

CLASS LICENCE

Intentional disturbance of water voles and damage/destruction of water vole burrows by means of 'Displacement'



(To facilitate development activities)

OVERVIEW

This licence permits intentional damage or destruction of water vole burrows, and/or disturbance to water voles occupying burrows, by use of the mitigation method known as 'displacement', prior to carrying out lawful development works.

For the purposes of this licence, 'displacement' means cutting vegetation back to bare earth followed, where appropriate, by a destructive search of the burrows, where the intention is to displace water voles from their burrows. Water draw-down or removal may be used in parallel with vegetation cutting, where appropriate.

This licence is not intended to cover the risk of incidental disturbance or damage resulting from other activities, such as routine mowing of water course banks. It is Natural England's view that such operations can proceed lawfully under the Wildlife & Countryside Act 1981 (as amended) Section 10(3)(c) defence "...an incidental result of a lawful operation..", so long as works are justified and undertaken in accordance with best practice that minimises the risk of any adverse impact on water voles.

This licence may only be relied upon where mitigation works include creation or enhancement of alternative compensatory habitat, such that there will be a demonstrable **net conservation gain** for water voles. Only appropriately trained and/or experienced ecologists are eligible to register to use this licence.

Registration	Anyone wishing to use this licence must first apply to Natural England to be registered. The registration process is explained in the Information and Advice notes g-k.
Recording & reporting	Record keeping and annual reporting are a requirement of this licence
Reference	WML – CL31

LICENCE TERMS and CONDITIONS

Legislation	Wildlife and Countryside Act 1981 (as amended) ('the 1981 Act')
Relevant section(s)	Section 16 (3)(c)
Valid for the period	1 January 2016 to 31 December 2016 (inclusive)
Area valid in	All counties of England (landward of the mean low water mark)
Purpose(s) for which this licence is issued	<ul style="list-style-type: none">• Conserving wild animals
What this licence permits	Subject to all the terms and conditions of this licence and solely for the purpose(s) stated above, this licence permits Registered Persons and their Assistants to: Intentionally disturb water vole(s) (<i>Arvicola amphibius/terrestris</i>) whilst occupying a structure or place of shelter or protection, or to intentionally damage, obstruct or destroy such a structure or place and, to temporarily take water voles whilst undertaking these activities, by means of:

- Cutting vegetation back to bare earth
- Carrying out a destructive search of water vole burrows following vegetation stripping
- Destroying water vole burrows following a destructive search

Who can use this licence Persons registered to use this licence (**Registered Persons**) who are appropriately trained and/or experienced ecologists, **Accredited Agents**, and **Assistants** of the Registered Person or Accredited Agent (see 'Definitions' below), except those with a recent conviction (see Information and Advice notes o-p).

Definitions used in this licence
 A "Registered Person" is a person who has successfully registered to use this licence.
 An "Accredited Agent" is a suitably trained and experienced person who is able to carry out work under a licence in accordance with Condition 1.
 An "Assistant" is a person assisting a Registered Person or Accredited Agent. Assistants are only authorised to act under this licence whilst they are under the direct supervision of the Registered Person or Accredited Agent.

LICENCE CONDITIONS

1. To use this licence you must either:
 - i. be a Registered Person (see Information and Advice notes g-k for registration procedures);
 - ii. be authorised as an Accredited Agent (see Definitions) by a Registered Person, in which case you are only permitted to act under the authority of this licence if you are in possession of a letter signed by the Registered Person appointing you by name as a duly Accredited Agent for the purpose of this licence. Accredited Agents shall carry a copy of the said letter when acting under the licence and shall produce it to any police or Natural England officer on request; or
 - iii. be authorised by a Registered Person or their Accredited Agent to act as an Assistant (see Definitions), in which case you may act under the authority of this licence so long as you are doing so under the direct supervision of a Registered Person or their Accredited Agent.
2. The Registered Person is responsible for all activities carried out under this licence, including activities carried out by their Accredited Agents and their Assistants.
3. If the development requires planning consent, this licence can only be used once this consent is in place.
4. This licence can only be relied upon where there is no alternative but to displace the water voles and destroy their burrows; ie when alternative measures that do not require a licence have been considered and proved to be either impractical or impossible.

