



Guidance on managing woodlands with great crested newts in England



1. Background and purpose of document

The Habitats Directive¹ aims to conserve various species of plant and animal which are rare across Europe, and it requires Member States to provide legal protection for these species. Most of the protected species which are found in the UK (European Protected Species, or EPS) are associated with woodland, in particular dormice, otters, many of the species of bat, great crested newts, smooth snake and sand lizard. The EU Directive was transposed into UK law by the Habitats Regulations in 1994. However, the Regulations were amended in August 2007, and this has removed the 'incidental result' defence under which many forestry operations were carried out.

This document is one of a series providing guidance for woodland managers and operators on how to conserve these European protected species and reduce the risk of anyone committing offences under the Habitats Regulations. It focuses on the great crested newt (*Triturus cristatus*).

Guidance is given on routine and on-going forestry and woodland operations and activities. For more unusual operations, such as development, construction or land-use change (i.e. removal of forest), you should seek further advice from the Forestry Commission (FC). Similarly, whilst it covers low-key recreational usage, expert advice should be sought for more unusual or intensive activities in woodlands.

This guidance should be used in conjunction with wider guidance on forestry and woodland management, and should not be followed in isolation. Sources of more detailed information on conserving the species are given in the final section.

The FC and Natural England (NE), with assistance from relevant conservation organisations, have produced this suite of guidance to help you understand the legislation. Following the guidance will show that you have taken all reasonable steps to comply with the Regulations. If the guidance has been followed, but you nevertheless do inadvertently cause damage, disturbance or harm to this protected species, a prosecution is unlikely to be considered to be 'in the public interest'². However, you are reminded that it remains your responsibility to ensure all your actions do comply with the law.

This is 'interim' guidance that will be reviewed in the light of experience over the first 6 months after publication. We therefore welcome suggestions from users during that period on how it could be improved.

¹The formal title is: Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora.

² The public interest test is used by the regulators to decide whether it is appropriate to take a matter any further bearing in mind all the circumstances of the case.

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2. Complying with the Habitats Regulations

There is an inherent difficulty in complying with the Habitats Directive, because whilst habitat management is often needed to conserve rare species, carrying out such management could contravene the strict protection that the Directive requires. This contradiction is recognised in a guidance note issued by the EC (see reference list below). This recommends that Member States produce codes of conduct, or guidance, and that these should: “offer flexibility, i.e. while recognising that absolute protection for all individuals of a species cannot be guaranteed, ensure that any harmful action takes full account of the conservation needs of the species/population concerned”. The EC also states that anyone complying with such codes of conduct should be protected from prosecution, but conversely there must be a legal process for enforcement in cases of non-compliance with the legislation.

Conserving rare species present in a wood requires a careful and well-planned approach to woodland management. Ensuring that the requirements of the Habitats Regulations are also satisfied is an additional challenge. A systematic approach will be required in order to minimise the risk of committing an offence. This guidance is structured around the following six stages:

- Is a protected species **present** in the wood?
- What woodland **habitats** does this species use?
- What activities and operations could potentially cause **damage, disturbance or harm** to the species?
- What operations can go ahead as ‘**good practice**’?
- When, and how, should I seek a **licence**?
- What else can I do to help **conserve** this species?

The phrase ‘causing damage, disturbance or harm’ is actually a simplification, and it is important to understand the precise offences that can be committed. These can be summarised as follows:

- *Damaging or destroying the breeding site or resting place of a protected species (even if unintentional or even when the animal is not present)*
- *Deliberately killing or injuring a protected species or destroying its eggs*
- *Deliberately disturbing a protected species in a manner that:*
 - *either significantly affects its ability to survive and breed;*
 - *or, as a consequence, significantly affects the local population.*

In the Directive, the term ‘deliberate’ is interpreted as being somewhat wider than just intentional and could be thought of as including an element of recklessness.

You should be aware that there is the potential for more than one protected species in your woodland, which for example may support great crested newts and bats, and you will need to follow the good practice guidance for each of the species present.

