



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Yr Adran Materion Gwledig
Department for Rural Affairs

Parc Cathays, Caerdydd, CF10 3NQ
Cathays Park, Cardiff, CF10 3NQ

12 September 2008

Dear Stakeholder

THE FUTURE MANAGEMENT AND ENFORCEMENT OF SEA FISHERIES IN WELSH WATERS

In June this year, we wrote to you seeking your views on a proposal by Elin Jones AM, Minister for Rural Affairs, that the Welsh Assembly Government assume full responsibility for the management and enforcement of sea fisheries around the Welsh coast. Following that consultation the Minister announced today that she has decided to adopt that proposal as Government policy, and her aim is that a new management and enforcement regime will be in place by April 2010.

The consultation raised a number of concerns and in announcing her decision, the Minister was keen to allay some of the fears expressed. Firstly she wished to make it clear that she valued the vast experience which the Sea Fisheries Committees (SFCs) and their officers have, and she would look to retain that, along with the officers' close working relationship with fishermen, in the new regime. She also announced that the new Fisheries Unit will have legislative powers similar to those which the SFCs have at present, and will replicate the responsibilities which the SFCs and their successor organisations might have for the wider marine environment; the necessary additional powers will be secured through the Marine Bill.



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The consultation also raised concerns about the Assembly Government being able to have local input similar to that provided by SFCs. The Minister believes that the involvement of local interests, in the formulation of policy and regulation, is vital, and she will be keen to hear from key stakeholders about how we might maintain close links so that local voices are heard, to ensure openness, transparency and inclusivity in policy and regulatory development.

We have included with this letter a summary of the comments received from the consultation, and the Welsh Assembly Government response to those comments.

Information will also be available on the website at

<http://new.wales.gov.uk/topics/environmentcountryside/foodandfisheries/fisheries/?lang=en>.

Over the next few weeks officials will be contacting key stakeholders with the aim of starting a dialogue about the new changes, and to discuss any issues raised during the consultation.

Yours sincerely,

Graham Rees
Head of Fisheries Unit

A PROPOSAL FOR THE FUTURE MANAGEMENT AND ENFORCEMENT OF SEA FISHERIES IN WELSH WATERS

Summary of Objections raised during consultation

Resources

Objection	Response
Would there be sufficient resources for WAG to take on these responsibilities?	Funds currently utilised by Local Authorities through the Revenue Support Grant to fund SFCs, would remain with WAG to fund new inshore fisheries activities. There would be initial set up costs for WAG, but there could be savings from increased efficiency and avoiding duplication.
Will the creation of the new Welsh Fisheries Zone divert funds from inshore fisheries management?	No, enforcement will continue as currently with WAG making a proportional contribution to the Royal Navy. The creation of the Fisheries Zone will mean that WAG Fishery Officers will be able to dictate more clearly what the Royal Navy should be enforcing in this area.
Funding for the in-house model would be 10% lower than existing funding for SFCs, whereas funding for IFCA's in England will be double the current level.	These are speculative figures provided by the SWSFC and do not reflect a like for like comparison.
The in-house option will be less cost effective than IFCA's and there would be a greater risk of budget cuts.	The in-house option would be just as cost effective as SFCs, and possibly more so, due to avoiding duplication. However, this is not primarily a cost-saving exercise.

Legislation

Objection	Response
When SFCs are abolished, byelaws could be lost.	There will be a 'savings clause' in the Marine Bill to ensure all current SFC byelaws transfer to WAG (or to IFCA's). Before implementing a new regime, WAG would review all byelaws with stakeholders and enforcement staff to assess the need for amendments, revocations or new byelaws.
Concern that there is not sufficient time for necessary changes to be made to the Marine Bill.	WAG officials have looked at the Marine Bill in depth with lawyers and are satisfied that they have highlighted all the necessary provisions for whichever option the Minister chooses.
If local legislation is made by Ministers through Statutory Instruments rather than	Local politics is already important to Welsh Ministers- local issues are the most important issues. Statutory Instruments will allow more

