

EPS Mitigation Licensing: Latest developments

NATURAL
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Dear Stakeholder

Welcome to our October EPS Newsletter which includes a recent update on our improvements work, progress on Case Work Management System, an update on current processing times for licences and some guidance on how customers can help us determine licence applications more quickly. We also explain how EPS licensing operates within the organisations new 14 Area Team structure and provide links to contact details for them.

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. 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 and publish them on our [website](#). Back dated newsletters and EPS mailshots can be found at

<http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/epsnewsletters.asp>

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1. Update: Improvements programme

Regular readers of the EPS Newsletters will remember in the [January 2014 newsletter](#) that we provided an update on Natural England's Improvements programme. Subsequent newsletters have provided updates on particular projects as work moves forward. Following a meeting with CIEEM in September (see [link](#)) it was suggested it would be helpful for those involved with EPS licence applications to see a further update on our proposals. To this end we have included a table at the end of this Newsletter which sets out what we are currently working on and rough timeframes for delivery. Further updates on progress will continue to be included in subsequent Newsletters. Natural England will also be meeting with CIEEM towards the end of January 2015.

2. Update: Bat Low Impact licence

As reported in the July 2014 Newsletter, the Bat Low Impact licence trial came to an end at the end of June. Natural England trialled a simplified way of licensing certain bat mitigation licence applications – the “Low Impact Class Licence Trial” – to test a streamlined means of permitting works that have low impacts on these strictly protected species but which still must be licensed in order to meet legal requirements.

The trial ran from July 2013 to June 2014 and 32 ecological bat consultants across the country participated as Registered Consultants. Only these

Registered Consultants could seek to register a site under this licence and to do so had to submit a site registration form to Natural England (rather than a full application pack) so the three legislative tests could be assessed. If the tests were met they received email confirmation that the site was registered and that they could go ahead with the necessary works in accordance with the class licence and site registration form. A number of compliance checks were undertaken following site registration.

This licence permitted the disturbance and / or capture of bats and / or damage or destruction of bat roost/s of low conservation significance affecting no more than three of the more common species of bats present in small numbers. The species covered within the remit of the licence were common pipistrelle (*Pipistrellus pipistrellus*), soprano pipistrelle (*Pipistrellus pygmaeus*), brown long-eared (*Plecotus auritus*), whiskered (*Myotis mystacinus*), Brandt's (*Myotis brandtii*), Daubenton's (*Myotis daubentonii*) and Natterer's (*Myotis nattereri*). The two species most affected by licensed activities were common pipistrelle and brown long-eared bats.

Registered Consultants, and their clients, appreciated the reduced amount of paper work to complete before a site was licensed, the fact that licence decisions took less than 10 working days and reported savings to their clients. Savings to developers during this trial licence period are estimated to be over £180,000 and 444 weeks in possible delays to development.

Natural England intends to formally introduce a low impact bat class licence in spring 2015, following completion of refining the licence process. In advance of that, we'll be setting the criteria / standards to become a Registered Consultant for this licence. We hope to publish these towards the end of October, by way of a mail shot, and will be inviting bat ecological consultants to apply.

Please see the update on this licence provided for the BCT Annual Conference delegation pack [here](#).

3. Important Advice: Handy tips to help when submitting a licence application

Annexed licensing has been part of the licensing process from April 2013 for great crested newts, April 2014 for bats and July 2014 for dormice. We are noticing several recurring issues, which are easily resolved, that sometimes cause problems when determining applications and getting a licence to you as soon as possible. The most common issues are detailed below and if the advice is followed will help reduce the risk of us coming back to you for more information or requesting changes.

