

Department for Environment, Food and Rural Affairs

A coastal concordat for England: implementation document

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Introduction

This document is for use by staff in regulatory and advisory bodies that have adopted the concordat principles (defined as ‘concordat bodies’ for the purpose of this document).

This document will also be of interest to applicants and other regulators/advisors as it sets out what they can expect from concordat bodies where applications fall within the scope of the concordat, and highlights the responsibilities of applicants in that context.

As the concordat is implemented, lessons learned will be fed back into future versions of this document.

This document should be read in conjunction with the coastal concordat, which sets out the detail of each principle.

Identifying coastal concordat projects – concordat screening

Officers in concordat bodies should **screen** all applications and application enquiries that they receive direct from an applicant to determine whether the concordat principles should be applied. Organisations will still reply to the application or application enquiry within existing statutory timescales.

The following screening checklist should be used to identify if the concordat should be applied:

- The development is in a participating Local Authority area¹;
- The footprint of the proposed development (and any ancillary infrastructure) is both terrestrial and has elements that fall below Mean High Water Springs² within an estuary or on the coast;
- The development requires multiple consents including both a marine licence and a planning permission; and
- There are no other coordination mechanisms in place, for example under the Planning Act 2008. The concordat does not apply to Nationally Significant Infrastructure Projects, applications under the Transport and Works Act 1992 or Hybrid Bills.

For projects that meet the criteria for the coastal concordat, but are in areas where the local authority has not yet implemented the concordat, officers should apply the concordat principles in partnership with the other concordat bodies as far as possible, as part of

¹ See list at <https://www.gov.uk/government/publications/a-coastal-concordat-for-england>

² Please refer to Ordnance Survey data in the first instance. For marginal cases please contact the MMO.

current joint working arrangements. However without the full participation by the local authority some principles may not apply. In these cases, officers should explain the benefits of the coastal concordat approach to the local authority and encourage them to contact Defra about adopting the concordat. To do this, they can contact Amanda Furlonger on 020 7238 6830 or by email on MarineProgrammeSupportOffice@defra.gsi.gov.uk. While the local authority and concordat bodies may wish to use the project to test the approach in the area, officers should use the opportunity to encourage formal participation in the future.

Single point of entry

Definition

Where an application or proposal is screened in as a concordat project, the organisation first approached should identify an officer to assume the role of the **single point of entry** into the regulatory system if:

- The project is within the remit of their organisation. If it is outside of the remit of the officer's organisation, the officer should consider whether the application falls within the remit of another concordat body and provide the applicant with appropriate details to enable them to make contact; and
- The application or application enquiry has come directly from the applicant and it is confirmed they have not contacted another concordat body. If notification of an enquiry comes through from one of the other concordat bodies, or the officer finds that one of the concordat bodies has already been contacted, the officer should confirm that the other body has assumed the role of the single point of entry.

Signposting

The role of the single point of entry officer will be to gather information from the applicant about the project including at least:

- The applicant's name and contact details;
- The proposed location of the works, timescale and their nature; and
- Whether any other regulatory body or advisor has been contacted.

The officer will then initiate the concordat implementation process set out in Figure 1 and described in more detail below.

The single point of entry officer should **signpost** the applicant to those relevant concordat bodies that have not already been contacted, highlighting that the applicant may need to secure a consent, licence or permission from them, encouraging parallel tracking where possible. Officers acting as the **single point of entry** should not attempt to identify which consents will be required – this will be the responsibility of individual concordat bodies once contacted. Where relevant, the body acting as the single point of entry should also

inform the applicant of the concordat. It remains the ultimate responsibility of the applicant to obtain all necessary consents.

Regulatory remits of the signatories

As a guide, the regulatory remits of the relevant concordat bodies are outlined below (this is not exhaustive and if an officer is in any doubt, they should contact the relevant body). Further information on the most common types of consents, licences and permissions issued by the above bodies is available in Annex A.

Local Planning Authority / National Park (LPA)

- Any works above Mean Low Water.

Marine Management Organisation (MMO)

- Any licensable activity³ below the Mean High Water Springs mark in tidal rivers, estuaries and on the coast
- Any works that require harbour revision orders or harbour empowerment orders.
- Any activity below the High Water Mark prohibited under wildlife legislation such as killing or taking certain protected species to prevent problems, carrying out surveys or conservation work, disturbing or damaging the habitat of certain strictly protected species, possessing or keeping certain wildlife.

