the sport of wildfowling, wildfowl and their habitat.

In 1949 the Nature Conservancy came into being. Its functions, of relevance to wildfowlers, were to provide advice on the conservation, control or protection of natural fauna and to establish, maintain and manage nature reserves in Great Britain, many of which embrace shooting zones jointly created and managed with WAGBI.

In 1981 WAGBI changed its name to The British Association for Shooting and Conservation (BASC). Today BASC is the representative body for sporting shooting in the UK and, with a membership of over 150,000, is the UK's largest shooting organisation. It aims to protect and promote sporting shooting and well-being of the countryside throughout the UK. It actively promotes good firearms licencing practice, training, education, scientific research and practical habitat conservation. Currently, there are approximately 143 wildfowling clubs in the UK affiliated to BASC with a total membership of around 9,000 individuals.

BASC has a long standing partnership agreement with Natural England and both respective predecessor bodies. This agreement was updated in 2015 and recognises the important contribution that people who shoot make to the nature and landscape conservation of the English countryside, and commits the two organisations to exploring how this contribution can be further developed. The agreement also recognises that shooting as an outdoor recreation can improve health and well-being and makes a significant contribution to the economy, particularly in rural areas.

Wildfowling in relation to other outdoor activities

Wildfowling is the pursuit of wild geese and ducks, principally on estuaries and coastal marshes but also on inland bodies of water. Wildfowlers were instrumental in establishing the UK's first wildfowl refuges. In England, Wales and Northern Ireland BASC affiliated wildfowling clubs lease some 700km of foreshore from the Crown Estate. Wildfowlers work in partnership with statutory agencies to protect threatened habitats and species and some 90% of land managed for wildfowling is within designated areas.

The available evidence shows that wildfowling is far less of a disturbing activity to wildfowl than other activities, such as walking – and Natural England's own guidance states "In the UK, there is no evidence that waterfowl populations have been reduced by shooting disturbance." Wildfowling has been consistently found to represent only a small proportion of the total disturbance on an estuary, and that walking, with or without a dog, typically accounts for in excess of 80% of disturbance events.

Wildfowling is already regulated through statutory legislation including the Wildlife & Countryside Act 1981, Firearms Act 1968 as amended, EU Birds Directive 1979 and EU Habitats Directive 1992. However, Natural England heavily regulate wildfowling, whereas other activities are not considered to be detrimental and are therefore more actively encouraged by Natural England. This demonstrates a lack of both consistency and evidence-based policy targeted to a particular problem, contravening the Regulators' Code.

Furthermore, by restricting access for a single interest group and not others, Natural England is acting contrary to its General Purpose within the Natural Environment and Rural Communities Act (2006), which includes *"promoting access to the countryside and open spaces and encouraging open-air recreation"*.

In addition, Natural England are scrutinising the consent process for wildfowling on the basis of its potentially negative site impact – however, on the other hand they are simultaneously designating coastal paths with 'spreading room' for the general public, within which the public and their dogs are to be given free access. This is an inconstant approach, which contravenes the Regulators' Code.

At a wider scale, wildfowling as a community can have far-reaching positive impacts for conservation and land management, which are not provided by other outdoor activities. Research shows that wildfowling actively sustain 50,000 acres of wetland habitat, have invested £3 million in securing declining wetlands and provide 600,000 conservation work days per year.

For more information, see the BASC wildfowling infographic: <https://basc.org.uk/wp-content/uploads/downloads/2015/03/Wildfowling-Infographic.pdf>

This scale of conservation effort and private investment could not be replicated without large costs to the taxpayer, and without it, our wetland birds and habitats would suffer. In addition, evidence shows that wildfowling is much less disturbing to wildfowl than other activities such as dog walking. Yet wildfowling is far more heavily regulated than the activities of other interest groups on the foreshore.

BASC recognises that the current, disproportionate approach to regulating wildfowling limits the staff and financial resources Natural England has to commit. Natural England could easily free up this resource by adopting a proportionate approach to regulating wildfowling. This would simultaneously focus regulatory efforts on the areas of greatest risk that would produce the conservation benefit.

In light of this technical and wildfowling-specific consultation being open to the general public, BASC urges Natural England to ensure that the responses it receives to this consultation are weighted, with responses from wildfowling, who are the community affected by these proposals, prioritised over those from the general public.

BASC's position on this consultation

BASC believes that the changes proposed by Natural England in its "Wildfowling Guidance Review" consultation will be a detrimental step for both wildfowling and conservation.

The proposals, if implemented, will:

- Introduce more bureaucracy for both wildfowlers and Natural England advisers on the ground
- Introduce disproportionate restrictions on wildfowling in contravention of the Regulators' Code, the Principles of Better Regulation and the Growth Duty
- Cause Natural England to contravene its 'General Purpose' with regard to the Natural Environment and Rural Communities Act 2006

BASC strongly urges Natural England to review its proposals, which are not evidence led, in light of the alternative solutions and recommendations proposed within this consultation response.

BASC requests that Natural England take a more proportionate stance on the activity of wildfowling, which is already heavily regulated, and reduce regulatory burden on wildfowling in light of:

- **The low impact nature of wildfowling.** The current evidence base demonstrates that wildfowling is far less disturbing to waterfowl than a range of other outdoor activities which are actively encouraged by Natural England, while wildfowling continues to be the focus of regulatory burden.
- **The low intensity nature of wildfowling.** Due to its seasonal nature, wildfowling activity takes place on sites for a few months of the year, and within those months it does not take place every day. In comparison, other, more high impact and high disturbance activities (such as dog walking), take place year-round and are encouraged by Natural England.
- **The pre-existing nature of wildfowling.** In most cases, wildfowling is an 'existing' rather than a 'new' activity, which in many cases was occurring on sites long before their designation.
- **The conservation benefits associated with wildfowling.** Wildfowlers conduct a large amount of responsible conservation management on sites, which does not occur in other outdoor activities – and the voluntary nature of which could not be reproduced without a large financial and resource input.
- **The disproportionate degree of resources Natural England devotes to wildfowling.** The high resource burden in terms of Natural England staff time devoted to wildfowling could be freed up by focusing proportionately on other outdoor activities.

In addition, in light of this technical and wildfowling-specific consultation being open to the general public, BASC urges Natural England to ensure that the responses it receives to this consultation are weighted, with responses from wildfowlers, who are the community affected by these proposals, prioritised over those from the general public.

Alternative solutions proposed by BASC

Within this consultation response, BASC has proposed a number of proportionate and evidence-led alternative solutions, which take into account Growth Duty.

These include:

- Introducing a simpler assessment system, a minimum consent duration of at least 20 years and removing visit conditions;
- Ensuring site management plans including conservation management and monitoring are voluntary, written by wildfowling and agreed with Natural England. Wildfowling will bear no Natural England cost in completing the site management plans;
- We acknowledge that site and sector level bird population trends could be incorporated into decision-making as part of the wider picture, as long as they are considered proportionately and in combination with all other relevant aspects of the site management plans. However site and sector level population trends alone are not sufficient to take into account the range of factors (including natural and climate factors) affecting migratory wildfowl populations. We therefore propose population trend data should be considered at three equal levels:
 - o Site level bird population trends (including sector level trends)
 - o Country level bird population trends
 - o Flyway level bird population trends
- Natural England using its powers under Section 25 and Section 30 of The Conservation of Habitats and Species Regulations 2010 to regulate activities, including walking (with or without a dog), which have been consistently shown to represent the greatest risk to wintering birds.

In nearly all cases, wildfowling activity was occurring on sites long prior to their designation. BASC believes Natural England assessments should be on the basis that wildfowling is a pre-existing activity which should continue at historical levels with no restrictions, rather than treating proposals for wildfowling as new and additive factors.

