

2. HOW TO SUSTAIN OUR SEAS

Scottish Environment LINK Marine Task Force is calling for fundamental reform of how we manage Scotland's seas.

Why is radical reform needed?

Current management of human activities in Scotland's marine environment is **neither integrated nor co-ordinated**. Offshore development, aggregate and oil extraction, pipeline and cable laying, fisheries, aquaculture, pollution, shipping and recreational activities vie with one another to operate effectively with many adversely affecting the sea and its life.

For a sustainable future, activities in the sea must be managed by integrating environmental, social and economic objectives so human needs and those of wildlife, habitats, and marine processes are met the short and long term. Scotland and the UK are obliged under international and European commitments to **sustainably manage** our seas and coasts on the basis of an **ecosystem-based approach**.

Our current system falls short on several counts. Management is **sectoral**, rather than integrated; **reactive** rather than planned; driven by **short term** decisions, rather than on a long-term basis; based on resource **exploitation** rather than limited by the capacity of the marine ecosystem to support uses. To blame is the **piecemeal** development of marine regulation; adding to existing legislation without a strategic review or reform of the overall legislative and governance framework. The result is a complex management structure made up of domestic Scots Law, UK law, EU and International law and commitments, and a plethora of legislation which is ill fit for purpose, has not incorporated conservation considerations and lacks a coherent framework for managing or policing it.

Steps to secure sustainable seas:

In order to achieve a sustainable future for our seas, the Scottish Executive and Parliament must undertake a series of **steps**:

STEP 1: undertake a comprehensive **government review** of the way **marine management** is currently undertaken, working with stakeholders to reach agreement on a vision and a strategy for the way forward

STEP 2: **review and reform existing marine legislation** to ensure it is up to date, meets strategic needs and ensures integration

STEP 3: introduce **new marine legislation** to give statutory foundations and a framework for co-ordinated marine management, marine spatial planning and an ecosystem approach

STEP 4: **improve governance** through development of a comprehensive **marine strategy** and implementation of subsequent **infrastructural**, organisational and policy **changes**

The Scottish Executive must deliver fundamental improvements to the way our seas are managed, and the recent consultation could be the start of this process.

STEP 1. Comprehensive government review

A first step is a comprehensive review of the current system to identify why the current system is not capable of delivering sustainable management of our seas. Such a review would confirm what reforms and new legislation is needed to provide more effective legal protection and a better co-ordinated management system for our marine environment.

STEP 2. Review and reform of existing legislation

Scotland has devolved control of certain matters within 12nm of shore - including inshore fisheries, aquaculture, coastal management, renewable energy, conservation, pollution, dumping and dredging, marine works and research.

Scots law needs to account for the cumulative effects of activities in the marine environment, institute a system of marine spatial planning and deliver an ecosystem-approach to marine management. Review of existing legislation will inform on where there are gaps or where legislation is out of date, and where reform is needed. There is likely to be a need to amend or add to existing and pending legislation, in order to do the necessary changes. Some have been tackled through the National Parks (Scotland) Act, Water Environment and Water Services Act and Nature Conservation (Scotland) Bill. Others could be addressed through forthcoming vehicles such as the Strategic Environmental Assessment Bill, Planning Bill, Aquaculture Bill.

However these alone do not take account of the whole so can only go part of the way. A piece of new primary legislation, referred to here as a Marine (Scotland) Act, will need to underpin and tie together the package of reforms.

STEP 3. Marine (Scotland) Act

New primary legislation would provide statutory underpinning to a unifying management framework. It would need to:

- set out the principles upon which the new marine management system is to operate
- require integration, thereby encouraging structural reform within Government to deliver principles of new marine legislation
- set in statute a duty of care on all devolved competent bodies with a remit relating to the marine environment
- establish the principles and requirement for a marine spatial planning system
- set a framework for periodic review of *key* legislation and national planning guidance, initiating subsequent additions or amendment as required.
- ensure development of and support for structures which allow the active involvement of stakeholders and local communities on the development of local plans and further marine developments
- repeal or amend legislation which is identified as ill fit for purpose or redundant

STEP 4. Improved governance

Clearer, stronger, better integrated, better co-ordinated and more coherent leadership on the management of our seas will require improved national Governance through the Scottish Executive and its agencies. Good governance would ensure decision making is **informed by robust science** and make sure that **excellent communication** aids sound decision-making, with transparency and accountability.

Whilst statutory nature conservation agencies currently provide specific nature conservation advice, wider sustainable management and development issues still need to be addressed. Ensuring that all competent marine authorities have duties towards marine protection and sustainable management will go some way towards this. However, there is a need to go further - a marine strategy and a **dedicated lead body** covering the marine environment should be identified.

