

## Protecting England's hedgerows – joint briefing

### Key topline:

- Government must deliver on its popular commitment to reintroduce hedgerow protection without delay. With nesting season already underway, this **legislation must be tabled with urgency** – the window to protect this year's bird nesting season is closing.
- **Proposed exemptions to the regulations are largely unnecessary**, and risk disincentivising a shift to rotational hedge cutting Exemptions should not be included in the replacement protections.
- Government should **take this opportunity to level up hedgerow protections**. With ambitious statutory targets to meet, increasing buffer strips, extending the 'no cutting' period and protecting all hedgerows would support England's hedgerow targets and wildlife with minimal impact upon farming.

### Background

Hedgerows provide vital habitats for an array of British wildlife including birds, bats, and pollinating insects, and are a much-loved feature of our countryside. They also provide an important carbon store and support farm businesses in becoming more resilient to climate change by providing natural pest control, boosting pollination and yields, sheltering livestock and crops, and mitigating flooding by regulating the flow of water.

In 2023, Defra launched a public consultation seeking views on whether to amend The Hedgerow Regulations 1997 to replace hedgerow protections due that expired on 31<sup>st</sup> December 2023. These protections included a 2m buffer and 'no cutting' period from 1<sup>st</sup> March to 31<sup>st</sup> August, and are crucial to prevent the degradation of hedgerows and further loss of iconic wildlife.

The consultation found **overwhelming support for hedgerow protections, with over 95% of respondents, including farmers, supporting plans to maintain cutting dates and buffer strips**. In response to this consultation Defra committed to plugging the gaps.

Yet the breeding bird season has commenced and Defra has not delivered on its promise. This risks stifling progress towards the Government's statutory nature targets and communities' ability to reap the benefits of thriving hedgerows.

Government must reinstate these vital protections as a matter of urgency, whilst seizing the opportunity to strengthen safeguards, and remove the unhelpful exemptions.

### Exemptions

The proposed exemptions put hedgerows at risk by unnecessarily allowing cutting during nesting season and ploughing up to the hedge base in some cases. Government made clear its intention to replicate exemptions to these protections and to make them easier to access. This is despite, in some cases, the majority of farmers who responded to the consultation saying particular exemptions *should not* be replicated. Farmers can largely avoid the need for exemptions by adopting best management practices. Exemptions send the message that annual trimming is best practice, whereas Defra's guidance reflects that rotational management brings the most benefits for nature, climate and farm businesses. **Therefore, exemptions should not be replicated by this SI.**

1. Exemptions for fields under 2 hectares: small fields will not be required to have a buffer strip to protect their hedgerows. This leaves significant lengths of hedgerows unprotected, and there is evidence that hedgerows in small fields provide particularly high-quality habitat and connectivity for wildlife. 77% of respondents thought this exemption for fields under 2 hectares should not be replicated, **including 52% of farmers who responded.**
2. Exemptions for hedgerows younger than 5 years: hedgerows under 5 years will not be protected by a buffer strip, even though they are more vulnerable to the elements, root disturbance and chemical sprays. This is intended to “allow spot-application of herbicides to control weeds”, but the risk of damage from in-field activities far outweighs that from hedge base weeds. **Cultivating up to the hedge base is likely to increase competition from weeds, not reduce it.** This causes more fertiliser runoff to reach the hedge base, increasing competition from weeds.<sup>1</sup> 80% of respondents said this exemption should not be replicated, including **57% of farmers who responded.**
3. Exemptions to the ‘no cutting’ period: Hedges can be cut during this protected period for health and safety purposes (e.g. where a hedge is obstructing a road), to carry out hedge-laying or coppicing, to trim a newly laid hedge, or to sow oilseed rape or temporary grass during August. The need for health and safety exemptions can be avoided with pre-emptive cutting before nesting season begins. **Planting flower-rich 4-12m margins creates space for sowing oilseed rape in August without needing to trim hedgerows.** These margins have been proven to increase crop production and offset the loss of cropped area, and farmers can get paid to plant them in the SFI.<sup>2</sup> Hedges do not need to be cut every year, and larger hedgerows provide a yield-boosting pollination effect for the in-field crop. **72% of respondents** said these exemptions should not be replicated.

## Environmental Land Management schemes (ELMs)

- Through Government’s ELM schemes, farmers and land managers can get paid to plant, manage and assess their hedgerows. However, the schemes do not include any protections for the hedgerows they invest in, putting the public’s investment at risk. Reintroducing protections would act as an insurance policy for this investment.
- Paying for what was once regulatory would be very poor value for public money and would not achieve the same level of compliance. Therefore, reintroducing protections represents a maintenance of standards.