BASC believes that the granting of wildfowling consents to wildfowling in England will be improved by removing the unnecessary maximum visit condition; by introducing a simpler assessment system; and by introducing a minimum consent duration of at least 20 years.

We also believe that Natural England should consider the burden of any additional regulation on wildfowling, who are regulated by Natural England far more at present than other outdoor space users. We would draw attention to point 1.1 of the Regulators' Code: *"Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity."*

BASC response to consultation questions 7-27

Q7. Do you support the idea of annual liaison meetings for all wildfowling clubs operating on a designated site?

BASC answer: Yes

BASC supports the idea of annual liaison meetings between Natural England and individual wildfowling clubs operating on a designated site, but proposes that Natural England recognises that there are other designated sites where wildfowling takes place, either by individuals or syndicates.

It would be helpful if Natural England could identify a member of staff within each team or region with specific responsibility for wildfowling (or across all shooting disciplines), to enable a more targeted approach to the meeting programme and provide a helpful reference person for Natural England staff and wildfowling clubs when dealing with consents (and other issues that may occur).

Natural England is bound by the Regulators' Code to "*ensure their officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate that enables them to choose proportionate and effective approaches*". There is a systemic lack of this knowledge throughout Natural England resulting in inconsistent application of internal policies, and also production of unworkable, disproportionate and untargeted regulations at a national level.

The Growth Duty also places a responsibility on regulators to understand those they are regulating and recommends a series of steps to ensure their competency in this regard, including:

- Understanding of those being regulated as a measure of staff performance
- Provision of staff development and training
- Knowledge of those being regulated as a recruitment consideration

In light of the responsibilities Natural England has to adhere to the Regulators' Code and Growth Duty, BASC supports the idea of BASC-affiliated wildfowling clubs engaging at annual liaison meetings. Liaison meetings between wildfowling clubs and local Natural England representatives would foster improved communication, knowledge transfer and shared understanding. These could incorporate annual reviews and discussions of mutual interest or concern at a site or wider level. BASC recommends that attendance and outcomes from annual liaison meetings are recorded within the Site Management Plan proposals (see response to question 11).

BASC and Natural England have a partnership agreement and regular liaison meetings which are specifically related to wildfowling consents.

Many regions of the country hold meetings where numerous clubs attend (joint councils and forums) and it is recommended that Natural England local staff attend these meetings for information sharing.

BASC recognises that the current, disproportionate approach to regulating wildfowling limits the staff and financial resources Natural England has to commit to such meetings. Natural England could easily free up this resource by adopting a proportionate approach to regulating wildfowling. This would simultaneously focus regulatory efforts on the areas of greatest risk that would produce the conservation benefit.

Q8. If the proposal for annual liaison meetings is taken forward, which format would you prefer for the annual meeting?

BASC answer: At site level

Depending on individual circumstances, these meetings should be with the wildfowling occupiers whether individual, syndicate or club at site or wider landscape level.

BASC recommends that attendance and outcomes from annual liaison meetings are recorded within the Site Management Plan proposals (see response to question 11).

Item 3 of the current partnership agreement between BASC and Natural England states:

- a) BASC and Natural England will encourage regular contact between their appropriate staff, both local and national, to discuss issues, develop opportunities and, within the context and spirit of this agreement, to anticipate and resolve any conflicts which may arise between shooting and conservation objectives.
- b) More specifically, the two organisations will agree an annual Action Plan which identifies particular areas of activity and outcomes which BASC and Natural England will work to achieve. Working jointly, a nominated Officer from each organisation will facilitate and monitor progress of the Action Plan and draft annual revisions, including the identification of new opportunities for joint working. Senior Officers from each organisation will meet annually to review liaison and cooperation and agree the new annual Action Plan.

Wildfowling visits – Q9-10

Natural England and British Association for Shooting & Conservation have worked together with wildfowling clubs to offer wildfowling site visits to Natural England advisors. This will enable Natural England advisors to get to know their local wildfowling clubs and gain knowledge as to how the activity is undertaken.

Q9. Do you support the programme of visits?

BASC answer: Yes

BASC supports the idea of visits between Natural England and individual wildfowling clubs operating on a designated site, but proposes that Natural England recognises that there are other designated sites where wildfowling takes place, either by individuals or syndicates.

Item 5 within Annex 1 (Action Plan) of the partnership agreement between BASC and Natural England states:

“BASC and Natural England will also promote opportunities for staff interchanges and local wildfowling visits to increase the respective understanding of both wildfowling and consenting remit and processes.”

Natural England officers and BASC clubs currently make an informal report to BASC following each wildfowling visit. This allows for any unanswered questions to be dealt with at an early stage. Advisers are normally identified based on the known consent renewals due in the subsequent 12 months. This informal education works well for the advisers involved in the visit, but the degree of sharing information gained from the experience with other Natural England staff is highly variable.

Q10. Please comment on any improvements you consider could be made to the current programme of wildfowling visits.

BASC comments.

Natural England officers and BASC clubs currently make an informal report to BASC following each wildfowling visit. This allows for any unanswered questions to be dealt with at an early stage. Advisers are normally identified based on the known consent renewals due in the subsequent 12 months. This informal education works well for the advisers involved in the visit, but the degree of sharing information gained from the experience with other Natural England staff is highly variable.

It would be helpful if Natural England could identify a member of staff within each team or region with specific responsibility for wildfowling (or across all shooting disciplines), to enable a more targeted approach to the visit programme and provide a helpful reference person for Natural England staff and wildfowling clubs when dealing with consents (and other issues that may occur).

BASC would recommend that attendance and outcomes from site visits are recorded within the Site Management Plan proposals (see response to question 11). It is important that the Natural England Advisers who attend a site visit have a formal process to pass information obtained from visits to their colleagues in an expedient manner.

BASC recognises that the current disproportionate approach to regulating wildfowling limits the staff and financial resources Natural England has to commit to such visits. Natural England could easily free up this resource by adopting a proportionate approach to regulating wildfowling. This would simultaneously focus regulatory efforts on the areas of greatest risk that would produce the conservation benefit.

Opportunities for clubs to show positive management – Q11-12

From recent user surveys there is a clear indication that individuals and clubs who shoot on designated sites often want to show that their activity is not detrimental to the interest features of the site. They want to be able to highlight, where applicable and where they are able to, how they are helping with the biodiversity and sustainability of the site as a whole.

In light of this, Natural England has been working on outlining site management plans, which not only include operations which require consent but also conservation management and monitoring. These would provide the opportunity for clubs to clearly show the positive activities they are undertaking and ways in which they are contribute to the functioning of the site.

Q11. Do you support the idea of site management plans which include both activities which require consent and positive management and monitoring?

BASC answer: Maybe

BASC supports the idea of site management plans (provided the conditions listed below are met), between Natural England and individual wildfowling clubs operating on a designated site, but proposes that Natural England recognises that there are other designated sites where wildfowling takes place, either by individuals or syndicates.

BASC would like to remind Natural England that positive management has been a central part of wildfowling for generations. The first recorded subsistence activity of wildfowling was recorded in 1614. The principle reason that WAGBI (the predecessor organisation to BASC) was founded in 1908 was to safeguard wildfowling, wildfowl and their habitat.

In nearly all cases, wildfowling activity was occurring on sites long prior to their designation. BASC believes Natural England assessments should be on the basis that wildfowling is a pre-existing activity which should continue at historical levels with no restrictions, rather than treating proposals for wildfowling as new and additive factors in Natural England assessments.

