

Number: **WG26416**



Llywodraeth Cymru
Welsh Government

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Consultation Document

Scallop Fishing in Cardigan Bay

New Management Measures



Date of issue: **26 November 2015**

Action required: Responses by **17 February 2016**

Overview

The vision set out in the Wales Marine and Fisheries Strategic Action Plan¹ (M&FSAP), published on 26 November 2013, is for clean, healthy, safe, productive and biologically diverse seas. The M&FSAP aims to introduce an ecosystems approach to the management of our seas protecting and preserving natural resources, using healthy populations as the basis to drive sustainable economic growth.

The challenge for fisheries managers is finding the balance between the need to avoid activity that harms our environment (usually by complying with specified statutory obligations), and the desire to maximise the value of activities that we can undertake sustainably. This particularly applies in Welsh waters, where 35% of the Welsh Territorial Sea (out to 12 nautical miles) is currently protected. Cardigan Bay is one such area, with a Special Area of Conservation (SAC) established to protect sand banks, cobble reefs and bottlenose dolphins as features of the site. The area is also being considered as part of a wider SAC proposal for the protection of harbour porpoise which will be consulted on later this year.

Cardigan Bay supports a high abundance of king scallops and historically had been subject to a lucrative scallop fishery for many years. A large increase in scallop fishing activity in 2008 led to many complaints that scallop dredging was not compatible with the features of the SAC. Those complaints included that:

- 1) Scallop dredging would have a direct negative physical impact on cobble reef features; and
- 2) Scallop dredging would have a negative impact on benthic (seabed living) organisms that provide a food source for fish on which dolphins predate.

As a consequence of concerns that the activity was having a negative impact on the features of the site, the territorial sea area in Wales was closed to scallop dredging in 2009. In 2010, and following extensive surveying of the relevant sea bed, new legislation allowed a restricted fishery to be introduced within a small area of Cardigan Bay SAC, often referred to as the "Kaiser Box".

This area has since been opened on a seasonal basis to provide a fishery for the industry.

The Welsh Government now aims to establish a viable and sustainable scallop fishery within the Cardigan Bay SAC, incorporating the area which is currently closed to scallop fishing as well as the seasonal open area (the Kaiser Box). This proposal has been reached following a programme of research undertaken by Bangor University² and involves the introduction of a flexible management plan which will maximise the scallop fishery within the SAC, whilst safeguarding important marine species and habitats, limiting impacts to protected features ensuring a sustainable supply of scallops into the future.

Within the SAC, the area within 3 nautical miles of the coast has been closed to scallop fishing for many years. This area contains scallops that are understood to act as the brood stock that replenishes the fishery further offshore. Accordingly, the area within 3 nautical miles of the coast is not under consideration in this proposed new management framework and will remain closed.

Scallops have significant long term economic potential if sustainably managed and fished. The Welsh Government aims to manage these assets sustainably to ensure appropriate economic growth and the protection of livelihoods around our coast, whilst ensuring proper protection of vulnerable marine species and environments in line with our statutory obligations. Marine Management Organisation statistics³ from 2012 to 2014 record an annual average of 5,600 tonnes of scallops landed into Welsh ports by UK vessels at an annual average value of £5.4 million. It is estimated that the proposed new management plan could increase the income into the Welsh economy by around £6-10 million per year.

These proposals relate only to Cardigan Bay. We do not at this stage intend to propose other changes to scallop fisheries in Wales.

These proposals relate to possible changes to the fishery season that would normally commence on 1 November 2016.

² <http://fisheries-conservation.bangor.ac.uk/wales/scallops.php.en?menu=1&catid=10722&subid=10800>

³ <https://www.gov.uk/government/statistical-data-sets/uk-sea-fisheries-annual-statistics-report-2014>

¹ <http://gov.wales/topics/environmentcountryside/marineand-fisheries/strategy/documents/strategic-action-plan/?lang=en>

Arrangements for the fishery that is planned for 1 November 2015 to 30 April 2016 would remain unchanged and continue to be regulated using the existing legislative framework.