- Submit applications as early as possible.
 - Ensure applications are complete, making sure that all supporting documents and details are carefully checked, all maps and figures are dated and referenced, the Works Schedule contains all licensable activities and that any deviations from guidelines are clearly explained and justified. This helps us having to come back to you for more information and to request changes are made to your documents.
 - Ensure that all necessary consents and permissions are in place before submission.
- Ensure a final check that all the relevant documents are submitted for your specific licence application before sending to Natural England. Read our [Guidance documents](#) before completing and submitting an application.
 - a. Some maps are mandatory and will be referenced in the special conditions of the annex and must be complied with so pertinent information considered essential by Natural England for inclusion on them must be followed, particularly now that the method statement in no longer part of a bat, newt or dormouse licence.
 - b. Please only include on your compensation maps / figures what is being provided under the licence or make it clear what is being provided as compensation for impacts, and therefore required for the licence, and what are additional measures to provide enhancement, possibly as part of a planning condition or other consent.

- c. Only include habitat management and maintenance which specifically relates to the species (bat, newt, dormice) features/habitats and which is required for the licence in the Work Schedule (b).
- d. We take the opportunity to remind Licensees and all those acting under any licence to read the standard licence and annex special conditions carefully and to ensure that copies of the correct versions of the agreed maps / figures are available at all times and to be sure that they are being followed (these are not sent out with the annexed licence once agreed). Compliance checks could be made at any time – in line with our compliance policy.
- e. Please read the Frequently Asked Questions ([FAQs](#)) in relation to annexed licences on our EPS Newsletter web page and [Latest News](#) web page which provides further detail on annexed licensing.

4. Update: Improving licensing capability

In our July Newsletter we explained what we were doing in relation to resolve the delays in assessing EPS licence applications, particularly those for great crested newts, as we are struggling to meet our service standards. We have managed to determine a good number of newt applications but are aware of a number of outstanding cases remaining and are taking steps to process these as quickly as we can. We sincerely regret any inconvenience to our customers and we continue to work hard to clear the backlog of cases that we have and hope to issue licence decisions for the backlog of cases as soon as possible.

As we enter autumn the weather is starting to become cooler and we are aware this may affect a number of applications (whether new, re-submissions or modification requests) and be causing you some concern. For those applications that *we have already received and processed* there may be instances where it will not be possible for a licence to be granted this year – e.g. one or more of the 3 legal tests are not met and further information is required. It may therefore not be possible for a number of these applications to start licensable works this year. For others, licences may be granted in time for licensable works to be started and / or completed this year. We respectfully

ask you to not chase a decision before the 30-working day citizen charter target is up. If you have further queries please contact the Area Team (see item 11).

For applications received *from the beginning of October* we will do our very best to progress your application but wish to let you know that it is unlikely that we will be able to issue our decision on newt applications before the newt 'active season' ends (generally around mid-late October). The same will apply to some bat cases, depending on the roost type and works involved.

We aim to issue decisions on all licence applications received after this date as soon as possible and hope that licences can be granted to enable works in the coming spring. Please do not send in revised documents but wait until our assessment on the three tests is complete and if we need additional information, or minor changes are required, we will ask at that time. If you have any further queries or concerns about your application/s please contact the Area Team (please see item 11).

Natural England remains committed to delivering a high standard of service and appreciate your understanding and support as we make the necessary improvements to our licensing service.

5. Update: Case Work Management System (CWMS) and submitting EPS licence applications

In our July newsletter we informed you that revisions were being made to the application forms for CWMS. These are underway and we will be engaging with CIEEM before the new forms are launched.

The application forms currently displayed on our website are in non-dynamic PDF format, if you require a dynamic PDF, please contact our [Enquiries team](#) who will forward a copy to you.

6. For awareness: Natural England's guidance is moving to GOV.UK

Defra and its regulators are simplifying all of their guidance to make it quicker to understand and easier to use. As from this month Natural England's guidance will be made available through GOV.UK. This is dependent on satisfactory completion of the content build. Our new web address will be www.gov.uk/natural-england.

A full copy of our existing website was captured by The National Archives on 5 June 2014. This is available to all in the [UK Government Web Archive](#). Existing Natural England website URLs will still work after we move to GOV.UK, i.e. bookmarks, in emails, on posters, in journals, etc. A comprehensive redirects system will take users either to content on GOV.UK or to The National Archives copy.