The introduction to this consultation states: *“The proposed changes aim to make the process of assessing wildfowling consents more straightforward, transparent and reflective of the impact and nature of wildfowling.”*

However, BASC is concerned that the proposed changes could become overly complex. **It is fundamental that for wildfowling clubs – which are all run by volunteers - site management plans do not become mandatory as part of the consenting process.**

Mandatory site management plans (including conservation management and monitoring), simply on Natural England’s assertion that “individuals and clubs who shoot often want to show that their activity is not detrimental” is unnecessary, and goes against the principles of the Regulators’ Code for the following reasons:

- It is not evidence-based,
- It is not a response to priority risks,
- It does not recognise the compliance record of those being regulated,
- It does not consider the impact on business,
- It would be an unnecessary regulatory burden which could be achieved by less burdensome means.

It is crucially important that if site management plans are to be introduced, the proposals will be evidence-led, rather than decision-led or speculative. When there is sufficient evidence that a regulatory intervention is required, proposals should meet the five principles of better regulation set out in the Regulators' Code. The introduction of mandatory site management plans, including conservation management and monitoring, would not be an example of evidence-led policy. Indeed, there seems to be no other reason given for this proposal other than Natural England's assertion that "individuals and clubs who shoot often want to show that their activity is not detrimental".

Such policy intervention would go against the five principles of better regulation, which state that regulators should only intervene when necessary, and when a specific problem is identified that could be solved by intervention. In this case, Natural England would have evidenced no problem-solving basis upon which to intervene. The fact that some wildfowling clubs like to show their activity is positive from a conservation perspective is no reasonable justification for the introduction of mandatory measures to do so. Mandatory plans would also place an unnecessary burden on wildfowling clubs, putting some at a disadvantage through lack of resources.

However, BASC can see the benefit of bringing all information into a single document and would support the introduction of site management plans including conservation management and monitoring, as long as the following criteria were met:

1. Such plans must be voluntary for clubs, not mandatory.
2. Wildfowling clubs hold responsibility for producing site management plans to then be agreed with Natural England
3. Wildfowling clubs bear no costs for the production of these plans.

Q12. Do you have particular examples of positive management and/or avoidance measures which you think could be included within the proposed management plans?

BASC comments.

BASC would like to remind Natural England that wildfowling has embraced positive management for generations. The first recorded subsistence activity of wildfowling was recorded in 1614. The principle reason that WAGBI was founded in 1908 was to safeguard wildfowling, wildfowl and their habitat.

BASC takes issue with Natural England requesting such information when Natural England has been engaged with consenting case work with wildfowling clubs for a considerable number of years and therefore has a full knowledge of the positive management work that wildfowling clubs undertake.

The partnership agreement between BASC and Natural England clearly outlines the importance of shooting to the health of the countryside, in particular: "*Natural England acknowledges the place of field sports, practised within the law, in a shared countryside and recognises the particular value of a diverse and attractive environment to those who participate in those sports.*"

In addition, the partnership agreement notes BASC's contribution to the delivery of Biodiversity 2020 outcomes: *"The Green Shoots programme provides an excellent foundation on which to develop opportunities for BASC members to contribute to monitoring and conserving habitats and species as part of the Governments Biodiversity 2020 programme. Natural England will assist BASC staff through advice and other appropriate means in the continuing development of its conservation programme. Where appropriate, Natural England will liaise with BASC staff on matters relating to shooting management and its successful integration with nature conservation needs."*

Wildfowling has been managing estuaries and inland areas prior to the introduction of many of the national and international designations required today.

Positive management by clubs is evident in the management plans required for Crown Estate leases, and includes:

- predator control
- monitoring of quarry and non-quarry species
- collation of bag records which reflect the level of birds on the site
- wardening to prevent trespass and report unregulated activity to relevant authorities
- pest control; volunteer work including conservation; land management
- promotion of responsible behaviour to members through education and wildfowling club disciplinary mechanisms
- habitat work (consented where appropriate)
- litter picking
- wing surveys (as part of a national programme)
- avian influenza monitoring
- sarcocystis monitoring
- adherence to wildfowling severe weather protocols
- financial support for the BASC Wildlife Habitat Trust charity which contributes to the national and international protection of wildlife habitat
- involvement in specific local wildlife projects
- involvement with or cooperation with local WeBS counts
- involvement with local estuary management groups
- lobbying against developments that would be detrimental to wildfowl habitats
- establishment of specific wildfowl sanctuaries (for example the Wyre-Lune sanctuary near Cockerham, Morecambe Bay).

Positive management by BASC, and its clubs through affiliation, includes:

- funding through the Wildlife Habitat Trust to protect key habitats including those abroad to improve breeding areas. The Trust has lent £1.5 million to BASC affiliated clubs and syndicates, enabling the purchase of 895 acres of land for shooting and conservation purposes
- engagement with Natural England and government on key environmental issues, both at a local and national level
- organising the annual national wildfowling conference, where Natural England has regularly given presentations
- promotion of wildfowling visit programmes
- collation and submission of bag returns data on Crown Estate foreshore
- funding research projects
- coordinating avian influenza monitoring
- coordinating sarcocystis monitoring
- management of severe weather wildfowling protocol

- involvement in discussions regarding waterbird population declines at flyway level as outlined in BASC's answer to question 18.

At a wider scale, wildfowling as a community can have far-reaching positive impacts for conservation and land management.

Research shows that wildfowling actively sustain 50,000 acres of wetland habitat, have invested £3 million in securing declining wetlands and provide 600,000 conservation work days per year.

For more information, see the BASC wildfowling infographic: <https://basc.org.uk/wp-content/uploads/downloads/2015/03/Wildfowling-Infographic.pdf>

This scale of conservation effort and private investment could not be replicated without large costs to the taxpayer and, without it, our wetland birds and habitats would suffer. In addition, evidence shows that wildfowling is much less disturbing to wildfowl than other activities such as dog walking. Yet wildfowling is far more heavily regulated than the activities of other interest groups on the foreshore.

Part of Natural England's remit is to help address public health and well-being, under its Science and Advisory Committee Terms of Reference. Natural England should be encouraging more people to go wildfowling which is an enjoyable, accessible and inclusive sport that promotes personal wellbeing, encourages physical activity and enables engagement with the natural environment. A national survey of shooters showed:

- 95% reported that shooting is important to their personal wellbeing
- 91% would spend less time outdoors if they could not shoot
- 88% said shooting gives them moderate to high-intensity exercise
- 77% said their social life would suffer without shooting
- 71% would do less physical activity without shooting
- The average number of friends made through shooting is 20

In addition, shooting can be viewed as a form of 'ecotherapy', which has various wellbeing benefits including relaxation and 'getting away from it all'. Estimates from data in England suggest that the physical activity involved in shooting helps to prevent around 106 deaths a year and 10,000 cases of life-limiting disease.

For more information on how shooting (including wildfowling) improves personal wellbeing, see here: <https://basc.org.uk/the-personal-value-of-shooting/>

Looking at costing/finance, it should be recognised by the Natural England Board Innovation Group (BIG) that wildfowling pay their own way in helping Natural England achieve a "good condition rating for estuaries and coast".

By further restricting wildfowling, as proposed in this consultation, Natural England would be negatively impacting wildfowling clubs who voluntarily invest time and money in managing the very areas Natural England needs to retain "good condition" status on.

Linking long term site management plans to bird abundance and / or bag return figures Q13-17

The aim is for some management plans to be longer term where, in the case of a European site, it is meeting its Conservation Objectives (see fact bank); or, in terms of a SSSI, it is in favourable condition (see fact bank), at the commencement of the management plan.

However, it is important to note that the duration of the longer term plans will be dictated by the specific site details. If a site is not meeting its Conservation Objectives or is in unfavourable condition, a plan including positive management can be put in place but it will be for a shorter period.

