



## **Aquaculture Code of Practice**

Consultation response, 3 August 2021

### **Introduction to Scottish Environment LINK**

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 40 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

Its member bodies represent a wide community of environmental interest, sharing the common goal of contributing to a more sustainable society. LINK provides a forum for these organizations, enabling informed debate, assisting co-operation within the voluntary sector, and acting as a strong voice for the environment. Acting at local, national and international levels, LINK aims to ensure that the environmental community participates in the development of policy and legislation affecting Scotland.

LINK works mainly through groups of members working together on topics of mutual interest, exploring the issues and developing advocacy to promote sustainable development, respecting environmental limits. This consultation response was written by LINK's Aquaculture Subgroup.

LINK members welcome the opportunity to comment on this consultation and consider tighter regulation on the use of acoustic deterrent devices on salmon farms is essential for reducing the impacts on non-target cetaceans. However, LINK consider that this should be a temporary measure and that the use of devices that emit sound to deter seals should ultimately be phased out.

#### **1. Do you support the introduction of the Code?**

Scottish Environment LINK support the introduction of the Code. LINK members consider it vital that the impacts on marine mammals and the wider environment are reduced and that any use of acoustic deterrents is tightly regulated. It is, however, LINK's view that the use of acoustic deterrents should be phased out and replaced with benign methods of predator control.

This code should be reviewed and updated as necessary on a regular basis to ensure the use of best available practice, underpinned by latest scientific findings and new developments.

#### **2. Do you have any comments on the content of the Code including the enforceable measures?**

- LINK considers that a European Protected Species licence must be required for the use of any device that emits sound to deter seals, and that this step should only be taken as a last resort once all other more benign alternatives have been deployed.
- LINK support the prioritisation of non-lethal methods. However, Section 2.2. (2) suggests that only one non-lethal measure needs to be tried before an application for using an ADD can be made.

The Code of Good Practice for Scottish Finfish Aquaculture recommends adoption of the following passive deterrent measures:

- tensioned or false-bottomed nets;
- seal blinds to cover the dead fish basket;
- daily removal of any dead fish from the dead fish basket;
- predator nets.



It is our view that all recommended deterrent measures should be in place to reduce potential marine mammal interactions at a site and evidence provided to prove they have been ineffective before an application for using an ADD can be made.

This position aligns with the REC committee [report](#) from 2018, which stated that “the Committee shares the view of the ECCLR Committee that such physical barriers should be used ahead of deterrents such as Acoustic Deterrent Devices which potentially have a harmful impact on cetacean species such as whales and dolphins”.

- In the event that an acoustic deterrent license is applied for, LINK consider it essential that farm operators demonstrate the need for using ADDs, develop and submit for approval a plan for ADD use during the time-limited period permitted, and mitigation measures should be put in place that ensure no adverse effects on cetaceans.
- LINK is concerned by the line “EPS Licence would not be required for the use of an ADD (for example, in circumstances where there are no cetaceans present at the location)”. In our view, it would difficult, if not impossible, to identify an area within Scotland’s seas where this would apply and, therefore, consider that it should be removed.
- LINK considers it essential that acoustic deterrents are not permitted to be used within or have an effect within marine protected areas (MPAs) designated to protect marine mammals or areas where marine mammals are a feature of interest, regardless of whether an EPS licence has been granted and other recommended deterrents have been proven to be ineffective. Areas of particular concern are the Inner Hebrides and the Minches harbour porpoise Special Area of Conservation and the Sea of Hebrides minke whale Nature Conservation MPA.

Additionally, key habitats such as tidal races, bottlenecks and pathways should be avoided.