Our publications catalogue is a stand-alone website however and is not moving to GOV.UK at the moment. We will be discussing its future with Government Digital Service after we complete the corporate website's move.

Stakeholders have had the opportunity to comment on our guidance reform plans via the online consultation exercise (which has now closed for all the topics that NE leads on but is still open for others [here](#).) The guidance reforms will address the comments made and the revisions will be completed by end March 2015.

7. Reminder: presence and absence survey requirements for great crested newts

Although the April 2014 Newsletter included a reminder on the above issue, we have been asked to publish this reminder again.

“Applicants are reminded that a conventional presence and absence survey, as set out in the [method statement template](#) advice and “*Great Crested Newt Mitigation Guidelines, 2001*” require up to four visits to be confident of absence. Where presence is detected on visits 1, 2 or 3 subsequent visits do not need to take place if the aim is only to detect presence. However, if following detection of presence, a population size class assessment is required to support your licence application, and the full 6 survey visits must be undertaken”. The typical requirements for a survey to support a newt licence application in terms of what type of survey and age of survey can be found within the great crested newt [method statement template](#) ‘survey data (1)’ tab.

8. Reminder: Bat Identification to species level to support a licence application

When submitting for a bat licence, please be aware that you will need to positively identify bats to species level. For cryptic species (such as whiskered/Brandt's/Alcathoe and brown/grey long-eared) this will necessitate handling bats (by suitably experienced and licensed bat ecologists) and / or having relevant samples of droppings sent for DNA analysis. If licence applications are not supported by strong and reliable survey information, including positive identification of cryptic species, then it is likely a "Further Information Request" will be sent with a request for further survey work or evidence.

9. Important Advice: Seasonal considerations in newt capture, pitfall trapping and fence installation/removal

Natural England advises that pitfall traps are closed once newts begin to hibernate (generally after the first frosts, often around mid-late October) and reopened in suitable weather conditions in the spring when newts become active again above ground. This is largely because it is very difficult to find and capture animals once they have started to find refuges for winter; there is a risk that areas may be searched and declared free of newts when in fact the animals are still present in inaccessible underground crevices or in refuges. Searching destructively in winter, especially without a prior capture effort, is also more likely to result in mortality. In addition, from a welfare point of view it is unwise to capture and relocate animals that have begun their winter dormancy.

Although some newts may become active during the winter period, their behaviour is unpredictable and many individuals will remain in hibernation sites, where they are unavailable for capture. Furthermore, strong directional movements, which are best for trapping, are much less common during this period. Pitfall trapping over the winter period also has welfare implications for both target and non-target species caught in traps. Amphibian fencing should also not be installed or removed if there is a risk of harming dormant or hibernating newts. Note that this does not mean that all fencing works are unacceptable in winter. For example, installing fence lines across ground with no opportunities for refuge (e.g. compacted ground, amenity grassland) pose the

least risk to newts. The key point to examine is whether the fence is (or, for installation, would be) in an area used by newts. For existing fences, sound back-filling against the fence membrane can minimise the risk of newts sheltering in crevices.

10. Awareness: White Nose Syndrome – taking samples from bats under licence

Levels 2, 3 and 4 of the bat survey class licence permit the disturbance, but not capture (taking), of hibernating bats. A registered person (on level 2, 3 or 4 of the bat survey class licence) may, if necessary during the course of their usual hibernation survey activities, take samples from bats suspected to have White Nose Syndrome in accordance with the protocol set out in BCT's "White-Nose Syndrome: Guidance for bat workers in the UK and the Isle of Man" – see http://www.bats.org.uk/pages/info_for_batworkers.html - without physically handling bats. Before visiting hibernation sites bat workers should therefore ensure they are familiar with the commonly associated symptoms of White Nose Syndrome.

11. Awareness: Area teams and EPS licence applications

In April 2014 Natural England 'refreshed' its organisation (see [January](#) and [April](#) newsletters) moving from national directorates to local delivery teams. Under these changes responsibility for EPS licensing now resides with 14 local Area Teams, who are led by an Area Manager.

