BirdWatch Ireland Submission to the consultation on the Open Seasons Order

May 3rd 2023

1 Introduction

On May 9th 2019 Dáil Éireann declared a climate and biodiversity emergency in Ireland. Our biodiversity including wild birds and the habitats that support them are under unprecedented pressure and threat. BirdWatch Ireland's Birds of Conservation Concern in Ireland assessment 2020[1] shows that Ireland's wild birds are faring worse than ever with 63% of regularly occurring species Red or Amber listed birds of conservation concern. Farmland birds, waterbirds and seabirds are most at risk due to pressure from changes in land use including the intensification of agriculture and afforestation resulting in loss of habitat, water quality declines, the impacts of fisheries and several more pressures.

All sectoral pressures and threats to wild bird populations must be addressed and the precautionary principle enshrined in the Treaties of the European Union must be adhered to. Concerted conservation action including species management plans and landscape scale restoration of habitats that are based on working with landowners and other stakeholders are essential to reverse negative trends.

The Irish government is failing to protect and conserve bird populations both inside and outside of Special Areas of Protection (SPAs). A comprehensive approach must be established by government to tackle sectoral impacts on wild bird populations as well active conservation and restoration plans and effective management of SPAs. In 2007 on foot of action taken by BirdWatch Ireland to the European Commission, Ireland was found guilty by the European Court of Justice of 5 of the 6 complaints of breaches of the Birds and Habitats Directives. A key 2007 finding by the court in the Birds Case (C-418/04[2]) is as relevant today as it was then. The Court found "that the measures taken by Ireland are partial, isolated measures, only some of which promote conservation of the bird populations concerned, but which do not constitute a coherent whole". The Birds Case is still open and Ireland is still failing to comprehensively address conservation of wild bird species.

In addition, a 2022 publication by the European Commission found that out of ten countries assessed, Ireland scored lowest across planning, implementation, site management, monitoring and conservation outcomes at SPAs. While 87% of SPAs assessed across Member States had site-specific conservation objectives, within Ireland, 90% of the sites assessed did not have site-specific conservation objectives. Instead, only simple generic objectives stating the objectives of the Birds Directive along with a list of qualifying species are present for 9 out of the 10 sites. Only one SPA has a conservation plan. These failings are not merely an administrative issue; they are failing to protect

[1] Gilbert, G, Stanbury, A., Lewis, L., (2021) Birds of Conservation Concern in Ireland 4: 2020–2026 *Irish Birds* 43: 1–22 available here https://birdwatchireland.ie/birds-of-conservation-concern-in-ireland/

[2] https://curia.europa.eu/juris/liste.jsf?language=en&num=C-418/04

bird populations in Ireland. The report revealed that most species (86%) declining nationally in Ireland are also declining in SPAs, with only five of 37 species increasing. Furthermore, over half of species (20 of 39) increasing nationally are decreasing in SPAs[3].

There has been a very poor response from government to the downward trajectory of species populations in the last 50 years with no current species action plans in place to address the conservation status of the 54 Red listed bird species in Ireland. A prime example of failures to protect the most vulnerable is the inadequate action to address declines of the Curlew (*Numenius arquata)*. In 2013 the Bird Atlas[4] documented the 96% declines of the Curlew breeding population in Ireland. In 2017 a Curlew Task Force was established and their recommendations were published in 2019 to save this species. As of 2023 these recommendations remain largely unimplemented which is unfathomable for one of Ireland's most threatened bird species. The hunting community implemented a voluntary ban on hunting Curlew and the species was removed from the Open Seasons Order in 2012 due to its dire conservation status.

The proposed EU Nature Restoration law is being negotiated in Brussels as of writing with the active participation of member states. This is a golden opportunity within the negotiations and following from them, for the Irish government to exhibit leadership and to ensure that ambitious targets and funding streams are set in law to restore ecosystems, habitats and species populations.

The review of the Open Seasons Order List of species by Minister Noonan is timely considering the biodiversity emergency declared by Dáil Éireann and all activities that have an effect on wild bird species must be assessed and action taken. This review should include removal of threatened and declining species from the list as well concrete actions to reverse population declines that we can control nationally.

