

Operations Note 030

Date: 27<sup>th</sup> February 2013

## How *Chalara fraxinea* (dieback of ash) may affect your grant or felling licence application.

### Purpose

To update owners and managers on how *Chalara fraxinea* (Chalara dieback of ash) may affect the grant and regulatory processes supporting the planting and felling of ash in England.

### Background

Full supporting information on *C. fraxinea* (history, symptoms, distribution, silvicultural advice, scientific facts etc) can be found on the Forestry Commissions [Chalara webpage](#). Silvicultural guidance for '[Managing ash trees](#)' is likely to be particularly relevant.

### Context

Summary for EWGS, WGS and FWPS cases involving planting of ash (i.e. both new planting and restocking).

Grant stage	Action
1. New or unapproved EWGS applications	No ash will be agreed as a planting species.
2. Approved EWGS contracts - not yet planted	You should contact us to agree an alternate species.
3. Planted and still under contract – <b><i>infected</i></b> with Chalara	You should contact us and we will agree one of three options: <ul style="list-style-type: none"> <li>• <b>A reinstatement plan</b> - the replacement of ash with alternative species<sup>1</sup>;</li> </ul>

<sup>1</sup> Your Woodland Officer will provide guidance on what content is required in a reinstatement plan.

	<ul style="list-style-type: none"> <li>• <b>A lower stocking rate</b> - that the woodland will be established but with the absence of the ash originally intended;</li> <li>• That the <b>scheme is unviable</b> in the absence of ash. If no other course of action can be agreed the case will be written off with no penalty.</li> </ul>
4. Planted and still under contract – <b><i>not infected</i></b> with Chalara	There is no immediate need to take any action. However, if you wish to replace the ash you should contact us and agree a variation to the case.

Provided the advice in this document is heeded it is highly unlikely that repayment of grant funds will be required.

## Questions and Answers

### New Planting

<p><b>For an existing scheme, will I be required to change species?</b></p>	<p>If you have an English Woodland Grant Scheme (EWGS) which is still to be planted, the ash component must be replaced using a suitable alternative species. If you are unsure what to plant, please contact your local woodland officer (WO) for advice. Their contact details can be found <a href="#">here</a>. We will agree any species change in writing with you rather than formally amend your contract. Alternatively the Practice guide <a href="#">Managing ancient and native woodland in England</a> will provide information on suitable alternatives.</p> <p>If you are planting under a Natural England (NE) Higher Level Scheme (HLS), the ash component must be replaced with a suitable alternative species. NE includes a list of native species within your HLS agreement. You should look at this first and select a suitable alternative species. If in doubt as to how to proceed, then contact your NE case officer for advice.</p>
<p><b>Is it still acceptable to plant ash?</b></p>	<p>Currently there is a total ban on the movement of both ash seed and trees for planting.</p> <p>On the right sites, ash will seed in from a nearby woodland or individual trees, colonising an area naturally. This is acceptable and at this moment in time we would not advocate that an owner removes such ash regeneration from a site. This is mainly because we know some ash will be naturally resistant to the disease and we need to identify</p>

	<p>these so that we can develop naturally resistant planting stock.</p>
<p><b>I have grown on some of my own ash seed over a number of years. Surely if I want to, I can plant these on my property?</b></p>	<p>It is currently recommended that ash should not be used in any planting schemes. If you wish to proceed using your own trees, and this does not involve the movement of trees to another site, then you are able to plant these if you wish. You should be aware of the risk of doing so in that young ash trees in particular are very prone to infection by Chalara. If you are not receiving grant aid for the planting work this is your choice. However, in the event that you have either an EWGS or HLS agreement, you should be aware that any such planting from October 2012 onwards would be at your risk. As such, if the trees contracted the disease in the future, you <b>will not</b> be able to invoke the 'Force Majeure' clause within your contract. Also under the Terms and Conditions of your contract it is likely that you would be expected to replace any diseased trees at your own expense in order to maintain the relevant stocking level. Failure to do so may result in the reclaim of grant paid to date.</p>
<p><b>How do I invoke the 'Force Majeure' clause in my contract?</b></p>	<p>Since 2008, EWGS contracts have carried a 'Force Majeure' clause in the terms of the contract. This means that in the event of an unexpected catastrophe, such as an outbreak of a new disease, an owner may invoke this clause, which may result in the FC <b>not</b> reclaiming grant paid to date. In order to invoke this clause an owner <b>must</b>:</p> <ul style="list-style-type: none"> <li>• Notify the FC in writing within ten days of the trees being confirmed as infected. If we have issued a Statutory Plant Health Notice (SPHN) on the site requiring the trees destruction, we will annotate the grant file to this effect and we will contact you to discuss the future of the site.</li> <li>• Provide other documentary evidence that the trees are infected (such as notification from your local area office). In the event that you do not have any such notification you must provide alternative support for your claim such as good quality photographic evidence, ideally in colour, in focus and with a digital date super-imposed (if possible).</li> <li>• Provide details of the number of trees affected, their location and year they were planted (identified in your contract).</li> </ul> <p>For FC schemes planted <b>before 2008</b>, or <b>not carrying</b> the 'Force Majeure' clause you should contact your local FC woodland officer to discuss the options in the event that any ash trees become infected. We would aim to work with you as if a force majeure clause existed and ask you follow the</p>