Environment Agency (EA)

- Any works in, under or over most estuaries, works within a maximum of 16 metres of the top of flood defences (will vary per region) or likely to affect beaches, promenades or sea defences.
- Land based discharges, any ship breaking, or keeping or disposing of radioactive sources out to 12 nautical miles.
- Any building or changes to industrial plants, any waste activities on land or shipments of waste or radioactive material;
- Any abstractions, impoundment or water transfer in any natural or artificial tidal river, stream or other watercourse, reservoir, dock, channel, creek, bay, estuary or arm of the sea.

Natural England (NE)

- Consents and assents to owners/occupiers of SSSIs.
- Licensing of activities otherwise prohibited under wildlife legislation for the killing, taking or disturbance of terrestrial European and UK protected species or for damage or disturbance to their habitats.

³ See <https://www.gov.uk/how-marine-licensing-works>

Department for Transport

- Transport and Works Act Order for large-scale transport infrastructure, including railways, trams, bridges, piers and tunnels (outside Concordat). A Brief Guide can be found at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/273359/twa-orders-summary-guide-2013.pdf
- Statutory consents in local legislation, except those related to infrastructure (see MMO), which may include the sale of harbour authority land.

Contacting relevant concordat bodies

Where possible, the single point of entry officer should also contact all relevant concordat bodies to let them know that they may be contacted and provide the information gathered from the applicant. Instances where this may not be carried out are those where there are confidentiality restrictions associated with the proposal. The contact details for relevant concordat bodies are set out in Table 1. Any emails should be flagged as 'coastal concordat'. The roles and responsibilities of the concordat bodies are set out above and also in Annex A.

When concordat bodies are contacted, or they contact the applicant (having been alerted to the potential project), they should indicate which of their own consents may apply for that development, based on the information submitted at that point.

Table 1: contact details for relevant concordat bodies

Concordat body	Contact details
Marine Management Organisation	marine.consents@marinemanagement.org.uk 0300 123 1032
Natural England	consultations@naturalengland.org.uk 0300 060 3900
Environment Agency	enquiries@environment-agency.gov.uk 03708 506 506
Local Planning Authorities/National Park Authorities	These signatories should only be contacted if the proposed development falls within their geographical area. For Local Planning Authorities/National Park Authorities that have signed up to the concordat principles please see the list available at https://www.gov.uk/government/publications/a-coastal-concordat-for-england
Department for Transport	Transport Works Act Orders transportandworksact@dft.gov.uk 020 7944 2474 Consents under local or private Acts ports@dft.gsi.gov.uk 030 0330 3000

Initiating discussions

The MMO will normally lead on initiating early discussions (e.g. face-to-face meeting, teleconference or videoconference) between relevant concordat bodies where necessary, unless another body is agreed as more appropriate. It is likely that this will be most necessary for projects that may require an Environmental Impact Assessment and/or Habitats Regulations Assessment. These discussions should cover at least:

- Ensuring a collective understanding of the project between concordat bodies;
- Discussion of which concordat bodies should be involved. Where appropriate this should also pick up any non-concordat bodies such as English Heritage, Crown Estate, harbour authorities and the Inshore Fisheries and Conservation Authorities;
- Ensuring a collective understanding of the developer's timescales for the project, outline of the statutory response requirements of each concordat body, discussion of roles and contacts for the project:
 - How and where chargeable services apply;
 - Whether the proposal might require an EIA and/or HRA;
 - The lead authority for EIA and HRA (where the project requires this);
 - Whether there may be opportunities to dispense with or defer regulatory responsibilities and, if, so which bodies will pursue that;
 - Arrangements for contacting the applicant to outline the conclusions of these discussions to enable further pre-application discussions with the applicant.

To ensure transparency is maintained throughout the consenting process each concordat body should put in place mechanisms to ensure that other concordat bodies are aware of projects as they progress, e.g. through copying others in on correspondence where appropriate.

