



Wildlife and
Countryside



Responding to the European Environment Agency's State of the Environment Report (SOER), 2015

The SOER highlights that biodiversity across the EU remains in crisis.¹ National, European and international targets to halt the loss of biodiversity by 2010 were missed, and the subsequent targets to halt, and where possible, to reverse the loss of biodiversity by 2020 look, at best, challenging.

Some have suggested that this state of affairs supports the argument that the Nature Directives may no longer be fit for purpose and should be reviewed. However, this ignores the evidence in the SOER and other reports and studies demonstrating the successes of EU nature conservation efforts. For example the SOER highlights the expansion of the Natura 2000 network of protected sites to 18% of EU land and reports that “some populations of European bats and large carnivores appear to have recovered to some extent from past declines, demonstrating positive results of conservation action and unplanned changes such as land abandonment.”^{2,3,4}

The overall picture remains one of biodiversity in crisis, and the SOER makes clear that there are two key issues that still need to be addressed. The first of these is full implementation of the Nature Directives, and the second is the need to align other policies (especially those relating to land use change and intensive farming) with the need to protect and restore biodiversity in line with 2020 targets to halt, and where possible reverse, the loss of biodiversity. We therefore argue that what is needed is support from other legal frameworks and better implementation, as opposed to reform.

Here it is interesting to note that, (as reported by ENDS) in the sidelines of Green Week 2015, Ronan Uhel of the EEA (which authored the SOER) informally advised the Commission that it sees the scope and objectives of the Birds and Habitats Directives as being ‘in line with what is needed’.

In its detailed evidence submission to the Fitness Check of the Nature Directives the coalition of 100 UK environmental NGOs (the Joint Links) argue, on the basis of the evidence, that where properly implemented, the Directives are effective in protecting both target and non-target species and habitats, and that they play a key role in the protection and enhancement of wider ecosystem services, in delivering resilient ecosystems, and supporting adaptation to climate change.⁵ Based on the evidence, the Directives achieve this without placing unnecessary burdens on business, while delivering cost-effective benefits to the economy and society, as well as to biodiversity and the wider environment.

The Directives can only play their part in solving the crisis facing nature in Europe as part of a coordinated and consistent policy response to the pressures and threats driving biodiversity loss. Therefore, what is required is the support of wider legal and policy measures. For example, the evidence provided to the Fitness check by the UK NGOs makes clear that the Nature Directives help to build ecosystem resilience, and aid climate change mitigation and adaptation, but without

¹ <http://www.eea.europa.eu/soer>

² EEA (2013), [European bat population trends. A prototype biodiversity indicator](#), EEA Technical report No 19/2013, European Environment Agency.

³ EC (2012), Status, Management and Distribution of Large Carnivores — Bear, Lynx, Wolf & Wolverine — in Europe, European Commission, Brussels.

⁴ <http://www.eea.europa.eu/soer-2015/europe/biodiversity>

⁵ <http://www.wcl.org.uk/habsregs.asp>

wider action to limit and address the effects of climate change, no biodiversity legislation, however effective, can save nature from its effects without wider legal and policy measures.⁶ Likewise, the Nature Directives alone cannot reverse the loss of biodiversity in agricultural ecosystems without support from a substantially reformed Common Agricultural Policy.

Furthermore, it is clear that the current rate and range of implementation of the Nature Directives is not sufficient to achieve their aims or to secure the standards of protection, restoration and recovery that nature needs.⁷ In this context, there are strong arguments for better implementing the rules we have, and against revising them while implementation remains incomplete.

In our view, the uncertainty arising from any revision of the Directives would be:

- **Bad for nature** – threatening to weaken vital protection for species and habitats when what is needed is proper implementation of the laws;
- **Bad for people** – jeopardising the protection of biodiversity also jeopardises the wider health, well-being and ‘ecosystem services’ benefits that nature provides; and
- **Bad for business** – threatening the stable regulatory framework for sustainable development that the Directives provide, leading to business uncertainty and investor risk.⁸

Instead, we argue that what is needed is a focus on progressive implementation of the Nature Directives, alongside other measures including increased and better-targeted funding, to deliver change on the scale that is so clearly needed if the commitments made at national, European and international level to halt and reverse the loss of biodiversity are to be achieved.

Below, we outline some of the measures that we believe are required to achieve this, and to deliver an outcome that is **better for nature, better for people and better for business**.

- **Filling the gaps and managing effectively:** The efficacy of the Natura 2000 network in protecting habitats and species and in the cost-effective provision of ecosystem services is proven. However, the network remains incomplete, especially at sea (for example, to date the UK has only three truly marine SPAs between them protecting only two species in one season, and no SACs to protect Harbour porpoise) and many sites, although identified and protected from inappropriate development, are not yet effectively managed for nature. (For example, Defra are currently in the process of introducing a revised approach to the management of fisheries within marine Natura 2000 sites, which is not scheduled to be completed until 2016). Completing the network and securing its management (including management across Member State boundaries where applicable) is a fundamental building block for attempts to halt and reverse the loss of biodiversity, and completion of the network would also provide businesses with the certainty they seek.
- **Supporting biodiversity across the wider landscape:** To date, implementation of the Directives has focused in large part on those provisions relating to Natura 2000 sites and European Protected Species. However, the ambitions – and provisions – of the Nature Directives extend to the wider land and seascape outside of protected areas. Protected areas are key to the effective protection and restoration of habitats and species, but can only deliver this in the context of effective conservation measures in the wider landscape upon which so many habitats and species depend. Key requirements here are proper implementation and enforcement of the relevant provisions of the Nature Directives (for example Article 3 of the

⁶ <http://www.wcl.org.uk/habsregs.asp>

⁷ See for example the UK NGOs response to question s.3 of the Fitness Check evidence gathering questionnaire, http://www.wcl.org.uk/docs/JointLinks_REFIT_evidence_Questionnaire.pdf

⁸ http://www.wcl.org.uk/docs/joint_links_refit_position_statement_may15.pdf

Birds Directive and Article 10 of the Habitats Directive), supported by the development of green infrastructure and addressing perverse incentives (such as those associated with the Common Agricultural Policy) which currently act to drive the continuing loss of biodiversity.

