

Risk of Prosecution

Issued to: **All Network Rail line managers, safety professionals and accredited contractors**

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Location: National

Contact: Technical Authority Environment & Sustainability



Overview - Conditional Warning Letter from Natural England

On 10th March 2023, the Okehampton Project Team received a Conditional Warning Letter from Natural England's Enforcement Team.

Natural England's investigation found that there has been several breaches of the European Protected Species Licences for Hazel Dormouse (*Muscardinus avellanarius*).

The Conditional Warning Letter requires Network Rail to meet 6 conditions by a prescribed date to prevent further enforcement action.

Failure to comply with the conditions of the letter may result in Natural England bringing criminal proceedings or other enforcement action against Network Rail, its contractors or even individuals involved.

Discussion points

What do you need to know?

Any environmental licence, permit, or consent agreed between Network Rail and a statutory authority will be subject to **legally binding conditions**.

Before applying for a licence, a suitably qualified ecologist must be engaged (they will be the 'named ecologist'). It is essential that the team responsible for the works engage with this ecologist and heed the guidance provided to them **before** and **throughout** the delivery of works.

Before Network Rail commits to the conditions of any licence, it must be agreed by the Responsible Manager (see NR/L2/ENV/122), the 'licensee', and the asset owner that those conditions can and will be delivered.

It is important that Network Rail then meets those conditions. Failure to do so may result in enforcement action against Network Rail.

Where can I find more info?

The Biodiversity Manual NR/L2/ENV/122 provides a clear process for managing ecological risks and opportunities for any Network Rail activity.

It is **essential** in the management of any ecological risk, that it is identified during the planning and/design stages of the work (e.g. for PACE within the Environmental and Social Appraisal (EN1)).

As with health and safety, all teams undertaking works, or Project Teams should consult a suitably qualified professional, i.e. an ecologist, where risks to protected species and habitats exists.

Each Region should have a RACI associated with NR/L2/ENV/122 to enable the identification of appropriately responsible and competent individuals.

Each Region should contact its own Environmental & Sustainability Team for support, including appointment of ecological framework suppliers.