The Welsh Government is seeking your views on how we can best achieve a sustainable scallop fishery in Cardigan Bay. The detailed proposals upon which we seek your views are contained in this document and the attached annexes.

How to respond

Responses can be submitted via an online form on the Welsh Government website:

<http://wales.gov.uk/consultations/environmentandcountryside/?lang=en>

These responses can be returned electronically or by post but we would prefer to receive your response electronically.

By e-mail: fisheriesmailbox@Wales.gsi.gov.uk

By Post: Scallop Consultation
Marine & Fisheries Division
Welsh Government
Llys y Draig
Penllergaer Business Park
Penllergaer, Swansea
SA4 9NX

Further information and related documents

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

Contact details

For further information contact:
Helen Jones on 0300 790 2459

Data protection

How the views and information you give us will be used

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 of current legal position

Scallop fisheries in Wales are governed by a number of levels of domestic and European legislation. These include, at a domestic level, [the Sea Fish \(Conservation\) Act 1967⁴](#), subordinate legislation (Statutory Instruments, see further below) and the various saved [Byelaws⁵](#) of the former Sea Fisheries Committees in Wales. At a European level there are the various instruments that set out the requirements of the Common Fisheries Policy, including (for the purposes of this consultation) [Council Regulation \(EC\) No 850/98⁶](#) of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms, which sets out (at Annex XII) minimum sizes for scallop (*Pecten maximus*). Domestic legislation can (in certain circumstances) be stricter but cannot introduce measures less conservative than established by EU legislation. There are also European Union provisions relating to the environment (for example, the [Habitats Directive⁷](#) and the [Wild Birds Directive⁸](#)) which are relevant.

Current subordinate legislation for scallop management includes [the Scallop Fishing \(Wales\) \(No.2\) Order 2010⁹](#) and [the Scallop Dredging Operations \(Tracking Devices\) \(Wales\) Order 2012¹⁰](#).

Prior to 1 April 2010, the inshore fisheries area (i.e. the area within 6 nautical miles of baselines) around Wales was regulated by the South Wales Sea Fisheries Committee and the North Western and North Wales Sea Fisheries Committee. Those Sea Fisheries Committees (SFCs) were established under the Sea Fisheries Regulation Act 1966 (the “1966 Act”).

On 1 April 2010, the 1966 Act was repealed in relation to Wales, the SFCs were consequently abolished and the Welsh Ministers assumed full responsibility for fisheries management within the Welsh Zone. The Byelaws of those SFCs were saved and (since 1 April 2010) now have effect in Wales as if made by the Welsh Ministers in a statutory instrument, by virtue of [the Marine and Coastal Access Act 2009 \(Commencement No.1, Consequential, Transitional and Savings provisions\) \(England and Wales\) Order 2010 \(S.I. 2010/630\)¹¹](#). The provisions of those saved Byelaws remain applicable within the area of the relevant District of the former SFCs (which includes an area that extends to a distance of six nautical miles measured from the baselines).

[Byelaws¹²](#) 14, 40 and 45 of the former South Wales Sea Fisheries Committee (“SWSFC”) and Byelaws 12 and 20 of the former North Western and North Wales Sea Fisheries Committee (“NWNWSFC”) are also relevant to the regulation of Scallop fishing in Wales.

