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## Consultation Document

# A Review of the Management of Cockle Fisheries in Wales

Date of issue: 18 July 2012  
Responses by: 10 October 2012



## Overview

The vision of the Wales Fisheries Strategy published in 2008 is to support the development of viable and sustainable fisheries in Wales to safeguard fish stocks and the marine environment. The Deputy Minister for Agriculture, Food, Fisheries and European Programmes made an announcement on 27 March 2012 on his intention to review the management of intertidal fisheries in Wales during the Summer of 2012.

Fishing for cockles is embedded deep within the history and culture of coastal Wales. Humans have gathered cockles for food since Neolithic times; today a modern, multi-national industry has grown up around the processing and supply of cockle to markets at home, in Continental Europe, and beyond. Cockles comprise a significant part of the activities of a number of professionals engaged full time in the shellfish industry, including gathering, buying, processing, marketing or a combination of all these.

It is accepted that there is a 'public right' to fish for shellfish and seafish along the foreshore. This right can be subject to regulations and can also be constrained by the use of the Sea Fisheries (Shellfish) Act 1967 under which an Order in favour of a 'grantee' would confer the ability to regulate numbers participating in the fishery by way of a licensing scheme. Such an Order has been in place in the Burry Inlet since 1965 and another in the Dee Estuary since 2008, (in both these fisheries the Environment Agency is the grantee and manager of the cockle fisheries).

Other cockle fisheries in Wales although substantial in some years, are not regulated in the same way and the 'boom and bust' aspects of these fisheries are considered

to have several negative connotations on local communities and the environment. Therefore looking forward it is imperative that the management of Welsh cockle fisheries maximises all benefits that are to be obtained in a sustainable manner. Due to the nature of the industry and level of engagement with Local Authorities, a Multi Agency approach is now required in the longer term. This is particularly important when considering the impacts on human consumption, the food chain and the introduction of Food Hygiene regulations.

Therefore a formal consultation has been launched to seek your views on the proposal to introduce a new management scheme for cockle fisheries in Wales. We welcome your comments on the proposal in order to ensure effective management for a sustainable fishery for future generations that works with the needs of local communities.

## How to respond

A response in any form is welcome however we have included a simple questionnaire within this document which you can complete and return to us at the email or postal address provided below.

In your response please provide your contact details and the details of any body that you are representing if appropriate.

## Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

## Contact Details

We would prefer to receive responses by email to:

SwanseaFisheryOffice@wales.gsi.gov.uk

But are also happy to receive comments by post to:

Fisheries Unit  
Welsh Government  
Llys y Draig  
Penllegaer Business Park,  
Penllegaer, Swansea  
SA4 9NX

## Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out

properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often.

The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

## Summary

Cockle fisheries occur throughout the coastline of Wales but in certain, often estuarial locations, they can be of considerable scale. The intertidal area of Wales is 2% of the area of Wales.

The map at Annex 4 (entitled 'The Welsh Intertidal Zone – Areas of Interest') indicates the location of the major cockle fisheries in Wales. This consultation deals with the management of all these fisheries except The Dee and the Burry Inlet which currently have established schemes of management which are to remain.

These fisheries have contributed to the tradition and heritage of Wales for generations but in modern times their economic importance has also increased so they now form an important contribution to the Welsh fishing industry.

Aside from these considerations, the areas where cockles occur are often designated as Protected Sites in respect of their conservation value and environmental benefits. It is of vital importance that this value is retained as it contributes to and underpins other elements of the Welsh economy such as Tourism.

For all these reasons, it is imperative that the management of Welsh cockle fisheries maximises all the benefits that are to be obtained from them in a sustainable way but just as importantly, reduces the potential difficulties for local communities and environments.

In order to secure these objectives, the Welsh Government is embarking upon the process of designing a new scheme of management for Welsh cockle fisheries and we seek your input into that process via this Consultation.

### **Where are we now?**

Historically, cockle fishery management was delivered by Sea Fisheries Committees (SFC) in Wales. However, on 1 April 2010 the Committees were abolished and most of the Byelaws, including those enacted for cockle management purposes, were saved and now have effect as if made by the Welsh Ministers in a Statutory Instrument.

The existing legislative powers underpinning the current arrangements were limited. For example, the Sea Fisheries Committees could not make a restrictive permitting scheme, and so were not able to limit numbers that are able to partake in these fisheries. Instead, controls around the opening and closure of the fishery were the only available mechanisms. This tends to lead to a large number of gatherers racing to fish on the first day and on subsequent days, until the total allowable catch is fished out.

