

Document title	Nesting Birds		
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Nesting Birds

Document Manager	Dave Hayes SHE Advisor. Shared Services
Final Approver	Bobby Moinazad Head of SHE. Shared Services

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1. Purpose and Scope

The legal frameworks for the protection of nesting birds, their young and the nest site are covered by different legislation dependent on the country you are operating in, as detailed in table below.

Country	Legal Framework	Maximum fine and Sentence
England and Wales	Wildlife and Countryside Act 1981	Unlimited & <6 Months
Scotland	Wildlife and Countryside Act 1981	£5000 & <6 Months
Northern Ireland	Wildlife (Northern Ireland) Order 1985	£5000 & <6 Months

Although there is some difference in the naming convention of the legislation, the framework and guidance are very similar.

The information in this document does not absolve contractors or suppliers from their responsibility to identify and comply with all relevant legislation, regulations and legal standards nor does it take precedence over laws, regulations and external standards.

2. Definitions

WCA - Wildlife and Countryside Act 1981

Protection of wild birds, their nests and eggs it is an offence to:

- Kills, injures or takes a wild bird.
- Takes, damages or destroys the nest of a wild bird included in Schedule ZA1;
- Takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
- Takes or destroys an egg of any wild bird,
- Disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
- Disturbs dependent young of such a bird.

Temporary Access Restriction (TAR)

A restriction on the site where access is denied or must be pre-approved by a specific Cellnex UK Business Unit.

Specific Temporary Access Restriction (TAR)

These are calculated TARs that are specific to each species and involve an Min and Max timeframe for a TAR.

- Min TAR is the first date at which the site can be accessed without the need for licenses.
- The Max TAR is at the end of the rearing period and the TAR can be removed.

Any access between the two TAR timeframes is Access Under Conditions to watch and observe before starting work in case they are nesting late in the season.

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3. Roles, Responsibilities and Authorities

3.1. Site Access Permit Holder

To report via any nesting bird event and attach the evidence. To apply for the license if they have a need to when the WCA is in force.

3.2. SHE Team

To support the TAR as directed by the Site Access Team.

3.3. Site Access Team

To apply and remove the TAR as supported by the SHE Team.

4. The Procedure

All reports of nesting birds are submitted through the JIRA portal and a Nesting Bird JIRA ticket is raised and assigned to the SHE team reporting the findings.

Any report of nesting birds is assessed, and a TAR applied assigned by the SHE Team.

Species Specific TARs:

Species	Min TAR	Max TAR
Wood Pigeons	55	73
Crows	56	116
Magpie	61	91
Gulls	82	127
Peregrine Falcons	86	132
Ravens	89	117
Golden Eagles	121	220

This information is gained from reputable sources and the Ornithologist that have been engaged in previous situations, it is open source information and Cellnex UK make this available to everyone reporting nesting birds on Jira as Knowledge Based Articles.

Note: Regardless of when nesting birds are reported, in line with official guidelines a hard stop end date of the end of August will be applied to the TAR, the restriction will automatically be lifted from the site post this date.

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4.1. Can a site be accessed when there is a TAR in place?

Many sites support and carry services for the Emergency Services Network (ESN). Should a nesting bird preclude access to a site where the ESN is operating, a license application to either remove or disturb (dependent on species) would be supported under the rationale of “preserving public health and / or public safety”.

Please note that neither a general or disturbance license could be utilised for works on any customer or internal network that wasn't ESN irrespective of fault type.

This is a strict criteria for any access that is under/before the Min TAR, no request will be approved by the SHE Team for access 'under' the Min TAR that does not meet the criteria.

Parents spend a maximum of 30-40 mins away from a nest, therefore to not disturb the nest short duration works must be below this timeframe.

Evidence of 'non-occupation' (Min 1 hour with evidence) from an 'Access under restrictions' visit or other approved access from the Site Access Team.

