

The Habitats Directive

Implications for the Water Management Alliance



About this Information Sheet

This sheet is produced for members of Drainage Boards, particularly those within the Water Management Alliance.

It aims to remind members of the requirements of the Habitats Directive Regulations with regard to the activities of IDB's.

The responsibility rests with members to ensure these requirements are met.

As a Board Member What Should I Do?

Make yourself aware of the location of all the European sites within your district. (Maps are available from the office)

Understand the relationship between the Land Drainage Act and the Regulations. In situations when they appear to conflict, generally the Regulations have priority.

Support officers in their efforts to meet the requirements of the Regulations



The Conservation (Natural Habitats & c) Regulations became law in 1994. The regulations transpose the European Habitats Directive into UK law, and Internal Drainage Boards (IDB's) are bound by this legislation with respect to work which may affect European wildlife sites.

With two new sites under consideration for Norfolk, it is a good time to remind all board members of our duties under this legislation, the significance of which is only now being fully appreciated.

What are European Sites?

European sites are defined in the Regulations as Special Protection Areas (SPAs) classified under the EC Birds Directive, and Special Areas of Conservation (SAC's) including those candidate sites submitted by Government to the European Commission.

Confusingly, these may often be referred to variously as European sites, Sites of Community Importance or Natura 2000 sites.

In Norfolk there are many terrestrial European sites, within the districts of the Water Management Alliance. In addition the wash and North Norfolk Coast is now a marine SAC.

Implications for Drainage Boards

All work affecting a European Site is covered by the Habitats Directive in exercising their functions. This means that IDBs must not cause a deterioration, or significant disturbance to any European site when carrying out any of our work.

What Type of Work is Covered?

All work affecting a European Site is covered by the Habitats Directive. However, only work which is likely to 'significantly affect the special interest of the site' will require an appropriate assessment. As the European Sites within the drainage districts tend to be of interest for their wetland features, this will include any work which may lower water levels and lead to a drying out of the site.

Sympathetic ditch management (carried out in line with the procedures set out in the Alliance's Standard Maintenance Operations document.) does not have a significant effect, and therefore will not need an appropriate assessment. The Alliance Officers always work in close liaison with Natural England during any works carried out on a designated wildlife site.

However, when the maintenance work is likely to have a significant effect, for example clearing a drain which has not been cleared for some time, replacing a sluice, enlarging, straightening, or 'improving' a drainage channel or system, then this will require an appropriate assessment.

Water Vole,
Picture courtesy Rob Strachan

Updates in Legislation

On 21 August 2007 an amendment to the Conservation (Natural Habitats &c.) Regulations 1994 came into force.

European protected animal species and their breeding sites or resting places are protected under Regulation 39. It is an offence for anyone to deliberately capture, injure or kill any such animal or to deliberately take or destroy their eggs. It is an offence to damage or destroy a breeding or resting place of such an animal. It is also an offence to have in one's possession or control, any live or dead European protected species.

The threshold above which a person will commit the offence of deliberately disturbing a wild animal of a European protected species has been raised.

Now, a person will commit an offence only if he deliberately disturbs such animals in a way as to be likely significantly to affect (a) the ability of any significant groups of animals of that species to survive, breed, or rear or nurture their young, or (b) the local distribution of abundance of that species.

Please note that the existing offences under the Wildlife and Countryside Act (1981) as amended which cover obstruction of places used for shelter or protection, disturbance and sale still apply to European protected species.

It is an offence to deliberately pick, collect, cut, uproot or destroy a wild plant of a European protected species. It is also an offence for any purpose to possess, sell or exchange such a plant.

The recent amendments to the Habitat Regulations have removed many of the defences. This includes the commonly relied upon 'incidental result defence', which previously covered acts that were the incidental result of an otherwise lawful activity and which could not reasonably have been avoided.

In circumstances where best practice guidance either cannot be followed or is not applicable, licences can be obtained to allow persons to carry out activities that would otherwise be prohibited, without committing an offence. Natural England has powers to grant licences in England for the purposes below:

- preserving public health or public safety or other imperative reasons of
- preventing the spread of disease
- preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries;
- science or education, conservation, ringing or marking;
- possession of species or derivatives.

Vertebrates protected from intentional or reckless disturbance under the WCA 1981 ('Schedule 5 species')	Vertebrates protected from deliberate disturbance under the Habitats Regulations 1994 ('European Protected Species').
Basking shark	
Bats (all species)	Bats (all species)
Burbot (<i>extinct in UK</i>)	
Whales, dolphins and porpoises*	Cetacea (all species)
Common dormouse	Common dormouse
Great crested newt	Great crested newt
Marine turtles (all UK species)	Marine turtles (all species)
Natterjack Toad	Natterjack Toad
Otter	Otter
Pine marten	
Red squirrel	
Sand lizard	Sand lizard
Smooth snake	Smooth snake
Sturgeon	Sturgeon
Walrus	
Water Vole	
Wildcat	Wildcat

Please note that Natural England can only issue a licence if it is satisfied that the activity meets one of the above purposes and is also satisfied that there is no satisfactory alternative, and that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. Following the amendment it will be possible to carry out some activities under a general licence rather than applying in each individual case for a separate specific/individual licence.

Further Information

The following information may be useful for specific case studies and is available from King's Lynn Office for members of the Water Management Alliance Boards.

www.wlma.org.uk