

Dear Sir/Madam

RE: Response to the consultation on willow watermark (*Brenneria salicis*)

I am writing to thank you for submitting views and to notify you of the outcome of the consultation to revoke the Watermark Disease (Local Authorities) Order 1974 (SI 1974 No. 768). Reviewing the Watermark Disease (Local Authorities) Order 1974 with a view to scrapping it is a [published Red Tape Challenge commitment](#). In the report 'Defra Better for Business' published in April 2014, it was reported that the intention was to aim to scrap the order by March 2015.

The consultation on the future of the Watermark Disease Order was a straight Yes or No vote, with the option of supporting your position with additional information. No alternative option or course of action was proposed in the consultation.

The disease was first identified in the UK in 1924, and a series of eight local control orders were introduced in the 1950s and 60s in order to prevent the spread of infection. The 1974 Order superseded all of the existing local Watermark Disease Orders, and gave certain local authorities the power to take steps in connection with the disease. It was believed at the time that the spread of the disease could be prevented by clearing and burning any willow trees with infection, and there was a reduction in the number of diseased trees detected between 1955 and 1985.

Local authorities no longer exercise their statutory powers, and the disease remains present within the wider environment. Scientific opinion is that while eradication is not feasible, it is possible to reduce the disease's impact through management practices. An entry for Watermark Disease has recently been added to the UK Plant Health Risk Register, and this concludes that statutory action is no longer necessary. It is consistent with the Government's [Plant Health Strategy](#) for industry to decide how best to respond to threats from a pest which is not a priority for statutory action.

Fourteen responses were received to the consultation: nine from industry and five from the six Local Authorities responsible for enforcing the legislation. All responses from industry were opposed to revoking the Order, and those from Local Authorities were in favour of revoking it.

We have carefully considered the views expressed via the consultation and the scientific evidence on the epidemiology of the disease and its presence in the environment. As a principle Government will regulate only to achieve its policy objectives and where the original policy objectives have changed or are no longer relevant, the measure should be allowed to expire (or be repealed). Equally, if the measure has not had a significant beneficial impact in line with the original policy objectives, the presumption should be that it is allowed to expire

(or be repealed). The Watermark Disease Order does not achieve its original policy objective and does not provide a significant beneficial impact so we have concluded that we should revoke the Order.

A Statutory Instrument to revoke the Watermark Disease Order was made on the 16th March 2015 and it is anticipated that this will have effect from 1st July 2015.

In addition to the overall summary, respondents raised a number of key points and concerns in relation to the consultation. These were:

- a) removal of the legislation is seen as a negative action, given the recent increase in pest and disease introductions;
- b) despite efforts by themselves (growers), the disease is still prevalent, and without more work to control the disease it could escalate further;
- c) many landowners do not remove diseased trees which could infect neighbouring estates. The legislation is the only means by which such landowners could be forcefully made to remove infected trees;
- d) councils have limited resources, which they must prioritise; and
- e) a publication should be produced highlighting the current scientific knowledge and best practice for dealing with the disease. A log of felled diseased trees should be maintained to monitor the incidence of the disease.

These points are responded to below:

- a) The legislation dates from 1974 and supersedes control orders from the 1950s and 60s. The recent increase in pest and disease introductions means that Government needs to prioritise its actions and, as the legislation is no longer applied, it should be revoked in line with government better regulation principles.
- b) The disease will always be prevalent within the wider environment. Removal of infected trees might help to prevent local spread of the disease, and the use of disease-free material for the production of sets is essential to help to prevent its spread. It should be noted that not all diseased trees exhibit symptoms, and the recommendation is that testing for the presence of the disease should be carried out before being used to supply material for set beds.
- c) The main pathway of disease spread is thought to be through the movement of infected sets. Dispersal from tree to tree is possible through direct leaf-to-leaf contact, but this would only result in localised movement of the pathogen. There are alternative

means of avoiding the disease spreading from neighbouring land without resorting to statutory action. For example, research has indicated that the disease can be present in young trees, but not expressed symptomatically until a later age, requiring techniques for screening nursery stock for the disease prior to planting out. Control of soil nitrogen levels due to excess fertilisation is another option that research has indicated might reduce disease incidence. Such management options could be pursued further if industry wanted to contribute to further research in these areas.

d) We understand that an industry levy scheme had been in operation prior to 2002 in order to contribute to research into Watermark Disease, and to council inspection costs. It is for industry to decide how best to respond to threats from pests which are not a priority for Government intervention.

e) Watermark disease has been added to Defra's Plant Health Risk Register, and a number of guidance documents already exist. If the sector sees best-practice guidance as a priority and is prepared to work with Government, documentation could be updated with our current understanding of the disease and how to manage it.