⁴ <http://www.legislation.gov.uk/ukpga/1967/84/contents>

⁵ <http://gov.wales/topics/environmentcountryside/marineandfisheries/compliance-monitoring/commercial-sea-fisheries-regulation-bylaw/?lang=en>

⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1430215578324&uri=CELEX:01998R0850-20140101>

⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1443620132485&uri=CELEX:31992L0043>

⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1443620348640&uri=CELEX:32009L0147>

⁹ <http://www.legislation.gov.uk/wsi/2010/269/contents/made>

¹⁰ <http://www.legislation.gov.uk/wsi/2012/2729/contents/made>

¹¹ <http://www.legislation.gov.uk/uksi/2010/630/contents/made>

¹² <http://gov.wales/topics/environmentcountryside/marineandfisheries/compliance-monitoring/commercial-sea-fisheries-regulation-bylaw/?lang=en>

Challenges with current fishery management

In 2010, new legislation was introduced throughout Wales and a management regime was put in place which allowed a restricted scallop fishery to be reinstated in the Cardigan Bay area.

The Scallop Fishing (Wales) (No.2) Order 2010 manages the scallop fishery throughout Wales and includes technical (i.e. type and quantity of gear etc), temporal (i.e. season or length of time etc) and spatial (i.e. area) restrictions. That 2010 Order prohibits scallop dredge fishing in areas which have been identified as important to vulnerable marine species and habitats and allows a specific area within the Cardigan Bay SAC (known as the Kaiser Box) to open on 01 November and close on 30 April annually.

There is also a permit system currently in place, which is operated under the saved Byelaws (and therefore only applies out to six nautical miles). There is currently no permit system in place from 6 to 12 nautical miles from baselines.

The areas which are open to scallop fishing have been fished to a high intensity over the past 5 years (i.e. since the 2010 Order was made) and scallop stocks in those areas are becoming depleted. Meanwhile, there is evidence that there is an abundance of scallops in the closed areas, and a concern that these scallops may not be reaching their potential growth rate due to overcrowding and competition for resources. The current situation, therefore, does not optimise the sustainable use of this natural resource.

There are concerns amongst some within the fishing industry that the current scallop fishing restrictions are disproportionate as scallop dredging within certain SACs (including the Cardigan Bay SAC) is not, in their view, damaging to the habitats and species protected by that environmental designation. These arguments are primarily focused on the perceived lack of sensitive seabed features and the dynamic nature of Cardigan Bay. However, these concerns need to be seen in the context of the Welsh Ministers' legal obligations to protect the designated features of SACs.

Where are we now?

Evidence for Change - Scientific Research

[A Scallop Fishing Intensity Experiment](#)¹³ by Bangor University in collaboration with industry has taken place over the past 2 years in the Cardigan Bay SAC.

To date, two areas of the SAC have been surveyed extensively, although further samples were collected from across the entire SAC. These two extensively surveyed areas lie from 3 to 12 nautical miles from the coastline. Within these two areas, cobble reef features are largely absent. The seabed is mainly a mixture of sandy gravel and gravelly sand with mobile sediment overlying a more stable substratum. The area is relatively shallow (<40 m deep) and subject to

¹³ <http://fisheries-conservation.bangor.ac.uk/wales/reports.php.en?menu=1&catid=10722&subid=10805>

considerable wave energy during storm events. Tidal currents are low to moderate but strong enough to shape sand wave features on the seabed.

In 2014, a large scale scallop fishing intensity experiment was undertaken to:

- 1) Ascertain the amount of scallop dredging activity that would lead to short term changes in the animal community at the seabed;
- 2) quantify the effect of scallop dredging on the physical characteristics of the seabed; and
- 3) understand how quickly the physical seabed and animal community recovered from scallop dredging.

This experiment concluded that, as scallop intensity increased, the negative effects on the animal community also increased such that the abundance (i.e. number) and biomass (i.e. weight) of organisms per unit area of the seabed declined. However, these effects were relatively minor and short-lived and were reversed in the period between May and September in the same year (note this would also coincide with the closed season for some scallop fisheries).

Depending on the sediment type, the abundance and biomass of benthic species (particularly the prey for fish) had increased in areas with the highest scallop dredging intensity. This may have occurred due to the removal of scallops which constitute the dominant fauna (in biomass) within the areas studied – i.e. through the removal of the main competitor for food. Thus the effects of scallop dredging on prey species for fish do not appear to be a cause for concern.