Roles and responsibilities of lead authorities for Habitats Regulatory Assessment/Environmental Impact Assessment

The identification of the lead coordinating authority for Habitats Regulations Assessment (HRA)/Environmental Impact Assessment (EIA) and decisions on their roles and responsibilities should be determined using existing DCLG⁴ and Defra⁵ guidance and the concordat itself as appropriate.

⁴ <http://planningguidance.planningportal.gov.uk/blog/guidance/environmental-impact-assessment/>

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69580/pb13809-habitats-guidance.pdf

Regulation 10 of the Marine Works (Environmental Impact Assessment) Regulations 2007 (MWR) gives provision that the MMO may determine that EIA is not required under the MWR if it is satisfied that:

- assessment of any effects on the environment of the project in question has already been, is being or is to be carried out by another consenting authority; and
- such assessment is (or will be) sufficient to meet the requirements of the EIA Directive in relation to that project.

Therefore, if it is determined that the main aspects of a project, which requires EIA under both the MWR and Town and Country Planning Regulations 2011 (TCPR), are terrestrial, the MMO should defer the assessment of compliance with the EIA Directive to the LPA, provided that any marine aspects are assessed to their satisfaction.

Similar provision is not given under the TCPR. In the absence of such provision, if it is determined that the main aspects of a project which requires EIA under both the MWR and TCPR are marine, the administrative lead for the EIA process should be the MMO. A consolidated process should be put in place that meets the requirements of both sets of regulations.

Dispensing with consents

Concordat bodies should explore opportunities for dispensing or deferring regulatory responsibilities where they are legally possible and appropriate. One option for doing this is under sections 82 and 84 of the Marine and Coastal Access Act, where the EA can dispense the requirement for a flood defence consent where they consider it appropriate to do so. This can be carried out by service of a Notice by the EA where a marine licence has been applied for and the EA are satisfied with the conditions that will be attached to it. EA officers should determine this on a case-by-case basis using their internal guidance '373_14 Flood and Coastal Risk Management: Flood Defence Consents and Marine Licensing'.