In seeking to better manage the fishery, organisations (usually those in the public sector) can seek to manage fisheries by a Regulating Order made under the Sea Fisheries (Shellfish) Act 1967. Two of the major cockle fisheries in Wales are currently subject to Regulating Orders – the Burry Inlet and the Dee Estuary fisheries. Both are regulated by the Environment Agency. Both of these fisheries

have, in past years, yielded a stable stock of cockle – however, the Burry Inlet, has suffered from atypical mortality in more recent years that has had a major impact on the fishery. There are no current applications from other public bodies to manage any other cockle fishery in Wales. The powers to manage the other remaining cockle fisheries remains with the Welsh Government.

The Marine and Coastal Access Act 2009 includes provision for additional powers that Welsh Ministers can utilise to manage fisheries. This includes powers for Welsh Ministers to introduce restrictive permitting schemes for these purposes.

A further consideration is that the cockle stock, associated with those fisheries that are not subject to a Regulating Order, tend to have a more volatile supply. For example, the Three Rivers produced a yield of 8000 tonnes in 2005, but nothing in 2011, when an atypical cockle mortality event occurred. This meant there were insufficient stocks available to consider opening the fishery to gathering for that year.

### **Challenges with current fishery management**

Poaching is a major concern, particularly as it is not always possible to fully police the large expanse of intertidal areas of Wales in a safe and effective manner. To ensure the true sustainability of the fishery, there is a need to ensure specific quantities of cockle are left on the beds to feed the bird population and to ensure recruitment of the stock. There is a risk this could attract poachers.

The powers to enforce against a fishery are vested in a number of different public bodies, depending on local circumstances. For example, Fisheries Management is the responsibility of the Welsh Government, but access to the fishery is a matter for the local authorities and land owners. The Countryside Council for Wales (CCW) have a responsibility as the statutory nature conservation adviser to the Welsh Government, and also a specific role in the management of Sites of Special Scientific Interest (SSSI). Public health matters are the responsibility of local authorities and the Food Standards Agency. Litter and public facilities are the responsibility of local authorities. Therefore, any approach to fisheries management must be based on a joined-up, multi-agency approach.

Communities who live alongside the cockle beds may be disturbed by large numbers of pickers working the beds, and also from associated activities, such as camping overnight in public areas. Any measures introduced for fisheries management purposes need to work with the considerations of the community, who should be included as an integral part of the planning process.

There does not appear to be a long term interest in the sustainability of the fishery from a proportion of the gatherers. Future measures need to encourage gatherers to have a stake in the future sustainability of the fishery, and a consideration for the communities affected by the gathering activity.

The traceability of shellfish, such as cockles, across the supply chain is currently limited. The current powers to enforce against producers who take cockle from closed areas, either due to fisheries management, or public health purposes, are inadequate. The future fisheries management measures need to make it difficult for

cockle gathered during closed period, or in closed areas, to enter the food chain, and producers will need to play a key role in achieving this outcome.

## **Required Improvements**

We are keen to seek your views on the following improvements to seek to remedy the above challenges:

### **An approach that is tailored to local conditions**

The Welsh Government recognises that not all cockle fisheries are the same, and a one-size-fits-all approach is not effective, and does not demonstrate good value for money.

### **Multi-Stakeholder Approach**

To recognise the multi-stakeholder approach, all bodies and local communities should work together to develop a series of local management plans for the fisheries around the Welsh coastline. These plans establish a mechanism for co-operation and agreement amongst the relevant agencies concerned. This will include a clear plan for responsibilities of each agency, agreed communication arrangements, access arrangements, environmental considerations (and will also form the required documentation under the Habitats Directive), enforcement considerations, and industry considerations. The process will include agreed designated leads and contact details for each agency, to enable efficient responses to queries. These local management plans will be reviewed annually. Further details about Local Management Plans can be found in **Annex 3**.

### **Traceability**

To aid traceability in the Fishery, all cockle gatherers who wish to gather in Wales will be required to register with Welsh Government, and obtain a unique gatherer number, and will also be required to submit up-to-date catch returns. An appropriate fee will be charged for registration. We also propose to issue permit holders with bags and tags that will match their annual total allowable catch. We propose that it will be an offence to commercially gather cockle in any other receptacle. We also plan to keep the fishery open for the majority of the year, and encourage producers and gatherers to work together to maximise the value of their catch and to avoid the rush to fish. We seek your views on these approaches.

### **Restrictive permitting**

The larger fisheries will be subject to restrictive permitting, and we plan to take powers to suspend permits if offences have been proven to have occurred. The proposed mechanism for the allocation of permits is set out in principle in **Annex 1** and we would welcome your views. The principles that will be used to determine how much is charged for a permit are set out in **Annex 2**. We seek your views on a proposal for a proportion of these to be set aside for use by the local community through community councils. We are keen to develop an important link between the fisheries and the local communities, to develop a more sustainable fishery, and we

seek your views on whether this approach would deliver that aspiration. We are also keen to seek your views on whether a proportion of the fishing opportunity should be set aside each year for issue to young fishers, and also seek your views on how community councils can be involved in the allocation of the new entrant permits.