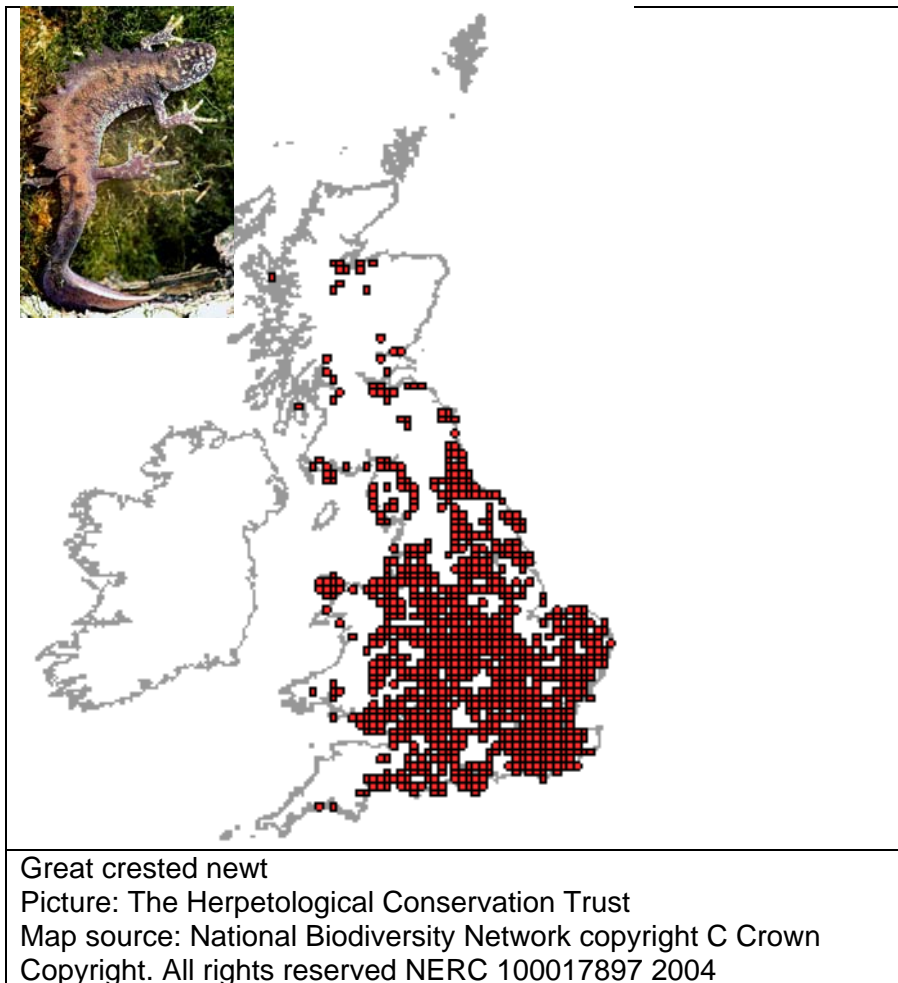
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3. Are great crested newts present in the wood?

There are a number of ways of determining the likelihood of great crested newts being present in your woodland:

- a. *Is your woodland approximately within the current known range of the great crested newt?*

The map below shows the known distribution of great crested newts. It can be seen that this species is very widely distributed in England. Please note that not all recent occurrences of great crested newt may be mapped.



- b. *Are there records of great crested newt in your woodland?*

The National Biodiversity Network Gateway is available on the web. Search for records of great crested newts near or in your woods by using the interactive map www.searchnbn.net/interactive/map.jsp?srchSp=NHMSYS0000080156, and zoom to your area of interest. (N.B. it is important to note that a lack of records does not necessarily confirm absence of this species). Other records may be obtained from the Local Biological Record Centres (list at: www.nfbr.org.uk), Natural History Societies, and local amphibian and reptile groups (contact details through national representative body: www.arg-uk.org.uk).

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Your local County Wildlife Trust representative may also be able to give site specific information on the likelihood of great crested newt presence.

c. Is there field evidence of great crested newts in your woodland?

Signs of egg laying can provide an indication of the presence of great crested newts. All three native newt species lay eggs singly, often folding them within leaves of aquatic vegetation. Great crested newts seem to prefer relatively large leaves, which, when folded around an egg, are conspicuous to an informed observer (Figure 1). Great crested newt eggs can be found from March to May and plant species used by this species include larger-leaved pond plants such as water plantain, water forget-me-not, water mint and brooklime. Identifying characteristically folded leaves is an indication that great crested newt may be present. Opening a leaf containing an egg could itself constitute an offence and should not be done unless under licence. Often the distinctive size and colour of the great crested newt egg will be visible through gaps in the leaf fold.

Great crested newts will use terrestrial habitat surrounding a breeding pond. Their terrestrial resting, foraging, dispersal and hibernation sites will be thinly spread throughout such areas and are difficult to find. A pond in farmland (perhaps not on your land) some distance from the wood may be used by great crested newts, but the wood may still be important habitat for them, for example providing foraging areas.

