

Proposals to close fishing for sandeel in all Scottish waters

Scottish Government response to the consultation analysis report

January 2024

1. Introduction

Scottish seas support diverse and abundant marine habitats and species. Sandeel form a particularly important component of the North Sea ecosystem and foodweb, as a key link between plankton and top predators such as commercial fish, seabirds, and marine mammals. As an island nation, Scotland's seas have an important role to play in underpinning our economic prosperity and supporting our wellbeing.

The Scottish Government has national and international commitments to protect marine biodiversity, and marine ecosystems. The Scottish Government is also committed to the sustainable management of fisheries, which includes protecting biodiversity and healthy functioning ecosystems. Managing fishing for sandeel in Scottish waters, with the aim of benefiting both sandeel stocks and the wider ecosystem, is an integral part of ensuring sustainable fisheries.

Sandeel play an important role in the marine ecosystem in aiding the long-term sustainability and resilience of the marine environment. Given this role, it remains an over-arching and long-held Scottish Government position not to support fishing for sandeel in Scottish waters. This is reflected in Scotland's Future Fisheries Management Strategy. For this reason, the UK, supported by the Scottish Government, has not allocated sandeel quota to UK vessels since 2021.

On 21 July 2023 the Scottish Government issued a public consultation seeking views on proposals to close fishing to sandeel in all Scottish waters, with the purpose of bringing about wider environmental and ecosystem benefits, including potential benefits to sandeel, seabirds, marine mammals, and other fish species. The consultation had six questions covering support for the preferred option to close fishing for sandeel in all Scottish waters, alternative or complementary measures that could be considered, the scientific evidence underpinning the proposals, and questions relating to the statutory impact assessments (for example, Business and Regulatory Impact Assessment, Strategic Environmental Assessment and Island Communities Impact Assessment).

Following the conclusion of the consultation on 13 October 2023, an external consultancy firm, Diffley Partnership, was appointed by the Scottish Government to undertake a detailed analysis of the consultation responses.

A total of 494 written representations were received from individuals and organisations including the fishing sector, renewable energy developers and recreational interests, as well as 9,815 campaign submissions. The responses covered a range of issues, including questions on the scientific evidence base on the potential effects of sandeel fisheries management on the marine environment and the applicability of alternative measures. Recurring issues or themes raised in the comments also included issues relating to the UK-EU trade and cooperation agreement, benefits for biodiversity, wellbeing and wildlife.

One topic, which did not form part of the consultation, but which some respondents provided comment on, was the relationship with offshore wind development.

A report detailing the analysis of the consultation responses has been published and can be found [\[here\]](#).

2. Questions and themes

2.1 Preferred option and Alternatives (Q1-Q3)

Question 1: Do you support the preferred option to close fishing for sandeel in all Scottish waters?

Question 2: If your answer is no to question 1, do you have any views on alternative or complementary measures that could be considered in the longer-term for the protection of sandeel in Scottish waters?

Question 3: Is there any further evidence that should be considered in terms of the potential benefits or value of the preferred option that could be considered?

The purpose of these questions was for respondents to consider and provide views and evidence on the preferred option to close fishing for sandeel in all Scottish waters or any alternatives or complementary measures.

There was overwhelming support for the Scottish Government's preferred option to close fishing for sandeel in all Scottish waters, with 97% in support and 3% in opposition. While organisational responses showed slightly lower support (84%), individuals overwhelmingly favoured the proposal (99%).

Respondents that agreed with the proposals, highlighted the importance of sandeel to the wider marine environment as a crucial prey species for predatory fish, seabirds, and marine mammals. In particular, they emphasised that closing fishing for sandeel had the potential to bring benefits to a range of species as well as improving sandeel resilience to changes in the marine environment, noting the range of pressures acting on populations, including climate change. There was also a recognition that seabirds have faced significant declines in recent decades, which has been compounded by devastating outbreaks of Highly Pathogenic Avian Influenza (HPIA) in some seabird species. Reducing such pressures, can therefore increase their resilience to future change.

The Scottish Government acknowledged that support for the preferred option was also tied to broader environmental goals, such as the Scottish Government's net-zero target by 2045 and the '30 by 30 target' to protect 30% of Scottish waters by 2030.

Many respondents supporting the proposals did not offer views on alternative or complementary measures, with some suggesting that alternatives were incompatible with the goal of increasing sandeel stock resilience. Those that did, suggested alternative options such as zero-Total Allowable Catches (TACs) and the Norwegian model (including real-time monitoring and adaptive management) of sandeel stock management. We considered these responses, however since setting a zero-TAC would only be possible subject to agreement in annual negotiations; and since the

Norwegian model would only result in partial restrictions of fishing, such alternative approaches would not be sufficient in moving towards achieving the envisaged ecosystem benefits that a full closure could bring.

We recognise the view of respondents that a holistic approach to forage fisheries management should be taken through closure of UK waters to sandeel fishing. While the Scottish Government welcomes the UK Government's consultation on spatial management measures for sandeel fishing in English waters, fisheries management is a devolved matter. We have engaged with the UK Government on the outcome of their consultation and welcome their decision to prohibit fishing for sandeel in ICES Area IV in English waters, which will provide complementary benefits to the closure of all Scottish waters for fishing of sandeel.

There were several responses in relation to the evidence base underpinning the proposals and the role of the annual ICES stock advice which some considered was precautionary and provided the basis for sustainable fishing.