For most areas of the seabed, the physical effects of scallop dredging were no longer present 12 months later. There were two exceptions to this - one more cobbly area of seabed close to the 3 nautical mile zone that had been fished with an intensity of between 3 and 4 times fished, and one area in the 6-12 nautical mile zone that had been fished slightly more than 6 times (these figures are derived from averaging the fishing intensity across the experimental fishing area). Now that the location of these areas has been identified, the Welsh Government will be in a position to protect them by way of spatial restrictions.

The results of this scallop fishing intensity experiment have created a unique opportunity to implement truly ecosystem-based management within Cardigan Bay. This will be a significant innovation in fisheries management in Wales. The proposals will require a high level of understanding and co-operation from the fishing industry and commitments to collaborate with fisheries managers over a number of years to develop and operate a sustainable fishery.

Stakeholder Engagement

A pre-consultation stage of engagement with stakeholders has been established through the Welsh Waters Scallop Strategy Steering Group (WWSS) which was established in 2012 and is made up of Fishermen's Associations, Bangor University, Natural Resources Wales, Seafish Wales and Welsh Marine Fisheries Advisory Group. Welsh Inshore Fishery Groups have also been involved in an advisory role.

Discussion through the WWSS group has assisted Welsh Government to formulate policies that meet both the needs of stakeholders and also the environment, leading to development of the new regulatory proposals.

Developing these proposals in partnership with stakeholders and users, and engaging in a transparent way at all stages has helped us to formulate relevant and practical policies that we hope will be supported by the industry. A number of management options were considered at this preliminary pre-consultation stage by NRW, scientists, Welsh Government and industry group members. The consensus reached was that the only appropriate legislative regime to use to achieve our management goals was that of the proposed permit scheme.

We believe these proposals are accessible, enforceable and as simple as possible and will deliver a sustainable industry whilst ensuring appropriate protection of vulnerable marine features.

Environmental Impact

The Welsh Government will assess the potential environmental impact of the proposals outlined in this consultation by undertaking a Habitats Regulation Assessment (as required by Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (“the Habitats Directive”). The Welsh Government has already begun consultation in this regard with the Natural Resources Body for Wales.

Our proposals

1. To introduce a Scallop permit scheme, under section 189 of the Marine and Coastal Access Act 2009, to come into force from 1 November 2016, with conditions attached, for which a fee may be charged. This permit scheme would apply only to Cardigan Bay area in the 3nm to 12nm zone. Awarding of a permit to a licensed fishing vessel and master would be on the basis of compliance with a number of demanding conditions in order to maintain the viability and legality of the fishery. Previous activity in the fishery (“track record”) will not be a criterion for allocation.
2. Each permit would be issued annually and cover the relevant scalloping season. The relevant season for each year will be specified in the permit but as a maximum would run from 1 November to 30 April. The season and conditions to be imposed for each year will be determined annually on the basis of up-to-date scientific surveying and in light of a consultation exercise before being applied. This approach would allow for flexible management within the legislative framework, so that each season’s fishery could work in accordance with the detailed understanding of the ecosystem, and best available technology, at that time. The conditions being considered are:

- a. Effort control (i.e. restricted number of days or hours dredging per season).

Rationale – A simple and effective method to limit disturbance to the seabed is to restrict the amount of times that the area is dredged. The number of days or hours which can safely be allocated can be determined, providing further information is known, e.g. the number of dredges vessels intend to tow.

- b. Technical measures (i.e. gear restrictions, vessel size, engine power, type of dredge).

Rationale - It is essential to understand and to restrict the capability of vessel and gear in order to protect the fish stock and seabed. This will also allow efficient assessment of the capability of each vessel applying for a permit, when calculating days or hours fishing allowance.

- c. A Total Allowable Catch for the fishery divided into a vessel catch limit (i.e. quota).