byelaws, then Ministers could be drawn into local politics, which could cause a conflict of interest.	debate and public scrutiny.
Insufficient consideration given to Regulating Orders. LAs or the EA would not represent the industry in this regard. Also concern over what would be possible if WAG were both grantor and grantee of Orders.	One of our aims in the consultation was to gather stakeholder feedback on the future of Regulating Orders. We will consider comments before making a final decision on this.
Some respondents wanted clarification of the claim in the consultation that SFCs had failed to properly to prevent damage in areas designated under the Habitats Directive.	This relates to a specific case in 2000 when the South Wales Sea Fisheries Committee authorised dredging within parts of the Carmarthen Bay pSAC and the Pembrokeshire Islands cSAC. It was believed that these actions would adversely impact a colony of Scoter Ducks contravening the Habitats directive <i>92/43/EEC</i> and birds directives <i>79/409/EEC</i> . This case was dropped by the European Commission after the introduction of an Order under sections 5, 5A and 15(3) of the Sea Fish (Conservation) Act 1967 to prohibit the use of hydraulic dredging to recover bivalve molluscs in the area of Carmarthen Bay.
Statutory Instruments can only regulate boat fishing and not fishing from the shore.	Officials and lawyers are looking to amend this through the Marine Bill.
Transferring Several and Regulating Orders to IFCA's would be straightforward, but transferring to WAG would be a slow process.	This is not the case. Each would cause problems but we are addressing these through the Marine Bill.
How will WAG treat the end of the NWNWSFC quadrennial period in June 2009? If membership of the Committee were to be changed, the 1999 NWNWSFC Order will require amendment.	Plans are in hand in both England and Wales to roll over appointments until such time as any new organisations are put in place.
Some concern over prospect of industry management of Regulating Orders.	WAG is considering a range of options for the future of Regulating and Several Orders and will consult further with stakeholders on this.
Some respondents felt that WAG already has powers to step in if SFCs do not fulfil obligations. This issue could be addressed through clear guidance from WAG to SFCs/IFCA's.	WAG does not have powers to direct SFCs (or IFCA's); the only powers would be to override legislation by implementing a Statutory Instrument, or to revoke IFCA's. This is not adequate for WAG's needs; therefore the in-house option is preferred.

Expertise / Stakeholder engagement

Objection	Response
Concern that WAG model will not have the same kind of stakeholder involvement and influence that SFCs have.	With the in-house model, an Advisory Group will be set up, consisting of fishermen, environmental interests, local authorities and other relevant stakeholders. The Committee will consist of some given seats for key stakeholders, as well as a number of seats selected through open competition.
Some respondents did not accept that a WAG enforcement body would be more accountable than SFCs.	SFCs are currently accountable to no one – they are stand alone Committees with certain obligations. The same would be the case for IFCA's. With the in-house option, the Minister would be fully accountable for all decisions.
Concern that this proposal is all about WAG 'tightening the reins'.	WAG needs more control over inshore fisheries management and enforcement to ensure EU obligations are met. This is one of the reasons for the WAG proposal. Also, if WAG were to implement IFCA's, it would want a clause to allow it to direct IFCA's, a clause not currently proposed for IFCA's in England.
Views of Local Authorities should be considered.	In initial planning stages, WAG contacted LAs about modernising SFCs, many were not prepared to take on new responsibilities and many support the WAG proposal. WAG feels it would be difficult to get LAs to fully engage with the creation of IFCA's.
Concern that the Minister does not have the same level of knowledge as the Committee and some issues will be politicised.	We would hope to retain the expertise of the SFCs in a new Advisory Committee which would provide advice and guidance to the Minister. The Minister would be unlikely to go against the views of the Advisory Committee.
Has the proposal to remove a function from local government and transfer it to WAG been tested against the European Charter of local self-government to which the UK is a signatory?	This charter protects the powers of Local Authorities for self-government. However, the majority of Local Authorities which responded to the consultation support the WAG proposal; 7 in support, 4 against. (SWSFC Member LAs: 3 for, 1 against, NWNWSFC Member LAs: 2 for, 2 against, other LAs: 2 for, 1 against).
Concern that proposal goes against other European member states, especially Scotland, which is moving away	Current WAG policy reflects a desire to bring external agencies in e.g. the Wales Tourist Board and the WDA. However, there will be local input into decision

