



**Cyfoeth
Naturiol**
Cymru
**Natural
Resources**
Wales

Ecological data and information exempt from general release under the EIR/FOI regulations

Operational guidance document

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Acronyms used in this document

Acronym	Meaning
ATI:	Access to Information
CCW:	Countryside Council for Wales
COMAH:	Control Of Major Accident Hazards
DPA:	Data Protection Act
EA(W):	Environment Agency (Wales)
EFGR	Exempt From General Release
EIR:	Environmental Information Regulations
FC(W):	Forestry Commission (Wales)
FOI:	Freedom of Information
ICO:	Information Commissioners Office
JNCC:	Joint Nature Conservation Committee
NE:	Natural England
NRW:	Natural Resources Wales
PIT:	Public Interest Test
SAC:	Special Area of Conservation
SPA:	Specially Protected Area
SSSI:	Site of Special Scientific Interest

1. Introduction

1.1. Background

This guidance has been produced for all NRW staff and those managing data on our behalf who are involved in collecting, storing, managing and disseminating ecological data and information falling within the boundary of Wales.

1.1.1. What does the guidance relate to?

This guidance relates to ecological data and information which has been deemed as exempt from general release (EFGR) under Environmental Information Regulations (EIR) and Freedom Of Information (FOI). That is, data and information about the location of species and habitats which could, potentially, lead to them being damaged if the data were to be made publicly available. This guidance applies to any species or habitat data which is recorded within Wales. Other countries will have their own restrictions which need to be adhered to.

N.B. - Data and information can also be restricted by various legislative mechanisms e.g. the Data Protection Act (1998) and we must, of course, comply with these restrictions as well.

1.1.2. Why is this guidance needed?

This guidance has been produced in order to develop a consistent and defensible approach across NRW when releasing, or withholding the release of, ecological data and information regarding species or habitats falling within the boundary of Wales.

1.1.3. How has this guidance been written?

This document brings together the relevant advice and guidance from the former Countryside Council for Wales, the Forestry Commission and the Environment Agency. The list of ecological features exempt from general release and the scale at which the restriction applies ([Appendix A](#)) was originally created by the Environmental Information Team in CCW in consultation with the relevant species and habitat specialists as well as regional teams and other stakeholders. This list was also used by FCW and has been reviewed against EA's list of coded species.

1.2. Why some types of ecological data are exempt from general release

The Environment Information Regulations (2004) give Natural Resources Wales (NRW) a general legal duty to give free access to its environmental data. However, NRW has the right to withhold data under the exception described in Regulation 12.(5)(g) if '*disclosure would adversely affect the protection of the environment to which the information relates*'.

NRW recognises that certain species, and a small number of other biodiversity features, are particularly vulnerable to damage, disturbance or commercial exploitation if detailed occurrence information about them is released to the general public. Detailed data and information which could be used to identify the location of relevant species and habitats could, potentially, be misused by some individuals, either deliberately or unwittingly in a way which could cause damage to those features.

Potential types of damage include collection, disturbance or illegal activity. For example, the whereabouts of hen harrier nests or the location of killarney fern populations becoming known to collectors could lead to damage to these species. Photographers can disturb otter holts, or people may use information on the location of badger setts to engage in badger baiting.

1.3. Types of ecological data and information exempt from general release

In the majority of cases making information about a species or habitat available helps protect that feature. Knowing the location of important biodiversity features means that mitigation can be put in place if there is a development proposal or appropriate conservation management can be put in place.

The main criterion for inclusion in the list of exemptions is that the feature must be subject to a specific source of pressure to which it is vulnerable such as those mentioned in section 1.2. Therefore rarity or legal designation are not enough, by themselves, to justify inclusion, and in fact many rare species are not included.

All the features on the list have an associated spatial scale below which (at more detailed level) data and information are considered to increase the potential risk of damage to that feature if made public. Data and information above this spatial scale (less detailed, broader resolution) are thought to be at a level at which the risk of harm is acceptable.

