

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. Many of the protected species which are found in the UK (European Protected Species, or EPS) are either associated with or can be found in woodland, for instance dormice, otters, all species of bat, great crested newts, smooth snakes and sand lizards. The EU Directive was transposed into UK law by the Habitats Regulations in 1994 and as the Conservation of Habitats and Species Regulations 2010 (as amended). The Regulations have increased the protection afforded to EPS and does not include the 'incidental result' defence under which many forestry operations were carried out.

The Forestry Commission (FC) with assistance from relevant conservation organisations, including Natural England have produced a suite of guidance to help you understand the legislation and to use good practice to operate within the law, avoid the need for a licence and benefit EPS. Following the guidance will show that you have taken all reasonable steps to comply with the Regulations. This document is one of a series providing guidance for woodland managers and operators. 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 FC. Similarly, whilst it covers low-key recreational usage, expert advice should be sought for more unusual or intensive activities in woodlands e.g. music concerts or motor rallying.

This guidance should be used in conjunction with wider guidance on forestry and woodland management, and should not be followed in isolation. 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.

Sources of more detailed information on conserving the species are given in the further reading section.

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

²The 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.

2. Complying with the Habitats Regulations through good practice

Great crested newts are protected under the Habitats Regulations. Conserving rare and protected species present in a wood requires a careful and well-planned approach to woodland management. Great crested newts will use terrestrial habitat surrounding a breeding pond, this terrestrial habitat may be woodland. If you manage your woodland according to this guidance you are unlikely to inadvertently commit an offence against great crested newts.

Management should aim to create a mosaic of suitable habitats, which are interconnected and will provide a continuity of habitats over time.

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.

2.1. 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	Sep	Oct	Nov	Dec
Great Crested Newt	Blue	Blue	Yellow	Yellow	Orange	Red	Yellow	Yellow	Yellow	Yellow	Blue	Blue

Hibernation	Blue
Active around ponds	Yellow
Mating	Orange
Young born/hatch	Red

- Adult newts emerge from their overwintering sites on warm nights (>4 °C) February/March/April and gradually move towards to their breeding ponds.
- Mating takes place in May and one female can lay up to 250 eggs over the breeding season.
- Eggs hatch in May and June and newt tadpoles known as efts can be found in the ponds until end of August when they move onto land.
- Most adults have left the ponds by July but remain in the vicinity until November when both adults and juveniles seek hibernation sites.

Great crested newts rely on water (usually ponds though other water filled hollows, ditches 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. Great crested newts often inhabit ponds that are part of a cluster and individuals move between ponds with varying frequency.

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.

A Habitat Suitability Index (HSI) assessment, involving scoring 10 simple habitat measures (such as pond size, degree of shading), can be performed to provide further insights in to the quality of habitat your wood is providing for great crested newts and the likelihood of the species' 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 ('GCN HABITAT SUITABILITY INDEX GUIDANCE') is available on the 'Resources for Surveyors' page at: <http://narrs.org.uk/survey.php>

3. Forest operations and great crested newts – avoiding committing an offence

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 foraging habitat, resting and hibernation sites are harder to identify and are likely to be distributed throughout the woodland near the pond. Any mechanised operations – such as timber harvesting, scarifying, removal of dense vegetation involving ground disturbance and excavation – in the vicinity of a pond used by great crested newts carries a high risk of causing 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 exercise care.

A systematic approach will be required in order to minimise the risk of committing an offence. This guidance is structured around the following five stages:

- Are great crested newts **present** in the wood?
- Could proposed activities and operations potentially cause **damage, disturbance or harm** to the species?
- Are operations in habitats this species uses and when the species uses them?
- Are other parts of the woodland being managed using good practice for great crested newts?
- When and how should I seek a **licence**?

The phrase 'causing damage, disturbance or harm' is actually a simplification, and it is important to understand the precise offences that can be committed. The Habitats Regulations state:

A person who—

- (a) deliberately captures, injures or kills any wild animal of a European protected species,
- (b) deliberately disturbs wild animals of any such species,
- (c) deliberately takes or destroys the eggs of such an animal, or
- (d) damages or destroys a breeding site or resting place of such an animal.

is guilty of an offence.

The diagram consists of three callout boxes with lines pointing to specific items in the list above. One box labeled 'harm' points to item (a). Another box labeled 'disturbance' points to item (b). A third box labeled 'damage' points to item (d). There is also a box labeled 'harm' pointing to the entire list of items (a) through (d).

(2) For the purposes of paragraph (1)(b), disturbance of animals includes in particular any disturbance which is likely—

- (a) to impair their ability—
 - (i) to survive, to breed or reproduce, or to rear or nurture their young, or
 - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
- (b) to affect significantly the local distribution or abundance of the species to which they belong.

