

## A review of crow cage trap use and misuse in Scotland 1998-2004

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### Introduction

Crow cage traps are widely used in Scottish upland areas to control numbers of crows, *Corvus corone*, rooks, *C. frugilegus*, jackdaws, *C. monedula* and magpies, *Pica pica*. They have in recent decades become an increasingly common method of pest control by gamekeepers and some sheep farmers.

Crow cage traps can be grouped into three main types: funnel, ladder, and Larsen traps. All three are common in Scotland, but Larsen traps are not covered in this report.

Larsen traps (photo 1) are small portable traps with two to three compartments. Usually one larger compartment contains a decoy bird, and two smaller ones have spring doors that are tripped as target birds enter. The traps are typically about 1x1x0.5m high and made of steel mesh or chicken wire on a wooden frame.



Funnel and ladder traps are large walk-in traps usually built on site and seldom moved around.



Dimensions are about 3x3x2m high, and they are usually made of wire mesh attached to a wooden frame. Ladder traps (photo 2) have a trough-shaped roof with a slit or slits ('the ladder') at the bottom where target birds get in. Funnel traps (photo 3) have a wire mesh funnel set into a flat roof sometimes stretching down to close to the cage floor.

The Wildlife and Countryside Act (1981) makes it illegal to trap wild birds in Scotland and the UK, but Open General Licences issued annually by the government authorise the use of crow cage traps for catching certain species for certain purposes. In Scotland, three separate open general licences cover different purposes. These include protecting wild birds, preserving public health



and safety, and preventing damage to livestock, crops and fisheries (appendix 1). The licences do not remove the responsibility of trap operators with regard to the Wildlife and Countryside Act apart from allowing them to catch wild birds. Trap operators must comply with conditions stated in the licences as well as the Protection of Animals (Scotland) Act (1912) and the Abandonment of Animals Act (1960) where the welfare of caught birds and decoys is concerned.

The licence conditions are meant to allow the effective and humane control of named target species whilst minimising the risk to non-target species that can be caught accidentally. As of December 2004, trap operators must inspect their traps daily at intervals not exceeding 24 hours and remove any caught birds. Where traps are left in the open but are not in use, they 'must be rendered incapable of holding or catching birds'. Any decoy birds must be of the same species as the target, and must be provided with adequate food, water, shelter, and a perch at all times.

The conditions are straight-forward in principle, but in detail they are ambiguous. For example, there is no instruction as to *how* a trap might be rendered incapable of holding or catching birds. This is a problem in cases where dead birds are found in traps that are claimed to have been 'accidentally reset'. The three licences are also inconsistent because only one of them mentions the use of 'decoy' birds in crow cage traps.

RSPB Scotland has long been concerned over the ambiguous nature of the Scottish (and indeed UK) legislation and the risk that this poses to the survival and welfare of both non-target and target bird species. In 1996 the death of a young golden eagle in a crow cage trap triggered a review of the open general licences. At that point there were no conditions concerning the use and checking of crow traps – not even a requirement for 24 hour checking. RSPB records of alleged abuse and misuse of traps but also records of trapped birds as a whole were used to make an assessment of the risk to non-target species, and to make recommendations for legislative changes.

In 1998 Dave Dick and Andrew Stronach produced a paper, 'The use, abuse and misuse of crow cage traps in Scotland', on behalf of the Scottish Raptor Study Groups and RSPB. It was the first of its kind. This was followed by a government consultation on the open general licence conditions in 2000. Five years later we believe that there are some important points that have not yet been dealt with effectively, and which need urgent action.

This report examines the current situation, using up-to-date RSPB records of crow cage trap incidents, and reviews the case for further changes to licence conditions.

