

## **Legal responsibilities**

The Council has a duty of care under the Occupiers Liabilities Act 1957 to ensure that any open space it provides is fit for purpose. The protection of the public and others entering land owned by the Council, which includes its own employees, is also a requirement enforceable by law under the Health and Safety at Work Act 1974 and EIA Directive (85/337/EEC). Other legislation exists to protect the environment, which the Council has a duty to adhere to.

The most relevant of these are:

### **The Wildlife & Countryside Act 1981**

Many of Britain's wild plants and animals are legally protected. The main law dealing with this is the Wildlife and Countryside Act, which was passed in 1981. This Act that also provides protection for Sites of Special Scientific Interest (SSSIs) was amended by the Countryside and Rights of Way Act 2000, which covers England and Wales but not Scotland. Wild birds and certain other wild animals (including some invertebrates) are legally protected.

### **The Natural Environment and Rural Communities Act 2006 (the NERC Act)**

Sustaining biodiversity and ecosystems is essential to human survival, as well as key to enhancing people's quality of life through enhancing the environment. Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 requires all public bodies to have regard to biodiversity conservation when carrying out their functions. This is known as the 'biodiversity duty'.

### **The Countryside and Rights of Way Act 2000 (CROW)**

The section of the Act entitled 'Nature Conservation' strengthens and updates the Wildlife and Countryside Act legislation for protected species and SSSIs (Sites of Special Scientific Interest). It also places a duty on government departments to take biodiversity into consideration in all their functions

### **Conservation of Habitats and Species Regulations (2010)**

This legislation relates to international sites (Special Protection Areas (SPAs) and Special Areas of Conservation (SACs)) as well as European Protected species.

### **The Environment Protection Act 1990**

This places a requirement upon local government to keep public places free of litter, including dog excrement by enforcement, if necessary. The Council's Parks Patrol Service along with other officers in the Council are now trained and equipped to issue on the spot Fixed Penalty Notices (FPN) on anyone found littering, flytipping or allowing their dog to foul open spaces and failing to remove it.

### **The Equality Act 2010**

The Equality Act 2010 has replaced the previous anti-discrimination laws with a single Act, providing greater fairness, consistency and protection against many forms of discrimination. The Act applies to services and public functions, premises, employment, education and associations, including political parties.

The Act covers the following protected 9 characteristics:

Age

Disability

Gender Reassignment

Marriage and civil partnership

Pregnancy and maternity

Race

Religion and belief

Sex  
Sexual orientation

The Equality Duty is a duty on public bodies and others carrying out public functions. It consists of a general duty and specific duties. The General Duty has three aims where all public bodies are required to have due regard to the need to:

*Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010; Advance equality of opportunity between different groups; and Foster good relations between different groups.*

**The Health & Safety at Work Act 1974**

Safeguarding life from both a human perspective and environmental standpoint is fundamental to society. The assessment of risks that might threaten life is also therefore a fundamental requirement. In the workplace, every day in the UK at least one person is killed and over 6000 injured. Work related accidents and ill health are costly, not only in terms of human suffering but also financially; to the individual concerned, the employing organisation and society as a whole. The Contracted Services section at Harborough District Council in collaboration with other sections of the Council and its contractors strives to embed a culture of safety in the workplace .

## **Compliance with legislation**

### **Legislation**

#### **Wildlife & Countryside Act 1981 (as amended)**

This Act, as amended, provides national protection for SSSIs and protected species, in addition to a range of other measures. The 1981 Act has been amended significantly through the CROW ACT 2000 and the NERC Act 2006 and therefore the original document does not represent the Act as it currently stands.

Landowners, occupiers and third parties are all subject to the legislative requirements of this Act (as amended) with regards to protection of SSSIs and protected species.

#### **Compliance Activity**

Regard for the act during any arboriculture work, grounds maintenance operations or landscaping.

Essentially anywhere where operations may have the potential for contact, disturbance or destruction of protected wild flora & fauna.

Protected flora & fauna are those listed under various schedules of the act, in summary:

Schedule 1-4 = birds

Schedule 5-7 = other animals

Schedule 8 = plants

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The Wildlife and Countryside Act 1981 makes it an offence to disturb a birds nest which is in use, which is normally taken to mean under construction, or with eggs, chicks or birds using it regularly - even if they are not actually in it at the time.

Not introducing non-native plants listed under schedule 9 of the act into the wild, or causing them to grow.

### **Legislation**

#### **The National Parks and Access to the Countryside Act (1949).**

Powers to Natural England to designate Sites of Special Scientific Interest (SSSIs) and National Nature Reserves (NNRs), and to local authorities to designate Local Nature Reserves (LNRs). LNR's are declared and managed for nature conservation, and provide opportunities for research and education, or for simply enjoying and having contact with nature.