I would like to thank those responding for taking the time to submit their views on the consultation. Your comments have raised a number of concerns, which we have tried to answer, and I hope this letter demonstrates the reasoning behind our decision. If you have any views about how this consultation was handled, or its outcome, please let me know.

Yours sincerely,

John Morgan

Summary of consultation responses

Jeremy Ruggles of J S Wright and Sons Limited stated that the disease is still prevalent, and many of their competitors do not deal with the problem, merely ignoring it, allowing it to spread and get a stronger foothold. They have been to estates where no management of Watermark Disease trees is conducted, and almost every tree in certain areas is rife with infection. They believe that they are the only willow supplier dealing with the issue for the industry, and are still cutting between 500 and 1000 trees a year with the disease, both mature and semi-mature, at the expense of the growers and themselves.

They invest hundreds of thousands of pounds a year in new sites and additional planting to supply demand. They feel that whilst the law is there it at least gives them some reassurance that they can get enforcement notices if necessary, especially if the disease gets a lot worse. They have offered to pay Essex County Council for their time spent on enforcing notices on sites whose owners would not listen to reason or the pleas of neighbouring farmers.

Follow-up email

They have found that cutting down diseased trees reduces the spread. There are areas managed by their competitors that have never had any disease control carried out, and the disease has spread over the whole estate, and indeed the neighbouring estates, to every tree. In areas they have managed by felling diseased trees it is kept under some sort of control.

With regard to disease-free stock being planted, tens of thousands of pounds of development was carried out by the industry together with the University of East Anglia back in the 1970s and 1980s, and the conclusion was that there was no way of telling which trees would get the disease.

They currently make sure they propagate willows from areas where there is no evidence of the disease. They are also spreading lime in a plantation that has been affected by Watermark every year to see if that reduces or prevents the disease, because there is some evidence from Holland that it might help.

Nick Wright of J. S. Wright and Sons Limited states that they are strongly opposed to the revoking of the 1974 Watermark Order.

They are currently experiencing the worst outbreak of Watermark Disease they have seen for many years, and oppose the suggestion that willow producers are self-regulating. Apart from their own company they do not know of any other cricket bat willow supplier that cuts Watermark, either in the course of routine felling, or as a separate operation. In many cases

sound trees are being felled and diseased trees next to them are being left by other merchants.

They currently export over seventy percent of their production, retaining five/six full-time felling gangs. If Watermark is allowed to spread unchecked, without any regulatory back-up, the labour force will inevitably need to be reduced due to the lack of sound timber available. They have invested heavily in the production of young willow trees to maintain future supplies, for which they receive no Government or Forestry Commission back-up or assistance. The removal of the Watermark Disease control proposal is a very serious suggestion, as nursery beds also require careful inspection and vigilance, along with growing trees.

Beat All Sports (producers of Vampire cricket bats) believe that the order should be kept as Watermark in finished cricket bats is not acceptable in the cricket bat market, both in India and the wider international market.

Nick Sandford (willow grower and chairman of Kent CLA) takes great care to grow good-quality willow for cricket bats and other uses. The devastation caused by Watermark Disease is to be avoided at all costs. In light of increased tree disease introductions, precautions should be strengthened rather than reduced.

Kit Speakman (willow grower and chairman of FWAG East) believes that the law should remain in place to protect the willow industry and the environment.

Despite constant vigilance by themselves and the Company they supply, the disease is still prevalent and they lose many trees each year. They believe that if Watermark is allowed to spread unchecked, without any regulatory back-up, the disease will escalate to the detriment of all growers and merchants. Cricket bat willow production is a thriving industry in Essex, employing significant numbers of people and allowing large swathes of the Blackwater River catchment to be farmed in an environmentally friendly manner, thereby encouraging a huge variety of wildlife to thrive.

Ben Anderson (Abbey Forestry) believes that removal of the Watermark Order would be a mistake and go against the current and correct stance on tree pests and diseases, and that the Forestry Commission should reconsider its proposal.

George Storey has grown cricket bat willows since 1970 and is aware that this is a serious threat to the industry and his plantation. There is currently a bad outbreak of Watermark Disease, and to remove the order which controls it seems counter-productive.

