

EU Habitat Regulations and Orienteering

Recent changes to the Habitat Regulations in the UK may give rise to event organisers experiencing increased resistance to allowing events in some areas. In 1992 the European Union set down the Habitat Directive requiring Member States to provide legal protection for certain species of plant and animal. Most of the protected species which are found in the UK (European Protected Species or EPS) are found in areas used for orienteering; in particular, Dormice, Great Crested Newt, Smooth Snake, Sand Lizard, all 16 species of bat, and otters. The EU Directive was transposed into UK law by the Habitat Regulations in 1994.

The recent changes to the Habitat Regulations are part of the UK Government's response to a Judgement by the European Court of Justice following a challenge to the UK's interpretation of the Directive. Where previously land managers and others could claim a defence that an adverse impact on EPS was 'the incidental result of an otherwise lawful activity', this defence has now been removed. While the Regulations are targeted primarily at landowners and developers involved in land management activities they also have implications for recreational users of those areas where EPS are found.

While much of the Regulations relate to capturing, killing or injuring of EPS it has now become an offence to 'deliberately disturb animals of an EPS significantly' and to 'damage or destroy a breeding site or resting place of an EPS'. It is these provisions that may result in organisers finding some reluctance by landowners or their agents to permit orienteering to take place on their land.

Some agents and their support teams are already raising questions about what is, and what is not, acceptable. The forest industry is in the process of producing a Code of Good Practice that will enable landowners to continue to operate within the law, and the sport of orienteering would do well to look at this code for guidance. However, there are some basic measures that can be taken that will go some way to allaying the concerns of those landowners and agents who believe that by permitting an event that they will be committing an offence.

Organisers, planners and controllers need to be aware of which EPS animals are found in their area and then take measures to minimise disturbance to these animals at critical times for those species. For most the critical time is the breeding season. Where an event is programmed to take place during this time (mostly from the month of March to September inclusive) every effort should be made to avoid concentrated human activity around known breeding sites. This means ensuring assembly areas, starts, finishes and heavily used control sites are not immediately adjacent to, or within, coppices and shrub woodland in areas where Dormice are known to be present. Similarly areas of exposed sand should be avoided where Sand Lizards are known to be present as should mature ponds in areas where the Great Crested Newt is to be found. Bats pose the additional problem of potential disturbance during hibernation. This again is best avoided by endeavouring to ensure that intense human activity is not concentrated around known winter roosts in addition to avoiding nursery roosts during the summer months.

Orienteers passing through an area may inadvertently damage a breeding site or kill an EPS animal, but it should be remembered that the risk is very low and the likely long-term impact on that species insignificant provided there is a reasonable distribution of that species throughout the immediate area.