

# EPS Mitigation Licensing: Latest developments

NATURAL  
ENGLAND

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Dear Stakeholder

Welcome to our June 2015 European Protected Species (EPS) Mitigation Licensing Newsletter which includes a recent update on the new Reasoned Statement templates and new application forms that have recently been published plus a brief update on the Bat Low Impact Class Licence.

As always, to ensure this newsletter reaches as many people who are involved with EPS licensing as possible, we encourage you to share it with colleagues and anyone else who you feel may be interested. Previously published EPS Newsletters can be found [here](#). We aim to provide as much notice as we reasonably can prior to any changes being implemented and we also provide these updates via e-mail.

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## 1. Update: New species licensing application forms

The revised application forms for EPS and other species licensing can be found [here](#). In March 2015 a number of consultants reviewed the forms and their feedback was taken into consideration before they were finalised and published in early April. We aimed to remove unnecessary duplication, to streamline and improve consistency in the forms and hope that you will find we have achieved this. In particular, you will notice that questions relating to consents required for the proposal have been removed from the Reasoned Statement and included within the relevant application form.

## 2. Important advice: EPS applications which avoid the need for a Reasoned Statement

With regards to EPS applications specifically, and completing the new forms, you will notice that some applications no longer require you to submit a Reasoned Statement with your application pack (i.e. application form, Reasoned Statement, Method Statement and supporting documents and figures). The scenarios which avoid the need for a Reasoned Statement can be found [here](#) but currently apply to bat and great crested newt applications for 'home improvements and small scale housing developments' (which includes barn conversions to domestic dwellings) and bat applications to 'conserve and protect Listed Buildings, Scheduled Monuments and places of worship'. Both have *specific, and different, criteria to be met* to be sure that the application falls into one of these categories so please pay particular attention before declaring whether your proposal meets one of these scenarios within your application form and which one it is. For applications which do meet one of the scenarios, Natural England will satisfy itself that the relevant licensing tests have been met, so does not require the scheme specific information provided by a reasoned statement. Please be mindful that aspects relating to mitigation design and timing, which form part of the 'No Satisfactory Alternative' test, but linking to the 'Favourable Conservation Status' test, will still need to be included in the Method Statement for assessment.

As an applicant, if your case avoids the need to submit a Reasoned Statement you must keep the evidence to demonstrate this. You may be required to produce this evidence should a compliance check be undertaken.

With regard to bat applications, even if your application meets one of the scenarios, should your proposal affect a nationally or regionally important population of bats then we may still require a Reasoned Statement to be submitted. We expect applicants and their consultants to make a decision as to whether a regionally or nationally important population of bats will be affected. The following paper may help with this: Wray S; Wells D, Long E and Mitchell-Jones T (2010). In Practice December 2010, 23-25; *Valuing Bats in Ecological Impact Assessment* which sets out:

*'A regionally important population of bats typically include mating sites (rarer/rarest species) including well-used swarming sites; maternity sites of the rarer species; hibernation sites of the rarest species and significant hibernation site for rarer/rarest species or all species assemblages.*

*A nationally important population of bats includes maternity sites (rarest species) and sites meeting SSSI guidelines.*

*Rarer bat species in England – lesser horseshoe, whiskered, Brandt's, Daubenton's, Natterer's, Leisler's, noctule, Nathusius pipistrelle, serotine*

*Rarest bat species in England - greater horseshoe, Bechstein's, Alcaethoe. greater mouse eared, barbastelle, grey long-eared'.*

If your proposal will impact a nationally or regionally important population of bats advice on whether a Reasoned Statement is required can be sought from Natural England and your enquiry will be passed on to the local team: [EPS.Mitigation@naturalengland.org.uk](mailto:EPS.Mitigation@naturalengland.org.uk) or 0845 6014523.

**Next steps:** we will be expanding the scenarios that will avoid the need to submit a Reasoned Statement over the summer period. Announcements will be made in the EPS Newsletter and the .GOV.UK web site will also provide this information when published.

### **3. Update: New templates for the Reasoned Statement**

In May the new Reasoned Statement templates were published.GOV.UK web site – [here](#). These are part of the improvements being made to the EPS 'application packs' – the new application forms, as detailed above, have been published and changes have been made to the Reasoned Statement accordingly. We understand that some of you will be preparing applications on the 'old' format Reasoned Statement and will accept these until the week

commencing the 6<sup>th</sup> July 2015. Following this date, all Reasoned Statements submitted must be on the new templates.