2. Ecological Data Which Are Exempt From General Release

2.1. Identifying exempt ecological data

Species and habitat data which are exempt from general release in Wales are described in Appendix A.

The first step is to check the list to see if the feature(s) that you are dealing with are exempt from general release. If so, use the information in columns 3 and 4 of [Appendix A](#) to determine what specific restrictions apply. Use this example for Merlin as a guide:-

Scientific Name	Common Name	Which part of the life cycle is EFGR?	What sort of data are EFGR?	Below what scale is it EFGR?	What is the justification	
					Vulnerability	Threat
<i>Falco columbarius</i>	Merlin	Breeding	Detailed location of nest sites	Below 10 km sq	Sch 1 WCA, Annex 1 Birds Dir. Rare and localised breeder	Disturbance

2.1.1. Examples of Merlin data which are exempt from general release

- Location of nest sites, given on maps, or as Lat. Long. coordinates, below 10 km sq scale (i.e. more detailed scale), anywhere in Wales, except where they are a listed feature on designated sites or sites with permanent wardens.
- Location of nest sites if given at 4-figure or 6-figure grid references, anywhere in Wales, except where they are a listed feature on designated sites or sites with permanent wardens.

2.1.2. Examples of Merlin data which are not exempt from general release

- Location of a nest if given at 2-figure grid reference or at a scale equal or larger (less detailed) than 10km square e.g. for whole county or region.
- Information about presence/absence of Merlin on a particular site or in a particular area, at any scale.
- Management plans referring to activities intended to increase Merlin populations.
- General information about Merlin sightings, behaviour or ecology where nest locations are not given.

NB: - 10 x 10 m square = 8-figure & 2-letter grid reference e.g. SH65354505
 100m x 100m square (1 ha) = 6-figure & 2-letter grid reference e.g. SH653450
 1 km square = 4-figure & 2-letter grid reference e.g. SH6545
 10 km square = 2-figure & 2-letter grid reference e.g. SH64

Appendix A: Species and Habitats Exempt From General Release (EFGR)

Scientific Name	Common Name	Which part of the life cycle is EFGR?	What specific data are EFGR?	Below what scale is it EFGR?	What is the justification?	
					Vulnerability	Threat
Terrestrial higher and lower plants						
<i>Woodsia alpina</i>	Alpine woodsia	All	Detailed location of individuals and populations	2 figure grid ref or 10 km sq	RDB, Sch 8 WCA	Damage by photographers, plant-collectors, public pressure (close to well-used sites)
<i>Trichomanes speciosum</i>	Killarney fern	Sporophyte (spore-producing form of plant)	Detailed location of individuals and populations	2 figure grid ref or 10 km sq	RDB, Priority UK BAP, Annex II Habitats & Species Dir, Sch 8 WCA	Damage by photographers, plant-collectors, public pressure (close to well-used sites)
<i>Woodsia ilvensis</i>	Oblong woodsia	All	Detailed location of individuals and populations	2 figure grid ref or 10 km sq	RDB, Priority UK BAP, Sch 8 WCA	Damage by photographers, plant-collectors, public pressure (close to well-used sites)
<i>Potentilla rupestris</i>	Rock cinquefoil	All	Detailed location of individuals and populations	2 figure grid ref or 10 km sq	RDB, Sch 8 WCA	Damage by photographers, seed-collectors, public pressure (attractive plant)
<i>Cotoneaster cambricus</i>	Wild cotoneaster	All	Detailed location of individuals and populations	2 figure grid ref or 10 km sq	RDB, Priority UK BAP, Sch 8 WCA	Damage by photographers, plant-collectors, public pressure (close to well-used sites)
Birds						
<i>Recurvirostra avosetta</i>	Avocet	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir. Scarce breeder.	Disturbance and egg collectors
<i>Tyto alba</i>	Barn owl	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA	Disturbance
<i>Panurus biarmicus</i>	Bearded tit	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA. Scarce breeder	Disturbance
<i>Botaurus stellaris</i>	Bittern	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir, Priority UK BAP, WAG S.42. Currently extinct as breeding species in Wales, but may start breeding soon.	Disturbance
<i>Tetrao tetrix</i>	Black grouse	Breeding	Detailed location of lek sites	2 figure grid ref or 10 km sq	Priority UK BAP, WAG s.42	Disturbance
<i>Cephus grylle</i>	Black guillemot	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Scarce breeder	Disturbance
<i>Cettia cetti</i>	Cetti's warbler	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA. Scarce breeder.	Disturbance