Generally speaking there is local delivery of licensing for badgers, birds, other species, Wildlife Investigation Incident Scheme. However due to the large volume of European Protected Species licence applications, which are spread unevenly across the country and the limited resource and expertise available within Natural England to determine them, EPS applications continue to be processed nationally.

In practice this means that if a licence application is made for a site in Milton Keynes, for example, the responsibility for the case sits with the Area Team where the site is (i.e. in this case Area 10 – Thames Valley). However, a Wildlife Adviser in Cumbria and an EPS Adviser in Bristol may be determining the case.

You are likely to be contacted by one of the managers or Team Leaders in the Area Team where the site lies if there are delays or problems. Likewise if you have any concerns about your application or issues you wish to raise, you do this via the Area Team where your application falls.

Area Managers for the various teams and counties which their areas cover are set out on our internet pages found [here](#).

Kind regards

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This content was withdrawn on 12 October 2020

Table 1: EPS Improvements programme – past, future (immediate, short, medium and long term)

Improvement	Why	When	Benefit
Introduced			
<p>Class licensing for:</p> <ul style="list-style-type: none"> • Survey licences for great crested newt (GCN), bats, dormice, white clawed crayfish (WCC – <i>not an EPS</i>). • Bat volunteer roost visitors (VBRV) • Ditch clearance for Lesser Ramshorn snail (LRHS) 	<p>To ensure clarity in what each licence permits.</p> <p>To remove the need for an annual licence application.</p>	<p>GCN: October 2011</p> <p>Dormice and WCC: September 2012</p> <p>Bats: March 2013</p> <p>LRHS: 2013</p>	<p>As long as reporting requirements are met, a registered person does not have to apply on an annual basis.</p> <p>3474 individuals in 2013 were registered for use of the following class licences:</p> <ul style="list-style-type: none"> • GCN survey (Level 1 = 315; Level 2 = 55), • Bat survey (Level 1 = 147; Level 2 = 1019; Level 3 = 86; Level 4 = 82) • VBRV (Level 1 = 652; Level 2 = 103) • Dormouse survey (Level 1 = 693; Level 2 = 64) • LRHS = 58 • WCC = 199
<p>Annexed licensing for GCN, bats and dormice</p>	<p>To move away from 'licensed method statements' and to ensure that the applicant is licensed for what is required.</p> <p>Allows minor issues to be resolved without resorting to a 'further information request' (FIR).</p> <p>Enables interim reporting via a</p>	<p>April 2013 – GCN</p> <p>April 2014 – Bats</p> <p>July 2014 - dormice</p>	<p>Direct contact an increased communication with the consultant and applicant.</p> <p>Savings in cost and time for the applicant and their consultant (by avoiding an formal FIR). For example, c.171 GCN FIRs avoided in 2013-2014 equating to savings of over £140k and up to 3 weeks of project time per site.</p>

	more structured licence return. Greatly simplifies the modification process.		To gather information on the success of mitigation and compensation measures, that will feed into our licensing improvements; better quality information gathered for reporting to European Commission.
Case Work Management System (CWMS)	To allow on-line applications to be submitted	May 2014	Enables customers to view and submit applications directly, leading to a more transparent and open view of licensing. Will lead to resource savings for Natural England which can be diverted to other work areas.
Immediate			
Fixes to CWMS	To remedy snagging issues discovered when the system went live. To resolve difficulties in introducing a generic new IT system to cover all licensing (not just EPS)	Application forms - November 2014 Changes to online system - March 2015	Improved application process and ease of providing licence return information.
Advice on how to complete the new bat and dormice method statement templates	To support the new method statement templates introduced for bats and newts. To publish maps of licences granted in the last 5 years for applicant use.	December 2014	Provision of information in a standard format. To facilitate assessment process and understanding of cumulative impacts on populations. To improve and maintain the standard of an application when applying for a licence.