Rationale – It is imperative that we are able to place limits on the catch taken in order to protect the stock and therefore achieve a viable on-going fishery. This may not be necessary depending on stock levels and effort controls but needs to be considered as a possibility.

- d. Temporal restrictions (i.e. a specific period when the fishery will be open in a season (with the maximum season being for the period from 1 November to 30 April); or restricted hours of the day when fishing would be permitted).

Rationale – There may be a need, for a given season, to shorten in advance the maximum period of the fishery, in order to take account of a known reduced stock, or for some other administrative or

environmental factors. For ease of enforcement, it may well be helpful to limit the times of day when fishing can occur.

e. Rotational open areas.

Rationale – The ability to rotate the opening and closing of areas will offer further protection to allow scallop stocks to recover and the restoration of the features of the seabed.

f. Size restrictions for scallops.

Rationale – Minimum size restrictions are an internationally recognised management measure to protect brood stock and ensure future recruitment into the fishery.

g. Ability to close an area at short notice.

Rationale – It may be necessary to close the fishery if either of the limits set for scallop stock or seabed disturbance is reached before the end of the open season.

h. Installation of appropriate Vessel Monitoring Systems and other appropriate monitoring technology such as ‘gear in gear out’.

Rationale - Vessel and gear monitoring systems are an essential tool used for management and enforcement purposes.

i. Data collection requirements

Rationale – It is necessary for managers to have an understanding of the amount of scallops removed from the fishery and this data will assist with future stock assessment. Permit holders are likely to be required to maintain a very high standard on this matter

j. Evidence Gathering requirement.

Rationale - The ongoing viability of the fishery will depend upon maintaining the best understanding of the ecosystem and stock, as the fishery evolves. Vessels active in the fishery are likely to be best placed to assist with gathering this data and may be obliged to do so as a permit condition.

3. To provide for a fee for each permit. The level of fee would be set to encourage participation by those with a long-term interest in the well-being of the fishery. The level would be set annually and consulted upon prior to each season.

4. To set up a non-statutory management advisory board to assist the Welsh Government in the oversight of the scallop fishery in Cardigan Bay.

The role of the board might include:

a. To input into the annual scientific survey design.

b. To receive results of the survey.

c. To make recommendations to the Minister on the setting of conditions.

Consultation Stakeholder List

Current Scallop Permit Holders (2014/15)	Whales & Dolphin Conservation Society
Licensed fishermen	JNCC
Inshore Fisheries Group North	Pembrokeshire Coastal Forum
Inshore Fisheries Group South	Natural Resources Wales
Inshore Fisheries Group Mid	Cardigan Bay SAC
Wales Marine Fisheries Advisory Group	Carmarthen Bay SAC
Wales Marine Strategy Advisory Group	Pembrokeshire Marine SAC
Welsh Fishermen's Association	Pen Llyn Sarnau SAC
Cardigan Bay Fishermen's Association	Crown Estates
West Wales Shellfishermen's Association	New Under Ten Fishermen's Association
South & West Wales Fishing Communities Ltd	Oneida Fish
Welsh Inshore Scallop's Association	Quay Fresh
Llyn Pot Fishermen's Association	Castle Bay Seafoods
Llyn Fishermen's Association	Cardigan Bay Shellfish
North Wales Fishermen's Co- Operative	Lynn Shellfish
Clyde Fishermen's Association	Syren Shellfish
Welsh Federation of Sea Anglers	
North Devon Fishermen's Association	
National Federation of Fishermen's Organisations	
Seafish Industry Authority	
Shellfish Association of Great Britain	
DEFRA	
DARD NI	
Isle of Man Government	
Government of Ireland	
Scottish Government	
Sussex IFCA	
Northumberland IFCA	
North Western IFCA	
Southern IFCA	
Eastern IFCA	
Kent & Essex IFCA	
North Western IFCA	
North Eastern IFCA	
Devon & Severn IFCA	
Wales Environment Link	
Marine Conservation Society	