- In addition to the welfare consequences to farmed fish, Paragraph 21 should also acknowledge the stress and welfare consideration for the seal(s) that have entered and become trapped within the salmon farm. Similarly, the welfare consequences of seal depredation mitigation measures, such as chronic stress induced due to noise exposure, for interacting marine mammals and fish, should also be considered.
- In Paragraph 24, the Thompson et al (2021) paper is referenced with regard to there being no long-term evidence that HDPE nets decrease seal depredation. This is largely due to a lack of adequate research. However, despite several substantive studies, there is no evidence that ADDs are effective in deterring seals. By contrast, there is a long standing and well-established body of evidence that continues to grow, which shows that ADDs cause disturbance and habitat exclusion in cetaceans.
- LINK members are aware of the emergence of new acoustic technologies that operate at different sound frequencies and may reduce impacts on harbour porpoise. However, impacts on other species of cetaceans are unknown and therefore, Paragraph 28 should state that all ADDs should be regulated in the same way until there is compelling evidence to show that no sensitive species are affected.
- Paragraph 29 should also refer to the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020, specifically Section 14 – Killing, injuring or taking seals: offences, penalties etc.
- LINK have concerns over the emergence of novel forms of non-lethal containment measures mentioned in Paragraph 31 that may affect other senses such as taste, touch or vision. It is our view that the industry and Marine Scotland should focus on developing solutions that are effective in mitigating depredation with no adverse impacts on marine mammals. Any future deterrent strategy should only be introduced once robust peer-reviewed research has been completed which shows that the approach is effective in reducing interaction and all negative impacts have been identified and scientifically assessed. The costs and benefits should then be subjected to a rigorous, and transparent risk assessment.



- Section 2.2. (6) states that “you must not feed or attempt to feed a marine mammal for any purpose, including for the purpose of deterrence (i.e. taste aversion)”, which contradicts the consideration of emerging non-lethal containment measures that affect taste.
- The document mentions steel core nets but generally only considers containment measures currently in use at Scottish fish farms. Additionally, a range of passive deterrent measures were highlighted in the NOAA [Guidelines for Safely Deterring Marine Mammals](#). Strategies such as metal netting, which are used in other locations, may be effective but are not considered. LINK would like clarity over the potential for using steel core nets on Scottish salmon farms.
- In 2018, the ECCLR Committee’s report on the [Environmental Impacts of Salmon Farming](#) stated that “the Committee has significant concerns about the use and operation of ADDs and their cumulative impact and considers all fish farms in Scotland should be required, via legislative or any other appropriate means, to follow the position of the Aquaculture Stewardship Council in relation to ADDs. This ensures fish farms cannot use ADDs.”
- To reduce seal interactions, fish farms should not be sited in close proximity to known preferred seal habitat, including seal haul out and pupping sites.

### **3. Do you have any comments on the associated forms for reporting mitigation measures, including acoustic deterrent devices, and reporting of any incidental bycatch of marine mammals?**

- In Section 3.2 (4) it states that any incident of killing or injury of marine mammals in the form of bycatch must be reported within 48 hours. LINK consider that any incidents should be reported as soon as possible, particularly if there is a requirement to check nets every 24 hours. Rapid reporting could be particularly important for injured animals, and any delay in reporting could compromise a post mortem due to the level of decomposition prior to examination.
- In cases where an ABP has been permitted to use an ADD, LINK consider it essential the ABP monitors and reports on the effectiveness of the ADD in deterring seals. A research contract should be put in place to develop suitable data collection methods to facilitate this and demonstrate the efficacy of ADDs.
- In addition to the ADD reporting requirements outlined, data on ADD usage should be collected on a daily basis (e.g. when are they on/off daily). These data can be collected automatically, especially if fish farms work together with manufacturers of the devices/regulators to automate the process. Data should be publicly available so that independent analyses on ADD usage and noise impact can be assessed.
- LINK members consider it important that any impacts within, or within the vicinity of SACs should be assessed at the SAC scale, rather than the marine mammal management unit scale. It is vital that any impacts on the SAC are addressed, whether or they are considered significant at the wider population/management unit.

### **4. Do you have any information in relation to the questions contained in the partial BRIA on the potential socio-economic and environmental impacts that may be incurred from implementing the Code?**

LINK members consider it important that the potential impacts on wildlife tourism and whale-watching are considered – both directly and through reputational damage – if ADDs are not better regulated and ultimately phased out.



This response was compiled on behalf of LINK Marine Group and is supported by:

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**For further information contact:**

LINK Marine Group Aquaculture lead, Sam Collin (Scottish Wildlife Trust)

[esther@scotlink.org](mailto:esther@scotlink.org)

[fanny@scotlink.org](mailto:fanny@scotlink.org)