## The need for buffer strips

- 2m buffer strips are essential for maintaining the survival, quality and resilience of hedgerows and hedgerow trees.
- Buffer strips are themselves vital resources for many threatened species, including farmland birds, pollinators, rare plants and mammals. They provide connectivity and safe corridors for travel in a fragmented landscape, and protect our watercourses from pesticide drift and fertiliser runoff.

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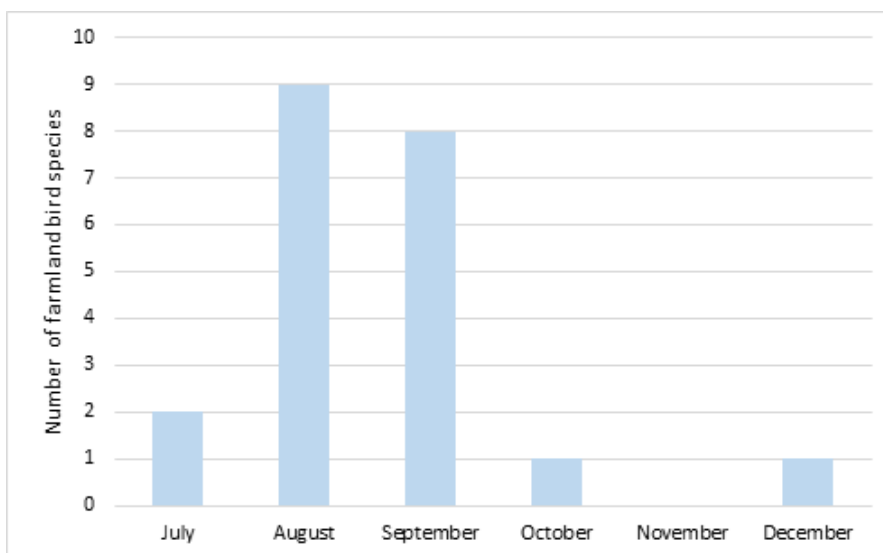
<sup>1</sup> Tsiouris, S. and Marshall, E. (1998) Observations on patterns of granular fertiliser deposition beside hedges and its likely effects on the botanical composition of field margins. *Annals of Applied Biology*, 132:1, pp.115-27.

<sup>2</sup> UK field trials of oilseed rape increasing yields by 18% as a result of pollination services and assorted bean varieties by 15-30%. Organic Research Centre (2021) *Hedge fund: investing in hedgerows for climate, nature and the economy*, p.17.

- **Widening buffer strips beyond 2m** would not only provide better protection for hedgerows and hedgerow trees, but increase the resources available wildlife.

### The need for a ‘no cutting’ period

- The ‘no cutting’ period is a key protection for spiraling farmland bird populations. For Red-listed species such as Linnet, Turtle Dove, Cirl Bunting and Yellowhammer, later broods make a disproportionately important contribution to population stability (Figure 1). This move was strongly supported by respondents to the consultation, with an overwhelming 97.8% supporting its retention, including 84.6% of farmers who responded.
- **Extending the no cutting period would have a disproportionately positive impact on the survival of some threatened species,** particularly in areas of strategic importance for late-nesting species.
- For Hazel Dormice in particular, surveys conducted by the Wildlife Trust for Bedfordshire, Cambridgeshire, & Northamptonshire found multiple active nests during the months of September and October. Without protection from cutting these nests will be destroyed. Multiple projects to recover Hazel Dormice are supported by public funding, the work of which is undermined by autumn hedge cutting.
- Leaving hedges uncut during this period would also increase the resources available for wildlife during the colder months, particularly as climate change elongates the nesting season.



**Figure 1.** Nesting season end dates for 21 species found predominantly within farmland hedgerows and scrub. Data from Winspear, R. and Davies, G. (2005) *A management guide to birds of lowland farmland*. The RSPB: Sandy, Bedfordshire, Appendix 1, p.164.

## Recommendations

1. Urgently table secondary legislation to **bring back these protections swiftly**, in line with Government's commitment in its consultation response. With nesting season already underway unprotected, there is no time to lose.
2. **Extend protections to all non-garden hedgerows**, e.g. hedgerows managed by local authorities and golf courses. Wildlife does not discriminate, and all land managers should be subject to the same rules, not just farmers.
3. **Do not replicate exemptions** for fields under 2ha, hedgerows under 5 years, or to the 'no cutting' period. Best practice management can avoid the need for these exemptions, which were not supported by farmers who responded to the consultation.
4. **Extend the 'no cutting' period back into autumn** to protect threatened species such as Hazel Dormouse, and allow declining farmland birds to boost their populations with a second brood. **Buffer strips should be expanded** to reap the greatest benefits of hedgerows for nature, climate and farm businesses.