Vegetation cutting to bare earth to displace water voles:

5. Before vegetation cutting takes place, the locations of known water vole burrows must be identified (see Information and Advice note a).
6. The cutting of vegetation to bare earth must take place and be completed during the period 15 February to 15 April, inclusive (see Information and Advice notes b-d). In the counties of Northumberland, County Durham, Tyne & Wear, North Yorkshire, Cumbria and Lancashire this period of initial vegetation removal may be extended until 30 April if this is necessary to ensure displacement only takes place in suitable weather conditions and when there is sufficient forage available to support the displaced water voles.

7. Cutting of vegetation in accordance with Condition 6 must be limited to continuous lengths of bank not exceeding 50 metres in length and where there is suitable water vole habitat in adjoining lengths of bank or in other immediately adjacent areas, which are unaffected by the works.
8. Vegetation cutting can take place concurrently on both banks of the same watercourse, not exceeding 50 metres in length on each bank, where this is required for the development works, or to increase the likelihood of water voles being displaced (see Information and Advice note b). The unaffected habitat must be sufficient in terms of both quantity and quality to accommodate the displaced animals and those outside the footprint of the works.
9. No subsequent attempt at displacement of water voles may be undertaken within the unaffected adjacent habitat for a period of 12 months.
10. All vegetation on the bank face within the working area should be cut, along with an appropriate 'buffer' around it (see Information and Advice note c). Any emergent aquatic vegetation located along the water margin should also be cut.
11. Cut vegetation, weed cuttings and arisings need to be raked off from the cut area, and must not be deposited or burned on the bank where there are retained water vole refuge areas or be left where they will prevent access to water vole burrows.
12. Where water draw-down/removal is to be used in parallel with vegetation cutting, this should be limited to the same lengths of habitat specified in Conditions 7-8, and the same times of year specified in Condition 6.

Destructive search of burrows:

13. Following vegetation cutting in accordance with Conditions 5 to 12, the cut area must be left intact, for a minimum period of five consecutive days and a maximum period of ten consecutive days before a destructive search is carried out.
14. Prior to undertaking the destructive search, the cut area must be surveyed for evidence of the continued presence of water voles. Where this survey records no evidence that the burrows in the cut area are still occupied by water voles, each burrow affected must be carefully excavated and searched, and destroyed once the search is completed. This will minimise the risk that any water voles remaining in burrows will be harmed (see Information and Advice note e).

A destructive search is not required, if it is judged that it is neither safe nor technically feasible to do so (eg due to engineering constraints such as destabilisation of the bank that would occur as a result of the destructive search, presence of a road or other permanent structure, or no safe access from which to undertake a destructive search). Justification for not undertaking a destructive search or modifying the methodology to account for any of the above constraints must be provided in the annual report for this licence.

15. Any water voles found during excavation of burrows must either be allowed to escape to an adjacent refuge area or be captured and kept in a suitable animal container, with suitable bedding material and food provided (see Information and Advice note b), for release at an adjacent refuge area on the same day.

Works for the purpose of Conservation:

16. This Licence is to permit actions for the purpose of conserving wild animals, provided in section 16(3)(c) of the Act, and can only be relied upon where there is a demonstrable **net conservation gain** for water voles. This means that suitable habitat must be created or existing habitat enhanced within the range of the affected population. The result of this must be the reasonable expectation that there will be a significantly greater extent of good quality water vole habitat after the completion of the works than there was before the works began (see Information and Advice note f).