### **Compliance Activity**

Appropriate management (as agreed with Natural England) to designated LNR and SSSI sites, to preserve the characteristic landscape beauty, to provide access and facilities for open-air enjoyment, and to protect wildlife and geological features.

Consultation on planning applications to consider the effects of the proposed development.

### **Legislation**

#### **Natural Environment and Rural Communities Act (NERC), 2006**

Regard for biodiversity and its conservation in all operations and functions, above and beyond existing statutory protection levels for sites, habitats and species.

Section 40 places a duty on public authorities to conserve biodiversity - for the first time. This section states that Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity, and Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat. This change is significant as it places a duty on all Local Authorities to conserve wider biodiversity in addition to the statutory protection given to certain sites and species. Also Section 55 changes the situation regarding the Local Authority role and SSSI protection.

### **Compliance Activity**

Consultation on planning applications to consider potential effects.

### **Legislation**

#### **Countryside and Rights of Way Act 2000**

This act strengthens the protection given to SSSIs. It revises the procedures for the notification of SSSIs and for the consenting of operations, which may damage the special interest of a SSSI. Local

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authorities have a new duty to take steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of SSSIs.

The act also strengthens the existing provisions of the Wildlife and Countryside Act 1981 for the enforcement of wildlife legislation, including a new offence of "recklessly" destroying or damaging the habitats of certain protected species.

### **Compliance Activity**

Considering biodiversity whilst undertaking management of District t Council owned and managed land. Paying special regard to disturbance of protected species, e.g. birds and bats.

### **Legislation**

#### **Habitats Regulations 1994**

In the UK the Habitats Directive has been transposed into national laws by means of the Habitats Regulations. Notably Regulation 3 (4) requires every competent authority in the exercise of any of its functions to have regard to the requirements of the Habitats Directive.

In particular the Habitats Regulations provide measures for the protection of European Sites and European Protected Species (EPS).

The Habitats Regulations also requires Local Planning Authorities to include policies encouraging the management of features in the landscape that are of major importance for wild flora and fauna (Regulation 37 (1)).

### **Compliance Activity**

Protection for European Protected Species (EPS) including Great Crested Newt, all species of Bat, Otter and Dormouse. During all operations persons must not deliberately kill, capture, or disturb a European Protected Species, or to damage or destroy the breeding site or resting place of such an animal – all are offences.

Consultation on planning applications with potential EPS habitats or presence of species.

### **Legislation**

#### **The Birds Directive (79/409/EEC) (1979)**

The European Community Council Directive on the Conservation of Wild Birds (79/409/EEC) sets out general rules for the conservation of all naturally occurring wild birds, their nests, eggs and habitats.

It requires member states to designate Special Protection Areas (SPAs) for protection of certain species

### **Compliance Activity**

Correct protection and management of the sites that are used by nesting birds. Natural England must be consulted before carrying out any potentially damaging operations

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The provisions of the Birds Directive are implemented through the Wildlife & Countryside Act 1981 (as amended).

### **Legislation**

#### **Ramsar Convention on Wetlands (1971)**

Sites of international importance to birds containing 1% of a species' biogeographic population.

Ramsar sites are among the most highly protected sites in UK. All Ramsars are also SSSIs. In practice, protection for Ramsar sites is as for Natura 2000 sites.

#### **Compliance Activity**

Consultation on planning applications with potential to affect sites. (Harborough District does not at this time have any Ramsar sites within its boundary)

### **Legislation**

#### **Hedgerows Regulations 1997**

These regulations aim to protect important hedgerows in the countryside. They make it illegal to remove most countryside hedges without first notifying the local planning authority and provide protection for 'important hedgerows'.

Hedgerows in the countryside, and their conservation, is a quite different subject from the management and regulation of hedges around houses, and, more specifically, between neighbours. For this reason, the Hedgerow Regulations 1997 specifically exclude any hedgerow which is within, or borders, a domestic garden.

#### **Compliance Activity**

To consider the effects of hedgerows removal in landscape projects and planning applications through consultation.

### **Legislation**

#### **Protection of Badgers Act 1992**

Under the 1992 Act it is an offence to:

- wilfully kill, injure, take or attempt to kill, injure or take a badger;
- possess a dead badger or any part of a badger;
- cruelly ill-treat a badger;
- use badger tongs in the course of killing, taking or attempting to kill a badger;
- dig for a badger;
- sell or offer for sale or control any live badger;

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- mark, tag or ring a badger; and
- interfere with a badger sett by:
  - damaging a sett or any part thereof;
  - destroying a sett;
  - obstructing access to a sett;
  - causing a dog to enter a sett; and
  - disturbing a badger while occupying a sett.

The 1992 Act defines a badger sett as: “any structure or place which displays signs indicating current use by a badger”.

EIA Directive (85/337/EEC)

UK National Ecosystem Assessment (NEA) published in June 2011

### **Compliance Activity**

Ensuring any structure or place which displays signs indicating current use by badgers is not affected by any tree or landscaping work.