BirdWatch Ireland staff have reviewed the Open Seasons Order list, the consultation documentation and the data available to us. In this submission we propose changes to the Open Seasons Order list and we provide a set of recommendations that we believe are important to be addressed. In particular, the State has a legal and moral responsibility to halt the declines of wild bird species in Ireland and restore populations and must back this with substantial resources. The Irish government has let populations of wild birds disappear on its watch much to the dismay of both conservation and hunting organisations. It is time to take the biodiversity emergency seriously and take the required action.

2. Bird Monitoring data, the science and solidity of the data

BirdWatch Ireland is a science-based organisation dedicated to the protection of bird species. BirdWatch Ireland coordinates two of Ireland's longest running wildlife monitoring programmes, the Irish Wetland Bird Survey (I-WeBS) and the Countryside Bird Survey (CBS). Both are funded and are flagship projects of the National Parks and Wildlife Service (Department of Housing, Local Government and Heritage). I-WeBS and the CBS monitor our migratory wintering waterbird populations, and our common and widespread countryside breeding birds respectively. They have recently celebrated their 30th and 25th years; the success of these projects underpinned by a massive effort by volunteers and staff of the NPWS over the decades.

[3] European Commission (2022) Assessment of the measures established in Special Protection Areas and their effectiveness available here https://op.europa.eu/en/publication-detail/-/publication/b81bea2f-8fd0-11ed-b508-01aa75ed71a1/language-en

[4] Balmer, D., Gillings, S., Caffrey, B., Swan, B., Downie, I. & Fuller, R. Bird Atlas 2007-11. The breeding and wintering birds of Britain and Ireland. s.l. : British Trust for Ornithology, 2013

Together, I-WeBS and the CBS have successfully informed on the status of more than 50% of the regularly occurring bird species in Ireland since the monitoring began during the mid and late-1990's respectively. I-WeBS data have also been used to justify the designation of sites as Special Protection Areas (SPAs) under the EU Birds Directive (79/409/EEC) because of their importance in an international context for wintering waterbirds. Both I-WeBS and the CBS also have a significant international dimension, delivering on the status of bird species to Europe under the Government's Article 12 reporting, as well as supplying data to Wetlands International and the Pan-European Common Bird Monitoring Scheme, thereby contributing to the production of population estimates and trends of bird species at European and international level. Both projects therefore have significant scientific outputs many of which are published in peer reviewed reports and scientific journals. However, the scientific rational underpinning the monitoring schemes, as well as the scientific outputs may be difficult for the uninitiated to understand. We hope that this document helps to clarify some of the key issues in terms of these two projects, and in relation to bird monitoring in general.

- **What is monitoring?** - monitoring can be defined as the practice of taking systematic, repeated measurements of the study subject, using the same methods in the same places over time, so that long-term comparisons can be made. Counts of wild animals can rarely cover every individual in a population. Indeed, to undertake a 'census' and aim to count every individual in a population in many cases is simply impossible. Rather we aim to count and quantify a sample of the population. If counting methods are standardised, the proportion of the population of each species represented by the counted sample varies little from year to year. Thus, although we are 'sampling' the population, the strict standardisation means that it is possible to work out how numbers of each species are changing i.e. to calculate the trends.
- **Survey objectives and design** – at their outset I-WeBS and the CBS had a set of objectives which remain to this day. Such a protocol is always set for other bird monitoring projects too. Each will start with the definition of aims and objectives (goals) and the design of survey techniques and data analyses that will achieve the goals. The primary objective of I-WeBS is to monitor the numbers and distribution of waterbird populations wintering in the Republic of Ireland. The primary objective of the CBS is to monitor the trends of common and widespread breeding bird species in the Republic of Ireland.
- **Survey methodology and why it is robust** – Within I-WeBS we aim to monitor wetland sites in a standardised manner. This is why count sites are defined (mapped) and the same count area is counted on each survey occasion. Large sites may also be sub-divided to enable counting to be easier and in a shorter length of time. Counts are organised to take place at relatively the same time around the country (some variation on east and south coast sites due to difference in tidal times), while we aim for coordinated site counts, meaning that a team of counters are all out and counting at the same time. Within the CBS the level of standardisation of recording our breeding bird populations is equally as robust. The same survey squares are surveyed year on year, usually by the same surveyor, and using a set, defined survey route (transect) which is mapped and adhered to year on year.
- **So does it matter if we count on one day, but there are more birds there the next day?** Does that mean our counts are inaccurate? No, counts of birds can only ever be considered a 'snap-shot' of what is actually present. Birds can fly and move quickly, so of course true accurate counts are impossible. Rather our 'sampling' approach and replicated manner of counting (in I-WeBS) over several months of every winter season, means than on balance, we will adequately record the best estimate of waterbirds using a site each winter. In some analyses, to be sure of not underestimating numbers, we often work with peak count values (or five-year mean peak values) as these better represent the numbers of waterbirds using a site.