Options need to be debated, but should include bringing all statutory responsibilities within a single marine body. This could be provided for by extending the remit of an existing competent authority, or through the creation of a new marine management unit/agency. Alternatively, existing statutory regulators would continue to exercise their statutory functions towards the marine environment, but within the guidance/co-ordination of an overarching authority. The lead body need not be a new quango, but could be drawn from existing Scottish Executive departments or agencies.

The national decision-making 'body' should have statutory responsibility to:

- prepare, implement and evaluate a marine strategy and co-ordinate marine spatial plan(s)
- decide national priorities
- co-ordinate and review policy
- co-ordinate existing and future competent marine authorities activities
- oversee enforcement of agreed activities
- work with its UK counterpart on reserved issues
- provide a single point of entry/exit for marine consents (a one-stop shop),
- take the lead in information collection, co-ordination and provision
- ensure active involvement of stakeholders at all levels
- be responsible to a nominated Scottish Minister who would lead on, champion and co-ordinate marine affairs within Government.

Where next?

There is increasing acknowledgement that we are failing to manage our marine environment in a sustainable manner, the need for change and a more co-ordinated approach. We have a responsibility to implement a number of nature conservation and sustainable development commitments. This needs to be done in a coherent and holistic manner. The recently published Review of Marine Nature Conservation (DEFRA) report recommended that Government should, among a range of other measures:

- *finalise and apply an **overarching policy framework of strategic goals, objectives, targets and indicators** which can apply to all elements of its strategic goals for the marine environment*
- *introduce the necessary measures, including policy and legislation as appropriate, to underpin the application of the marine nature conservation framework throughout waters under UK jurisdiction.*

Difficulties faced by Scotland's fishing communities testify to the seriousness of the consequences if nothing is done to change the current situation.

The International Situation

UK government international commitments

National and international governments have acknowledged that action is needed to protect the marine environment. The UK government has recently made the following commitments:

- 2002 Bergen Declaration 5th North Sea Conference & 2003 OSPAR commission - UK commitment to ensure the protection of whole ecosystems, establishing marine spatial planning and a network of marine protected areas throughout the North Sea & NE Atlantic respectively by 2010.
- 2002 World Summit on Sustainable Development - UK commitment to establish representative networks of marine protected areas by 2012 and to restore fish stocks by 2015.
- 2002 DEFRA Marine Stewardship Report 'Safeguarding our Seas', states '*Our vision for the marine environment is clean healthy safe productive and biologically diverse oceans and seas. Within one generation we want to have made a real difference*'
- Tony Blair, 6 March 2001 - '*We will be launching measures to improve marine conservation...*'

International examples: There is a growing global recognition of the shortfalls of a sectoral approach to marine management. Several countries, including Australia, Canada and New Zealand, have decided that the most effective solution is the development of one national legislative and policy framework.

Australia: Australia's Ocean Policy was initiated in August 1996 and launched in December 1998. This integrated oceans policy arose from:

1. The need to integrate and resolve local, state and commonwealth policy
2. A legal necessity under international law to ensure that its seas were well managed and protected
3. The need to take full advantage of the benefits that a marine environment offered, including economic, environmental, social, recreational and cultural benefits
4. The need to find ways of managing conflicting uses and requirements

The Australian Oceans Policy is a potentially radical attempt to integrate marine policy in a way that has an ecosystem approach at its core. Planning of the Policy has been painstaking in order to reflect best practice. The whole process enshrines commitments to participatory democracy. For further information, see <http://www.oceans.gov.au/oceans.jsp>

Canada: Canada was the first country to pass an Oceans Act in 1996. Its stated goals were to create an integrated approach to the management of human activities with stakeholder involvement, and to realise the economic potential of Canada's three oceans, while maintaining sustainability.

The Oceans Act has resulted in the development of Ocean Plans for sectors of Canada's Marine territory. Central to the development of Oceans Plans is the ecosystem-approach, participation of local communities and stakeholders and the development of spatial plans for large ocean areas. For further information see www.oceanscanada.com <http://www.oceanscanada.com>

Europe : Although parts of Europe have moved towards developing integrated marine management policies, these are in their early stages. The Netherlands and the Republic of Ireland have reformed their governance structures and have developed dedicated marine government departments. Ireland's Department of Communications, Marine and Natural Resources and its associated Marine Institute may provide real opportunities for the integration of marine policy and governance, and ensure research is directed to meet the needs of decision-makers.