

Uplands Burning Position Statement Q&A (v1.0)

This Q&A has been developed to help Natural England staff make and apply judgements on a site-by-site basis using Natural England's Position Statement on Burning as a Tool for the Restoration of Upland Blanket Bog. It is also available to any interested parties who would like more information on how the Position Statement will be applied in practice.

Delivery Questions

Question	Answer
Does the position statement mean that Natural England will no longer be working in an outcomes focused way?	No. Natural England remains committed to the outcomes approach as the foundation of its work with landowners in the uplands. Restoration of blanket bog is a core objective that underpins the delivery of all other outcomes on that habitat. Natural England will still look to achieve agreements that meet a range of outcomes including those relating to businesses, water quality, climate change mitigation and biodiversity. What remains important is building relationships and trust to talk through and understand the restoration and management that is needed on a site.
How will Natural England deliver Long Term Plans in line with the new position statement?	Our mechanism for permitting an adaptive long term plan covering broader land management continues to be an agreement under section 7 of the NERC Act 2006, for up to 25 years. If burning for restoration is required it will need to be consented separately under section 28 of the Wildlife and Countryside Act, and for short periods, usually up to 3 years.
What about the long term plans already underway / in development?	These will be required to be concluded in line with the position statement.
How will we manage those consents for rotational burning where a voluntary commitment remains unsigned?	Natural England remains in contact with consent holders, providing support and information to inform a signing of a voluntary commitment. If however the voluntary commitment is not signed, and the holder is not willing to allow modification or revocation of their consent for rotational burning, it may be necessary to consider regulatory or legislative options in order to meet the EU's requirement for the UK government to deal with the infraction to the Habitats Regulations.
What is the legal reasoning behind this position statement?	The Habitats Directive and the Conservation of Habitats and Species Regulations require Natural England as a competent authority to make a prior assessment of the likely effects on the European site of any plan or project it proposes to permit. Burning vegetation within a European site is considered to be a plan or project. In view of the infraction proceedings, rotational burning on blanket bog can't continue because it is known to be damaging to the structure and function of blanket bog. Burning for restoration purposes may be allowed in compliance with the Habitats

	Directive in exceptional circumstances. The decision on whether to permit a restoration burn lies with Natural England as the competent authority.
What changes have been introduced through the position statement?	<p>In light of both the infraction and the equivocal evidence on the effectiveness of burning as a restoration tool, it should only be permitted in exceptional circumstances. We can summarise what this means for our approach as follows:</p> <ul style="list-style-type: none"> • We can no longer permit burning for restoration based on a flexible traffic light table that is used by estates to decide where they could burn. However, we can use a decision-framework as the basis of guidance to our staff in order to help inform their consideration of assessing where a burn for restoration purposes may be necessary for or directly connected to the conservation management of the site or the restoration of blanket bog; we require the consents to have a clear explanation up front, of when, where, how and why burning will take place. • We can no longer provide consents for burning for restoration for a 25 year time period (see answer below). • It will be necessary for landowners to clearly demonstrate that any burning is necessary for the conservation management of the site. The supporting decision-framework helps with this.
For how long can a burn for restoration purposes be consented?	In view of the equivocal evidence base, we can only consent for a relatively short period, up to 3 years because we need to assess the precise scope of each intervention and the circumstances in which it will be applied and because we expect the evidence base to develop further in the medium to long term, and as such our approach is likely to need to adapt accordingly. Any continuation beyond that period will be subject to a new consent and the evidence will be subject to a fresh and active decision. Burning for restoration purposes should be considered separately from more routine estates management operations.
Will consents roll-over if interventions have not been carried out due to poor weather conditions within the specified period?	The consent is time limited and therefore will expire regardless of whether the intervention planned has been completed. A new notice will need to be submitted in accordance with the advice and include the required supporting information. While consents can't be rolled over, we'd expect there to be ongoing dialogue between land managers and advisers to re-planned where necessary.
What about long term plans already signed off and published, will these be picked up through the review process or some other way?	This position statement is for 'from now on'. For plans that have already been signed off we will work with the owners through the annual review process to agree any revisions that might be