### **RSPB records**

Over a period of seven years (1998 to 2004 inclusive), RSPB received 407 reports regarding crow cage traps from members of the public and field workers. Many RSPB field workers' reports followed on from the 1997 study in the interests of maintaining up-to-date records of crow trap use. The majority of reports from the public involved live birds found caught in traps. Although including so many reports, from 17 of the 32 Scottish unitary authority areas, the sample will not be fully representative. The chances of a particular trap being included are biased by its physical situation, which determines the likelihood of a hill-walker or field-worker stumbling across it -. It is commonly acknowledged by the users of these traps that they are often unpopular with the general public and are therefore often placed in "concealed" folds of ground or remote parts of

an estate or farm. Although the apparent level of crow trap misuse cannot be multiplied across all of Scotland, these figures on their own make the case for an immediate change to the licences.

## **Results**

### **Distribution of crow traps:**

The locations of all crow traps reported to RSPB from 1998 to 2004 appear concentrated towards the south and east and tend to be associated with upland areas. No correlation tests were conducted because of the bias mentioned above.

### **Dead birds found in crow traps:**

25%(103) of 407 reports involved birds found in traps. 18 of these reports were unconfirmed<sup>1</sup> and have not been included in the analysis. A total of 186 birds were reported trapped, 74 of which (40%) were dead inside the traps. Of the dead birds, 72% were pest species (crows, rooks, jackdaws and pigeons) and 28% were protected species, including one merlin (schedule 1). In four cases birds were sent for post mortem analysis and were found to have died of starvation. These cases involved a buzzard, a sparrowhawk, three kestrels and a group of rooks and jackdaws.

### **Traps not in use**

17% of all reports recorded open crow traps (69 traps). 85% of these were secured open, 12% were open but not secured, and 3% (2 traps) had the doors partially open. Out of the 59 traps that were secured open, 81% had the doors tied open and 19% had either the door or the roof removed. Seven traps were found constructed without doors.

### **Non-target species:**

All non-target species are fully protected under the Wildlife and Countryside Act (1981), and some are given special protection if they are listed on Schedule 1. Of 186 birds found in crow cage traps over seven years, alive and dead, 78% were 'target' species, and 22% were 'non-target'. Table 1 shows a list of the 15 protected non-target species found trapped. 52% of them were dead. Only one or two examples of most species were found but notably 13 kestrels and 9 buzzards were reported. (Unconfirmed reports included 17 buzzards and 2 kestrels, as well as a golden eagle and a red kite, both on Schedule 1.)

Table 1. Bird species found in crow traps, alive and dead, 1998 –2004

<b>Protected species</b>	live	dead	total
merlin*		1	1
barn owl*	1		1
short eared owl		2	2
long eared owl		1	1
tawny owl		1	1
sparrowhawk		2	2
buzzard	6	3	9
kestrel	4	9	13
cuckoo	2		2
mallard	1		1
mistle thrush	2		2
black bird		1	1
starling	2		2
pie d wagtail	1		1
unknown passerine		1	1
	19	21	40
<b>Target species</b>			
pigeon	2		2
rook	26	8	34
jackdaw	3	7	10
carrion crow	40	21	61
corvid	22	17	39
	93	53	146
<b>Total</b>	<b>112</b>	<b>74</b>	<b>186</b>

\*schedule 1 species

<sup>1</sup> 'Unconfirmed' reports are those that came from persons of unknown expertise, which could not be verified.

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**Live 'decoy' birds:**

47 reports (12% of 407) involved one or more live target species found in traps. It is impossible to tell whether or not any of these birds were being used as 'decoys'. Of the 47 reports, 27 (57%) included detailed records of the presence or absence of food, water and shelter. Of 27 traps, 16 (59%) contained food, water and shelter. The remaining traps were missing at least one of these three requirements, and dead birds were found in four of them. Cases where live birds were found without adequate food, water and shelter were reported to the police.

Out of all the traps containing 'food' (26), many contained old, dried meat that could be described as 'inadequate'. The 'food' recorded was mostly in the form of dead lagomorphs (rabbit and hare), pheasants and deer. Dead foxes and grain were found in a few cases. Sheep and other livestock have been found in traps on several occasions, in contravention of the Animal By-Products Order (1999).