To safeguard the interest features of the site and to meet the legal requirements under the Habitat Regulations, any longer term plan would need to be based upon an approach which was capable of taking into account new evidence of bird numbers, as these became available, or the condition of the site if this changed. This approach could be based upon bird population abundance at the site scale with the agreement set at a certain level in relation to this total. Consent would be given for wildfowling within the plan up to this level and no further. Sector level trends would need to be considered in the review process to ensure distribution across the site is factored into the consideration.

The population figures would be taken from already published sources, thus making the assessment process transparent, and could be monitored using a five year rolling average peak count figure. NE advisors would work with wildfowling clubs so that the analysis of averages was clear and fully understood. The monitoring would be formally undertaken on a five year basis. Additional monitoring work would better inform our understanding of bird populations and site condition, thereby adding greater detail and understanding to the analysis. Indeed it is hoped that this approach would encourage more monitoring work and site awareness.

Q13. Do you support the proposal of the validity of long term plans being linked to bird abundance figures at a site level combined with consideration of sector level trends to safeguard the integrity of the site?

BASC answer: No

BASC strongly objects to site and sector level bird abundance figures being used in isolation to determine the validity of long term plans for the following reasons:

- Site level bird abundance is highly variable and influenced by natural and other factors which occur on a scale wider than site level;
- Site level bird abundance is not always reflective of national or flyway bird population trends;
- There is no evidence that site level bird abundance is influenced by direct take;
- There is not enough robust data with which to measure bird abundance;
- This is not an evidence based, targeted or proportionate proposal.

Natural England's own guidance document on assessing and responding to wildfowling notices on SSSIs and European sites states: "There is evidence that wintering waterbird population trends (numbers and distribution) can be influenced by wider, non-site based factors, for some species on some sites. For example, it is accepted and documented in peer-reviewed literature that some wintering waders and geese are undergoing northerly and/or easterly range shifts to their wintering areas; sometimes referred to as 'short-stopping' (Maclean *et al.* 2008).

There are also changes occurring to breeding productivity and output for some of 'our' wintering waterbirds that breed in Arctic areas, thought to be related at least in part, to climate change. This can also influence the numbers of birds passing through and wintering on our wetland SSSIs and SPAs. These off-site, wider influences can be reflected in changing trends for those species thought to be affected." It should be noted that it is very likely that most biologically similar species are undergoing similar shifts but that it is unlikely that there will be a scientific paper produced demonstrating this for each individual species due to factors including publication bias and data availability.

Migratory wildfowl populations on any one site are transient and dependent on various factors. One such factor is site condition. If conditions alter (e.g. loss or reduction of *Zostera marina* beds) the wildfowl population will change. Another factor is climate change and short-stopping, illustrated by European White-fronted goose numbers on the Severn estuary. The global population of this species is increasing while in the Severn overwintering numbers are falling. Population changes can also occur at the flyway level. Equally, inter-annual fluctuations in weather conditions can result in significant changes in how birds use sectors, sites, and even the UK as a whole.

Any monitoring scheme should be able to identify long-term population trends and distinguish between these and short-term fluctuations – for example those that result from natural yearly variations in breeding success and mortality (Davey *et al.* 2010).

In light of all of the above, there is no evidence that linking bird abundance figures at a site level, even when combined with sector level trends, will benefit bird populations. It is important to avoid unnecessary restrictions on wildfowling activity which have no basis in evidence.

We do not consider that there is currently sufficient data to support the proposed approach. The Wetland Bird Survey data represents a synchronised count of the birds visible at high tide roosts and, although it may approach a census for some species on some sites, the data is best interpreted as a trend.

BASC recognises the value of WeBS data, however its accuracy is variable. According to the WeBS core count methodology document (https://www.bto.org/sites/default/files/02_-_core_count.pdf), the best case scenario in terms of count accuracy for individual sites is 'OK', which means reasonably accurate. Count accuracy can also be marked as 'Low', for example due to poor visibility. Birds flying overhead are excluded and double counting is possible although steps are taken to reduce this. Being a WeBS counter does not require expertise in bird identification, so mis-identification may also occur.

The June 2017 WeBS methods presentation notes that "because the same sites are not necessarily covered by WeBS on every month in every year, relative changes in waterbird numbers cannot be determined simply by comparing the total number of birds counted each year". Furthermore there is difficulty in assessing changing site trends because: "It should also be borne in mind that whilst discrete wetlands may represent obvious sites for waterbirds, there is no strict definition of a site as an ecological unit for birds. Thus, some wetlands may satisfy all requirements - feeding, loafing and roosting areas - for some species, but a 'site' for other species may comprise a variety of disparate areas, not all of which are counted for WeBS" (https://www.bto.org/sites/default/files/webs_methods.pdf)

We do not consider sector level trends to be sufficiently robust to inform management decisions. Furthermore, we have repeatedly seen sector level trends interpreted very narrowly with no consideration for changes in site-level habitat (such as reed encroachment, or accretion) or use (including regulated and unregulated activities). Furthermore there is often only, an at best, shallow attempt to rationalise site declines to national trends and established drivers of decline or redistribution. International flyway factors also need to be considered.

These proposals assume a causal link between wildfowling activity and bird trends, with no supporting evidence and no consideration of proportionality. For example, BASC's PhD on Poole Harbour found that wildfowling accounted for only 0.038% of all disturbing activities, and that even an increase in wildfowling levels of 25 times would not impact on bird survival. The level of wildfowling activity on Poole Harbour equates to 0.1 visit per day per km² of foreshore, and modelling predicts that even at a level of 2.5 visits per day per km² of foreshore there would be no impact.

Therefore, this proposal would effectively seek to use bird trends to control an activity, when there is no evidence that the activity being controlled has any influence on bird trends. Under these proposals, the historic drop in the numbers of Scaup in the Firth of Forth might lead to an enforced reduction in wildfowling activity – yet that decline was completely unrelated to wildfowling, and was actually due to an improvement in sewage disposal. In addition, WeBS trends have shown a steady increase in duck and geese species until relatively recent years. During the period of increasing bird trends, wildfowling activity remained at roughly the same level and, in some cases, was higher than current levels.

Linking the validity of long term plans with bird abundance is clearly a proposal which is not supported by evidence, and would lead to the misdirection of effort, time and resources. In addition, wildfowlers would be penalised for matters completely outside of their control (e.g. sector or flyway level bird trends).

This proposal would actively contravene Natural England's General Purpose under Section 2(d) and 2(e) of the Natural Environment and Rural Communities Act 2006 – by discouraging open-air recreation, restricting access to the countryside and open spaces, and failing to contribute to social and economic wellbeing through management of the natural environment.

This additional burden on wildfowlers to provide more monitoring data is contrary to the Regulators' Code, specifically point 1.1: "Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity."

In addition, Natural England has not specified how it proposes to deal with scenarios where sectors exhibit local increases in one waterfowl species and local decreases in other waterfowl species. Limiting wildfowling activity on the basis of a decrease in one species in such scenarios would require an evidence-based strategy, requiring additional research, consultation and resource commitment prior to implementation. A lack of an evidence-based strategy for such scenarios would risk a lack of consistency and transparency in decision-making and, in so doing, would place Natural England in contravention of the Regulators' Code.

Although BASC strongly objects to the sole determinants of long term plan validity being site and sector level bird abundance, we propose a solution which takes into account bird population trends.

We acknowledge that site and sector level bird population trends could be incorporated into decision-making as part of the wider picture, as long as they are considered proportionately and in combination with all other relevant aspects of the site management plans. First and foremost, the overriding consideration during the consenting process should be the site management plan as a whole.