Recording and reporting requirements:

17. It is a condition of this licence that each Registered Person shall maintain a record of all activities carried out under the authority of this licence. This record must include the information required for each annual report to Natural England as specified in Annex A. Records are to be kept for at least 12 months after the licence expires and are to be made available for inspection by Natural England at any reasonable time.
18. It is a condition of this licence that the Registered Person sends an annual report to Natural England (at the address given below) even if the licence is not used. Report form WML-LR-CL31 must be submitted for the period from 1 January to 31 December, inclusive, by no later than 31 January of the following year.
19. If Conditions 17 and 18 are not met then the Registered Person will, by default, no longer be considered registered to act under this licence.
20. The Registered Person must inform Natural England of any breach of this licence as soon as practicable after it becomes known to them.

IMPORTANT

This licence authorises acts that would otherwise be offences under the legislation referred to above. Failure to comply with its terms and conditions:

- i. may be an offence against the 1981 Act or mean that the licence cannot be relied upon and an offence could therefore be committed. The maximum penalty available for an offence under the 1981 Act is, at the time of the issue of this licence, an unlimited fine and/or a six month custodial sentence; and
- ii. may result in your permission to use this licence being withdrawn. Natural England will inform any person or organisation whose permission to use this licence is withdrawn in writing. This sanction may be applied to other similar licences.

If the activity that you wish to undertake is not covered by this licence, or if you are unable to comply with any of the terms and Conditions which apply to the use of this licence, then you will need to apply to Natural England for an individual licence.

This licence is not a consent or assent for the purposes of Part II of the Wildlife and Countryside Act 1981 (as amended) in respect to Sites of Special Scientific Interest. It is your responsibility to get consent or assent if required (see Important Information and Advice note v).

Issued by and on behalf of Natural England on 31 December 2015

INFORMATION AND ADVICE specific to this licence

- a. Before carrying out works the site should be surveyed by a suitably competent person to check for evidence of occupied water vole burrows. Areas where burrows are located should be identified, in accordance with Condition 5, either on the ground or on a site plan, in a way which enables the persons carrying out the work to clearly identify their location.
- b. Dean, M., Strachan, R., Gow, D. and Andrews, R. (2016). *The Water Vole Mitigation Handbook for Development and Other Construction Activities*. Eds. Fiona Mathews & Paul Chanin, The Mammal Society, Southampton, should be referred to for guidance on best practice for mitigating the impact on water voles on sites affected by development. In particular, persons acting under this licence should take account of best practice guidance and factors, such as local climate and prevailing weather conditions, which may influence the optimum time for carrying out displacement.
- c. The area within which vegetation cutting or water draw down/removal is undertaken should include the entire working area plus an appropriate buffer area around it (either side of the working area, and back from the bank top). The buffer should comprise at least an additional three metres either side of the working area and on the bank top (at least three metres back from the bank), where suitable habitat for water voles is present.

- d. Before commencing work, the presence of other protected species, including: white-clawed crayfish, certain reptiles and badgers, should be considered. Given the timing of actions permitted by this licence, particular account needs to be made of the bird nesting season.
- e. Where monitoring does find fresh signs of water vole activity, the monitoring period may need to be extended and vegetation cutting or water draw down/removal repeated, or trapping considered. Trapping water voles will require a separate, individual licence.
- f. Conservation benefit can be achieved by delivering a net gain in the amount of habitat available to the water vole population or by improving the quality of the habitat. It may also be possible to deliver a conservation benefit by significantly improving the linkages between water vole colonies. For temporary works, restoration of the affected section to improve habitat quality, compared with that prior to the works, would be an acceptable and proportionate way of demonstrating net conservation gain for water voles.