Causing 'damage', even when the animal is not present, is an offence irrespective of intent, but 'disturbance' and 'harm' is only considered an offence when caused deliberately. 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. A person would be acting recklessly if they could reasonably have been expected to foresee that an operation could cause disturbance or harm to a protected species but took no action to assess the risk and consider what to do about it. Where an operation is carried out with sensible precautions then the risk of deliberate disturbance and harm can be greatly minimised.

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.

A series of tools have been developed to help support and advise woodland owners and managers on how to manage woodland where there are protected species present. This guidance is in compliance with sustainable forestry management practices and the Habitats Regulations.

A checklist - **European Protected Species and woodland operations v3** (PDF 104 kb) has been developed to guide woodland owners and managers through the decision-making process of seeking grant or felling permission approvals.

Immediately prior to woodland management operations taking place an **Operational Site Assessment Form** should be filled in. This has also been developed to help woodland owners and managers consider the potential impacts of operations on site features including EPS and identify the measures required to follow good practice.

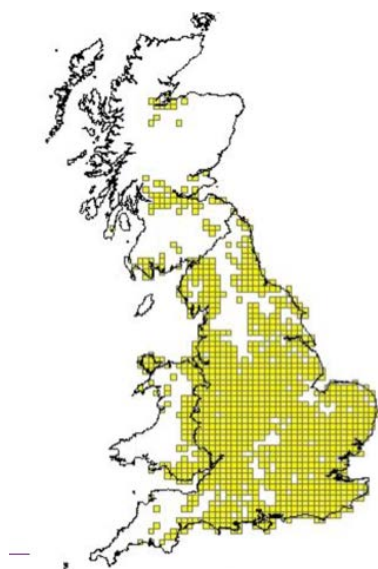
For more information on EPS (including access to the above checklists) and the steps land managers should take to safeguard them please see our EPS web page. www.forestry.gov.uk/england-protectedspecies.

3.1 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.



Map source: JNCC (2013) Article 17 Reporting



Great crested newt
Picture: The Herpetological Conservation Trust

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 <https://data.nbn.org.uk/imt/?mode=SPECIES&species=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 (follow 'LRCs' link 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). 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?

Confirming actual presence of great crested newts is likely to require specialist survey either by a consultant or through a local amphibian group. An eDNA survey can be used to determine presence/absence in ponds but not population size. The technique is not expensive and may provide reassurance/confirmation of absence for managers who suspect that they don't have great crested newts and wishing to operate outside this guidance. A survey for great crested newts should be undertaken by someone who is appropriately experienced and licensed. It may be

safer to assume great crested newts are present and follow the good practice guide in this document.

For more information on surveying for great crested newt contact The Herpetological Conservation Trust's Great Crested Newt Conservation Officer (www.arc-trust.org/) and see 'contact us'.

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 adjacent farmland, 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, resting or hibernation areas.

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

If 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 or results of an eDNA 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.

3.2. Could proposed activities and operations potentially cause damage, disturbance or harm to the species?

Carrying out any operations that do not comply with the good practice guidance carry a significant risk of committing an offence if your woodland supports great crested newts. Operations that have the potential to cause damage, disturbance or harm to newts include:

- Felling/thinning carried out mechanically by a harvesting machine in newt habitat.
Raking brash or scarifying ground near to a pond used by great crested newts.
- Clearing or mowing dense or tussocky vegetation particularly where this might lead to ground disturbance near to a pond used by great crested newts.
- Excavating the breeding pond itself or altering the drains or streams feeding it.

See Section 3.4 for details of good practice.

Note: Great crested newts might be present at some distance from the pond and operators need to remain particularly vigilant when working within 250m of the breeding ponds, especially during the spring and autumn when the newts are dispersing.

Activities that fall outwith the guidance, but cause damage or disturbance might also constitute an offence unless authorised by a licence. These might include:

- Removing the woodland and restoration to open habitat or converting woodland to any other land-use (e.g. farmed land, roads, car park or built structures).
- Intensive recreational activities that will damage or disturb an area of prime hibernating habitat.

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 damage, disturbance or harm. Corridors will need to be maintained between ponds to allow for dispersal.
- **Intensity of operation:** scarifying is both intensive and affects the whole area treated, whereas driving a forwarder once through an area to extract timber will have a much lower risk of causing damage, disturbance or harm.
- **Nature of the habitat:** a relatively bare forest floor below a conifer canopy will contain few potential foraging, resting and hibernation places compared to semi-natural woodland with a dense shrub layer and abundant deadwood.

3.3. Are operations in habitats this species uses and when the species uses them?

The pond itself will typically only be used by great crested newts between February 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.

3.4. Good practice guidance for woodlands with great crested newts

The majority of typical woodland management activities could create some temporary disturbance to great crested newt habitats however 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.

This good practice guidance for routine woodland operations should maintain or improve the habitat for great crested newts. The general principle is to identify the key areas used by newts and plan forestry operations near great crested newt breeding ponds and in suitable foraging and hibernating habitat accordingly.