**Analysis + Discussion****Distribution of crow traps:**

Although our sample is not representative, as mentioned above a large proportion of reported traps are situated in upland areas. In our experience, crow cage traps are often associated with grouse moors, and it would be interesting to compare this distribution to land area managed for grouse shooting in Scotland.

**Dead birds found in crow traps:**

All three open general licences require that any birds caught in crow traps are removed at each daily inspection. This condition protects the welfare of both target and non-target species. Additional clauses requiring that traps are inspected sufficiently to establish the presence of birds, and that no more than 24 hours elapses between inspections, protect birds from remaining in the trap for longer than 24 hours.

These conditions do not allow for dead birds to be left in traps, whatever their cause of death. It is possible that a trapped bird could die of natural causes within 24 hours, but in cases where dead birds are found to be decomposing or skeletal, the licence conditions have clearly been broken. The records above show that despite the legislation, dead, and starved birds are still being found in crow traps. 40% of all birds reported in crow traps were dead, but consider that the real proportion may be larger because people are probably more likely to spot, approach and report a trap containing a live bird. The welfare of both target and non-target species is clearly not being protected effectively, and the problem must be one of lack of enforcement.

Enforcement of any of the open general licence conditions can be extremely difficult because there is often more than one 'authorised person' who could legitimately operate a particular trap. If this is the case, only a direct admission of responsibility by an individual will convict them of any offence being committed. This problem could be solved by recording the precise location of

each crow cage trap and licensing a specific individual to be responsible for its operation. (Alternatively an estate or farm could be the licensee and legally responsible for any abuse or misuse of the traps by their employees.) This system is already in use in France. This strategy would involve considerable bureaucracy, but the status quo is unacceptable.

#### **Traps not in use:**

Even if the trap operator does admit responsibility, a conviction may still not be possible. In cases where dead or dying birds have been found in traps, accused individuals have been known to claim that the trap was not in use at the time. The explanation is that it had been left open and 'someone else' must have come along and shut it without their knowledge, or that the wind might have blown the door to. Although these explanations are improbable, they are not impossible. The situation is not helped by the fact that there are no precise instructions in the licence on how to render a trap incapable of catching birds.

Of 69 traps found open between 1998 and 2004, 85% were secured open, either by tying the door back, or by removal of the door or roof. These traps had obviously been deliberately disabled, in compliance with licence conditions. However, 12% of open traps were found with the doors open but not secured. This is an unsatisfactory situation because it does not guarantee that the trap will remain incapable of catching birds. Two traps were also found with doors ajar. This could be the result of strong wind, given that crow traps are often used in exposed upland areas. Depending on the size of the gap between the door and the frame, these traps may still have been capable of catching and holding some species of bird, but would not be checked by the operators, who presumed that they were still open.

The ambiguity in the legislation leaves room for both accidental misuse of crow traps (traps that are not properly rendered incapable of catching birds), and deliberate neglect (not checking set crow traps whilst claiming that they were 'not in use'). This ambiguity could be amended with a requirement for the removal of the door from the trap location when the trap is not in use. This would aid both enforcement officers and legitimate trap users – the latter having no longer any reason to check supposedly "out of use" traps.

#### **Non-target species:**

The indiscriminate nature of crow cage traps means that there is always a risk of non-target species being caught. This was shown and discussed on a species-specific level in the 1997 study, and is again evident in the 1998 to 2004 records. Table 1 shows numbers of 15 non-target species caught in crow cage traps from 1998 to 2004. Half of them were found dead (see appendix 2 for examples). It is also worth repeating that many of these species are likely to die far more quickly than the target corvids due to their small size and specialist feeding or roosting requirements. At certain times of year this mortality will also include the starving or death by exposure of dependent young of the trapped birds. The risk to non-target species can also never be eliminated because the possibility remains for crow traps to be used as a deliberate tool in the persecution of non-target species in a manner that would be almost impossible to detect. At a time when the common buzzard in particular is unpopular on shooting estates (with calls for licences to cull them) it should not be surprising that people finding buzzards caught in traps might suspect that they are being deliberately targeted. Indeed the RSPB has received allegations of this kind of criminal activity.

