

Conservation covenants for local authorities

9 June 2022

Welcome to our event

- Some practicalities:
 - We have a lot of people in the ‘room’ so you will be muted
 - Questions in the chat please
 - Please “like” or “thumbs up” on any questions you think are most helpful
 - We may not get round to all your questions, but will add answers to our biodiversity net gain FAQs page
 - We will be using polls, so please answer these
- The event is being recorded and the recording will be up on our website
- PAS – who are we?
- Who’s here?

Agenda

Introduction

What is your current understanding of conservation covenants?

Overview of conservation covenants

What they are and how they will work.
Local authority roles
Freja Dixon-van Dijk, Tim Andrews Defra

Preparing to be a responsible body

Graeme Kerr, Natural England

Q&A

Summing up, next steps and feedback

Finish at 12pm

What's your current understanding?

Please answer the polls – pop-up or in the chat

- How would you rate your current awareness and understanding of conservation covenants? (1 = little/no awareness to 5 = excellent understanding)
- Why have you joined today?
 - My local authority is thinking of becoming a responsible body
 - My local authority is thinking of using conservation covenants as a landowner
 - I just want to find out more about conservation covenants



Department
for Environment
Food & Rural Affairs

An Overview of Conservation Covenants

Freja Dixon-van Dijk and Tom Reynolds

Why do we need conservation covenants?

- Conservation opportunities in England are being missed
- Costly and complex workarounds currently required for conservation action on private land due to current systems:
 - Designation requires sites of a specific quality, and each designation must be approved by government
 - Property law does not allow for the attachment of positive obligations to land
 - Contract law only binds the land's current owner to an agreement
- Results in suboptimal conservation and economic impacts

What is a Conservation Covenant (ConCov)?

- **Private, legally binding and voluntary agreement between a landowner or long-term leaseholder and a designated “responsible body” (RB)**
- Comes into force on 30th September
- RBs: a conservation charity, public body (inc. LAs) or for-profit body with conservation as a core purpose
- Can be used for the conservation of nature or heritage on that piece of land, and must be for the public good
- Can last in perpetuity or for a specified time period
- Binds future owners of the land (inc. LAs)

How will Conservation Covenants Work?

- Must be registered as a Local Land Charge
- Need to be monitored and enforced by both parties
- Can be discharged, modified or transferred to another RB through mutual agreement between landowner and RB
- Will include an RB annual reporting requirement

Context

- Legislation based on 2014 Law Commission Report recommendations
- Already used in Australia, NZ, USA, Canada, Costa Rica, Scotland

Who can be a Responsible Body?

- Prospective organisations will have to apply to become RBs
- Must satisfy the Secretary of State that at least some of their main purposes, functions or activities relate to conservation (with exemption of Local Authorities)
- Applications will be assessed against published criteria which will include questions on financial capability, technical expertise and motivation for applying
- RB criteria & guidance currently being finalised with key stakeholder support

Possible uses of Conservation Covenants

- Uses will be diverse. We do not expect to have 'template agreements' as conservation covenants will take many forms
- **Generally will be used for:** Natural Environment and Heritage sectors
- **Specifically will be used for:**
 - Biodiversity Net Gain
 - Landscape Recovery
 - Altruistic landowners
 - Alternative to land purchase by conservation organisations

Local Authority Involvement

- Conservation covenants will be a valuable tool for local authorities & developers
- They will ensure that compensatory habitats are maintained in the long term
- A LA could enter a conservation covenant in two ways (but not in the same contract):
 - As a landowner
 - As a designated responsible body
- LAs will not be automatically designated; it will be for each authority to decide whether or not to apply

Biodiversity Net Gain & Conservation Covenants

- One of two options for securing off-site biodiversity gains (the other being planning obligations)
- Additional requirements such as minimum duration of 30 years. (Other requirements still in development).
- Pre-requisite to registering a gain site
- BNG Register Operator will need copy of agreement during registration

Interaction with other Defra Initiatives

- Securing the long-term benefits of Landscape Recovery projects
- Making it easier for business and others to fund habitat improvement
- Developing Nature Recovery Networks and Local Nature Recovery Strategies
- Helping Public Authorities demonstrate positive, active commitment to enhancing biodiversity

Next Steps

- We expect to publish our main ConCov guidance around July
- We will publish further guidance on registering ConCovs as local land charges and annual reporting requirements in the lead up to implementation
- ConCov provisions will come into force on 30th September 2022
- The first agreements are likely to be in place within 2-4 months following this date

Questions

- We will be available for Q&A at the end of the session and look forward to the discussion
- If you have further questions following the session, please email conservation.covenants@defra.gov.uk

Preparing to be a responsible body

Graeme Kerr (Graeme.kerr@naturalengland.org.uk)



July 2021 Natural England Board took the decision that Natural England would apply to become a Responsible Body

We want to apply at the earliest opportunity

We want conservation covenants to be in our toolbox

What timescales are we working to ?



- Natural England needs to be ready from Day 1 if our application is successful
- We need to have all our policies, procedures and processes in place: we need to be able to say Yes or No in a reasonable, fair and rational way, from Day 1
- We don't know when we can apply for Responsible Body status only that Responsible Bodies cannot be appointed before 30th September.
- Our preparations assume Day 1 is 30th September

What do we need to do by 30th September 2022?



- Take 'conservation covenants' through our business planning processes
- Establish our processes and procedures so we operationalise 'conservation covenants' within our delivery teams

What do we need to do – A bit more detail



- Guidance documents – when we might use conservation covenants and our processes and procedures over the lifecycle of a conservation covenant –
 - Dealing with enquiries
 - Negotiating agreements
 - Assessing proposals
 - Signing agreements
 - Keeping records
 - Recording covenants on land registry
 - Delivery of obligations
 - Monitoring of obligations
 - Monitoring and evaluating agreements
 - Making the annual return
 - Dealing with modifications
 - Addressing disputes
 - Terminating Agreements

What do we need to do – A bit more detail



- Agreement template(s)
- Financial / non Financial Scheme of delegation
- Monitoring and evaluation framework
- IT system
- Staff training
- Stakeholder engagement (external / internal)
- Sign off process

Why are we going to all that effort?



Why are we going to all that effort? -

We want to do what we do now, better

What that means:

- Security of long term outcomes
- Safeguard initial investments
- Reduced risk – use single tool rather than more complex workaround
- Provide greater confidence to investors

Questions and answers

- Please submit your questions through the chat
- We will answer as many as we can today
- We will add answers to FAQs on the PAS website



What will your local authority do?

Please answer the polls – pop-up or in the chat

- Do you think it is likely that your authority will enter into agreements?
 - As a landowner?
 - As a responsible body?

- What do you see your authority using conservation covenants for?
 - BNG
 - Nutrient neutrality
 - Green infrastructure
 - Other

Summing up & next steps

What do you think?

How did we do?

Next steps:

- Answering outstanding questions and adding to FAQs
- Ongoing support on biodiversity net gain through PAS project

For more information:

- <https://www.local.gov.uk/pas/topics/environment/biodiversity-net-gain>
- Sign up to the PAS bulletin: <https://www.local.gov.uk/pas/our-work/keep-touch>
- Email: conservation.covenants@defra.gov.uk

For more information:

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