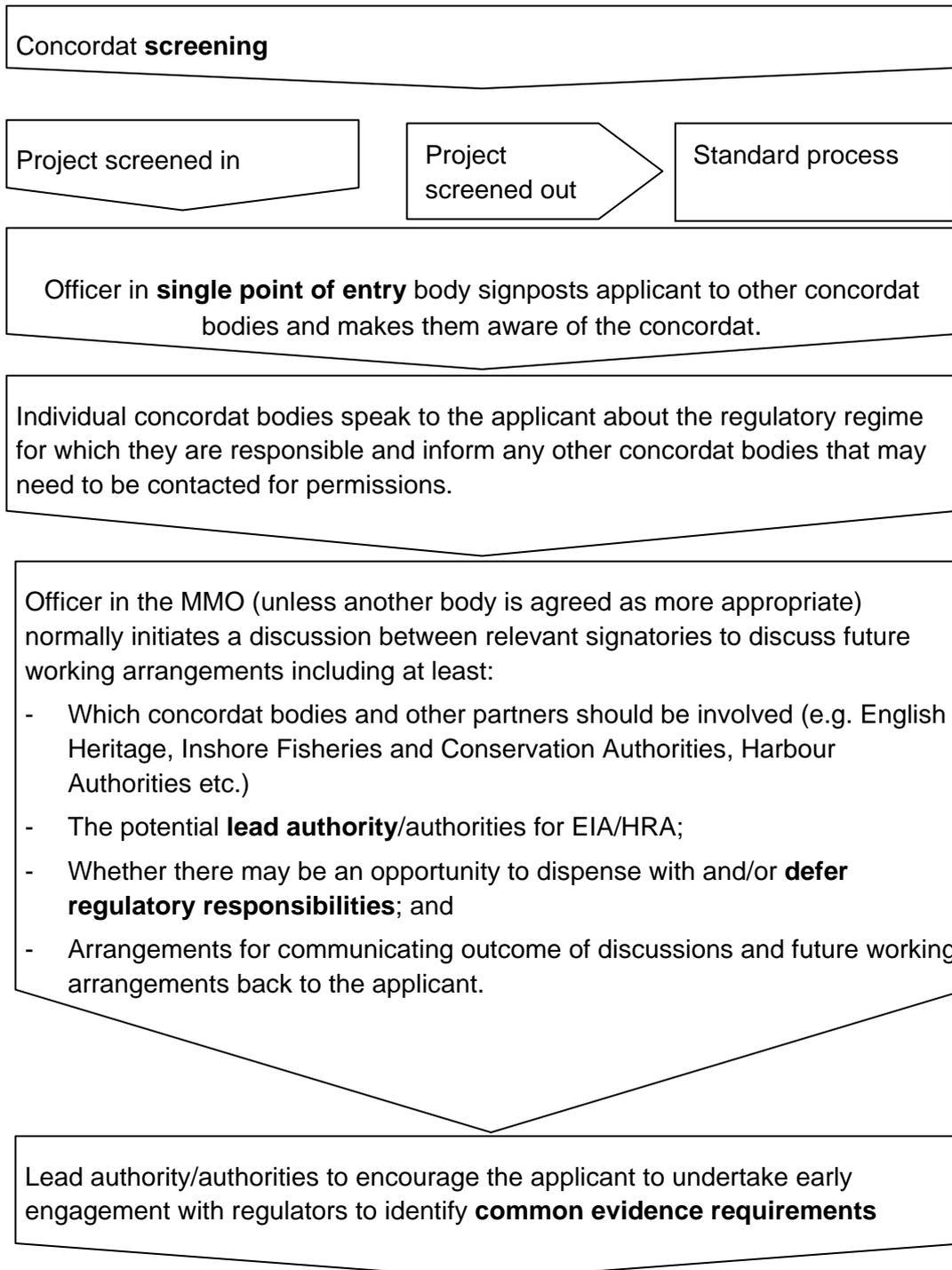
Certainty on Evidence Requirements

The lead authority for EIA and/or HRA will also encourage the applicant to undertake early engagement with all regulators to identify common evidence requirements across different consenting regimes, so that wherever possible the information submitted should be sufficient for both the planning permission and marine licence approvals and may inform relevant consents, licences and permissions.

Coordinated Advice

Each concordat body will be individually responsible for ensuring that they each provide coordinated advice from across their respective organisation within agreed timescales throughout the application process.

Figure 1: Summary: implementation of the coastal concordat principles



Conditions and the discharge of conditions

The principles of the coastal concordat should also be applied both when drafting the conditions of a consent and to the discharge of those conditions. Concordat bodies should work together to ensure that they are co-ordinated when developing and discharging conditions in order to minimise overlaps and duplications of information requirements.

In drafting conditions, concordat bodies should work together to ensure that conditions across the different consents are drafted consistently and coherently. Concordat bodies should also aim to have no duplication of control across the consents.

Concordat bodies should also ensure that common evidence requirements are identified wherever possible during the discharge of conditions stage, for example where there are monitoring and reporting requirements.

Responsibility for securing consents, licenses and permissions

Through concordat working, concordat bodies will make every effort to ensure that developers are aware as early as possible of the full range of consents, licences and permissions that may be applicable to individual developments. It remains the ultimate responsibility of the applicant to obtain all necessary consents.

Example Scenarios

To further illustrate how the concordat might be applied in practice a number of example scenarios are set out in below.

Example 1

Applicant A approaches the MMO with a proposal for a marina at the mouth of an estuary adjacent to a Marine Protected Area. The marina consists of a number of berths below Mean High Water Springs, and a small clubhouse on some brownfield land connected to the jetties by a walkway over the flood defence. The MMO screens this in as a concordat project, and, assuming the role of the single point of contact, ensures the applicant is aware that they will need to speak to EA and NE, as well as the LPA.

The MMO initiates a telecom/meeting of the four organisations to discuss the project and discuss whether it may require an EIA and an HRA. If it does, they decide that as the Town & Country Planning EIA regulations do not enable the LPA to formally defer to the MMO, the MMO should be appointed administrative lead for coordinating EIA, and that the MMO should also coordinate any potential HRA requirements. The group identify that the applicant may need to speak to the Crown Estate and the Harbour Authority for the estuary. The EA decides to retain their ability to issue a Flood Defence Consent due to the potential impact on the flood defence. The group decide that the MMO will contact the applicant to explain their discussion and encourage them to begin discussions with the

LPA, MMO, NE and EA in order to continue the pre-application process. This will confirm the need for EIA and/or HRA and identify any common evidence requirements (e.g. for the EIA for MMO & the LPA, the Flood Defence Consent for the EA and the Wildlife Licence for NE/MMO). The applicant completes their environmental assessments and proceeds with their applications in parallel.