Registering to use this licence

- g. Only Registered Persons, their Accredited Agents or persons directly supervised by a Registered Person or an Accredited Agent may act under this licence. Anyone seeking to become a Registered Person must apply to Natural England by email or post (contact details below). Applications require supporting evidence indicating appropriate knowledge and experience of the species covered by this licence and the management techniques permitted.
- h. Once registered, a person is entitled to use this licence so long as they satisfy the licence's terms and conditions; annual re-registration is not required. Failure to comply with the terms and conditions, including the recording and reporting requirements, will by default, render registration null and void. The annual reporting process is used to verify a person's desire to remain registered.
- i. It is the responsibility of Registered Persons to maintain their expertise at an appropriate level to act under this licence and it is also their responsibility to ensure that Accredited Agents and Assistants have appropriate training, experience and instruction to act under this licence.
- j. Anyone seeking to confirm whether a person is registered to use this licence should contact Natural England Wildlife Licensing (contact details below).
- k. A person's registration may be revoked by Natural England; for example, if that person breaches the conditions of this licence. In these circumstances Natural England will normally give 28 days' notice of our intention to revoke a person's registration.

INFORMATION AND ADVICE for all Class and General Licences

General Information

- l. Natural England checks compliance with licences and the attached conditions, and where breaches occur will apply its published compliance and enforcement position (see Natural England's [Compliance and Enforcement Position](#)).
- m. Any request for information in a licence will be considered under the Environmental Information Regulations 2004 and the Freedom of Information Act 2000 as appropriate.
- n. Ordinarily, licences will be reissued on 1 January each year (*NB you do not need to re-register for those with registration requirements*). Please note, however, that they can be modified or revoked at any time by Natural England or the Secretary of State, but this will not be done unless there are good reasons for doing so. You are advised to check the terms and conditions of a licence prior to your first use of it each year in case of amendments.
- o. No person convicted on or after 1 January 2010 of an offence under the Conservation of Habitats and Species Regulations 2010, the Wildlife and Countryside Act 1981, the Protection of Badgers Act 1992, the Deer Act 1991, the Hunting Act 2004, the Wild Mammals (Protection) Act 1996, the Animal Welfare Act 2006 or the Protection of Animals Act 1911 (all as amended) may use a General or Class Licence without the permission of Natural England unless, in respect of that offence, either:
 - (i) they are a rehabilitated person for the purposes of the Rehabilitation of Offenders Act 1974 and their conviction is treated as spent; or
 - (ii) a court has made an order discharging them absolutely.
- p. Any person not permitted to use a General or Class Licence on account of a relevant conviction or who has had their permission to use a licence withdrawn can still apply to Natural England for an individual licence for the relevant purposes and activities. Any such application will be considered on its merits.
- q. Persons acting under a licence should have regard to legislation and good practice relevant to the action(s) undertaken, including animal welfare and the Animal Welfare Act 2006. It is an offence to cause any unnecessary suffering to an animal (including birds) under the control of man (section 4 of the 2006 Act). This applies to the humane despatch of captured animals and the treatment of animals held in traps or nets,

including decoy birds and non-target animals.

- r. The common name of the species given in a licence is included by way of guidance only; in the event of any dispute or proceedings, it is the scientific name of a species only that will be taken into account.

The limits of licences

- s. Licences permit action only for the purposes specified on that licence.
- t. Licences do not permit actions prohibited under any other legislation, nor do they confer any right of entry upon land.
- u. Unless otherwise stated the provisions of Natural England licences only apply landward of the mean low water mark in England. The Marine Management Organisation is responsible for all licensing seaward of the mean low water mark.

Protected sites

- v. This licence conveys no authority for actions prohibited by any other legislation. For example, anyone acting under this licence is not exempt from the provisions of Section 28 of the 1981 Act. This means that owners and occupiers and Section 28G authorities ('Statutory undertakers etc.') are obliged to give notice to Natural England if they propose to carry out an operation likely to damage a Site of Special Scientific Interest (SSSI). To identify SSSIs and the features for which they are designated, refer to www.magic.gov.uk. For further advice or to request consent /assent for an activity please contact the Natural England 'SSSI Adviser' for the relevant site(s). Contact details are available from the Natural England Enquiry Service (see below).