This plan should include, as one of many other considerations, bird population trend data at three levels which should be considered equally:

- **Site** level bird population trends (including sector level trends)
- **Country** level bird population trends
- **Flyway** level bird population trends

This is important to avoid unnecessary restrictions on wildfowling activity which have no basis in evidence. For example, a declining bird population trend at a site should not warrant restrictions in wildfowling activity if the country level, or flyway level, population of that species is stable or increasing.

In addition, in the event of an individual species demonstrating a decreasing trend, there is no evidence to suggest that this can be attributed to wildfowling activity. It is important to avoid unnecessary restrictions on wildfowling activity which have no basis in evidence.

In addition, when assessing a site's integrity, Natural England must include assessment of the entire site rather than select areas within a site. Assessing only the areas where wildfowling activity takes place within a site (e.g. at single sector level), is misleading – for example, habitat management occurs over a wider area, just as bird populations are transient across multiple sites and sectors within sites.

Natural England should redirect its efforts to tackling the priority risks on protected sites. The introduction of targeted by-laws aimed at reducing disturbance from walkers (with or without dogs) would be a proportionate step towards safeguarding the integrity of these sites.

BASC is opposed to consents of <5 years as this does not allow sufficient time for a robust assessment of bird trends. In line with BTO methodology, we would suggest that a minimum of 10 years of trend data is required to determine a trend (see [BTO Wetland Bird Survey analysis and interpretation document](#) page 18: "For the most abundant waterbirds 25-year and 10-year population trends are published.")

Q14. Do you agree with the baseline being measured from the commencement of the plan if the site is currently meeting its Conservation Objectives or is in favourable condition?

In order to have a threshold against which population abundance can be measured there needs to be a baseline. It is proposed that, if a site is meeting its Conservation Objectives, as detailed in the Supplementary Advice for the site, or is in favourable condition, that the baseline for this purpose is from when the plan is put in place. If a site is not meeting its Conservation Objectives, or is in unfavourable condition, at the commencement of the plan, the baseline would be taken from the numbers at the time of notification (where possible).

BASC answer: No

Please see BASC's answer to question 13 for a full discussion of why linking bird abundance at a site or sector level to wildfowling activity is unwise, unacceptable, and against both the principles of better regulation and the requirements of the Regulators' Code.

BASC would like to remind Natural England that wildfowling has embraced positive management for generations. The first recorded subsistence activity of wildfowling was recorded in 1614. The principle reason that WAGBI was founded in 1908 was to safeguard wildfowling, wildfowl and their habitat.

Creating a baseline in any single year is highly unreliable as populations fluctuate, both on site and in-sector. A baseline is only a 'snapshot in time' which may not reflect species abundance throughout the seasons. For example, in Lindisfarne, wigeon numbers rise above 16,000 in November but drop to 300 in January. This high degree of variability means that any baseline is not going to be robust.

Migratory wildfowl populations on any one site are transient and dependent on various factors. One such factor is site condition. If conditions alter (e.g. loss or reduction of *Zostera marina* beds) the wildfowl population will change. Another factor is climate change and short-stopping, illustrated by European White-fronted goose numbers on the Severn estuary. The global population of this species is increasing while in the Severn overwintering numbers are falling. Reducing wildfowling activity on a particular site in such scenarios has no demonstrable benefit in terms of safeguarding site integrity.

Q15. Do you agree with the baseline being measured from the figures at the time of notification for a site that is not meeting its Conservation Objectives or is in unfavourable condition?

BASC answer: No

Please see BASC's answer to question 13 for a full discussion of why linking bird abundance at a site or sector level to wildfowling activity is unwise, unacceptable, and against both the principles of better regulation and the requirements of the Regulators' Code.

BASC would like to remind Natural England that wildfowling has embraced positive management for generations. The first recorded subsistence activity of wildfowling was recorded in 1614. The principle reason that WAGBI was founded in 1908 was to safeguard wildfowling, wildfowl and their habitat.

Creating a baseline in any single year is highly unreliable as populations fluctuate, both on site and in-sector. A baseline is only a 'snapshot in time' which may not reflect species abundance throughout the seasons. For example, in Lindisfarne, Wigeon numbers rise above 16,000 in November but drop to 300 in January. This high degree of variability means that any baseline is not going to be robust.

Migratory wildfowl populations on any one site are transient and dependent on various factors. One such factor is site condition. If conditions alter (e.g. loss or reduction of *Zostera marina* beds) the wildfowl population will change. Another factor is climate change and short-stopping, illustrated by European White-fronted goose numbers on the Severn estuary. The global population of this species is increasing while in the Severn overwintering numbers are falling. Reducing wildfowling activity on a particular site in such scenarios has no demonstrable benefit in terms of safeguarding site integrity.

Q16. Would you support the linking of long term management plans to wildfowling bag return figures?

BASC answer: No

There is no established evidence that link bag returns and negative population trends.

Natural England's own guidance states that when wildfowling is conducted sustainably "direct removal of birds from the population through wildfowling should not be a nature conservation issue". Given that it is Natural England's responsibility to ensure wildfowling is carried out sustainably it is evident that the current level of direct mortality must be sustainable, or Natural England would be failing in their duties.

Direct take has always been agreed to be highly unlikely to impact on the conservation status of populations, and so in consequence has never been included in the consents process. Its inclusion now is disproportionate and does not appear to be evidence based. There is no evidence to suggest that as wildfowling bags increase, population trends decrease.

BASC has run an initial assessment in this area by overlaying bag data from the last nine years with population trends for various migratory quarry species (in England, Wales and Northern Ireland). There is no established evidence that link bag returns and negative population trends.

Wildfowling activity varies from year to year in relation to natural conditions including weather and tides, and human factors – for example, a club may have fewer members one year, leading to lower activity levels, and more members next year, leading to more activity. There is also the additional factor of luck (and skill) in being at the right place at the right time. Changes in all of the above will be reflected in bag returns, therefore linking the long term management plans to bag returns is unfeasible.

There is no statutory requirement to supply bag returns to any Government agency. In order to create a policy intervention to this effect, proposals would need to follow the Regulators' Code, principles of good regulation, and be based on evidence.

Q17. Two options for long term management plans have been set out; bird abundance figures and bag return figures. Do you have alternative suggestions as to what could be used to ensure that the legal requirements of the Habitat Regulations are met within the long term management plans and the integrity of the site is protected?

BASC comments.

BASC would like to clarify that it has interpreted the "long term management plan" referred to in this question as the "site management plan" proposed in the consultation.

Although BASC strongly objects to the sole determinants of long term plan validity being site and sector level bird abundance (see our answer to question 13 for a full discussion), we propose a solution which takes into account bird population trends.

We acknowledge that site and sector level bird population trends could be incorporated into decision-making as part of the wider picture, as long as they are considered proportionately and in combination with all other relevant aspects of the site and the site management plan.

First and foremost, the overriding consideration during the consenting process should be the site management plan as a whole.

This plan should include, as one of many other considerations, bird population trend data at three levels which should be considered equally:

- **Site** level bird population trends (including sector level trends)
- **Country** level bird population trends
- **Flyway** level bird population trends

This is important to avoid unnecessary restrictions on wildfowling activity which have no basis in evidence. For example, a declining bird population trend at a site should not warrant restrictions in wildfowling activity if the country level, or flyway level, population of that species is stable or increasing.

In addition, in the event of an individual species demonstrating a decreasing trend, there is no evidence to suggest that this can be attributed to wildfowling activity. It is important to avoid unnecessary restrictions on wildfowling activity which have no basis in evidence.