Example 2

Applicant B approaches the LPA with a proposal to build a house on the coast. In order to build on the site they also need to carry out repairs to the flood embankment, which is within the site. The Local Authority identifies the project as falling within the scope of the concordat (screening it in), as the repairs to the flood embankment will involve works below mean high water, falling within the remit of the MMO and the EA. The LPA assumes the role of the single point of entry and advises the applicant that they will need to speak to the MMO and EA, and then speaks to alert them to the project. The MMO sets up a meeting/teleconference with all relevant parties to discuss working arrangements.

As the activities related to the flood embankment are small scale and have low environmental risk, it is identified during discussions that the proposal is likely to fall outside the scope of an EIA and HRA; however, it is thought that the Crown Estate would need to be involved in the project as permission will be needed to build on the sea bed. The works to the flood embankment could affect the stability of the wall and therefore the EA decides to retain its ability to issue a flood defence consent. This discussion is fed back to the applicant by the LPA. The applicant discusses the site investigations for the embankment repairs with the LPA, EA and MMO, so that the evidence requirements for the planning application, the flood defence consent and the marine licence are all met and the applicant continues with the application process.

Example 3

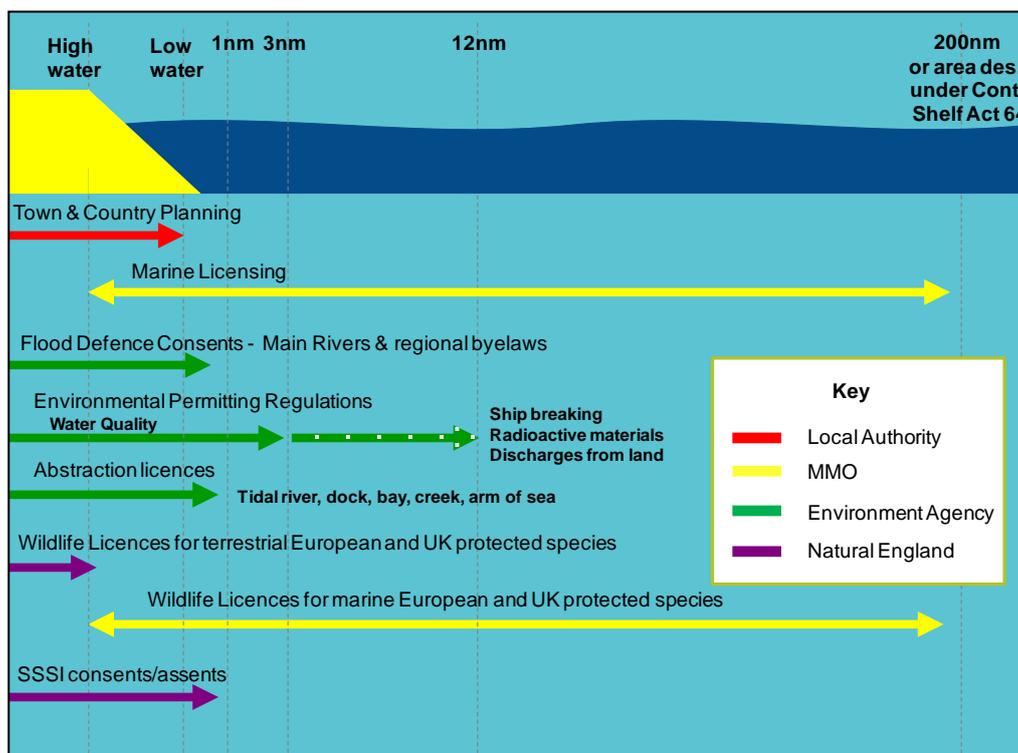
Applicant C approaches the EA with a proposal to change the use of an industrial plant at the top of an estuary, modifying an old outfall to discharge waste effluent from the site from a discharge point in the middle of the river. The EA screens this in as a concordat project as the works to fit new diffusers to the old outfall will be below mean high water. The EA recommends that the applicant contact the MMO and the Local Authority, as the applicant will also need to obtain permission from them.