from centralised government.	making through an Advisory Group, and enforcement will be undertaken through regional offices.
Good that WAG recognises level of expertise within SFCs, but TUPE will not ensure staff retention. This is serious in light of loss of experienced WAG staff due to relocation.	WAG wishes to retain all SFC staff, but cannot guarantee that they will choose to stay. This would also be the case with the IFCA model.

Why not follow the IFCA model?

Objection	Response
Concern that the merits of Option 1 in the consultation (i.e. the IFCA model) had not been fully considered.	The IFCA model has been fully considered and the Minister reached the view that bringing the SFCs in-house would be more appropriate in Wales than following the IFCA model. Also, in the initial stages of the process WAG received negative feedback from Local Authorities about the IFCA model. If we adopt the IFCA model in Wales it would be essential to have Local Authorities fully on board, therefore this model could be difficult to implement in Wales.
Why is WAG not in favour of the same approach as Defra, i.e. IFCA's?	As above. Also, the IFCA approach does not grant WAG the level of control over inshore fisheries that it requires. In England, inshore fisheries make up a small part of the overall industry, whereas in Wales the inshore fisheries are the major part of the industry, therefore WAG wishes to closely manage these fisheries.
Some respondents were involved in reviews and stakeholder discussions which led to the development of the IFCA model. They feel confident that this would be the most effective model.	WAG feels that the IFCA model is not the most appropriate model for Wales, for the reasons stated above.

Organisation of the new structure

Objection	Response
Will existing SFC vessels be kept?	If WAG goes ahead with the proposal, it will undertake a full analysis of existing use of vessels, needs, costs, etc. and ensure it has sufficient patrol vessels to effectively enforce legislation.
How does the proposed in-	Currently, some fishermen are confused about

house structure improve transparency and accountability?	which organisations they should contact. With the WAG proposal there will be a single point of contact for fishermen – the Fisheries Unit. Also an Advisory Committee will be formed to ensure local expertise feeds into decision making.
No details in the consultation on input from local fishermen, location of offices, costs, etc.	After a final decision has been made, more detailed analysis will be provided. WAG will work in consultation with stakeholders to form a detailed plan for implementation of the chosen option.
How will the new structure be represented on SAC Relevant Authority Groups? WAG will need to be a Relevant Authority, not just a Competent Authority.	There is no reason why WAG could not be a member of these groups.
How will WAG fund the Relevant Authority Group and management scheme?	There is no requirement for any organisation to fund this group.
Will environmental protection be integrated into the new management process?	The WAG proposal will ensure clearly defined roles and responsibilities in terms of environmental protection and regulation of fishing.

Consultation process

Objection	Response
Not enough detail in the consultation document to allow an informed decision. There should be an accompanying Regulatory Impact Assessment.	We acknowledge that the consultation paper was lacking in detail. The main aim of the consultation paper was to garner views on the principle of the WAG proposal. More detailed analysis of costs, benefits, etc. will be undertaken after a final decision has been made.
Some objection to the claim in the consultation that many from the fishing industry support the WAG proposal.	Responses from the fishermen were mixed, with slightly more against the proposal than for it. The majority of respondents agree that the SFCs need to be modernised in some way.
Some felt the consultation period was too short and there was insufficient detail to provide a fully informed decision within the time.	The consultation period was shorter than usual because sufficient time was needed for officials to ensure that necessary provisions are included in the Marine Bill to implement a change.
Concern that decision had already been made before the consultation.	This is not the case. The Minister will fully consider all the evidence and consultation responses before making a final decision.