In addition, when assessing a site's integrity, Natural England must include assessment of the entire site rather than select areas within a site. Assessing only the areas where wildfowling activity takes place within a site (e.g. at single sector level), is misleading – for example, habitat management occurs over a wider area, just as bird populations are transient across multiple sites and sectors within sites.

BASC is opposed to consents of <5 years as this does not allow sufficient time for a robust assessment of bird trends. In line with BTO methodology, we would suggest that a minimum of 10 years is required to determine a trend (see BTO Wetland Bird Survey analysis and interpretation document page 18: "For the most abundant waterbirds 25-year and 10-year population trends are published.")

We believe that the current, and the proposed new system, are disproportionate as they do not consider the impacts of other "in combination" activities. A new approach should include a more structured review of the level of wildfowling, relative to the other recreational activities to ensure that any proposed action is proportionate and targeted. For example, in order to enhance or maintain a site the most appropriate regulatory tool may be byelaws or Special Nature Conservation Orders (SNCOs) restricting other recreational users.

Studies by numerous specialists, including many studies by Footprint Ecology and the recent BASC/Bournemouth University PhD, have all shown that wildfowling is only responsible for a very small proportion of the total recreational and industrial disturbance on an estuary. Across many of the estuarine systems studied walking (with or without a dog) has consistently been found to account for in excess of 80% of the total recreational disturbance, yet little or no attempt is made to regulate this activity, nor any of the other common recreational activities including kayaking and kite surfing. Other extractive activities including bait digging and angling are also often unregulated or very lightly regulated. This means that although wildfowling is considered "in combination", Natural England fails to consider that wildfowling generally accounts for, at most, a few percent of the total disturbance.

Natural England acts disproportionately when it seeks to restrict a minority activity due to perceived difficulties in regulating other, more widespread, and potentially more damaging activities such as dog walking.

Natural England is empowered by The Conservation of Habitats and Species Regulations 2010 under Section 25 to make Special Nature Conservation Orders (SNCOs). Currently there are 14 SNCOs, but no new ones have been made in the last 16 years. Natural England should be working with local authorities to introduce voluntary low disturbance zones and, if these are found not to work, to begin introducing SNCOs to help safeguard sites.

Additionally, Section 30 of The Conservation of Habitats and Species Regulations 2010 allows for the introduction of byelaws to protect European sites. With regards to recreational disturbance, Section 30(3)(a) is especially important as it empowers the “appropriate nature conservation body” to “[prohibit or restrict] the entry into, or movement within, the site of persons, vehicles, boats or animals.”

We believe that where there is evidence of declining bird trends across a site that the appropriate assessment should identify which activities are most likely to be impacting the populations, and to what extent. A proportionate response should then be proposed that targets the most harmful activities, rather than penalising minority activities that happen to be occurring on the same site. It is understood that the alternative options for regulating recreational activities (under Section 25 or Section 30) are relatively onerous. However, by freeing up Natural England staff's time - which is currently dedicated to over-regulating wildfowling - staff will have more time to address the root causes of issues and allow Natural England to maintain or enhance the condition of the site.

Waterbird population trends – Q18-22

Published population trends of non-breeding waterbirds in the UK (Frost et al. 2017) show that some species of waterbird are decreasing, including some quarry species e.g. pintail, mallard and, more recently wigeon.

Natural England has knowledge around the published evidence relating to non-breeding waterbird declines in the UK, for example that might be occurring as a result of warmer winters leading to shifts in waterbird distribution or where there are concerns around productivity on Arctic breeding grounds. We are also interested to hear the views of partners, clubs and individuals or of any new or emerging evidence that we may not be aware of.

Q18. What are your views on these waterbird population declines?

BASC comments.

A number of key quarry species are showing worrying declines across the flyway. This includes Pochard, Mallard, Pintail and Wigeon. BASC has been involved in a number of these discussions through AEWA, and international conferences and specialist groups such as the Pan-European Duck Symposium and the Sustainable Waterbird Harvest Specialist Group. It is clear that these trends are being driven primarily by factors on the breeding grounds and that hunting is not responsible.

BASC is aware of the concerns and has committed significant resource to addressing the reasons behind them, including co-funding two PhD students, restarting a national wing collection scheme to gather data on sex and age ratios in the national bag, working through the Wildlife and Habitat (Charitable) Trust to improve conditions on the breeding grounds in eastern Europe and working with the Wildfowl & Wetlands Trust to understand the spread of sarcocystis in dabbling ducks.

Natural England's own guidance document on assessing and responding to wildfowling notices on SSSIs and European sites states: "There is evidence that wintering waterbird population trends (numbers and distribution) can be influenced by wider, non-site based factors, for some species on some sites. For example, it is accepted and documented in peer-reviewed literature that some wintering waders and geese are undergoing northerly and/or easterly range shifts to their wintering areas; sometimes referred to as 'short-stopping' (Maclean et al. 2008). There are also changes occurring to breeding productivity and output for some of 'our' wintering waterbirds that breed in Arctic areas, thought to be related at least in part, to climate change. This can also influence the numbers of birds passing through and wintering on our wetland SSSIs and SPAs. These off-site, wider influences can be reflected in changing trends for those species thought to be affected."

Migratory wildfowl populations on any one site are transient and dependent on various factors. One such factor is site condition. If conditions alter (e.g. loss or reduction of *Zostera marina* beds) the wildfowl population will change. Another factor is climate change and short-stopping, illustrated by European White-fronted goose numbers on the Severn Estuary. The global population of this species is increasing while in the Severn overwintering numbers are falling. Population changes can also occur at the flyway level.

Q19. Are you aware of any new or emerging evidence or research in this area?

BASC comments.

BASC is working with the WWT to monitor the spread of sarcocystosis. This appears to be an emerging disease of dabbling ducks, predominantly Wigeon. There is anecdotal evidence that this disease is leading to declines in breeding productivity.

There are significant issues on the breeding grounds including predation by red fox and raccoon dog (note that Finland is now culling >100,000 raccoon dogs each year, and growing), competition with introduced carp and degradation of the habitat.

Research published this year:

- For Pochard, nest survival seems to depend most on female quality, including timing of nesting, and to variables affecting predation risk (Folliot *et al.* 2017).
- Greylag geese have exhibited a long-term decrease in migration distance, changes in wintering range caused by short stopping, and earlier arrival on breeding grounds (Podhrázký *et al.* 2017).
- Population size changes influence local abundance in wintering waterbirds (Mendez *et al.* 2017).

Research published last year:

- White-fronted geese numbers are affected by climate factors such as snowfall and mean 10-day temperature. Neither of these factors affected Greylag geese, which migrate over shorter distances than White-fronts (Polakowski & Kasprzykowski 2016).
- Declining populations of some waterfowl species are linked to over-eutrophication of wetland ecosystems (Lehikoinen *et al.* 2016).

Q20. What role do you consider wildfowling clubs, their members, and other partners, could play in terms of safeguarding bird populations in the future?

BASC comments.

Wildfowling is a low-intensity activity. Due to its seasonal nature, wildfowling activity takes place on sites for a few months of the year and, within those months it does not take place every day. In comparison, other more high impact and high-disturbance activities (such as dog walking), take place year-round and are encouraged by Natural England.

BASC would like to remind Natural England that wildfowling has embraced positive management for generations. The first recorded subsistence activity of wildfowling was recorded in 1614. The principle reason that WAGBI was founded in 1908 was to safeguard wildfowling, wildfowl and their habitat.

BASC takes issue with Natural England requesting such information when Natural England has been engaged with consenting case work with clubs for a considerable number of years and therefore has a full knowledge of the positive management work that clubs undertake.