### **Permit allocation policy**

To encourage those that fish the beds to have a fundamental stake in their sustainability, and maximise the economic link between the fisheries and the communities that neighbour the fisheries. We believe that it would be better to allocate smaller number of permits on the basis that individuals will be able to make a year round living from the fishery. The alternative is to issue large numbers of permits for gathering smaller quantities of cockles, which is likely to result in a race to fish. We seek your views on this approach.

### **Method to determine who will receive permits**

As the larger fisheries can have a more volatile supply of cockle, our intention is to create a ranked list of individuals who will know their place in the list. When the annual stock survey is undertaken, a line will be drawn on the list and those above the line will be able to make a living from the fishery for the following year, and those below will not receive a permit for that year. **Annex 1** deals with the principles of how we propose to decide how many Permits will be issued, and to whom. The alternative is to allocate a large amount of permits to allow individuals to take smaller amounts but we remain concerned that this too will create a race to fish. We seek your views on this approach.

### **Powers against processing of illegally gathered cockle**

We intend to make it an offence for producers in Wales to purchase, store or process cockle:

- taken from a closed fishery;
- taken by gatherers that are not registered or who do not hold a valid permit;
- taken from larger fisheries in anything other than the prescribed bags; and
- for not returning the necessary paperwork associated with their purchase.

We seek your views on the above.

### **Personal consumption**

We intend to introduce a 5kg (live weight) limit for personal consumption, without the need for formal registration. In some circumstances, the abuse of personal gathering causes difficulties for the enforcement of permit management, and where Permit schemes are established it may be necessary to prohibit personal gathering. We seek your views.

## **Annex 1 – Permit allocation policy for larger fisheries**

It is important for the cockle fisheries in Wales to operate sustainably, and to achieve this it will be necessary to limit the numbers who would wish to fish. The principles for determining the ranked list is set out below, and we welcome your views on this approach.

### **Allocation approach**

Permits will be issued in the first instance to those who can best demonstrate previous experience of active and material participation in the larger cockle fisheries.

Applicants will be banded, based on the quality of qualifying evidence presented, relating to the reference period of 2009 to 2011 inclusive. Once the number of permits available each year is determined (**see Annex 2**) they will be allocated to applicants based on the criteria set out in the bands below.

### **Young fisher qualification**

In principle, the Welsh Government is considering allocating approximately 20% of the total allowable catch determined for any of the major fisheries to young fishers. The criteria for those who would qualify is set out in Band A below.

The purpose of this qualification is to achieve the aim of encouraging young participants in the fishery. The feedback from stakeholders within these fisheries has been on the low proportion of young participants engaged in the fisheries. This is also evidenced in the numbers participating in the fishery in recent years. An allocation of roughly 20% for young fishers would seek to ensure an increased proportion of young people participating in the fishery.

We welcome your views on this approach.

### **Local community involvement**

In addition to encouraging young fishers to the fishery, we would seek to maximize the economic benefits of the fishery to the local community. One area the Welsh Government would wish to explore is opportunities for the involvement of the local community councils.

We welcome your views on this approach.

### **Qualifying Banding**

<b>Band A</b>	Those who present qualifying evidence of being 21 years old or less (on 31 December 2012) and who can also demonstrate material participation in the relevant fishery as a Commercial Fisher (ie one who has derived a substantial proportion of their income from fishing) after the age of 16
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- Band B** Those who present qualifying evidence of being 22 years old or older, and who can also demonstrate material participation in the relevant fishery as a Commercial Fisher (ie one who has derived a substantial proportion of their income from fishing)
- Band C** Those who present qualifying evidence and demonstrate material participation in the relevant fishery, but are not Commercial Fishers. This band will be headed by young fishers who qualify for Band A, but are not allocated permits on the 20% TAC rule.

Within each of the above Bands, a weighting system on the evidence presented will be used to separate applications. If it is not possible to separate applicants in this way then they will be the subject of a random selection to determine their ranking order. Random selection will involve names being drawn from a hat in a public draw, verified by independent auditors.

### **Assessment Information**

Here are some examples of the types of evidence that could be considered

- Sales receipts;
- Local Authority registration documents;
- Local hotel receipts;
- Verifiable buyer records
- Other reference of participation, supported by other evidence;
- Catch returns;
- Photographs;
- Press cuttings;
- Sea Fisheries Committee Byelaw Permits
- Cheque from a local buyer;
- Correspondence with SFCs/Welsh Government concerning the fishery;
- Cockle catch log books;
- Boat returns;
- Fishing diaries.