	<p>needed to the plan to ensure the sites are not being damaged and that restoration is continuing. The monitoring they are carrying out will be key to this.</p>
<p>The original intention was that long term plans would be tailored and advisers would use their skill and knowledge to customise them for each estate.</p> <p>How will the knowledge and expertise of Natural England advisers be used?</p>	<p>Long Term Plans will be bespoke to each estate and will continue to require working closely and in discussion with managers and owners to take account of their knowledge of the site.</p> <p>The ecological knowledge and expertise of Natural England advisers, as well as their experience of local conditions, will be invaluable in developing plans that deliver the best for the environment. The ecological skills, understanding of land use and integrity of Natural England advisers has been key in building good relationships with local land managers and these assets will continue to be a critical element of successful delivery by supporting land managers to work through the challenges of adapting to operate to the highest environmental standards.</p>
<p>How can Natural England best explain the introduction of the position statement to stakeholders?</p>	<p>We have listened to feedback, gathered evidence and taken legal advice that supports a move to a clearer position on when burning on blanket bog may or may not be permitted. The purpose of the position statement is to make it clear that the only burning that Natural England can permit on blanket bog is for restoration of that habitat. This builds on our evidence base and makes the position clearer for all parties.</p>
<p>What will a notice for burning for restoration purposes need to include for NE to determine the potential impacts, e.g. what level of information has to be included in terms of mapping, what restoration has already been done, what have they tried so far etc?</p>	<p>A notice will need to provide evidence that the restoration trajectory is impeded and that a one off burn will accelerate recovery at a specific place or places. This evidence will need to be supplied for each and every intervention that the notice concerns. This evidence must include a vegetation monitoring plan to record pre-intervention conditions, this may be GPS points; a map of the precise area being proposed for each and every intervention; details of other steps taken for restoration e.g. grip blocking, sustainable grazing regime, including timescales. The following details should also be included in any proposal or notice:</p> <ul style="list-style-type: none"> • the name of the SSSI • estate / agreement holder name and address • a description of what you intend to do and how • approximate start and end dates for the operations • the location of the proposed operation (send a map with notes if you can)

	<p>You should include as much relevant information with your proposal, such as:</p> <ul style="list-style-type: none"> • what vehicles will need access to the site, the routes they'll take and ground pressure they'll exert (particularly across fens and bogs) • the origin and chemical nature of materials you'll bring onto the site <p>We recommend land managers discuss any proposals in outline and in advance with Natural England before working them up in detail. Natural England offers a Discretionary Advice Service which provides charged advice to customers to help develop and define the details of plans and projects with potentially significant environmental impact or opportunity.</p>
<p>Is an HRA required per burn intervention?</p>	<p>The HRA needs to consider each and every burning intervention. A number of interventions can be submitted in a single notice (with the requisite information provided for each intervention) In practice this means that an assessment and any subsequent consent could consider more than one burn to be carried out across a holding over a short period of time (around 3 years)</p>
<p>When would Natural England ask for the more detailed pre-intervention data to be submitted and is the pre-intervention data a pre-requisite for a SSSI notice to be considered valid?</p>	<p>No it isn't a prerequisite as Natural England would ask the estate to provide GPS points, then we can condition any consent to say that this information needs to be submitted prior to any intervention taking place. Ideally, however, a notice would be submitted with sufficient evidence to demonstrate that recovery of the blanket bog was being impeded since the consenting process would be more straightforward.</p>
<p>How will Natural England assess Section 28E consents for burning in accordance with the HRA process?</p>	<p>The estates will need to submit their proposals in the form of a notice, which Natural England will assess. We will use the HRA process to determine whether or not the intervention is necessary or directly connected to the conservation management of the site. If the estate can demonstrate, through evidence, that the intervention will help to restore blanket bog, then it will be possible for Natural England to conclude that the intervention is necessary for the conservation management of the site. If we do not consider the intervention is necessary for the conservation management of the site, and where we deem it will have a likely significant effect on the protected site, it will be necessary to conduct an appropriate assessment. This will determine whether or not the proposal will result in an adverse effect on integrity.</p> <p>It will require evidence that the restoration trajectory is impeded and, that having considered all other alternative management interventions, that a burning intervention is therefore necessary.</p>

