

Draft

Review of external stakeholder feedback on the draft external guidance documents released in July 2023 for powers to conditions, amend, suspend and revoke Felling Licences.

Feedback	Consideration
<p>Guidance and Legislation</p> <p>Summary:</p> <p><i>Links to guidance and relevant Legislation need to be added to the draft Website Pages</i></p> <p><i>Reference to UK Forestry Standard to be added and links to guidance</i></p>	<p>We are working with colleagues in our website development team to draft these pages on our website pages, all links to other relevant NRW Website pages will be added as we work through this process.</p> <p>References to relevant legislation have now been included, where applicable, to the draft NRW website pages.</p> <p><i>We are working with NRW colleagues in the digital team to develop ways to share guidance to help applicants/licence holders comply with the requirements.</i></p>
<p>European Protected Species</p> <p><i>It would be very useful if the NRW EPS guidance could be signposted throughout to ensure clarity, particularly in the baseline conditions document and the tier two conditions. This would benefit not only all species of UK bats but other protected species too, as it would make it more straightforward to understand how to best protect them.</i></p> <p><i>We note NRW intends to provide guidance such as a decision tool on whether EPS licence is needed. It would be useful for this introductory text to link to guidance, including that available in UKFS. There will need to be alternative routes: one for forestry professionals who submit their own EAs and additional guidance for non-professional applicants.</i></p>	<p>As above, we are working with our colleagues in the Digital Team to develop these website pages. As we add new guidance all links will be included to help the applicant through the process.</p> <p>Non-professional applicants will be directed to the EPS Decision tool and all relevant guidance. Forestry Professionals are open to continue to submit their existing EAs, but they may wish to review the new guidance which may be helpful.</p>
<p>Assessing the site for protected species –</p> <p>Summary:</p> <p>When/how will sites be assessed for Protected Species during the application process and ahead of/during felling operations.</p>	<p>Applicant will need to refer to the relevant guidance for EPS during the application process stage. This guidance will be made available on the NRW Website.</p> <p>Prior to and during the felling operation, the assessment will need to be site based.</p>
<p>Bats</p> <p>Summary:</p>	<p>Existing licencing regimes for protected species will continue to be a requirement. Felling Licence applicants will be referred to</p>

<p>Particular needs and consideration for Bats when undertaking Tree Removal</p>	<p>new Guidance as part of the application process. A decision tool will also be developed to help applicants establish protected species requirements.</p> <p>Guidance for applicants developed by NRW or available from other bodies will be added to the proposed Guidance Hub. External stakeholders are welcome to share relevant links to guidance which can be added to the developing Guidance Hub.</p>
<p>Environmental Conditions</p> <p><i>Level 1 Baseline Conditions</i> <i>-more time to carefully consider and test precise wording</i></p> <p><i>-An explainer at the beginning of this document would be useful in informing and directing the applicant to the right guidance and tools to allow them to comply with these baseline conditions. If the aspiration is to improve the level of knowledge and practice embedded links to guidance and regulations would seem sensible.</i></p> <p><i>This document has essentially not changed from the previous version and still doesn't support clear pragmatic application of legislation to deliver positive management outcomes.</i></p> <p><i>Situation:</i> <i>The Licence Holder must ensure that all forest operations should be pre-planned and continuously managed to minimise ground damage and mitigate run off into water courses.</i> https://www.gov.uk/government/publications/the-uk-forestry-standard <i>Section 6.6 soil</i></p>	<p>NRW will undertake a review of the Environmental Conditions 6 months following the introduction of these new powers.</p> <p>We have amended the draft Conditions webpage to add references to the relevant legislation. As we continue to draft these pages with our Digital Team colleagues, we will be developing a "how to apply for a felling licence page" which will step applicants through the process. We will also be adding links to the relevant guidance, legislation and to the UKFS requirements.</p> <p><i>Update: Based on external stakeholder feedback, the review of the implementation of the powers under the Agricultural Act 2023 will now be undertaken 12 months after introduction. This will allow sufficient time to get a full picture of how the new process is working.</i></p> <p><i>Minor updates have been made to the Baseline Conditions to reflect the now amended Forestry Act requirements in respect of conserving on site flora, fauna, geological or physiographical features and natural habitats.</i></p>
<p>Baseline condition for:</p> <p>Chemicals (which includes pesticides; herbicides; and fertilisers) - Must be used by a competent person who is trained to the required standard, or their work supervised by a certified person and used in accordance with user guidance and avoid harm to the environment or pollution of water.</p>	<p><i>Based on NRW feedback we have amended this Condition to provide a definition with regards to a competent person, this definition has been taken from the current wording in UKFS.</i></p>