<i>Pyrrhocorax pyrrhocorax</i>	Chough	Breeding and wintering	Detailed location of nest sites and winter roosts.	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir, WAG S.74.	Disturbance and egg collectors.
<i>Somateria mollissima</i>	Common Eider	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Scarce breeder	Disturbance
<i>Coturnix coturnix</i>	Common Quail	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Scarce breeder	Disturbance
<i>Calidris alpina</i>	Dunlin	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Scarce breeder	Disturbance
<i>Regulus ignicapillus</i>	Firecrest	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA. Scarce breeder	Disturbance
<i>Anas querquedula</i>	Garganey	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA Scarce breeder	Disturbance
<i>Accipiter gentilis</i>	Goshawk	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA	Disturbance and persecution
<i>Circus cyaneus</i>	Hen harrier	Breeding and wintering	Detailed location of nest sites and winter roosts.	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir, WAG S.42.	Disturbance and persecution
<i>Falco subbuteo</i>	Hobby	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA. Scarce breeder	Disturbance
<i>Pernis apivorus</i>	Honey buzzard	Breeding	Presence of breeding pairs and detailed location of nest sites	100 km sq	Sch 1 WCA, Annex 1 Birds Dir. Scarce breeder	Disturbance and egg collectors
<i>Charadrius dubius</i>	Little ringed plover	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch1 WCA.	Disturbance
<i>Sterna albifrons</i>	Little tern	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir. Currently restricted to 1 breeding site in Wales.	Disturbance and egg collectors
<i>Asio otus</i>	Long-eared owl	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Scarce breeder	Disturbance
<i>Circus aeruginosus</i>	Marsh harrier	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir. Not currently a regular breeder in Wales, but occasional records of summering birds, with possibility of future breeding	Disturbance and egg collectors
<i>Falco columbarius</i>	Merlin	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir.	Disturbance
<i>Pandion haliaetus</i>	Osprey	Breeding	Presence of breeding pairs and detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir. Newly colonised in 2004, scarce breeder.	Disturbance and egg collectors
<i>Falco peregrinus</i>	Peregrine	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir.	Disturbance and persecution
<i>Aythya ferina</i>	Pochard	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Scarce breeder	Disturbance