	<p>This evidence should include monitoring data; a map of the area being proposed for intervention; details of other steps taken for restoration e.g. grip blocking, sustainable grazing regime, including timescales. Burning for restoration purposes falls into this uncertainty category and therefore we will offer short term consents, usually up to 3 years.</p>
<p>Should Natural England apply the approach set out in the Position Statement to blanket bog in non N2K SSSI and non-designated land?</p>	<p>Blanket bog is Priority Habitat so Natural England will try to achieve restoration and suitable management of it irrespective of designation. The Habitats Regulations apply only to Natura 2000 (N2K) sites but, for consistency and in our role as a competent authority responsible for protecting the natural environment we would nevertheless apply the principles set out in the Position Statement more widely.</p>
<p>Does the notice need to specify the maximum size of the intervention?</p>	<p>Yes, the notice needs to quantify the area of the intervention as accurately as practical.</p>
<p>Will the Heather and Grass Burning Code be changed to reflect the position statement?</p>	<p>The Heather and Grass Burning Code was last revised in 2007 and a lot has changed since. However, we will continue to take the Code into account and feedback to Defra if experience suggests any changes are needed.</p>
<p>How might a consent for burning for restoration purposes relate to a long term plan?</p>	<p>The long term plans address the range of outcomes on the estate and seeks to describe how business, environmental and other outcomes can be addressed through a shared vision. In biodiversity terms we want plans to consider the full range of habitats and species on the land, especially, but not only, those that are designated. We want plans that consider historic environment and landscape character, as well as wider ecosystem services.</p>

	<p>Though Natural England is required to consent burning separately, and for short periods, plans will take a longer view and consider the wider context of blanket bog restoration. Plans may be the place to consider the trajectory of blanket bog restoration and longer term management required and identify areas where restoration is being impeded and expected restoration trajectories are not being achieved.</p> <p>Note that the Long Term Plan will <u>not</u> act as a consent for burning interventions:</p> <ul style="list-style-type: none"> a) All proposed burning interventions will be considered and assessed on a case by case basis. b) We will ask for a detailed, up to 3 years, plan up front to enable us to carry out an assessment. c) We will issue consents only where there is a high degree of certainty that burning is required as a management tool to aid the restoration process. d) Consents will be issued for a limited period only, usually up to 3 years, under section 28E of the Wildlife and Countryside Act 1981. e) Any further proposals for burning for restoration purposes beyond that 3 year period will be considered afresh and subject to a new consent. f) In addition, we will require as a condition of consent for burning appropriate pre- and post-intervention monitoring to be carried out, in order to ensure the conditions for a burn are met and to assess the impact of such an intervention.
<p>How will cutting for restoration purposes be treated?</p>	<p>The new position statement focuses on burning, because is the subject of the current infraction which requires rotational burning to cease. Natural England will determine the appropriate legislative mechanism to consent cutting for restoration purposes on a case-by-case basis. We will consider the impact it will have and use the HRA process to determine whether or not the intervention is necessary or directly connected to the conservation management of the site.</p> <p>Our decision as to what consenting mechanism we will use to permit such interventions will depend on the time period over which the proposed intervention(s) are to take place and the degree of certainty that we have as to their impacts.</p>

<p>Is the monitoring protocol compulsory for cutting interventions?</p>	<p>Yes, because the evidence for the effectiveness of cutting in dealing with the restoration of the blanket bog that is impeded, like that for burning, is limited. Therefore, monitoring will be required for interventions in a long-term plan and the protocol sets a framework that will be adapted if necessary for each case.</p>
<p>What about wildfire risk?</p>	<p>Restored blanket bogs with hydrological conditions that have kept heather dominance in check will reduce the requirement for wildlife management in the longer term.</p> <p>Burning on blanket bog may be acceptable if it is an integral part of an agreed wildfire management plan that is directly connected to the restoration of the habitat by building resilience to wildfire using re-wetting, and firebreaks. Defra and Natural England are doing further work on this with the Upland Management Group. This will help us to assess where wildfire management is directly connected to the conservation management of the site on a case by case basis.</p>
<p>What consenting mechanism will Natural England use to address wildfire?</p>	<p>Natural England will determine the appropriate legislative mechanism to consent management interventions that are designed to prevent wildfire on a case-by-case basis. We will consider the impacts that it will have and use the HRA process to determine whether or not the intervention is necessary or directly connected to the conservation management of the site.</p> <p>Our decision as to what consenting mechanism we will use to permit such interventions will depend on the time period over which the proposed intervention(s) are to take place and the degree of certainty that we have as to their impacts.</p>