Once Watermark Disease spreads into a plantation, it can be extremely costly to the grower and the supplier, with no compensation available from Government or other sources, such as

insurance policies. They have only experienced one instance of it in their trees some years ago, and took great care to eradicate it from their plantation. If they were to have a repeat infection, it could drive them out of business due to the time and money required to deal with the outbreak.

They believe that if the control of Watermark Disease is removed then the disease will spread unchecked, which would eventually devastate the willow industry.

Andrew and Jane Lay (farmers) believe that to revoke an order that should help to prevent the spread of this infectious disease would appear to be completely foolhardy. Much damage can be done by ignoring a contagious condition and letting it travel through the countryside unchecked, and then trying to manage it when it is too late.

Guy Foskett (grower / merchant) believes that the merchants are doing a good job of finding and clearing Watermark. If they have a grower who does not want to clear his trees they can use this power to get him to clear them. They have not had to go to the local authority to enforce it because once they show the legislation they comply. If the legislation is removed they will have lost a very important tool. If there is a large outbreak in the middle of a growing area and the land owner does not want to take action, they will be helpless, and it will spread.

Essex Council (Jonathon Coyle) has historically been the lead Local Authority in respect to Watermark Disease, particularly in regard to the inspection of willows, the recognition of Watermark Disease, and the enforcement of the order. To this end, until around 2003, the council inspected sites for the presence of the disease in Essex, as well as inspecting sites in other counties such as Suffolk and Bedfordshire, for which a fee was charged. Other than a single commission with Essex's largest cricket bat Willow Merchant, JS Wright in 2012, Essex County Council has not proactively inspected sites in Essex since 2003, and has not offered this service to other Local Authorities. The principal reason for stopping this service has been the growers' and merchants' withdrawal from the levy scheme in 2002. Their understanding was that the vast majority of the levy monies funded research by the University of East Anglia, with a small element paid to Essex County Council to part-fund its willow inspection service.

Over the past decade, and particularly since around the same time that the levy was withdrawn, the county council's limited resources have been increasingly been targeted towards meeting its duty of care to manage its tree stock in a safe condition. Limited resources have seen other areas of work such as the enforcement of this Order reduced. Given the fact that the disease is not a quarantine pest and that the county council considers other tree diseases particularly ash dieback, to be far greater threats to tree health and the county's landscape character.

Essex County Council supports the Forestry Commission's proposal to remove the Watermark Disease (Local Authorities) Order 1974 (as amended).

Suffolk Council (Gary Battell) believes that the legislation should be withdrawn, but given the increase of Watermark Disease it should be added to the Plant Health Risk Register. (Forestry Commission note: it has recently been added to the risk register, scoring 8 out of 120, making it of very low concern).

Over the last decade the council has seen a huge growth in cricket bat willow plantations because this is one of the most profitable forms of forestry. They believe that further research should be undertaken on *Brenneria salicis* in cricket bat willow, especially related to nitrogen levels, water quality, Coleoptera and secondary infections.

Although there have been few or no inspections or enforcement of powers, the Watermark Disease (Local Authorities) Order 1974 (SI 1974 No. 768) has for 40 years raised the awareness of a disease that has always been present and is becoming a greater concern. The council agrees that The Watermark Disease (Local Authorities) Order 1974 (SI 1974 No. 768) should be revoked because there is no expertise or capacity to deal with the disease, and the consultation paper proved that certain controls are likely to have little or no effect in controlling its spread. It suggests that if the Order is revoked, a new publication be produced, highlighting current scientific knowledge and good silvicultural and hygiene practice. It also feels that Felling Licence applications should record felling of trees with Watermark Disease, and that these records should be collated. Forest Research should be notified of outbreaks, and it should have the right to inspect and carry out research if it deems it necessary. The council believes we must not give-up on Watermark Disease in willow, as this would go against tide of pest, pathogen and disease awareness raising, research and bio-security.

Bedfordshire Council (Claire Wardle) agrees that the order should be revoked.

Wiltshire Council (Jim Mullholand) agrees that the order should be revoked.

Hertfordshire Council (Cristian Pinta, Stevenage Borough Council) agrees that the order should be removed. Based on its experience, it doesn't think there is a need for local authorities to treat the protection of cricket bat willow. It points out by way of comparison that it does not have an order for Ash, but only guidance, recommendations and quarantine.