Revised application 'pack' (i.e. application form, Reasoned Statement, method statement templates) to include a new Reasoned Statement	Ease of applying for a licence depending in impacts and risks. E.g. scoping different process for householders making improvements to their homes, temporary impact and/or routine maintenance cases vs. large developments or high impacts. To help the applicant understand evidence requirements and to provide a clear, concise template to help improve standard of application.	January 2015	To remove repetition following the introduction of 'generic' CWMS application forms; ease of applying for a licence. Will reduce the volume of unnecessary information often provided to meet the tests. To reduce complexity where possible and reduce administration burden. Raise standard of information provided to meet the three tests.
Introduction of a GCN and bat 'position statement' within the revised application pack	To reduce the burden of certain types of applications which meet 'criteria' set by Natural England that will be included in the application pack.	January 2015	Will remove the need for submission of a Reasoned Statement for certain cases. Savings in time and cost are expected, in particular, for a significant number of bat applications.
Introduction of NERC Act agreements for higher impact cases within the application process	To ensure that the applicant understands what is required in terms of long term protection of mitigation/compensation prior to applying for a licence.	TBC	To ensure the long term safeguard of important species, populations and compensation provided under licence.
New GCN method statement/s – assisting with points above in 'Revised application pack.	To review customer feedback on the 2013/2014 customer survey and use to investigate developing a different method statement template, without losing the benefits that the current one provides.	Spring 2015	To reduce complexity where possible and reduce administration burden. A more proportionate application process for lower risk activities.
Low Impact Bat Class licence	To introduce a streamlined means of permitting works that have low impacts on bats but which still must be licensed in order to meet legal	Spring 2015	A more proportionate application process for lower risk activities affecting certain bat species and certain roost types.

	<p>requirements.</p> <p>To speed up decision making and reduce delays for customers through a group of Registered Consultants able to use this licence.</p>		<p>Savings to developers during a trial licence period (covering 132 registered sites) was estimated to be over £180,000 and 444 weeks in possible delays to development.</p>
Bats In Churches class licence	<p>To introduce improvements to help manage the impacts of bats on medieval churches and other places of worship customers through a group of Registered Consultants able to use this licence.</p>	<p>'Toolkit' to be delivered by March 2015 with on-going deliverables after this date.</p>	<p>Reduce the impact of bats in badly affected churches while safeguarding the important bat populations concerned.</p> <p>Improve the support network to all churches with respect to bats.</p>
'Project wide' or 'site wide' licences (generally linear schemes)	<p>Where it can be evidenced that several individual licences will be required for a large project, for the same things, when one may suffice (e.g. to close badger setts along a rail way line, installation of gantries along a rail route but not for phased or multi-plot developments with cumulative impacts or high impact applications).</p>	<p>On-going</p>	<p>Reduced administration burden for the customer and Natural England.</p> <p>More proportionate licensing approach.</p> <p><i>(Note: these are only available dependent on resource and need).</i></p>
Organisational licences for surveying or routine maintenance type works	<p>To streamline the licensing activities with temporary impacts including some routine maintenance.</p>	<p>On-going</p>	<p>Reduced administration burden for the customer and Natural England.</p> <p>More proportionate licensing approach.</p> <p><i>(Note: these are only available dependent on resource and need).</i></p>
Earned recognition	<p>Joint funded proposal with CIEEM / Natural England to review our licensing activities and highlight opportunities for streamlining the means of permitting works that have low impacts on protected</p>	<p>Summer 2015</p>	<p>To develop an Earned Recognition scheme to support effective and efficient protected species licensing activities by streamlining decision making for low risk activities.</p>

	species but still must be licensed in order to meet legal requirements.		
Class survey licences for sand lizard, smooth snake, natterjack toads	To bring these licences in line with other EPS class survey licensing.	Summer 2015	As above for class survey licences.
Annexed licensing for sand lizard, smooth snake, natterjack toads mitigation licence applications	As above for other annexed licences.	Summer and autumn 2015	As above for annexed licences.
Chargeable training courses	To improve standard of applications and improve understanding of licensing requirements	2015-2016 (TBC)	Lead to a better quality of applications leading to securing licences on first application.