The partnership agreement between BASC and Natural England clearly outlines the importance of shooting to the health of the countryside, in particular: *“Natural England acknowledges the place of field sports, practised within the law, in a shared countryside and recognises the particular value of a diverse and attractive environment to those who participate in those sports.”*

In addition, the plan notes BASC’s contribution to the delivery of Biodiversity 2020 outcomes: “The Green Shoots programme provides an excellent foundation on which to develop opportunities for BASC members to contribute to monitoring and conserving habitats and species as part of the Governments Biodiversity 2020 programme. Natural England will assist BASC staff through advice and other appropriate means in the continuing development of its conservation programme. Where appropriate, Natural England will liaise with BASC staff on matters relating to shooting management and its successful integration with nature conservation needs.”

Wildfowling has been managing estuaries prior to the introduction of many of the national and international designations required today.

Positive management by clubs is evident in the management plans required for Crown Estate leases, and includes:

- predator control
- monitoring of quarry and non-quarry species
- collation of bag records which reflect the level of birds on the site
- wardening to prevent trespass and report unregulated activity to relevant authorities
- pest control; volunteer work including conservation; land management
- promotion of responsible behaviour to members through education and wildfowling club disciplinary mechanisms
- habitat work (consented where appropriate)
- litter picking
- wing surveys (as part of a national programme)
- avian influenza monitoring
- sarcocystis monitoring
- adherence to wildfowling severe weather protocols
- financial support for the BASC Wildlife Habitat Trust charity which contributes to the national and international protection of wildlife habitat
- involvement in specific local wildlife projects
- involvement with or cooperation with local WeBS counts
- involvement with local estuary management groups
- lobbying against developments that would be detrimental to wildfowl habitats
- establishment of specific wildfowl sanctuaries (for example the Wyre-Lune sanctuary near Cockerham, Morecambe Bay).

Positive management by BASC, and its clubs through affiliation, includes:

- funding through the Wildlife Habitat Trust to protect key habitats including those abroad to improve breeding areas. The Trust has lent £1.5 million to BASC affiliated clubs and syndicates, enabling the purchase of 895 acres of land for shooting and conservation purposes
- engagement with Natural England and government on key environmental issues, both at a local and national level
- organising the annual national wildfowling conference, where Natural England has regularly given presentations

- promotion of wildfowling visit programmes
- collation of bag returns data on Crown Estate foreshore
- funding research projects
- coordinating avian influenza monitoring
- coordinating sarcocystis monitoring
- management of severe weather wildfowling protocol
- involvement in discussions regarding waterbird population declines at flyway level as outlined in BASC's answer to Question 18.

Wardening by individual wildfowling clubs could, in a voluntary capacity, and only where wildfowling clubs have the resources, be expanded to help Natural England monitor compliance with voluntary disturbance-free zones, bye-laws and Special Nature Conservation Orders (SNCOs).

Q21. Do you think the Likely Significant Effect step by step guide is helpful?

BASC answer: No

This guide is essentially the same as the existing guidance. Any decline of any species or assemblage at any level (site or sector) results in the activity being classified as having a Likely Significant Effect (LSE). It seems highly unlikely that any estuary will not have at least one designated species in decline at either the site or sector level. The guide therefore is not actually assessing the likely impact of wildfowling, as there is no consideration of the actual level of wildfowling activity. Overall this approach will create additional, unnecessary work for wildfowling clubs and Natural England advisers without providing any benefit to the site features.

The guide fails to account for the temporal distribution of wildfowling activities. The level of wildfowling activity is generally so low that there are significant ad hoc rest periods anyway due to the infrequent nature of the sport. Analysis of the Crown Estate data shows that the average wildfowling visits per day per km² of foreshore is just 0.3, meaning that on average for each day that there is a visit (which typically last around 3 hours out of a 24 hour cycle) there are two days without any wildfowling. Wildfowling activity therefore accounts for 3 hours out of 72 hours per km² therefore providing ample temporal refuge.

When considering Likely Significant Effect, there is often focus only on the shooting element of wildfowling, rather than the associated benefits outlined in our answer to question 12. In addition, no guidance is given on how to assess the actual levels of wildfowling and so this guide fails to be "*reflective of the impact and nature of wildfowling*". For example, an increase in wildfowling visits could be an increase from 100 to 101. It also does not consider what the density of wildfowling visits is likely to be across the total area of the site. Evidence has shown that wildfowling density ranges from 0.0016 to 5.3 visits per day per km² of foreshore. Clearly there needs to be some consideration of this massive difference in level of activity for Natural England to satisfy the requirements of the Principles of Good Regulation, especially that regulations should be targeted and proportionate.

This guide fails to meet the Regulators' Code for a number of reasons:

1. Requests for more information from wildfowling clubs results in substantial costs to individual club administrators and the clubs themselves, meaning there are very high costs of complying with the disproportionate, inconsistent and untargeted regulations.
2. Regulators should provide an "impartial and clearly explained route to appeal against a regulatory decision". No such route has been identified

3. "Regulators should take an evidence based approach to determining the priority risks in their areas of responsibility, and should allocate resources where they would be most effective in addressing those priority risks". The level of risk associated with wildfowling is generally very low, yet this guide sets the acceptable level of risk so low that no club could conceivably meet it. This will result in a disproportionate amount of time being spent regulating an activity causing an insignificant proportion of the disturbance across an estuary. And worse, it will take resources away from tackling truly harmful activities.

In applying overly bureaucratic, disproportionate and untargeted regulation this guide also fails to meet the Growth Duty under section 108 of the Deregulation Act 2015. This over-burdensome approach to wildfowling is resulting in the restriction of lawful, traditional wildfowling activities and in consequence Natural England are suppressing the economic growth of the individual clubs and the sport.

Finally, the combined failures under the Regulators' Code and the Deregulation Act mean that Natural England is acting contrary to its General Purpose (section 2(2) of the Natural Environment and Rural Communities Act 2006), namely:

(d) promoting access to the countryside and open spaces and encouraging open-air recreation, and

(e) contributing in other ways to social and economic well-being through management of the natural environment.

BASC recommends that Site Management Plans as agreed between Natural England and wildfowling (see response to question 11), would function as effective, site-specific, Likely Significant Effect guides in themselves, negating the need for a separate overarching guide. The production of a separate guide would therefore be a duplication of effort, and a waste of time and resources.

Q22. Do you think the Appropriate Assessment step by step guide is helpful?

BASC answer: No

Direct take has always been agreed to be highly unlikely to impact on the conservation status of populations, and so in consequence has never been included in the consents process. Its inclusion now is disproportionate and does not appear to be evidence based. Please see our answer to question 16 for a full discussion.

Furthermore, the approach taken to direct mortality is unworkable. The recorded survival percentages already include the direct take from hunting across the flyway as hunting pre-dates any attempts at quantifying these life history characteristics. Therefore, attempting to restrict the English bag to an additional 1% of natural mortality is nonsensical as it has to be assumed that the English contribution has exceeded that for as long as there have been records.

This can be seen from the national bag returns data. Teal have an annual survival rate of 53%, resulting in an allowable direct take percentage of 0.47%. Based on a UK population of 220,000 this equals an allowable take of just 1,034 birds, compared with an actual annual bag of almost 22,000. Similarly, at a site level, for a site with 5,000 Teal there would be an annual allowable bag of just 24 birds, despite an ongoing increase in national trends for this species.

With regards to disturbance, requiring the site or sector to hold less than 1% of the SPA population before accepting no Adverse Effects on Integrity of the Site (AEOI) effectively means almost no sites will pass through the appropriate assessment with a conclusion of no AEOI. It has to be questioned whether Natural England have benchmarked even a selection of wildfowling sites to assess the suitability of these criteria and the extent to which they will place an additional burden on both the wildfowling clubs and Natural England staff. This clearly breaches Natural England's obligations under the Regulators' Code and the Growth Duty.