Evidence

<p>Question</p>	<p>Answer</p>
<p>What is Natural England's position with regard to burning for restoration?</p>	<p>The evidence indicates that all burning on blanket bog has negative effects on the ecosystem function and the characteristic flora. Restoration of blanket bog will be primarily driven by hydrological restoration. However, in exceptional circumstances and partly due to effects of previous management on vegetation dynamics, hydrological restoration alone may not be sufficient and a trajectory towards full recovery could become impeded by an over-dominance of heather or other species. In these exceptional circumstances additional management intervention may be</p>

	<p>beneficial in order to break the dominance of heather and to get the vegetation recovery back on a positive trajectory. One off burning for restoration purposes is one possible intervention. There is limited evidence for this approach but in exceptional circumstances it is considered that the benefits of trajectory recovery will out-weigh the damage caused by a single burn.</p> <p>Burning for restoration purposes</p> <ul style="list-style-type: none"> a) We would not expect burning for restoration to be effective when damaged hydrology has not yet been restored, or <i>Sphagnum</i> is frequent to abundant, or heather is not dominant [equivalent to Red category in the Decision Making Framework]. b) Burning for restoration may be effective where the bog has been successfully rewetted, <i>Sphagnum</i> is absent to occasional, and heather (or other species such as purple moor grass) are dominant (all these conditions would need to be met) [equivalent to Green category in the Decision Making Framework]. c) Where a heather beetle infestation has occurred any burning remedy would still need to be consistent with the restoration of blanket bog habitat set out here; <i>Sphagnum</i> inoculation following a burn for restoration purposes is critical to the approach. As is monitoring to enable the evidence base on effectiveness to be developed. d) We also recognise that there may be exceptional site specific circumstances where recovery of blanket bog may benefit from a burn [such as those described in the Amber categories in the Decision Making Framework].
<p>What is different since the publication of the Blanket Bog Land Management Guidance (BBLMG)?</p>	<p>In carrying out its Habitats Regulations Assessment and making a decision on requirements for restoration, Natural England will continue to be informed by the descriptions of blanket bog outlined in the Blanket Bog Land Management Guidance (BBLMG).</p> <p>It is our view, however, that the BBLMG is not sufficiently precise in itself to be the sole guidance for evidence-based decisions. We have, therefore, created guidance to clarify the exceptional</p>

	circumstances where a one-off burn may be considered directly connected with, or necessary for, the restoration of blanket bog.
Where did the evidence base for the position statement come from and what happens when new evidence becomes available?	<p>The evidence base that has informed our position on burning on blanket bog dates back to the systematic review of upland evidence published in 2013. The systematic review of managed burning considered 492 papers of potential relevance to the questions being addressed. The review group comprised specialist staff and independent academics.</p> <p>New evidence has become available since the reviews were published. This has been assessed against the review questions and the question asked 'does this new evidence materially change the review conclusions'? To date this has not been the case, if anything the weight of new evidence has increased the certainty of the review conclusions.</p>
What will happen if the new guidance leads to a deterioration on BB rather than improvement?	The evidence base for burning for restoration purposes is incomplete. Natural England has designed a monitoring protocol to record the effects of any interventions and we will objectively adapt our management and guidance in line with the developing evidence base.