The MMO initiates a meeting/teleconference between the EA, MMO and Local Authority discuss the project and decide that the Harbour Authority would also need to be involved due to the possible navigational impact. Although the works to the outfall are within a Main River and would require a flood defence consent, the EA advises that the works are unlikely to impact on flood risk and therefore dispense with the requirement for consent where a marine licence is in place.

An EIA and HRA would not be required, however the EA, LPA and MMO require evidence gathering around potential thermal impact on the river in support of the application. This is

fed back to the applicant by the EA and the applicant arranges a meeting between all parties to discuss the required modelling for all the consents, licences and permit variations required. The applicant proceeds with the process, parallel tracking the planning permission, environmental permit and the marine licence together where possible.

Annex A: Examples of the most common consents, licences and permissions issued by concordat bodies



Local Authority regulation	Indicative determination time
Planning Permission	Most within eight weeks, unless unusually large or complex - time limit extended to 13 weeks.

Marine Management Organisation regulation	Indicative determination time
Marine licence	
Electricity Act Section 36 consents	Aim to make a decision on most licences within 13 weeks of application, but each application is different and the detail of the activity will affect this.
Offshore Renewable Energy Installation Safety zone consents	
Marine Wildlife Licence (UK or European marine protected species)	Around 6 weeks
Harbour Empowerment Orders	Vary depending on the detail of the application but 4 to 6 months is typical.
Harbour Revision Orders	

Department for Transport regulation	Determination time
Transport Works Act Orders	Varies in accordance with nature of application and the duration of any public inquiry.
Consents under local harbour authority Acts	Dependent on nature of request and whether other bodies need to be consulted about consent – guide of 3-6 months.

Environment Agency regulation	Indicative determination time
Flood Defence Consent	Two months – deemed granted if past this deadline
Environmental Permit	Standard or bespoke permit application usually up to 13 weeks; exemption usually 5 days
Abstraction/Transfer/Impoundment Licence	Usually 28 days for temporary licence, all other licence applications within 4 months
Radioactive Substances Regulations Permit	Up to 4 months
International Waste Shipments & Radioactive Shipments	Usually 30 days (3 months for radioactive shipments)
Waste Regulation – Carriers/Broker/Dealer WEEE/Packaging/Hazardous/PCBs/Waste Battery Facility etc	Registration/Approval
Fish introduction or removal consent; consent or authorisation for use of nets, traps etc.	Usually up to 10 working days, but may take up to 20 if in a protected area or requires fish health check
Agreement to use herbicides in or near water	Usually two weeks. If consultation with NE required, they have 28 days to respond
Carbon Reduction Commitment & Climate Change Agreements, EU Emissions Trading Scheme Permits	Registration
Harbour & mooring charges - Rye & Lydney Harbours; Pilotage (Rye only)	As received

Natural England regulation	Determination time
<p>Wildlife and Countryside Act (Sec 28E) – SSSI consents (to owners/occupiers for their own operations)</p> <p>Note S28E does not apply in cases where the operation is authorised by planning permission or another consenting regime and the requirements of S28I (below) have been met.</p>	<p>Within 28 days in most cases but statute allows up to four months if required.</p>
<p>Wildlife and Countryside Act (Sec 28H) – SSSI assents (to public bodies for their own operations)</p>	<p>Within 28 days by statute.</p>
<p>Wildlife and Countryside Act (Sec 28I) – SSSI advice (to public bodies in relation to their permitting activities to third parties)</p>	<p>Within 28 days by statute.</p>
<p>Conservation of Habitats and Species Regulations 2010 (Reg 20) – European site consents (to owners/occupiers for their own operations)</p> <p>Essentially replicates W&CA Sec 28E (above) for European sites ie SPAs and SACs.</p>	<p>Within 28 days in most cases but statute allows up to four months if required.</p>
<p>Conservation of Habitats and Species Regulations 2010 (Reg 53) – licences permitting the disturbance, killing or taking of European protected species or damage/disturbance to their habitats</p> <p>For development-related purposes, Natural England carries out this licensing role on behalf of the Secretary of State.</p>	<p>Performance standard: 30 working days</p>

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