<p>Baseline Conditions for:</p> <p><i>Incident reporting - Any incidents likely to create or result in (significant) environmental pollution must be reported within 24 hours using the hotline number 0300 065 3000.</i></p> <p><i>Technically, spilling a thimble of fuel when filling a chainsaw is an incident. Doing this in a water course could have significant impact, doing it in the middle of the stand will have no long term or harmful impact. There is no consideration for scale, competence, risk assessment and mitigation. This must be based on likely contamination of a water course, is the release contained with a spill kit, is it likely to cause and environmental incident.</i></p>	<p>Draft baseline condition amended.</p>
<p>Environmental Condition for Protected Birds</p> <p>Summary: Request for a closed Felling Season for Nesting Birds</p> <p>Guidance for Protected Birds</p> <p>We welcome the condition on the protection of bird nests and note that buffers are a mandatory protection requirement, but there is no mention avoiding harvesting or extraction during the bird nesting season?</p>	<p>The Baseline Condition ensures that the obligations under the Wildlife and Countryside Act are implemented by the Licence Holder.</p> <p>Those species with higher protection require appropriate buffers and the condition requires the licence holder to take reasonable steps to identify nesting birds are present before commencing operational activities.</p> <p>A closed season for all nesting birds would likely impact the management of woodlands which may be detrimental to the biodiversity of the woodland space.</p> <p>We are working with our colleagues within the Digital team to ensure that appropriate guidance on nesting seasons and buffer zones for protected birds is made available for applicants/licence holders on the NRW Website Guidance hub.</p> <p>Update: Draft baseline condition updated.</p>
<p>Environmental Conditions – Tier Two</p> <p>Summary: Red Squirrel Tier Two Condition – concerns raised over</p> <ul style="list-style-type: none"> - <i>Felling window</i> - <i>3rd Bullet point should be split:</i> - <i>Maintain sufficient connectivity within thinned habitat to facilitate continued</i> 	<p>The Red Squirrel Tier 2 condition will be applied when the felling application falls into a red squirrel focal area.</p> <p>The Felling window follows similar approaches across the UK.</p>

<p><i>squirrel residency, local foraging and arboreal movement throughout the stand.</i></p> <ul style="list-style-type: none"> - <i>Maintain sufficient canopy connectivity in the landscape to enable arboreal squirrel dispersal and movement between adjacent habitats.</i> 	<p>Guidance on planning/designing the felling operation will include guidance on maintaining canopy cover for Red Squirrels, part of the application process guidance.</p> <p><i>Update: Following External Stakeholder discussion and feedback at the meeting on 31st August. The condition has been reviewed and updated. NRW continues to develop guidance for applicants regarding the planning, management and timing of felling within Red Squirrel focal areas, this will be made available on the NRW Website, this guidance will also include details on drey surveys. This revision also follows England/Scotland guidance.</i></p>
<p>Environmental Conditions – Bespoke Conditions</p> <p>Summary: Complexity on sites – how will NRW ensure a Felling window is still available</p>	<p>Where multiple sensitives exist on a site this may require a bespoke condition, as part of this consideration process NRW will be looking to ensure an appropriate felling window is still available where appropriate.</p>
<p>Environmental Condition - Baseline for Badgers</p> <p>Summary: Request made for more detail to relevant legislation/guidance be added.</p>	<p>Applicants will be referred to Guidance on the management of Badgers during the application process.</p>
<p>Environmental Condition Veteran Trees –</p> <p><i>..select and manage suitable individuals to eventually take their place.</i></p>	<p>The selection and management of suitable individual veteran Trees will need to be considered as part of the Felling design, at the Felling Licence Application stage.</p>
<p>Environmental Condition Deadwood</p> <p><i>Deadwood - Licence holders must retain a proportion of standing and fallen deadwood within the woodland with a view to retaining a MINIMUM average of 20 cubic meters per hectare. Reference UKFS – ‘deadwood of native species that exceeds 200 mm diameter and is associated with sites of high ecological value contributes the most to biodiversity.’</i></p>	<p>The retention of deadwood will need to be considered as part of the Felling design, at the Felling Licence Application stage.</p>
<p>Ancient Monuments and Features</p> <p>Revision to the Baseline Condition and creation of a Tier Two Condition</p>	<p><i>Based on feedback we have reviewed the conditions for ancient monuments and features, creating a baseline condition for features which are more likely to be on all sites and a Tier Two condition which will</i></p>