While the ICES advice framework is an important part of the fisheries management process which includes provision to keep stocks above a given precautionary level, there is no analysis which we are aware of which demonstrates that this precautionary level is sufficient to provide adequate food levels for predator populations that rely on sandeel. The ICES advice states that:

“Although the ICES advice framework includes a provision to keep the stocks above a given precautionary level, there is no analysis of whether this precautionary level is sufficient to provide adequate food levels for individual predator populations. Such an analysis would need to take account of the interplay between ICES advice, national management measures, and the dynamics of a given predator population”.¹

Therefore it supports the justification for a bespoke approach to sandeel management at a national level when considering the wider ecosystem and ensuring that local food availability is preserved for predator populations. When considering the wider ecosystem and specific prey species, it is incumbent on Ministers to consider the best available scientific evidence which includes scientific evidence specific to those prey species.

Sandeel play an important role in the marine food web as a key food resource for some marine mammal, seabird and predatory fish species. Declines in sandeel abundance can negatively impact the survival and reproduction of these important species. Restricting fishing for sandeel therefore has the potential to lead to an increase in sandeel survival, abundance and potential availability, thereby providing wider ecosystem benefits to a range of species as well as improving their resilience to other sources of variation in the marine environment (e.g., climate change).

¹https://ices-library.figshare.com/articles/report/EU-UK_request_on_ecosystem_considerations_in_the_provision_of_single_stock_advice_for_forage_fish_species/24638433?backTo=/collections/ICES_Advice_2023/6398177

We acknowledge that the evidence base demonstrating the effect of the sandeel fishery on sandeel abundance is not definitive and that the subsequent benefits to the marine environment, or specific components of the marine environment are uncertain. It should be acknowledged however, that this uncertainty is not due to a lack of information or data but is due to the degree of variability in the system, compounded by multiple interacting large scale environmental processes (e.g., climate change) affecting the various component of the foodweb. This complexity and variability mean that predictions of the benefits of closing fishing for sandeel on the wider marine environment will have a degree of uncertainty. However, our assessment is that the precautionary approach adopted from our scientific evidence base which takes account of this uncertainty remains valid.

The views of offshore wind developers responding to the consultation in relation to using the closure as compensation for offshore wind and the potentially significant socio-economic benefits arising from ScotWind developments are noted. However, this consultation examines the possible ecological benefits arising from the closure of fishing for sandeel rather than the question of treating such a closure as compensation for the impacts of offshore wind. The Scottish Government will assess the suitability and benefits of the closure of fishing for sandeel as a compensatory measure if, and when, it may be utilised in support of a case for derogating from the Habitats Regulations to facilitate the consenting and deployment of offshore wind projects.

2.2 Island Communities (Q4)

Question 4: Is there any further evidence that should be considered to demonstrate any impact on island communities?

This question sought views on potential impacts of closing fishing for sandeel in all Scottish waters² on island communities. The Scottish Government acknowledges the views of respondents in relation to impacts of the proposals on island communities, including benefits that could be realised. Based on these comments, it is our view that the preferred option is not likely to have an effect on island communities which is significantly different to its effect on other communities in Scotland.

In terms of benefits to island communities from offshore wind development, as noted above, this is outside the scope of this consultation.

2.3 Business and Regulatory Impact Assessments (BRIA) (Q5)

Question 5: Do you have any comments on the assumptions made in the partial Business and Regulatory Impact Assessments (BRIA) concerning the costs and benefits of the option?

The Scottish Government has considered all views submitted on the partial BRIA and, have used these to help shape and inform the final BRIA.

² Scottish Waters includes internal waters, territorial sea, and the UK's exclusive economic zone (EEZ) limit adjacent to Scotland.

We recognise that no quota for sandeel has been allocated to UK vessels since 2021, therefore the introduction of measures will not impact additionally on Scottish businesses. Any measures will also apply to all vessels fishing in Scottish waters, both UK and EU, therefore remaining aligned with Article 496 of the TCA.

In terms of benefits from offshore wind, as noted above, this is outside the scope of this consultation.

2.4 SEA Environmental Report (Q6)

Question 6: Do you have any comments on the SEA Environmental Report?

Some of the key themes that arose from this question included:

- Support for closure of the sandeel fishery over the alternatives identified, although a small number of respondents considered that the benefits of the proposals could have been more strongly stated.
- Criticism of the language used in the report regarding the benefits of the proposals presented.
- Any action taken must consider the need for an approach to fisheries management that recognises the connection between ecological considerations and the financial viability of the fishing resource.
- The conclusions of the report in relation to the link between fishing pressure and seabird demography.

In moving forward, we will use responses to the consultation to inform the SEA Post Adoption Statement.

3. Conclusion

Following consideration of all responses and representations received, the Scottish Government has concluded that the preferred option to close fishing for sandeel in all Scottish waters is the most appropriate approach to achieve its aims, noting that the potential environmental benefits outweigh any negative impacts.

In reaching this decision, the Scottish Government has applied the precautionary principle to its decision making and ensured alignment with national and international commitments, including, but not limited to, the UK-EU TCA, Scotland's National Marine Plan, Scotland's Fisheries Management Strategy, the UK Joint Fisheries Statement, the Fisheries Act 2020 and the Marine Strategy Regulations 2010.

4. Next steps

The Sandeel (Prohibition Of Fishing) (Scotland) Order 2024 was laid in the Scottish Parliament on 5 February 2024 and will come into force on 26 March 2024. The Order will cover all Scottish waters including that part of the UK's exclusive economic zone adjacent to Scotland and, will apply to all vessels fishing in these waters. The Scottish Ministers make this Order in exercise of the powers conferred by section 5 of the Sea Fish (Conservation) Act 1967.



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