However, a more informed judgement as to their likely presence can be gained by a Habitat Suitability Index (HSI) assessment. This involves scoring 10 simple habitat measures (such as pond size, degree of shading) and the resulting index is a measure of the likelihood of great crested newt presence. The HSI is not a replacement for newt surveys, but could be useful for woodland managers in some situations, perhaps in identifying very low risk situations. Guidance is available at:

www.narrs.org.uk/Documents/nasdocuments/HSI_guidance.pdf

Ultimately, confirming actual presence of great crested newts is likely to require specialist survey either by a licensed consultant or through a local amphibian group. It may be safer to assume great crested newts are present and follow the good practice guide in this document.

Figure 1: Leaf folded around a newt's egg.



Source: The Herpetological Conservation Trust

For more information on surveying for great crested newt contact The Herpetological Conservation Trust's Great Crested Newt Conservation Officer (www.herpconstrust.org.uk) and see reading list.

Once breeding ponds and potential resting places have been identified these will need to be mapped and incorporated in to both your operational plans as well as your long-term woodland management plan. You may choose to avoid the areas identified, or alternatively

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proceed with management in these areas in accordance with the good practice described in this document.

If by self-assessment (following the guidance above) and/or specialist survey you are confident that great crested newts are not using your woodland then the operation may proceed. It would be sensible to keep a record of your decision and the information used to support it (for example a specialist survey). If evidence of great crested newts is subsequently discovered during operations, you should stop work, consult the FC, and review your plans as required. It is therefore important for operators to remain vigilant for great crested newts while undertaking work.

4. What woodland habitats do great crested newts use?

To understand the habitats used by great crested newts it is important to understand their seasonal behaviour:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
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N.B. adult and immature newts will live terrestrially around the pond at all times; larvae are present in the ponds between April and October. Seasonal timing can vary due to weather.

Great crested newts rely on water (usually ponds though other water filled hollows and slow-running streams may also be used) for breeding but spend much of their life on land. Woodlands are an important component of the terrestrial habitats, and are used for shelter, foraging, dispersal and hibernation. The most favoured habitats are broadleaved (or lightly-shading conifer) woodlands with a dense shrub layer, understorey or leaf litter layer, and where there are adjacent glades/rides and ditches.

Suitable resting places and hibernation sites may be above ground in dense undergrowth, beneath timber and log piles and amongst tree roots or underground in mammal burrows, under turf and rocks. Great crested newts are unable to make their own holes, relying instead on existing crevices or voids. Both ponds and terrestrial habitats are important for foraging. Open woodlands with a diverse understorey and shrub layer are likely to provide greater opportunities for foraging while dense plantations with no understorey, are less suitable. Great crested newts feed mainly on invertebrates but also on the larval stages of amphibians. The majority of typical woodland management activities will create some temporary disturbance to such habitats, but it is important to remember such management will usually result in more open canopies encouraging understorey, or clearfells with their rapid re-growth of vegetation. In proximity to breeding ponds, responsible woodland management can ensure the long-term maintenance of a range of terrestrial habitats in which great crested newts can thrive.

Further information and advice on habitat requirements of the species is available from The Herpetological Conservation Trust's Great Crested Newt Conservation Officer. Also see further reading list.

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5. What activities and operations could cause damage, disturbance or harm?

Great crested newts are unable to move around woodland quickly, for instance to flee from a threat. Although breeding sites are relatively easy to locate, terrestrial habitat is hard to identify and is likely to be distributed throughout the woodland near the pond. Any mechanised operations – such as timber harvesting, scarifying, mowing and excavation – in the vicinity of a pond used by great crested newts constitutes a high risk of causing them damage, disturbance or harm. In simple terms, if you are thinking of using any machine within sight of a pond that might be used by great crested newts, then you will need to think carefully.

The level of risk will depend on several factors:

- **Distance from the pond:** The risk of encountering newts or their resting places generally decreases with distance from the pond. Where there are large great crested newt populations, or particularly favourable terrestrial habitats, activities even several hundred metres away from the pond could result in harm.
- **Intensity of operation:** scarifying is both intensive and affects the whole area treated, whereas at the other end of the scale, driving a forwarder once through an area to extract timber will have a much lower risk of causing damage or harm.
- **Nature of the habitat:** a relatively bare forest floor below a conifer canopy will contain few potential resting places compared to semi-natural woodland with a dense shrub layer and abundant deadwood.
- **Time of year:** the pond itself will typically only be used between around March and October, but the habitat around a pond will be used throughout the year so work at any time of year in this wider area could have some impact.