This briefing was produced by the following organisations:



Wildlife and  
Countryside



## Annexe 1. Gaps in protections resulting from the end of cross compliance

In addition to hedgerow protections, the end of cross compliance created other important gaps in environmental protections. Protections which have no equivalent in domestic law include GAEC 1 for waterbody buffers (outside Nutrient Vulnerable Zones), GAECs 4 and 5 for soil erosion, and GAEC 7a for hedgerows. Figure 2 below sets out these gaps.

We welcome Government’s commitment to fill the gap created by the loss of GAEC 7a protecting hedgerows. Gaps in protections for soils and watercourses must also be protected, to support the public goods bought through ELMs and meet targets within the Environmental Improvement Plan.

Cross Compliance GAEC standard (England)	Gap identified
GAEC 1 - Establishment of buffer strips along water courses	<p>Outside NVZs:</p> <ul style="list-style-type: none"> <li>- Rules around the requirement for buffer strips (green cover) next to watercourses.</li> <li>- Requirement to keep a farm map with surface water, boreholes etc. marked.</li> </ul> <p>Within NVZs:</p> <ul style="list-style-type: none"> <li>- None identified as long as gaps do not appear when the Nitrates Directive is transposed into domestic legislation.</li> </ul>
GAEC 2 - Water abstraction	<ul style="list-style-type: none"> <li>- None identified since GAEC requires compliance with legislation on abstraction licences.</li> </ul>
GAEC 3 - Groundwater	<ul style="list-style-type: none"> <li>- None identified since GAEC requires compliance with permitting requirements already in place.</li> </ul>
GAEC 4 - Minimum soil cover	<ul style="list-style-type: none"> <li>- The majority of the rules around providing minimum soil cover, particularly green cover.</li> <li>- The new Farming Rules for Water do include the use of stubbles as one possible solution to preventing soil erosion (Rule 6) but not any other forms of soil cover.</li> </ul>
GAEC 5 - limiting erosion	<ul style="list-style-type: none"> <li>- Rules 6 and 7 of the new Farming Rules for Water require farmers to ‘take all reasonable precautions to prevent soil erosion’ which cover most of the causes of soil erosion mentioned under GAEC 5, with the exception of protecting bare soil from wind blow.</li> </ul>
GAEC 6 - maintaining the level of soil organic matter in soil	<ul style="list-style-type: none"> <li>- None identified since GAEC requires compliance with the Crop Residues (Burning) Regulations, 1993; Heather and Grass etc Burning (England) Regulations 2007; and the Environmental Impact Assessment (Agriculture) (England)(No2) Regulations 2006; Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999</li> </ul>
GAEC 7a - boundaries	<ul style="list-style-type: none"> <li>- Hedgerows: various rules covered by the GAEC are not found in the domestic Hedgerow Regs 1997, most notably: <ul style="list-style-type: none"> <li>o The hedge cutting ban period,</li> <li>o hedge laying, and tree coppicing dates;</li> <li>o buffer strips by hedgerows (ban on cultivation or application of pesticides/fertilisers within 2m of centre of hedge)</li> </ul> </li> <li>- Earth/stone banks: the ban on the removal of earth/stone from earth/stone banks except to widen access / repair other walls is not covered by domestic legislation.</li> </ul>
GAEC 7b - public rights of way	<ul style="list-style-type: none"> <li>- None identified as GAEC requires compliance with public rights of way legislation.</li> </ul>
GAEC 7c - Trees	<ul style="list-style-type: none"> <li>- None identified since GAEC requires compliance with FC licencing rules and TPO conditions</li> </ul>
GAEC 7d - SSSIs	<ul style="list-style-type: none"> <li>- None identified since GAEC refers to protections already covered via the Wildlife and Countryside Act 1981 as amended (primarily by the Countryside and Rights of Way Act 2000)</li> </ul>
GAEC 7e - Scheduled monuments	<ul style="list-style-type: none"> <li>- None identified since GAEC requires compliance with national rules relating to Scheduled Monuments under the Ancient Monuments and Archaeological Areas Act (1979)</li> </ul>

**Figure 2.** Gaps arising from changes to cross compliance GAEC standards. Baldock, D. and Hart, K. (2020), *Risks and opportunities of a post-EU environmental regulatory regime for agriculture in England*, Institute for European Environmental Policy, p.23.