Evidence of participation as a commercial fisher would also count as evidence of participation and could include a combination of any of the evidence below:

- Weight of evidence (e.g. permits to fish in a wide range of shellfisheries, permits demonstrating duration of participation in Welsh shellfisheries, large number of receipts from a range of fisheries);
- Fishing diaries/logbooks;
- Financial statements/accounts showing significant expenditure on fishing equipment;
- Registered fishing vessel owner;
- Inland Revenue notice of assessment stating occupation;

- Letter from Inland Revenue confirming occupation as a fisherman;
- Range/depth of evidence from buyers if substantiated;
- Photographs showing breadth/duration of fishing activity;
- Correspondence with SFCs or Welsh Government demonstrating commitment to the commercial fishery;
- Business cards/headed paper;
- WSFA/NFFO membership;
- Accountant's letter.

In considering information provided under this process, Welsh Government will make such enquiries and investigations as it sees proper in order to determine the veracity of the information. Where information may have been falsified in a fraudulent way, this will be referred to the Police.

### **Appeals**

There will be an opportunity for Applicants to appeal against the decision as to which Band they are placed in for the purpose of Permit issue. An independent Panel will be established to hear such appeals and provide advice to the Welsh Ministers on the appeal, in line with currently accepted best practice.

## **Annex 2 – Estimated amount for the TAC for the fishery, estimated numbers of licence holders, and an estimated cost for a permit for larger fisheries.**

### **Total Allowable Catch**

This will be established each year following a stock assessment by Welsh Government scientists. An amount will be excluded to meet both environmental considerations and future stock recruitment.

### **Permit numbers**

Our proposal is that each person eligible for a permit will be contained on a list in ranked order as described in **Annex 1**. Permits will be issued on the basis that individuals will be able to make a living from the fishery and that each individual that receives a permit will be able to take approximately 25 tonnes. Permits will therefore be issued from the ranked list, based on 25 tonnes per permit, up to the level of the TAC established in that Fishery for that year.

Some examples of TACs operating in Welsh cockle fisheries recently give an indication of how many permits would be issued in similar circumstances:

Traeth Lafan – 1000 tonnes = 40 permits.

Three Rivers – 1600 tonnes = 64 permits.

We welcome your views on the above approach.

### **Permit Fees**

The fees for permits must relate to the cost of managing the fishery. This will include all associated management, including enforcement and scientific, costs. We estimate a typical cost for managing one of the major Welsh cockle fisheries will be at least £50,000 per annum, but in some cases could be significantly greater than this.

A suggested annual permit fee is in the range of £750-£1,500. However, such costs will need to be determined on a case by case basis per fishery, and might be significantly higher.

Recognising that applying costs in this way may result in some disproportionate fees being levied, for what, in some years, might be a modest return if cockle TACs are low. We would welcome your views on what matters should be taken into consideration when WG set the permit fee.

## **Annex 3 – Local Management Plans**

The success of the management approach is essentially underpinned by an effective local management plan that sets out, clearly and transparently the roles and responsibilities of agencies who have a statutory or key role to the management of the fishery; local management issues – including compliance with environmental requirements; joint enforcement arrangements and communication plans.

We propose that the following organisations are involved in the development, maintenance, and operation of the local management plans and we welcome your views on the list of organisations and any views around the content of such a plan.

### **Welsh Government**

Responsible for the opening and closing of fisheries and enforcement action against illegal fishing activities.

### **Local Authorities**

Responsible for litter, public conveniences, parking and camping issues. Joint responsibility with land owners for access issues and community engagement. Joint responsibility with the Food Standards Agency for public health matters.

### **Community Councils**

Represent the views of the local people affected by the fishery and the future sustainability of the fishery. Provide input into economic links to enable communities to obtain value from the fisheries.

### **Police**

Responsible for public order and traffic violations/obstructions/public order offences.

### **Marine and Coastguard Agency**

Responsible for the general regulation of licensing of vessels.

### **Gangmasters Licensing Authority**

Responsible for ensuring compliance of gang masters involved in cockle gathering with the code of good practice.

### **Food Standards Authority**

Responsible for shellfish hygiene matters and food chain related matters in conjunction with the local authorities.

## **Environment Agency**

Responsible for flood control issues relating to estuarine environments and fly-tipping.

## **CCW**

Responsible for ensuring compliance with statutory requirements relating to SSSIs and providing advice about mitigating the risk of impact of the fishery in Natura 2000 sites.

## **Landowners**

Both landward, and intertidal landowners control access by vehicle to fishery areas. Permissions may need to be given to allow fishing in certain areas to go ahead.

## **Fishing Industry and Processors**

The cooperation of the fishing industry is essential to the success of these proposals. This will require representation from gathering groups, buyers and processors to input to the management schemes. This representation will ensure an accurate and up to date reflection of market conditions, for both the relevant cockle fishery and anticipation of likely activity generated in that fishery, taking into account annual variations.

# Annex 4