- **Robustness of the analyses** – We did not design the analyses used. Rather these are standard best practice methods developed by international scientists and used throughout the world in such work. Furthermore, the data collected are subjected to rigorous quality control procedures. Analytical methods used in I-WeBS were designed by scientists contributing to the International Waterbird Census, a monitoring programme operating in 143 countries to collect information on the numbers of waterbirds at wetland sites. Analytical methods used in the CBS were designed and are continually updated and improved by scientists contributing to the Pan-European Common Bird Monitoring Scheme. Called PECBMS for short, this scheme is a joint initiative of the European Bird Census Council (EBCC) and BirdLife International.
- **Population estimates** – these data analyses provide us with the best possible estimate of wintering waterbird numbers in the Republic of Ireland. We also go to lengths to improve these estimates by undertaking other surveys, for example species-specific surveys for certain geese and swan species, or NEWS (the non-estuarine waterbird survey). Certainly for some species, and for instance those with as restricted distribution or a relatively small wintering population size, our estimates are accurate e.g. Pintail and Shoveler. Estimates of a few species however are less accurate e.g. Mallard because they are widespread across many different habitats as well as there being an unknown quantity of released birds each year. For some species, we have no estimates at all and examples here are Snipe and Woodcock; two species that cannot be adequately monitored by I-WeBS and for which a data gap exists.
- **Population Trends** - within I-WeBS we calculate species trends in two ways. Firstly, by calculating 'population estimates' (or the size of our sampled population), we aim to compare the resulting figures with previous figures generated in the same way. This allows comparison over time of 'like with like' and hence we gain an understanding of whether the population size is going up or down or remaining stable at national level. Secondly, we use a modelling approach using data from the sites with the best count coverage over time. This analysis gives us population trends over time (at both national and site level) and again is based on comparing like with like over time. Trends within the CBS are also calculated with these same principles also followed. We are again focusing on changes in bird numbers, rather than on the absolute numbers themselves.
- **Public availability of bird species trends -** BirdWatch Ireland publishes national and site trends of wintering waterbirds here Irish Wetland Bird Survey[5]. Trends of common breeding birds of the Irish countryside are published freely here Countryside Bird Survey[6].

3. BirdWatch Ireland proposed changes to the Open Seasons Order List

In Table 1 BirdWatch Ireland presents its review of species on the Open Species Order List following along the general request of the NPWS online survey questionnaire which asks whether a species should be removed from the list, left on the list or the period for hunting shortened. We have proposed that 6 species should be removed from the list based on declining populations supported by IWeBs data. We also confirm no change to a range of species that are not of conservation concern. Finally, we have very serious concerns for several species but we call for additional analysis of all available data by NPWS for these species across their wintering and breeding populations and range to inform the best next step to take for these species.