	only be applied for Ancient Monuments found on some sites.
<p>Environmental Condition Ancient Woodlands</p> <p>Summary:</p> <p>Use of chemicals – need to consider possible exceptions for the use of pesticides</p> <p>Burning on Site</p> <p>Timing for operations</p>	<p>Clarification will be sought as part of the application process to understand the intended use of chemicals on an Ancient Woodland Site. This will allow the identification of possible exceptions.</p> <p>Burning is in line with UKFS requirements for Ancient Woodland Sites.</p> <p>Timing of operations – amendment made to the draft Conditions to allow for site conditions.</p> <p>Update: Following discussion at the external stakeholder meeting on 31st August, NRW have reviewed the Condition. In respect of the timing of felling operations, Applicants will be asked as part of the application process to provide more information on the proposed timing of felling and the proposed use of chemicals on site which will be considered by the Forestry Permitting Team alongside other constraints on the site.</p>
<p>Environmental Condition for Soil</p> <p><i>Soils – there is no mention of the consideration on the impact of soils, particularly the risk of erosion and sedimentation of watercourses caused by clear-felling on steeply sloping sites. UKFS makes this quite clear and the relevance to Wales policy needs to be referenced; In Wales, the environment (Wales) act 2016 provides the framework for the sustainable management of natural resources. In relation to forest soils, emerging management issues include climate regulation (soil carbon), productive capacity, water quality, flood mitigation, human health and habitat quality and connectivity.</i></p>	<p>Baseline Condition is line with UKFS requirements. Felling Licence applicants will be referred to Chapter 6.6 of UKFS as part of the Felling Licence Application process, information on the guidance hub.</p>
<p>Environmental Conditions for Hedgerow</p> <p><i>Where a felling licence is required for hedgerow works, we would like to see conditions applied to include a spring/summer closed season and some limit on the extent of hedge coppicing in order to protect the habitat.</i></p>	<p>We have at present not considered an Environmental Condition for hedgerows.</p> <p>We are awaiting the Interim Environmental Protection Assessor Report on Hedgerows which is due this Summer. This report may impact a future review of the Environmental Conditions on Felling Licences.</p>
Amending a Felling Licence draft guidance page	

<p>Summary: reference to a scope of 10% only for amendments</p> <p>Timeline for assessing and completing Amendments to licences</p>	<p>We have removed the 10%; we will consider all requests for amendment to licences which have been approved after the implementation of these powers. We will consider each request on its own merit.</p> <p>We will also review this guidance as we continually assess the implementation of the new powers and will amend the guidance as needed.</p> <p>Given the scope of opportunity to make amendments to licences, we are considering a 60 day timeline for amendments. We will keep this under review as part of the continuous review of the implementation of these powers.</p>
<p>Amending a Felling Licence draft guidance page:</p> <p><i>The documents propose extension to the duration of the felling period to 2 felling seasons, but we would still suggest that each year prior to works commencing, the area should be checked for the presence of EPS and environmental conditions should be assessed too, especially as bats are mobile and trees can change quickly due to the elements.</i></p>	<p>Draft Baseline Conditions indicate that the licence holder will need to check the site before commencing works and during the works.</p>
<p>Draft website page for guidance when NRW will revoke a felling licence</p> <p><i>We welcome the explanatory text to this. We would query the clarity of the following sentence: “Depending on the urgency of the situation we will consult with our Legal team before serving the notice, the details of which may not be made publicly available.” We understand that the detail of legal advice is privileged, and the details of any investigation are confidential, however the notices themselves should be in the public domain, as a matter of public interest. There is precedent for this within the Town and Country Planning system. We think this sentence could be clearer as to which element may not be made public.</i></p>	<p>We are still considering this request.</p>
<p>Ancient Woodland Management</p> <p><i>We suggest a seminar with NRW regulatory staff on the ecological principles that underline the management of ancient woodland, and which need to be reflected in all felling licence decisions.</i></p>	<p>It is important to ensure that NRW staff are trained in various aspects for woodland management. This will be identified and where relevant included in their list of training requirements.</p>
<p>Appeals and Compensation Website Guidance</p>	

<p><i>What is the process for appeal, is there a route to engage independent experts or arbitration?</i></p> <p><i>General comment is that all of these draft documents are strongly geared toward NRW and there is a lack of clarity on process, landowner protection and the use of experts to ensure that NRW staff are held to account, competent and capable to perform the role they are tasked with.</i></p>	<p>Appeals are to the relevant Minister, we are seeking information from Welsh Government on their process, appeals form and timeline which we hope will be made available on the Welsh Government website. Licence Holders will then be directed to this information from the NRW Website.</p> <p>NRW will be preparing external website guidance for the payment of compensation where this is relevant.</p>

DRAFT