4.2. Access Under Conditions

The procedure for accessing the site following the Min TAR period, under conditions is as follows:

- Supplier to raise a Nesting Bird JIRA ticket requesting approval from the SHE team to visit site to access under conditions.
- SHE team to approve visit.
- Supplier to raise a Ground Level permit (if the nest is located on a Rooftop a full TAR has been applied so permit will be “Refused”, Site Access/SHE will confirm permit approval).
- Site to be observed at a distance for a period of at least 1hour to determine the level of bird activity.
- If no bird activity observed supplier to update Nesting Bird JIRA ticket confirming there is no bird activity seen and to request a climb survey;
 - Heights permit applied for and Agora AUK number provided, SHE to authorise the visit in Agora.
 - Climb to be carried out under caution as parent birds may still be in the vicinity.
 - If the nest is occupied engineers are to leave immediately and report findings.
 - If the nest is empty and there is no bird activity, photographic/video evidence showing the nest empty must be added to the Nesting Bird JIRA ticket.
 - Once confirmed the SHE team will remove the TAR updating the Nesting Bird JIRA ticket.

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4.3. Removing A Nest

The following guidelines are to be followed before a nest can be removed:

- The Cellnex UK SHE team can authorise this activity on sites that are under their control.
- Ideally the best time to remove or relocate a nest is after nesting season is over and not when a TAR is in force.
- Prior to removing any nest, check for activity over at least a 1hour period and always make sure a nest is inactive before removing or relocating it. Never attempt to remove or relocate a nest if there are birds or eggs present.
- If the nest is inactive and authorised by the SHE team, remove the nest and place it in a sealed container or tied rubbish bag, dispose of it safely and correctly and remember to use gloves and wash your hands thoroughly.

4.4. Line of Sight Operations Impact

There may be situations where a TAR is not the primary reminder for caution relating to nesting birds. Where line of sight activities require hedge cutting/trimming etc. the Wildlife and Countryside Act 1981 is still in force and the act must be complied with, following this document regardless of the TAR is best practice to comply with the act.

It is not best practice to 'Go and have a check in case they have fledged'. While it may appear to be a common-sense approach to gain understanding, if the act of checking disturbs the birds then a breach of law has occurred. Checking must be 'Standoff' or remote to determine a change in activity/status.

4.5. Drones

The use of a Drone to survey a Nesting Bird site that has a TAR added is to be avoided, but if the survey is necessary (i.e. ESN activity effected/life threatening) and approved by SHE the following must be applied:

- All companies operating a Drone must be Cellnex accredited and the Cellnex Drone policy is followed.
- Ensure that the landowner's permission is given before flying a Drone.
- Birds and other wildlife should not be disturbed by Drone flights.
- Were the use of a drone is likely to cause disturbance to any bird species that is listed on Schedule 1 of the Wildlife & Countryside Act (1981), alternatives must be sought. If potential impacts cannot be avoided, a A09 Disturbance License must be sought through the SHE team setting out the purpose for which the drone is to be used.

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4.6 Summary Table

Type of Bird	Example	Protection Afforded	What Can I Do	License type
Schedule 1	Peregrine Falcon Osprey	No disturbance to nest/young or preventing the use of the nest sites	Can do short duration work when adult away from nest Work on faults on ESN network affecting public safety	AO9 Disturbance license - managed by the SHE Team. 28 Days' notice for license application.
Pests	Crow Jackdaw Wood Pigeon Magpie	Not allowed to obstruct the use of the nest site during the nesting season.	Can do short duration work when adult away from nest Work on faults on ESN network affecting public safety	General license available to us without going to the statutory body for removal. For disturbance and removal, SHE team determine if this is possible and the control measures that must be implemented.
Everything else	All other birds	Not allowed to obstruct the use of the nest site during the nesting season	Can do short duration work when adult away from nest Work on faults on ESN network affecting public safety	For disturbance and removal, SHE team determine if this is possible and the control measures that must be implemented.
Red List Species	Herring Gull Lesser Black Backed Gull	No disturbance to nest/young or preventing the use of the nest sites: Due to the license required not the WCA 1981 or the Red List.	Can do short duration work when adult away from nest Work on faults on ESN network affecting public safety	AO9 Disturbance license - managed by the SHE Team. 28 Days' notice for license application.

5. Change Control

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