Agri-environment

Question	Answer
What does this mean for the 2019 Countryside Agreements?	For a 1 Jan 2019 start where most of the negotiations have already been completed. To secure an offer there must be agreement with Natural England over the future management of the moorland that aligns with the Position Statement. Restoration plans will only be consented for a shorter period, usually up to 3 years, and on expiry NE will reassess the plan with the agreement holder in order to assess if further consenting may be required.
What will this mean for the 2020 Countryside Agreements?	For a 1 Jan 2020 start where negotiations will commence over the next few months. To secure an offer there must be agreement with NE over the future management of the moorland that aligns with the Position Statement.
How will this affect HLS extensions in 2019?	To secure an HLS extension in 2019, there must be agreement with Natural England over the future management of the moorland that aligns with the Position Statement.
How will this affect HLS extensions in 2020 once we've left the EU?	To secure an HLS extension in 2020, (if Defra decide to offer HLS extensions in 2020) there must be agreement with Natural England over the future management of the moorland that aligns with the Position Statement.

How will this affect our delivery of Countryside Stewardship and Environmental Stewardship?	Natural England will ensure all CS (Higher Tier) and ES (Higher Level Stewardship) agreements are aligned to the Position Statement, and changes are agreed in the wording of any Site Restoration Plan or Moorland Management Plan.
How will delays / this position affect moor owners taking up CS agreements?	The CS agreements will be offered in line with the position statement.
Can moor owners still enter CS agreements for 2019?	The window for applying for CS agreements starting in January 2019 closed in 2018. For new applications in 2019, for a 1 January 2020, start the window will open in a few months' time. To be eligible to apply the management of the moorland will need to have been agreed with NE prior to the submission of any application so that it aligns with the Position Statement.
In new Higher Tier agreements the options and prescriptions last for the 10 years of the agreement. Given that the position statement indicates an assumption of shorter consents, usually up to three years for a consent for restoration burning management, how should the consent for the HT agreement be given?	There should be a consent for the 10 year HT agreement covering a range of management interventions alongside any separate shorter-term consent for burning for restoration.
If an estate does not wish to relinquish an underlying consent, can an offer of CS agreements be made to commoners and tenants on the same estate?	An offer of an agreement can be made to a tenant / commoner. All interested parties on the site need to sign up, so if any interested party does not sign up the agreement cannot go forward.

General

Question	Answer
Will this position statement be shared externally, with land owners / stakeholders?	The position statement, decision framework and monitoring protocol will be freely available for all interested parties through the Access 2 Evidence catalogue. The Quality Assurance is designed for internal use but will also be available externally as required.

Monitoring app

Question	Answer
Where can I find the Peatland Monitoring app?	The app is called Peatland Monitoring which uses a mobile program called survey123 which is free to download from the IOS App store or Android Play store

Will training on the use of the Peatland Monitoring app be available?	Natural England will produce material that sets out how to find and download the app or obtain a paper version, and how to use it when making assessments in the field. Support for local teams is planned
How do people submit their data?	The app needs to be downloaded to a GPS enabled mobile device, after which it doesn't need a signal on site to operate. The data collected will transfer automatically once connection is made or a signal is available. Alternatively, surveys can be undertaken using a paper form that has details of where it should be sent to.
When data is collected from the app, where does this data go and how will it be used?	The data is collected as soon as it is submitted and stored initially on Natural England databases hosted in the cloud. It may then be collated and backed up on databases held by Natural England.
Is pre-intervention monitoring required for burning interventions?	Yes, all consented interventions need to be carried out in accordance with the monitoring protocol. The monitoring protocol explains what needs to be assessed and the number of assessments that need to be made to provide meaningful data on a typical moorland. The exact details will be determined according to the site and included in the site plan/consent
Do I use the same methodology for pre-intervention and post-intervention monitoring?	The monitoring methodology agreed for a particular site should be applied whenever monitoring is required to take place.
What funding can Natural England offer estates for carrying out the monitoring?	If Land Managers wish to carry out burning interventions for restoration, part of their responsibility is to carry out monitoring to assess its impact as one of the associated requirements of a consent. NE can provide guidance to help establish monitoring, but it is not NE's responsibility to fund or carry out site monitoring. NE may however carry out moorland management trials to add to the evidence base, including in conjunction with other parties

Uplands Programme

Question	Answer
Does Natural England have the resources in the programme to now sign up the next several hundred LTPs (or other mechanisms) by June?	Natural England is working on this as part of our business planning for 19/20.

