

Scottish Environment LINK is the forum for Scotland's voluntary environment organisations, with over 30 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

## Consultation on seal haul-out sites

Scottish Environment LINK's Marine Task Force (LINK MTF) appreciates the opportunity to comment on the list of seal haul-out sites proposed as suitable to protect seals from harassment.

Scotland is home to significant populations of both the grey (*Halichoerus grypus*) and harbour (*Phoca vitulina*) seal. Scotland's recent Marine Atlas notes that in 2009 harbour seal population sizes in all four Scottish sub-units for OSPAR were outside the Ecological Quality Objective (EcoQO) limits, with significant population declines recorded in Shetland, Orkney and South-east Scotland, and smaller declines in the Outer Hebrides<sup>1</sup>. Urgent action is required to reverse these trends and identify the causes of decline. We therefore welcome the identification by SNH of both the harbour seal and the grey seal as Priority Marine Features.

We warmly welcome the work undertaken by the Sea Mammal Research Unit to identify the initial list of haul-out sites for both grey and harbour seals. However, we are extremely concerned by the subsequent rationalisation of this list to strike an '*optimum balance between maximising protection for the largest number of seals while minimising possible impacts on other sustainable activities*'. We do not understand the rationale for choosing to protect 50% of the population from harassment. That figure appears to be arbitrary. Therefore, we cannot support the approach to site selection as set out in the consultation.

We strongly believe sites must be designated according to scientific criteria, which consider the conservation and ecological needs of local seal populations. The sites should be reviewed periodically to take account of new scientific data and seasonal patterns of use that may not be captured by surveys at particular times of year. It should be noted that smaller sites may be especially important to harbour seals, which as stated above, have seen significant reductions in population numbers. We also highlight the importance of retaining the intent of Elaine Murray MSP's comments during stage 3 of the Marine Bill as she laid her amendment which would become s117 of the Act that '*...sites would be designated with reference to the advice of NERC and would not, for example, be designated at the whim of the minister.*'<sup>2</sup>

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<sup>1</sup> <http://www.scotland.gov.uk/Publications/2011/03/16182005/0>

<sup>2</sup> <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-10/sor0204-02.htm#Col23578>

We seek assurance that the tools of the third pillar of the Scottish Government's nature conservation strategy<sup>3</sup>, 'wider seas measures', and in particular marine planning, will also be used to help prevent harassment at haul-out sites.

Further, without clear guidance on what the s117 harassment offence constitutes, we do not feel it is possible to assess whether the proposed network of sites will offer appropriate protection. We note that the Rural Affairs and Environment Committee envisaged harassment as a continued activity designed to dissuade animals from being in a certain place<sup>4</sup>. We believe guidance must be issued promptly. The offence of harassment should take into account short term and long term biological impacts, such as those which affect resting, feeding, breeding behaviours.

For clarity, the guidance should make clear the difference between the s117 offence of 'harassment' and that of 'disturbance', which is already an offence for species which are European Protected Species under the Habitats Directive. Clarification on the difference between the aims and purpose of seal SACs, seal haul-out sites and seal conservation areas would also be useful. The limitations of each designation should also be identified. Without this guidance, we believe the current consultation is considerably devalued. We would be happy to provide comment on early versions of such guidance.

Our position as set out above may change in light of the nature of the offence.

**Scottish Environment LINK's Marine Task Force is supported by:**

Hebridean Whale and Dolphin Trust  
Marine Conservation Society  
National Trust for Scotland  
RSPB Scotland

Scottish Wildlife Trust  
WWF Scotland  
Whale and Dolphin Conservation Society

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<sup>3</sup>Nature conservation strategy [www.scotland.gov.uk/Topics/marine/marine-environment/Conservationstrategy/marineconstrategy](http://www.scotland.gov.uk/Topics/marine/marine-environment/Conservationstrategy/marineconstrategy)

<sup>4</sup> <http://www.scottish.parliament.uk/s3/committees/rae/or-09/ru09-3002.htm#Col2245>