### **Live 'decoy' birds:**

The three separate open general licences authorise the use of crow cage traps in Scotland for the following purposes.

SEGEN/09 : 'conserving wild birds'.

SEGEN/10: 'protecting any collection of wild birds' and 'preserving public health or public safety or air safety'.

SEGEN/22: 'preventing the spread of disease' and 'preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, fisheries and inland water'.

Only SEGEN/22 specifically mentions and permits the use of decoys. However, where crow cage traps are used on grouse moors, the only reasonable purposes are 'conserving wild birds', or 'protecting a collection of wild birds' as under SEGEN/09 and 10. Decoys are not mentioned in either of these.

In 2000, the Crown Office Policy Group examined the sections of the Wildlife and Countryside Act (1981) relevant to the use of decoy birds. The conclusion was that it is not unlawful to use decoys in crow traps under SEGEN09 and 10, provided that operators do not fall foul of section 5(1)d, which prohibits the use of tethered, blind, maimed or injured birds as decoys. Decoy birds would also have to be 'readily identifiable' to distinguish them from 'caught' birds that must be removed at each daily inspection. We are unaware of any such marking taking place – this was not recorded by any of the observers in the present study.

However it would be helpful, for the sake of consistency and clarity, if all three licences contained the same conditions regarding decoy birds so that trap users could be sure about what they are allowed to do. There should also be a condition requiring the marking of decoys to distinguish them from target birds. The most reasonable option here would probably be ringing, as clipping feathers could come under section 5(1)d of the Wildlife and Countryside Act.

The SEGEN22 requirement that decoy birds are the same species as target birds is reasonable and practical when applied to corvids. However, pigeons are a popular prey species for many birds of prey, and RSPB would argue that their use as decoys in crow traps significantly increases the risk to birds of prey. As well as this incidental risk, while pigeons remain legitimate decoy species it is possible to disguise their real use as live bait to deliberately target birds of prey (see record of recent prosecution, appendix 3).

It is worth noting that the Larsen Trap licences were only amended, by the removal of pigeons as one of the list of decoy species, after a failed court case against a gamekeeper in Northumberland in 1996 caused outrage. Why they were ever on the list for those traps, specifically designed and licensed for corvid trapping, remains a mystery.

Legitimate pest controllers, such as Rentokil, who commonly trap pigeons in or near food stores and other buildings, use single compartment small portable cage traps with "walk-in" entrances.

It would surely be a relatively simple matter to create a separate licence specifically for that type of trapping of pigeons.

### **Conclusion and Recommendations:**

RSPB records show that crow traps are being used widely across Scotland, mainly in upland areas. The majority of birds recorded as caught are target species, but 15 different protected species have also been found in traps in the last seven years. 74 birds were reported dead in traps, a small number of them were removed, analysed and confirmed as starved to death. Several of these were protected species.

Action must be taken to decrease the risk of death by starvation or exposure for all birds, and particularly to reduce the risk to non-target species. Licences must have clear, consistent conditions that are easy to follow and, where necessary, enforce.

RSPB responded to the 2000 government consultation on open general licences with a list of suggestions and recommendations (appendix 4). Only one of these (the requirement for checking traps every 24 hours) has been implemented in full. These points still require serious consideration and changes should be made to the licences accordingly. In addition to our previous recommendations we would add:

1. **removal of door from trap site to fully disable crow traps whilst not in use.**
2. **registration of individual traps to a single responsible individual.**
3. **consistency and clarity between open general licences on the use of decoy birds.**