- **Cracking down on environmental crime:** Efforts to protect and recover species and the habitat upon which they depend are consistently undermined by environmental crime. Improved surveillance, enforcement and increased sanctions are essential if this is to be addressed.
- **Providing a framework for better decision-making:** The Birds and Habitats Directives both require the definition of favourable conservation status (FCS) for all wild birds, and for species and habitats listed under the Habitats Directive. However, in many cases (the UK included) Governments have failed to properly define FCS. This results in a lack of:
 - established population level targets or milestones against which to assess the success (or otherwise) of conservation action;
 - quantifiable conservation objectives for individual protected areas, to ensure they make a sufficient contribution to conservation of the species at national level
 - adequate, quantifiable assessment of the implications of decisions on the conservation status of the national population, necessitating a precautionary approach
 - any framework for taking decisions in the face of climate change to ensure that, as species' populations and distributions change, FCS is maintained.

Progress towards the adequate definition of FCS for habitats and species is key to unlocking a more pragmatic and evidence-based approach in respect of European Protected Species, and to reflecting in wider decision-making the value that society places on the protection of nature.

- **Addressing perverse subsidies and making smarter use of public money:** The SOER report highlighted the extent to which the ongoing loss of biodiversity is being driven by human-induced modifications of natural conditions, including hydrological changes and, in particular, agricultural practices. The objectives of the Birds and Habitats Directives cannot be met while they continue to be undermined by the negative effects of other policies, which in many cases are incentivised and subsidised by the state. Steps to address this, including reform of the Common Agricultural Policy and full implementation of the recent changes to the CFP, including the modulation and better targeting of state-subsidy away from damaging activity and towards the provision of public goods, are therefore a prerequisite for tackling the crisis facing nature.
- **Better implementation to support responsible businesses:** The Review of the Implementation of the Birds and Habitats Directives in England revealed the level of frustration caused by incomplete, poor and inconsistent implementation of the Directives amongst industry and NGOs alike. These were reflected in shared asks (for example action to address evidence gaps at sea, clear conservation objectives for Natura 2000, better resourcing and expertise in statutory authorities and guidance on and promotion of best practice in compliance), many of which have subsequently been echoed in the responses to the Fitness Check process in other member States.⁹

⁹ See Joint Links evidence paper 'A REVIEW OF PROGRESS MADE AGAINST THE UK GOVERNMENT'S RECOMMENDATIONS FOR IMPROVED IMPLEMENTATION OF THE BIRDS AND HABITATS DIRECTIVES'

A package of measures focussed on consistent transposition, implementation and enforcement of the Nature Directives, addressing priority, data gaps, developing and sharing best practice and good guidance, and addressing the lack of resource and expertise within Governments and their agencies would deliver better outcomes for both businesses and biodiversity. This could build on the measures recommended - albeit poorly implemented – by the UK Government following their 2012 review of implementation of Nature Directives in England.¹⁰ Here it should be noted that small and medium sized enterprises (SMEs) are often most affected by the issues identified, and as such arguably have most to gain from such a package of measures. For example, because they often have limited experience of working with the legislation and do not usually have in-house ecological expertise, they are particularly vulnerable to poor guidance and a lack of expertise and resource within statutory agencies.

- **Improving the evidence base to reduce uncertainty:** A lack of evidence in key areas is a barrier to effective implementation of the Directives and is a major cause of regulatory uncertainty and investor risk (for example the lack of progress made to identify Natura 2000 sites at sea). Better evidence would allow better, quicker decision-making, whereas the required highly precautionary approach when faced with poor evidence can be frustrating for business (for example when considering impacts on European Protected Species whose populations are not known or understood).

Action to improve the evidence base would deliver major benefits both for wildlife and for business, and is essential to underpin a number of the other actions required including the identification of Natura 2000 sites and the definition of favourable conservation status.

- **Invest in nature:** Achieving the objectives of the Birds and Habitats Directives will of course require investment – both the impacts of under-investment in their implementation, and the high benefit to cost ratios associated with their implementation are well known and well rehearsed, including in the Joint Links evidence to the Fitness Check.¹¹ Likewise, the scale and impacts of perverse subsidies are well understood, and much could be achieved through the smarter use of public funds, reallocating funds that incentivise environmental damage to activities which reverse it, and targeting resource at those habitats and species in most need of action. Here it is important to note that investment in nature is a vital aspect of conserving and enhancing the Natural Capital which in turn underpins the health of the economy and wider society.

Summary

The SOER report highlights the ongoing crisis for Europe's biodiversity. It also highlights some of the key successes in nature conservation, many of which have been driven by effective implementation of some aspects of the Nature Directives. It also highlights the key issues that need to be addressed, including full implementation of the Directives and the need to align other policies which currently undermine efforts to halt and reverse the loss of biodiversity.

The uncertainty that would arise from any changes to the Directives would be bad for nature, bad for people and bad for business. Instead, efforts should be targeted towards progressive implementation of the Nature Directives, alongside other measures including wider policy alignment, to deliver change on the scale that is so clearly needed if the commitments made at national, European and international level to halt and reverse the loss of biodiversity are to be achieved.

¹⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69513/pb13724-habitats-review-report.pdf

¹¹ <http://www.wcl.org.uk/habsregs.asp>