6. Good practice guidance for woodlands with great crested newts

The overall outcome of management should be a mosaic of suitable habitats, which are interconnected and will provide a continuity of habitats over time. The general principle is to limit operations in proximity to breeding ponds to ensure that the disturbance to the great crested newts on the land surrounding the pond is restricted. The undisturbed areas act as reserves or 'refugia' from which great crested newts can recolonise the worked areas as they become more suitable.

Good practice for managing woodland with great crested newts

This good practice guidance for routine woodland operations should maintain or improve the habitat for great crested newts and minimises the risk of harming individuals or damaging their breeding sites or resting places. If you follow this good practice, and carry out the operations as described here, we would not expect you to require a protected species licence.

- **Thinning/felling/tree surgery** – phase any work near a pond used by great crested newts over several years, so that within 100m of a pond only 25% of the area is affected in any one year.
- **Stacking** - within 100m of a pond, try to avoid stacking timber unless such stacks are to be left solely as habitat. If you do have to harvest and stack timber in close proximity to a pond used by great crested newts, remove the stacks within a few weeks and certainly before October.
- **Extraction** – where possible extract material using a forwarder rather than a skidder to reduce the risk of harming great crested newts.
- **Site preparation** – try to avoid scarification or burning up of brash where great crested newts use the woodland, but if it is necessary, ensure all site preparation is done before the area becomes suitable habitat – ideally within a few months of felling. Do not rake brash or scarify areas within 100m of a breeding pond.
- **Mowing regimes** – within 100m of a pond, modify the ride and glade mowing programme to ensure only a small proportion of the grassland habitat is cut in any one year.
- **Track construction or other ground-works** – avoid undertaking such activities within 100m of a pond.

7. When and how should I seek a licence?

Carrying out any operations that 'exceed' the thresholds or do not comply with the good practice guidance above constitute an offence or carry a significant risk of committing an offence. Some possible examples are:

- Any felling/thinning within 100m of a pond used by great crested newts that affects greater than 25% of the area.
- Raking brash or scarifying ground within 100m of a pond used by great crested newts.
- Excavating the breeding pond itself or altering the drains or streams feeding it.
- Mowing substantial areas of ride and glade habitat within 100m of a pond used by great crested newts.

Activities that fall outwith the guidance, but could cause such damage or disturbance would also necessitate an application for a licence. These might include:

- Removing the woodland and restoration to open habitat.
- Intensive recreational activities that will disturb an area of prime hibernating habitat.

You can apply for a protected species licence to carry out such operations, but your application will have to be able to demonstrate that it meets all of the following three 'tests':

- The work is being done in order to conserve wildlife, ensure public safety or to help deliver the Government's woodland strategy and provide public benefits;
- There is no satisfactory alternative way of achieving the same outcome; and
- The overall package of work will not be detrimental to the population of great crested newts.

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An application form can be obtained from your local FC office. This will guide you through the process and the information you need to provide. To meet the third 'test' you may have to carry out additional work to improve the habitat and 'compensate' for any short-term adverse impacts on the great crested newts. The FC will carry out initial checks but NE will make the ultimate decision and grant the licence.

If the package of work you are proposing does not meet these 'tests' then it will not be possible to grant a licence. You are strongly advised not to proceed with operations that involve a high risk of committing an offence without a licence.

8. What else can I do to help conserve great crested newts?

The following operations should improve your woodland for great crested newts and some of these are likely to be essential if you are applying for a licence:

- Coppice or pollard trees that shade the southern margin of breeding ponds.
- Create refuges within a 50-100m buffer of the breeding pond by stacking logs and brash and leaving fallen deadwood.
- Enhance the woodland understorey (i.e. shrub, herb and ground flora layers) by coppicing, thinning or select felling to open up canopy gaps.
- Control or exclude livestock or deer to ensure adequate understorey and ground vegetation.
- Create new ponds within suitable habitat and not more than 500m from existing breeding ponds.
- Ensure a network of suitable habitat (woodland, scrub cover, rough grassland, and rides) between ponds to allow great crested newts to migrate and disperse.

It is possible that grant aid may be available under the England Woodland Grant Scheme to support such work to further the conservation of great crested newts.

Sources of further information and references

Anon (2007) *Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC*, European Commission, February 2007, available at:

http://forum.europa.eu.int/Public/irc/env/species_protection/library?l=/commission_guidance/final-completepdf/ EN 1.0 &a=d

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Scottish Environment Protection Agency (2000) *Ponds, pools and lochans: guidance on good practice in the management and creation of small waterbodies in Scotland* SEPA, Stirling. www.sepa.org.uk/pdf/guidance/hei/ponds.pdf

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