### **Other Legislation**

Town and Country Planning Act 1990

Town and Country Planning Act (General Development Order) 1988 (Statutory Instrument 1988 No. 1813)

Town and Country Planning (trees) Regulations 1999

Town and Country Planning (Tree Preservation Order Regulations 1969)(As Amended)

Town and Country Planning (Trees and Conservation Area Regulations 1975)(As Amended)

Town and Country Planning (General Permitted Development) Order 1995 (GPDO) (SI 1995 No 418);

Town and Country Planning (General Development Procedure) Order 1995 (GDPO) (SI 1995 No 419);

Town and Country Planning (Use Classes) Order 1987 (the Use Classes Order) (SI 1987 No 764);

Town and Country Planning (Development Plan) Regulations 1991 (SI 1991 No 2794);

Town and Country Planning General Regulations 1992 (SI 1992 No 1492).

Planning and Compulsory Purchase Act 2004

The Hedgerow Regulations 1997 ((SI 1997/1160)

High Hedge Regulations under Part 8 (High Hedges) of the Anti-Social Behaviour Act 2003

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Wildlife and Countryside Act 1981 Countryside and Rights of Way Act 2000

EU Habitats Directive 1992 Conservation of Habitats and Species Regulations (2010)

Protection of Badgers Act 1992 Forestry Act 1967

Forestry Act 1967 (Part II) as amended by the trees Act 1970 and the Forestry Acts 1979 and 1986

Forestry (Felling of trees) Regulations 1979 (SI 1979 No 791) as amended by the Forestry (Felling of trees) (Amendment) Regulations 1987 (SI 1987 No 632) Forestry (Exceptions from Restriction of Felling) Regulations 1979 (SI 1979 No 792) as amended by the Forestry Act (Exceptions from restriction of Felling) (Amendments) Regulations 1985 (SI 1985 No 1572) and by the Forestry Act (Exceptions from Restriction of Felling) (Amendment) Regulations 1988 (SI 1988 No 970)

Forestry (Modifications of Felling Restriction) Regulations 1985 (SI 1985 No 1958)

Proposal for the draft Regulatory reform (Forestry) order 2006

Commons Act 1899

Environmental Impact Assessment (Forestry)(England and Wales) Regulation 1999 [1999/2228]

Plant Health Act 1967 (c.8) The Plant Health (Forestry) (Great Britain) Order 1993 (SI 1993 No 1283, as amended by SI 1994 No 3094, SI 1995 No 1989, SI 1996 No 751, SI 1998 No 2206, SI 1998 No 3109, SI 2001 No 299, SI 2002 No 295)

The Plant Health (Forestry) Order 2005 (SI 2005 No. 2517)

The Watermark Disease Local Authorities Order 1974 (SI 1974 No 768, as amended by SI 1984 No 688, SI 1986 No 1342 and SI 1992 No 44)

The Dutch elm disease (Local Authorities) Order 1984 (SI 1984 No 687, as amended by SI 1988 No 604 European Community Council Directive 2000/29/EC, which consolidates and repeals Council Directive 77/93/EEC and its various amendments

Environment Act 1994

NERC Act 2006 (Natural Environment and Rural Communities Act 2006)

### **Applicable Health and Safety Legislation**

The Construction (Design and Management) Regulations 1994 (CDM)

Health and Safety at Work Regulation 1992, and the Provision and Use of Work Equipment Regulation 1992

The Human Rights Act

Control of Vibration at Work Regulations 2005

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Health and Safety (First Aid) Regulations 1981

Legionnaires Disease ACOP 2000

Construction (Design and Management) Regulations 2007

Personal Protective Equipment Regulations 1992

Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR)1995

Workplace( Health, Safety and Welfare) Regulations 1992

Health and Safety (Display Screen) Regulations 1992

Safety Representatives and Safety Committee Regulations and Health 1977 and Health and Safety (Consultation with Employees) Regulations 1996

Control of Substances Hazardous to Health Regulations 2002

Health and Safety (First Aid) Regulations 1981

Management of Health and Safety at Work Regulations 1999

Personal Protective Equipment Regulations 1992

Workplace (Health, Safety and Welfare) Regulations 1992

Manual Handling Regulations 1992

Regulatory Reform (Fire Safety) Regulations 2005

Control of Substances Hazardous to Health Regulations 2002

Pressure Systems Safety Regulations 2000

Lifting Operations and Lifting Equipment Regulations 1998

Construction (Head Protection) Regulations 1989

Noise at Work Regulations 2005

Rider Operated Lift Trucks (ACOP 1999)

Confined Spaces Regulations 1997

Gas Safety (Management) Regulations 1996

Health and Safety (Safety Sign and Signals) Regulations 1996

Electricity at Work Regulations 1989

Control of Asbestos Regulations 2012