

The ‘biodiversity duty’ (section 40 of Natural Environment and Rural Communities Act 2006)

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Presentation outline

- Background and purpose of the duty
- Implementation
- Review of the duty

Section 40 of the Natural Environment and Rural Communities Act 2006 states:

“Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”

The legislation applies in England and Wales.

Where does it come from?

- Replaces and extends Section 74 of the Countryside and Rights of Way Act 2000 (this earlier legislation put a duty on government only)

Who is affected?

- ‘Public authorities’ as defined in the NERC Act, including:
 - Central government departments, National Assembly for Wales
 - Executive Agencies and Non-Departmental Public Bodies
 - Regional bodies such as Government Offices, Regional Development Agencies
 - Local authorities, parish councils
 - National Parks, AONB conservation boards
 - Sea Fisheries Committees, Harbour Authorities
 - Universities, NHS Trusts
 - Statutory undertakers (e.g. utilities)
 - etc

What is its purpose?

- Raise awareness and profile of biodiversity
- Clarify and consolidate existing biodiversity commitments
- Help to stimulate a culture change across the public sector, so that biodiversity issues become a natural consideration in policy and decision making

Ultimately to have a beneficial effect for biodiversity conservation

Implementation

- Using as a hook to ensure national level guidance and policies reflect the duty (e.g. PPS9, local authority performance indicator etc)
- Produced comprehensive guidance on implementing the duty (generic version for public authorities and tailored version for local authorities)
- Promoted primarily via Natural England, also via LGA and Government Offices

Review of the duty

- Thus far, information on implementation has been anecdotal.
- Undertaking a review looking at how public authorities have responded to the duty
- Review will report in early 2010
- Using the review to further raise the profile of, and promote, the duty.