Data for assessments: sharing club information – Q23-24

In order to make the assessment process for wildfowling as evidence based and efficient, Natural England requests that as much information as possible is included with the notice proposal.

This includes information such as:

- detailed maps*
- clear indication of any areas that are managed as refuges*
- historic bag returns divided up by species*
- numbers of club members*
- specific club rules on activity duration*
- level of activity, historic and proposed*
- access points*

This information would be used specifically to inform the assessment process and would not be used for any other purpose without prior permission.

Q23. Would you support the sharing of all the listed information with Natural England?

BASC answer: Maybe

Please see BASC's answer to Question 11 for a full discussion.

BASC understands the information to be contained within the consent notice as detailed in the above commentary is proposed to be incorporated within the site management plans.

BASC supports the proposal of site management plans, as long as the following criteria from our response to question 11 are met:

1. Such plans must be voluntary for clubs, not mandatory.
2. Wildfowling clubs hold responsibility for producing site management plans to then be agreed with Natural England
3. Wildfowling clubs bear no costs for the production of these plans.

BASC does object to the inclusion of numbers of club members. We would point out that the number of club members will be irrelevant in cases where clubs have landholdings over multiple sites. There are examples of a club with over 100 members managing a site visited by just 2 of those members. Furthermore, analysis of the bag returns shows only around half of club members visit the marsh and, of these, most only visit once.

The Growth Duty requires Natural England to have knowledge of how its regulatory activities result in direct and indirect economic impacts to those being regulated and that regulators be transparent in providing assessments of the impacts of new regulations on the community of those being regulated. No such assessment has been made here. Furthermore, it requires that *“the regulator takes steps to minimise and streamline data that is required”*.

Under the Regulators’ Code, regulators should “understand and minimise the negative economic impacts of their regulatory impacts” and “choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity”. The requested data places a disproportionate and untargeted burden on wildfowling clubs, specifically the individuals that voluntarily administer the clubs for the community benefit.

Q23.1 If you do not want particular information shared, if possible, please provide an alternative way of assessing that aspect of the activity.

BASC comment.

There is little correlation between the size of a club’s membership and the number of members that use particular sites. There is no evidence that the number of people using a site has any impact on the conservation status of that site.

Q23.2 Also provide details of any additional information that you believe could be provided that would be useful to the assessment process.

No BASC comment.

Q24. Do you consider it would be useful for information to be collected on wider bird activity during wildfowling visits to get a better understanding of how birds use particular sites?

BASC answer: Maybe

Bearing in mind the voluntary nature of clubs and the requirements of the Regulators’ Code, this could be done on a voluntary basis by those clubs with the capacity and expertise, and who are willing to share their information with Natural England. BASC already collects species information recorded by members in its Green Shoots Mapping software, and when members give permission this information is shared with the National Biodiversity Network.

Data for assessments: visit numbers – Q25

Over the past two years, the concept of visit numbers being provided over a longer period rather than on an annual basis has been trialled with various clubs. This means there is a set level of activity based on historical data for the whole period of the consent, for example 5 or 10 years, so that clubs have flexibility on a year by year basis depending on weather, membership and bird numbers.

Q25. Do you support the use of visit numbers over a longer period to allow clubs greater flexibility?

BASC answer: No

BASC fundamentally opposes restrictions to visit numbers as part of the consenting process and many clubs would be likely to have grave concerns about this limitation. Data on visit numbers can be collected from bag returns already, but should not form a required part of the consenting process. There is no reason given by Natural England for the proposal to limit visits over a time period; nor is the proposal evidence-based. This goes against both the principles of better regulation and the Regulators' Code.

Restrictions on visit frequency, or total seasonal visits, as imposed by Natural England in some recent consents, are unworkable. Such restrictions go against the Growth Duty, in addition to disincentivising land purchase and investment in conservation. Given the unsociable hours that most wildfowling takes place, visit restrictions are unpoliceable except where a full-time warden is employed (as in Lindisfarne NNR). Thus placing restrictions such as this only serves to add to the friction between clubs and Natural England.

Wildfowling activity varies from year to year in relation to natural conditions including weather and tides, and human factors – for example, a club may have fewer members one year, leading to lower activity levels, and more members next year, leading to more activity. Individually, wildfowling visits may fluctuate due to other constraints including the amount of time they have available to pursue their sport. The degree of fluctuation may not be fully apparent over five years, but is likely to be more realistic when looking over a significantly longer period.

BASC recommends that Site Management Plans as agreed between Natural England and wildfowling clubs (see response to question 11), should function as an effective means of providing wildfowling clubs greater flexibility to pursue wildfowling over a longer period.

Data for assessments: use of direct mortality data – Q26

As previously stated in Natural England guidance, providing wildfowling is carried out in a sustainable manner, direct removal of birds from the population through wildfowling should not be a nature conservation issue.

However, on certain sites, concerns have been raised about the direct mortality figures in relation to particular species. Natural England is considering using bag return data, collected from a variety of sites, in order to gain information about what the sustainable removal of birds looks like, in general, across the country.

Natural England also proposes to use the most up-to-date published national population trend data for quarry species (currently in Frost et al. 2017 <<https://app.bto.org/websreporting/>>). By using these sources of data and information, Natural England will be able to better consider a proposal on a site and reach a view about the sustainable removal of birds from the site population.

Q26. Would you support the use of direct mortality data to enable Natural England to make a proportionate response to activity levels across the country?

BASC answer: No

Direct take has always been agreed to be highly unlikely to impact on the conservation status of populations and so, in consequence has never been included in the consents process. Its inclusion now is disproportionate and does not appear to be evidence based.

Furthermore, the approach taken to direct mortality is unworkable. The recorded survival percentages already include the direct take from hunting across the flyway as hunting pre-dates any attempts at quantifying these life history characteristics. Therefore, attempting to restrict the English bag to an additional 1% of natural mortality is nonsensical as it has to be assumed that the English contribution has exceeded that for as long as there have been records due to the history of wildfowling in the UK (and across the flyway).

This can be seen from the national bag return data. Teal have an annual survival rate of 53%, resulting in an allowable direct take percentage of 0.47%. Based on a UK population of 220,000 this equals an allowable take of just 1,034 birds, compared with an actual annual bag of almost 22,000. Similarly, at a site level, for a site with 5,000 Teal there would be an annual allowable bag of just 24 birds – despite an ongoing increase in national trends for this species.

With regards to disturbance, requiring the site or sector to hold less than 1% of the SPA population before accepting no Adverse Effects on Integrity of the Site effectively means almost no sites will pass through the appropriate assessment with a conclusion of no AEOI. It has to be questioned whether Natural England have benchmarked even a selection of wildfowling sites to assess the suitability of these criteria and the extent to which they will place an additional burden on both the wildfowlers and Natural England staff. This clearly breaches Natural England's obligations under the Regulators' Code and the Growth Duty.

Data for assessments: compiling data across multiple sites – Q27

In the recent PhD part-funded by BASC, "Impact of human disturbance on coastal birds: Population consequences derived from behavioural response", work was started using individual-based modelling to investigate how site characteristics might influence the impacts of disturbance on non-breeding waders. The work suggested that knowledge about site characteristics might be useful for broadly identifying sites where disturbance issues could be a conservation issue.

27. Do you consider it would be useful to build up information on the environmental factors/characteristics across a range of sites?

For example, data could be collected on the potential for birds and people to overlap in both time and space, alternative feeding areas and habitat maps. This information could then be used to create a tool kit for assessing environmental factors on other sites.

BASC answer: Yes

No BASC comment.