	<p>procedure above.</p> <p>We will work closely with you in order to ensure that we can agree a satisfactory way forward. The force majeure clause refers to agreeing a reinstatement plan or accepting a lower standard of work. Action will vary on a case by case basis but may include one of the following:</p> <ul style="list-style-type: none"> <li>• For native woodland schemes we allow up to 40% of open ground within a scheme. If you had less than this identified in your original contract, the removal of ash may simply increase the open ground element. Provided that open ground is within the limits we would not seek to reclaim any grant;</li> <li>• With recently planted schemes, where the maximum open ground is already included, we may seek to replace the ash with a suitable alternative species. This will be on a case by case basis and in exceptional circumstances we may allow for further open ground within the scheme without the need to recover grant;</li> <li>• Where a scheme is in receipt of Farm Woodland Payments (or Farm Woodland Premium Scheme/Farm Woodland Scheme), and there are payments still outstanding, provided woodland cover is maintained (as above examples), the annual payments will continue to be paid. However, if it proves impossible to reach agreement, we may have no option but to reclaim grant paid to date and suspend any further payments.</li> </ul> <p>Overall, it is highly unlikely that we would seek to recover grant, but the situation may arise where we have no alternative. The most likely circumstance would be where an owner refuses to replant when deemed necessary by the FC.</p> <p>For owners with HLS agreements, the 'Force Majeure' clause was included within the terms of the agreement from <a href="#">2005</a>. You must provide the same information as above, to NE, if wishing to invoke this clause.</p>
<p><b>If I have to replant further trees will I get a grant?</b></p>	<p>We have yet to agree with Defra funding for this purpose and the form it might take. Up to date information will be available from your WO.</p>
<p><b>I have planted several woodland areas over the last few years, all with</b></p>	<p>Currently we would not encourage you to remove healthy trees and replace with an alternative species, and we may take action if you do. Depending on where you are located it may be some time before the disease spreads naturally and the trees may grow and become utilisable within that time.</p>

<p><b>varying levels of ash in the mixture. There is currently no evidence of infection. Should I remove the ash and replant with an alternative?</b></p>	<p>In addition we know that some trees have a natural resistance to the disease, and it may be that yours, or some of them, are resistant to the disease and therefore continue to grow to maturity.</p> <p>If the trees were planted with the benefit of grant aid and you remove them with <b>no evidence</b> that the trees were infected, you <b>will not be able</b> to invoke the 'Force Majeure' clause under either your EWGS or HLS agreement. You therefore <b>must</b> replace the trees with a suitable alternative species and maintain these for the period of the original agreement. Failure to do so will result in FC, or NE in the case of HLS, seeking to recover any relevant grant paid to date.</p>
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## Replanting

<p><b>I have a site which was felled several years ago and was planted with a native mixture which included ash. What do I need to do?</b></p>	<p>The rules governing replanting of felled woodland are exactly the same as for new planting (including the 'Force Majeure' clause). See above section for guidance.</p>
<p><b>I have agreed to restock an area using natural regeneration. This will include ash. Do I need to remove the ash?</b></p>	<p>We would recommend that you continue allowing the natural regeneration to colonise the site. As with new planting, the risk to the replanting will depend on your location, speed of disease spread and natural resistance of the trees to the infection. In the event that infection does occur, there will be opportunities through normal management, such as cleaning and thinning, to remove infected material and to favour other species.</p> <p>The FC will not issue any new contracts which rely on ash as an element of the restocking proposals.</p> <p>We may take action if you remove uninfected ash. This may affect the grant payment, if their removal means that the necessary stocking rate is not achieved. You <b>will not be able</b> to invoke the 'Force Majeure' clause if you remove uninfected trees (see new planting section above).</p> <p>For schemes where grant has already been paid, and the level of stocking is no longer satisfactory due to the removal of uninfected ash, the FC may be required to recover grant aid as identified previously if we are unable to agree alternative courses of action as per new planting.</p>