<i>Milvus milvus</i>	Red kite	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir.	Disturbance and egg collectors
<i>Sterna dougallii</i>	Roseate tern	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir, Priority UK BAP, WAG s.42. Currently restricted to 1 breeding site in Wales	Disturbance and egg collectors
<i>Asio flammeus</i>	Short-eared owl	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Annex 1 Birds directive Scarce breeder	Disturbance
<i>Porzana porzana</i>	Spotted crake	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA, Annex 1 Birds Dir. Scarce breeder	Disturbance
<i>Carduelis flavirostris</i>	Twite	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	WAG S.42 Scarce breeder	Disturbance
<i>Numenius phaeopus</i>	Whimbrel	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Sch 1 WCA. Scarce breeder.	Disturbance
<i>Anas penelope</i>	Wigeon	Breeding	Detailed location of nest sites	2 figure grid ref or 10 km sq	Scarce breeder (<30 pairs)	Disturbance
Other terrestrial vertebrates						
All bat species ¹	All bat species	All	Detailed location of roosts on private property. Location of underground roost sites. Names of roosts which reveal exact or personal addresses.	4 figure grid ref or 1 km sq	Sch 5 WCA, Annex II & IV Habitats & Species Dir, priority UK BAP	Disturbance of bats and alienation of landowner
<i>Meles meles</i>	Badger	All	Detailed location of setts	4 figure grid ref or 1 km sq	Badgers Act 1992	Badger baiting and digging
<i>Lutra lutra</i>	Otter	All	Detailed location of holts	4 figure grid ref or 1 km sq	Sch 5 of WCA, Annex II & IV Habitats & Species Dir, priority UK BAP	Disturbance
Terrestrial and freshwater invertebrates						
<i>Margaritifera margaritifera</i>	Freshwater pearl mussel	Adult	Detailed location and records of numbers (density) of the species.	2 figure grid ref or 10 km sq	Priority UK BAP, Annex II Habitats & Species Dir, Berne Appendix I, Sch 5 WCA. Populations already on verge of extinction.	Illegal pearl-fishing invariably kills mussels.
Freshwater species and habitats						

¹ See [Appendix B](#) for a list of bat species that either occur in the UK or are possibly transient.

None						
Terrestrial habitats						
None						
Marine species & habitats						
All Cetaceans ²	All Cetaceans	Calving/nursery	Detailed location of adult females with calves.	2 figure grid ref or 10 km sq	WAG S42, Annex II & IV Habitats & Species Dir, OSPAR priority species. BAP species. Harbour porpoises are OSPAR priority species. Very vulnerable to disturbance at this stage in life cycle.	Recreational disturbance.
<i>Palinurus elephas</i>	Crawfish	All	Detailed location and records of numbers (density) of the species.	2 figure grid ref or 10 km sq	UK BAP, WAG S42 Decline in Wales since 1980 (Hunter 1999)	Commercial and recreational fishing is threatening stocks.
<i>Pecten maximus</i>	King scallop	All	Detailed location and records of numbers (density) of the species.	2 figure grid ref or 10 km sq	Habitat where King scallop occurs may be BAP & Annex I Habitats & Species Dir	Commercial fishing is damaging to seabed.
<i>Ostrea edulis</i>	Native oyster	All	Detailed location and records of numbers (density) of the species.	2 figure grid ref or 10 km sq	UK BAP, WAG S42	Commercial fishing is threatening stocks.
IMX.Ost (biotope code)	Oyster bed habitat	N/a	Detailed location of biotope and records of numbers (density) of the species.	20 km square	UK BAP, WAG S42	Commercial fishing is threatening stocks.
<i>Aequipecten opercularis</i>	Queen scallop	All	Detailed location and records of numbers (density) of the species.	2 figure grid ref or 10 km sq	Habitat where Queen scallop occurs may be BAP & Annex I Habitats & Species Dir.	Commercial fishing is damaging to seabed.
<i>Hippocampus guttulatus</i>	Seahorse	All	Detailed location and records of numbers (density) of the species.	2 figure grid ref or 10 km sq	UK BAP WAG S42, Berne Convention, CITES, OSPAR priority species. Very few recorded in Welsh waters, but numbers may increase with sea temperature rise.	Collecting for aquaria.
<i>Hippocampus hippocampus</i>	Short snouted seahorse	All	Detailed location and records of numbers (density) of the species.	2 figure grid ref or 10 km sq	UK BAP, Berne Convention, CITES, OSPAR priority species. Currently no records for Wales but may increase with sea temperature rise.	Collecting for aquaria.
Geological features						

² See [Appendix B](#) for a list of cetacean species that either occur in the UK or are possibly transient.

None						
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Appendix B: Bats and Cetaceans Exempt From General Release (EFGR)

In addition to Appendix A, this is a list of bat and cetacean species which are either known to occur in the UK or be potential transient species. Please note that the lists in this guidance are not exhaustive and other bat or cetacean species which are transient or not listed will also be classed as Exempt from General Release under this guidance.