Contact details for Natural England

For licensing enquiries:

Telephone 0845 601 4523

Fax 0845 601 3438

Email wildlife.scicons@naturalengland.org.uk

Postal address Wildlife Licensing, Natural England, First Floor, Temple Quay House, 2 The Square, Bristol, BS1 6EB

For other enquiries use the Enquiry Service:

Telephone 0300 060 3900

Email enquiries@naturalengland.org.uk

Web <https://www.gov.uk/government/organisations/natural-england#org-contacts>

Using and Sharing Your Information



The data controller is Natural England, Foss House, Kings Pool, 1 – 2 Peasholme Green, York YO1 7PX.

Your information will be stored and processed in accordance with the Data Protection Act 1998. This Act gives you, as an individual, the right to know what data we hold on you, how we use it, with whom we share it and to ensure that it is accurate. The information will be used by Natural England to undertake licensing functions. To do this we may have to discuss applications, licensing decisions, reports and returns with third parties.

Natural England recognises there is significant public interest in wildlife licensing and in those who benefit from receiving a wildlife licence. Therefore, we may make information publicly available (for example, survey records are normally made available via the National Biodiversity Network Gateway and to Local Record Centres). Information released may include, but is not limited to, your name or business name, application and licence details as well as reports and returns. Natural England, however, realises that some licensed activities can be sensitive and we will not release information that could harm people, species or habitats. In some cases, for example, this may mean not releasing the names and addresses of individuals or the location of the licensed activity.

Natural England or its appointed agents may use your name, address and other details to contact you in connection with occasional customer research aimed at improving the services that Natural England provides to you.

We will respect personal privacy, whilst complying with access to information requests to the extent necessary to enable Natural England to comply with its statutory obligations under the Environmental Information Regulations 2004, and the Freedom of Information Act 2000.

ANNEX A - Recording and reporting requirements

Records and Reporting

The Registered Person must maintain a record of the following information for all displacement activities undertaken using this licence (this also includes works conducted by Accredited Agents and Assistants acting under their authority).

1. Maintaining registration

To maintain your registration you are required to complete an annual report and a reminder will be emailed to you each year (normally in December). The report will ask you to confirm:

- Whether any works have been carried out in the preceding 12 months (nil returns are required);
- For each location where the licence has been used:
 - Location (site name, county and 6-figure (minimum) Ordnance Survey grid references for the start and finish of the water course);
 - Total length of the bank affected by the displacement activities, and whether it is a single bank or both banks of the water course;
 - Whether the habitat loss to water voles is temporary or permanent;
 - The water vole population size affected by the displacement activity;
 - The date vegetation was first removed;
 - Whether water draw-down was carried out;
 - The date displacement was completed;
 - The number of water voles seen or found during the displacement activity, including location (eg in a burrow or in the water);
 - The number of dead or injured water voles seen or found during the displacement activity and the circumstances surrounding each occurrence;
 - Confirmation that a destructive search was undertaken prior to destroying a water vole burrow(s) or a justification for why a destructive search was not undertaken;
 - Details of any mitigation undertaken including a description of the conservation benefit to water voles.
- Whether you wish to continue to be registered.

2. Submitting water vole observation information

Records of water vole observations should be submitted to the relevant Local Records Centre (see below) for each site where the licence is used by 31 January each year.

Local Record Centres: To find out where your nearest Local Record Centre is visit the National Biodiversity Network website at: www.nbn-nfbr.org.uk/nfbr.php .

Commercial confidentiality

If you encounter difficulties releasing data due to client confidentiality restrictions then you are advised to remind your client that it is a condition of using this licence that licensable activities are reported. Furthermore, the licence may only be used if this condition is met and withholding information may lead to a licence breach.

To help avoid such difficulties, it is recommended that your contractual terms and conditions make it clear that submitting records to Natural England and other bodies specified in licences is a legal requirement. If a client is not prepared to accept such terms and conditions then you may not use this licence. You may then have to apply for an individual licence.