## Felling and Management

<p><b>I own a woodland with mature and semi mature ash in the mixture. What should I do if I suspect that the trees have become infected?</b></p>	<p>You should notify the national report line if you are concerned at any time of the health of your trees or woodland. This can be done by phone on 0117 372 1070 or use the tree alert web form available <a href="#">here</a>.</p> <p>Alternatively you may send an email to: <a href="mailto:gnationalteam@forestry.gsi.gov.uk">gnationalteam@forestry.gsi.gov.uk</a></p> <p>We may arrange for research or disease management staff to visit the site and take samples if we deem it necessary based on the information supplied. In the event of infection we will advise what actions you will need to take.</p>
<p><b>I am concerned that my mature ash will become infected and lose their value. Can I fell them before they succumb to the disease?</b></p>	<p>Any owner may apply for a licence to fell trees. These applications will be considered by the local woodland officer who will ensure that the proposals meet with the <a href="#">United Kingdom Forestry Standard</a> (UKFS). A licence to fell the trees will be issued along with any conditions attached to secure restocking where necessary. We will ensure that any restocking proposals are appropriate to the site, especially in relation to species selection.</p> <p>Evidence suggests that mature trees are unlikely to be directly killed by Chalara. Infection will cause dieback of the crown, which will result in new epicormic growth. This may continue for many years. Death of a tree will usually only occur where there is a secondary agent, such as honey fungus (<i>Armillaria</i> spp.), waiting in the wings to attack it. This secondary agent will often be the cause of deterioration in timber quality. It is likely that deterioration will therefore take some time to occur following the initial infection by Chalara.</p>
<p><b>If my trees become infected, will I be issued with a notice to fell?</b></p>	<p>We are unlikely to issue Statutory Plant Health Notices to fell mature trees affected by Chalara. This is because infected trees may continue to survive for many years (see above). This is different to our approach with <i>Phytophthora</i> because:</p> <ul style="list-style-type: none"> <li>• Evidence is that Chalara only affects ash tree species and the mode of dispersal is different to <i>Phytophthora</i>. As Chalara appears to be established in the wider environment already, it is extremely unlikely that wholesale removal of infected trees will prevent the eventual spread of the disease to other, currently uninfected, areas;</li> <li>• A percentage of ash trees show natural resistance to the disease. It is important that we identify these individuals, as seed from these will hopefully allow us to breed resistant trees as replacements in the</li> </ul>

	<p>future;</p> <ul style="list-style-type: none"> <li>• There is strong evidence with Phytophthora that as the level of spores in the air increases the disease is capable of infecting further species (including other tree species). The current Phytophthora disease management programme aims to reduce the risk of this occurring. There is no evidence to indicate that Chalara behaves in a similar way.</li> </ul> <p>This doesn't mean that an owner cannot fell trees that are infected if they wish, provided that this meets the UKFS (as above). Diseased trees, because they may not die, <b>will still require a felling licence</b> from the FC unless they are exempt due to size, volume or location (garden, church yard etc.). Failure to secure a felling licence may result in any felling being investigated through FC's Illegal felling process. More information on tree felling can be found on the Forestry Commissions <a href="#">Felling Licence</a> webpage.</p>
<p><b>The conditions of my licence stipulate that ash is planted. What do I do?</b></p>	<p>We are unable to rescind the conditions of a licence once issued. However, we can agree with you not to enforce them and to replace the ash with a suitable alternative species. We will agree with you in writing. This position is the same if we have issued you with any form of enforcement action, such as a Restocking Notice following felling, or an Enforcement Notice if you have failed to comply with the conditions of a felling licence.</p> <p>In some instances we may wish to see a site restocked utilising natural regeneration, which may also include ash. In these situations we will add an additional clause that stipulates that the ash will be replaced with a suitable alternative should the ash become infected and if it is sensible to do so.</p>
<p><b>I have diseased trees, one of which is a known bat roost. What do I need to do?</b></p>	<p>As mentioned earlier it is not necessary to fell diseased trees. For known or suspected bat roosts you should follow the good practice guidance available <a href="#">here</a>. In nearly all cases the tree can be left for many years, and in the event that it dies, it can be left to disintegrate naturally. Where safety is an issue the branches may be removed in order to prevent an immediate danger. You should seek advice from your FC woodland officer if you are not clear what is required. Tree disease management does not take priority over the requirements of the Habitat regulations.</p>
<p><b>I intend to fell some ash trees shortly and have a licence already. Can I still sell the timber?</b></p>	<p>The timber itself is seen as a very low risk when it comes to spread of the disease, provided that it has no leaves or branches left attached when being transported. The current bio-security measures should be followed during all work operations in case the trees are infected. The latest bio-</p>

	<p>security information can be obtained <a href="#">here</a>.</p> <p>There are no specific measures on <b>logs and firewood</b> in the legislation. For further details see the current guidance, <a href="#">Effects of new legislation on the timber and firewood trades</a>.</p> <p>In the unlikely event a Statutory Plant Health Notice is issued it will restrict movement of timber. In this situation, it is likely that only use of the timber on site would be permitted (e.g. burning and producing charcoal, or using in a heat / power process), or movement under licence to an authorised premises.</p>
<p><b>My woodland has an area of ash coppice which I wish to continue working as coppice. Is this wise?</b></p>	<p>Young ash in particular is prone to the infection. Re-coppicing of ash will put the young growth at an increased risk of infection, resulting in eventual death of the coppice stool. If you are near to a known infected site you may wish to consider changing to an alternative system (high forest) or replacing the coppice with a suitable alternative species. Alternatively you may wish to postpone the felling of any coppice ash until more information is available. You should contact your woodland officer to discuss the impact on licence approval or possible grant aid. Further advice on managing your woodland can be obtained <a href="#">here</a>.</p>

## Sources of further advice

The [Grants and Regulations website](#) contains all the information you need to apply for grant support. Alternatively, you can request this information from your local [Forestry Commission office](#).

## Versions

Version 1.0 issued 27<sup>th</sup> February 2013



English Woodland Grant Scheme



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