BAT SPECIES - THIS LIST IS NOT EXHAUSTIVE AS THERE MAY BE OTHER TRANSIENT SPECIES PRESENT, THESE SHOULD THEREFORE ALSO BE CLASSED AS SENSITIVE SPECIES.	
Scientific Name	Common Name
<i>Myotis alcathoe</i>	Alcathoe bat
<i>Barbastella barbastellus</i>	Barbastelle
<i>Myotis bechsteini</i>	Bechstein's bat
<i>Myotis brandtii</i>	Brandt's bat
<i>Plecotus auritus</i>	Brown long-eared bat
<i>Pipistrellus pipistrellus</i>	Common pipistrelle
<i>Myotis daubentonii</i>	Daubenton's bat
<i>Rhinolophus ferrumequinum</i>	Greater horseshoe bat
<i>Plecotus austriacus</i>	Grey long-eared bat
<i>Nyctalus leisleri</i>	Leisler's bat
<i>Rhinolophus hipposideros</i>	Lesser horseshoe bat
<i>Pipistrellus nathusii</i>	Nathusius' pipistrelle
<i>Myotis nattereri</i>	Natterer's bat
<i>Nyctalus noctula</i>	Noctule
<i>Eptesicus serotinus</i>	Serotine
<i>Pipistrellus pygmaeus</i>	Soprano pipistrelle
<i>Myotis mystacinus</i>	Whiskered bat
Possible Transient Bats	
<i>Myotis myotis</i>	Greater mouse-eared bat

Please see next page for a list of cetaceans Exempt From General Release.

CETACEANS - THIS LIST IS NOT EXHAUSTIVE AS THERE MAY BE OTHER TRANSIENT SPECIES PRESENT, THESE SHOULD THEREFORE ALSO BE CLASSED AS SENSITIVE SPECIES.

Scientific Name	Common Name
<i>Tursiops truncatus</i>	Common bottlenosed dolphin
<i>Balaenoptera physalus</i>	Fin whale
<i>Phocoena phocoena</i>	Harbour porpoise
<i>Megaptera novaeangliae</i>	Humpedback whale
<i>Orcinus orca</i>	Killer whale
<i>Globicephala melaena / Globicephala melas</i>	Long finned pilot whale
<i>Balaenoptera acutorostrata</i>	Minke whale
<i>Hyperoodon ampullatus</i>	Northern bottlenose
<i>Grampus griseus</i>	Risso dolphin
<i>Delphinus delphis</i>	Short-beaked common dolphin
<i>Balaenoptera borealis</i>	Sie whale
<i>Stenella coeruleoalba</i>	Striped dolphin
<i>Lagenorhynchus albirostris</i>	White beaked dolphin
<i>Lagenorhynchus acutus</i>	White sided dolphin
Possible Transient Cetaceans	
<i>Delphinapterus leucas</i>	Baluga whale
<i>Mesoplodon densirostris</i>	Blainville's beaked whale
<i>Balaenoptera musculus</i>	Blue whale
<i>Balaenoptera mysticetus</i>	Bowhead whale
<i>Ziphius cavirostris</i>	Cuvier beaked whale
<i>Pseudorca crassidens</i>	False killer whale
<i>Lagenodelphis hosei</i>	Fraser dolphin
<i>Mesoplodon europaeus</i>	Gervais beaked whale
<i>Peponocephala electra</i>	Melon headed whale
<i>Monodon monoceros</i>	Narwhal
<i>Eubalaena glacialis</i>	North Atlantic right whale
<i>Kogia breviceps</i>	Pygmy sperm whale
<i>Mesoplodon bidens</i>	Sowerby's beaked whale
<i>Physeter macrocephalus</i>	Sperm whale
<i>Mesoplodon mirus</i>	True beaked whale
<i>Odobenus rosmarus</i>	Walrus



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