[5] https://irishwetlandbirdsurvey.ie/
[6] https://countrysidebirdsurvey.ie/

Table 1 : Review of Open Seasons Order Species List and Suggested Actions		
Species*	**Suggested Action**	**Rationale**
Shoveler	Remove from List	BOCCI Red List. Pop estimate 1,865 for ROI. Winter decline of 33% on long-term trend and 31% on short-term decline (I-WeBS data).
Scaup	Remove from List	BOCCI Red List. Very low 167 winter population estimate for ROI. Critically low numbers (I-WeBS data).
Pochard	Remove from List	BOCCI Red List 4,729 population estimate. Winter decline of 77% in long-term trend and 33% in short-term (I-WeBS data).
Goldeneye	Remove from List	BOCCI Red List. Significant declines. Down 68% in long-term trend and 37% decline in short term trend. 1,256 population estimate (I-WeBS data).
Golden Plover	Remove from List	BOCCI Red List. Large declines in both winter and breeding populations. 44% decline for Winter in long-term trend (I-WeBS data). Red-Listed on BOCCI for both breeding and winter declines.
Pintail	Remove from List	Down 5% in long-term trend. 1,017 population estimate (IWeBS data).
Tufted Duck	Requires further analysis by NPWS.	34% winter decline in long-term trend. 16,927 winter population estimate (I-WeBS data).
Snipe	Requires further analysis by NPWS.	34% decline in Bird Atlas breeding distribution change 40 years. Insufficient winter data.
Mallard	Requires further analysis by NPWS.	Amber BOCCI. Long-term winter decline of 41% (I-WeBS data. Effect of released birds unknown.
Woodcock	Requires further analysis by NPWS.	Bird Atlas data showing 73% decrease in breeding range since 1968-72. Suggest NPWS analysis of effect of shortening the hunting period to protect the Irish breeding population.
Teal	Requires further analysis by NPWS.	Winter population decline of 22% in long-term trend. Short term trend is an increase of 6%. Winter population of 27,644 (I-WeBS data).
Gadwall	Requires further analysis by NPWS.	Winter population estimate 515. Winter trend long-term increasing by 35% (I-WeBS data).
Red Grouse	Requires further analysis by NPWS.	66% breeding range contraction in Bird Atlas (1968-72). Important that new survey data inform decision on this species.
Wigeon	Requires further analysis by NPWS.	Winter decline of 38% in long-term. Decline of 12% in shorter-trend. Population estimate 50,452 (I-WeBS data).
Jack Snipe	Requires further analysis by NPWS.	Data is lacking including trend data. A dedicated survey at a selection of sites each year.
Greylag Goose (feral/resident)	Leave on List	Feral population has grown by 109%-147% since 2008 (I-WeBS data). The range has expanded way beyond the areas that are allowed to be shot.
Woodpigeon	Leave on List	
Canada Goose	Leave on List	Re-evaluate range of feral population.
Ruddy Duck	Leave on List	
Red-legged Partridge	Leave on List	
Cock Pheasant	Leave on List	

***Different colour text depicts Red, Amber or Green conservation status on the Birds of Conservation Concern in Ireland assessment**

4. Recommendations

- Review the open season order on a more regular basis/more fluid approach. With the on-going worries of Highly Pathogenic Avian Influenza (HPAI), review of the Open Seasons Order should be on a more regular basis as the status of species may change quickly, and decisions may need to be made more regularly, or on an urgent basis e.g. if we had a severe outbreak of HPAI. Also this would allow for updates to bird data which will influence decisions such as leave, remove, shorten or possibly put back on list. Also consider setting thresholds for species which would trigger certain actions - remove, shorten, put back on etc....
- After further analysis by NPWS, if it is deemed appropriate to leave a species on the list, shortening the season should be considered to reduce the potential for population impacts the numbers of late fledged breeding birds shot.
- Although some bag data are collected on a voluntary basis, a much more robust compulsory system is required and support provided to hunting organisations to do this. Also need to set bag limits by species.
- A more regional/county-based approach could be considered for some species, sanctuaries established, where and when they can be hunted etc...
- The extension of the network of wildfowl sanctuaries should be considered. The list hasn't been updated in decades. More research is needed on this.
- More enforcement of environmental legislation is urgently required and Ireland should meet fully meet the judgement of the Birds Case especially in relation to birds in the wider countryside. This will require ensuring the sectoral policies such as agriculture, afforestation, renewable energy, peatlands have conservation of bird species integrated firmly in their plans and projects. Cast iron safeguards must be established withing policies and processes to protect threatened bird species. Scaled up and appropriately funded agri-environment schemes are also essential to support farmers to restore farmland biodiversity.
- The government should prepare management plans for Ireland’s SPAs which include shooting/hunting as an activity that can be managed sustainably.
- Species management plans for threatened species should also be developed and implemented.
- The issue of disturbance at important wetland sites is significant and must be addressed. All activities including hunting should be assessed under Article 6.3 of the Habitats Directive for disturbance impacts to waterbirds and the conservation objectives of SPAs.

Prepared by BirdWatch Ireland

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