There are now two separate Reasoned Statement templates – one for the purpose of public health and safety (PHS) and the other for imperative reasons for overriding public interest (IROPI). Please be sure to use the correct template for your proposal. Very few applications genuinely meet the PHS purpose and our new forms now clearly advise that if you wish to apply under this purpose you must be able to demonstrate that there is a genuine public health and safety issue and action is required imminently, otherwise the Reasoned Statement for IROPI must be used, unless no Reasoned Statement is required (see below). The PHS template is not intended for routine operations such as removing vegetation adjacent to rail tracks or other similar situations and we advise applicants use the template for IROPI for applications for these types of work. Should this advice not be followed we will ask you to re-submit on the required template.

The new forms have been designed to help you provide the information that we require to satisfy the tests in a logical, concise manner. They follow the advice within [The Habitats and Wild Birds Directives in England and its seas - Core guidance for developers, regulators and land/marine managers](#) which we recommend the sections on protected species requirements in particular are read.

If you are a regular reader of the EPS Newsletter you will be familiar with advice and requests to encourage people away from providing volumes of unnecessary documents and materials. These new forms will help achieve this. They will also aid speedier and more efficient assessment time. Please note our requirement for you to extract the evidence and provide it within the Reasoned Statement, referencing exactly where it has come from (document title, page, paragraph etc).

**Next steps:** From the 6<sup>th</sup> July we will **not** accept any Reasoned Statements unless they are on the new templates. These new templates will be living documents and we will take on board feedback and revise if necessary.

We are now in the progress of revising the standard method statement templates to complete the improvements to the application pack. We have previously advised that we would be publishing advice on how to complete certain sections of the bat and dormice method statements, and hope to publish this soon.

#### **4. Update: Licences granted now published on Magic**

At the end of February granted bat, amphibian, reptile, dormouse, great crested newt licences with case reference numbers from 2009-2013 were made available to view on the MAGIC system. Further updates, due shortly will include granted licences with cases reference numbers from 2008, following the validation of spatial data for these cases. There will be further updates in 2015, probably later this summer, to include 2014 case reference numbers; followed by biannual updates to add new cases.

The dataset includes licence details such as case reference number, species, site county, key dates, and information related to whether breeding and resting sites were impacted by the licence. The dataset is available by visiting the MagicMap website at this link <http://www.magic.gov.uk/#> and viewing the “Interactive Map” (go to Table of contents (THS) and select Habitats and Species – Species – EPS – Licences granted).

#### **5. Update: Bat Low Impact licence**

Following the update on the outcome of the sift of applications to become a Registered Consultant for the Bat Low Impact Class Licence in February's newsletter we have now registered around 70 consultants. These individuals met the criteria to apply to become a Registered Consultant, attended a mandatory two-day workshop and passed an assessment before being registered and given a unique reference number. They are now able to apply to register individual sites to undertake licensable activities under this licence.

For each site where a consultant wishes to undertake works, which must meet the strict criteria of the licence, they submit information in a site registration form rather than an application pack. Natural England undertakes an assessment of the information against the three licensing tests before confirming if they have been met and whether the site is registered and works may proceed under the licence. The site registration form requires less information to be submitted than

an individual mitigation licence application but the requirements, and evidence, to inform the application remain the same (including survey effort). The information still must be kept and compliance checks, on the information collected but not necessarily submitted, can be made at any time.

This initial roll-out of the Bat Low Impact Class Licence is part of a Better Regulation Delivery Office funded project, between Natural England and the Chartered Institute of Ecology and Environmental Management (CIEEM) investigating how the Earned Recognition approach can be used to maintain and drive standards within the ecological consultancy sector. The delivery of the training via the mandatory workshops formed part of this work and we are currently in the process of reviewing its success and the next steps that will be taken. This will, as we have previously reported, include a review of the criteria we set in order to become a Registered Consultant. We do hope to be in a position to invite further applications to become a Registered Consultant this summer, with workshops hopefully being held towards the end of summer and early autumn. Updates on progress and a specific mailshot on the application process will be sent separately via our mailshot list.

We have received some queries asking for names of Registered Consultants. Our current position is this, we are not currently able to provide details of consultants registered to use the Bat Low Impact Class Licence due to data protection issues and Natural England does not recommend individual consultants. The directory on the CIEEM website - [Professional Directorate of CIEEM](#) does provide details of ecological consultants and it also enables people to search by area. CIEEM does not currently hold a list of consultants registered to use the Bat Low Impact Class Licence but will be updating their professional Directorate to indicate those members registered to apply under this licence shortly. Using an internet search engine should also identify ecological consultants including, where they've chosen to promote it, those who are registered consultants. A bat ecological consultant will be able to advise on the licensing requirements for the work proposed, which may or may not fall within the scope of the Bat Low Impact Class Licence remit.

Best wishes

Kathryn Murray

This content was withdrawn on 12 October 2020

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