If there is a lot of suitable foraging and hibernating habitat near the pond then most newts may be close to the pond. However, in other cases there may be little or no good habitat within 100m (or even 250m) and newts may travel several hundred metres from preferred foraging and hibernating areas to a pond to breed. For example, newts may use woodland to hibernate or forage but travel to a pond located several hundred metres away in open farmland.

Forest design and operation planning:

For each breeding pond you should evaluate where the likely key habitat is located, and plan operations based on that. In some cases it may be possible to undertake higher risk activities close to the pond because the habitat is unlikely to be used by newts.

Include this information showing known locations of ponds and likely areas of optimum foraging/hibernating habitat on your Forest Design Plans (FDP) or Woodland Management Plans (WMP) and proposed felling maps so that, where possible, they can be protected, and when developing work plans the location and timing of operations can be scheduled to avoid impacting newts.

By adopting this informed approach, forestry operations are less likely to result in ecological harm being caused and will provide forestry managers with a more robust defence in the event of challenge.

3.5 Good practice for operations most likely to affect great crested newt and their habitat

- **Thinning/felling** – phase any work near a pond used by great crested newts over several years, so that within key areas of habitat only 25% of the area is affected in any one year. The undisturbed areas will act as reserves of ‘refugia’ from which newts can colonise any worked areas as they become more suitable.
- **Stacking** - avoid stacking timber close to a pond used by great crested newts unless such stacks are to be left solely as habitat. If you do have to stack timber in close to such ponds, then avoid key areas of habitat and 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. Suitable habitat can establish very quickly and if brash etc is left in situ, then it could quickly be used by newts, especially if surrounding habitat is of lower value. Do not rake or burn brash, or scarify areas within key areas of habitat near breeding pond.
- **Mowing regimes** – modify the ride and glade mowing programme in key areas of habitat to ensure only a small proportion of the grassland habitat is cut in any one year. The undisturbed areas will act as reserves of ‘refugia’ from which newts can colonise any worked areas as they become more suitable.
- **Track construction or other ground-works** – avoid undertaking such activities within key areas of habitat.

Note: There is a possibility that great crested newts might be present at some distance from the pond and operators need to remain vigilant when working within 250m of the breeding ponds, especially during the spring and autumn when the newts are dispersing.

3.6. When and how should I seek a licence?

Carrying out any operations that do not comply with the good practice guidance above carry an increased risk of committing an offence.

You can apply for a licence to carry out operations that will result in an offence being committed, but your application will have to be able to demonstrate the operation is necessary to either:

- Preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment, for instance by delivering Government's woodland strategy and provide public benefits;
- Prevent the spread of disease; and
- Prevent serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other forms of property or to fisheries.

And you must be able to show:

- That there is no satisfactory alternative; and
- That the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

Together these criteria make up the 'three tests' and will be considered by Natural England. Licences can only be issued if all three tests can be satisfied. More information is available at: <https://www.gov.uk/government/collections/great-crested-newt-licences>

A manual 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 adverse impacts on the great crested newts. The FC will carry out initial checks but Natural England will make the ultimate decision on the licence application. 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.

Sources of further information and references

Anon (2012) The Habitats and Wild Birds Directives in England and its seas

Core guidance for developers, regulators & land/marine managers

December 2012 (draft for public consultation) Defra.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82706/habitats-simplify-guide-draft-20121211.pdf

(Accessed May 2016)

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

http://ec.europa.eu/environment/nature/conservation/species/guidance/index_en.htm
(Accessed May 2016)

English Nature (2001) *Great crested newt mitigation guidelines*. English nature, Peterborough.

<http://publications.naturalengland.org.uk/publication/810429?category=30014>
(Accessed May 2016)

Forestry Commission (2011). *Forests and water guidelines*, Forestry Commission, Edinburgh. <http://www.forestry.gov.uk/ukfs/water> (Accessed May 2016)

Froglife (2001) *Froglife Advice Sheet 11: Surveying for (Great Crested) Newt Conservation*

Gent & Gibson (1998) *Herpetofauna Worker's Manual*

<http://jncc.defra.gov.uk/page-3325>
(Accessed May 2016)

Langton, T., Beckett, C., Foster, J. (2001) *Great Crested Newt Conservation Handbook*. Froglife, Halesworth.

<http://www.froglife.org/info-advice/great-crested-newt-conservation-handbook/> (Accessed May 2016)

Latham, DM, Oldham, RS, Stevenson, MJ, Duff, R, Franklin, P & Head, SM (1996) *Woodland management and the conservation of the great crested newt (Triturus cristatus)*. *Aspects of Applied Biology* 44: 451-459.

Natural England (2009), Pond management work and great crested newts (NEWT2), <http://publications.naturalengland.org.uk/file/128014>
(Accessed May 2016)

Produced by Forest Research, Forestry Commission (England, and Corporate and Forestry Support Division). We gratefully acknowledge comments from relevant species experts and Natural England.