

CONSULTATION QUESTIONS

General questions

Question 1: Do you consider that the overall number of seal haul-out sites proposed at national/regional/local level represent a reasonable balance between seal conservation and other sustainable activities around the Scottish coastline?

The statement by Richard Lochhead in the Scottish Parliament debates on what became Section 117 of the Marine (Scotland) Act 2010 identifies the need to make distinctions between deterring, harassing or disturbing seals¹. He also suggested that guidance might be required. The resulting Section 117 only refers to harassment. In the absence of any guidance to the contrary, the harassment offence may be interpreted in its narrowest form.

IFAW believes that all seals should be protected from levels of harassment that might force them to abandon a haul-out site in the long-term. In addition to purely conservation concerns, there are important animal welfare implications associated with harassment. Therefore harassment should be an offence at **all** haul-out sites.

We would welcome guidance that presented a wider definition of the harassment offence to include elements of deterrence and disturbance. However, our comments relate to the current situation in which the consultation has been conducted in the absence of such guidance.

If seals at all haul-outs were protected from harassment, then there might be a case for listing a limited subset of haul-out sites where additional protection was given from disturbance. These sites would need to be selected according to clearly defined criteria taking into account the potential severity of impacts on both conservation and animal welfare. A properly evaluated selection procedure would contrast with the apparently arbitrary selection of haul-out sites in the current consultation list. No justification has been given for the limited proportion of haul-out sites listed in the consultation except to suggest that the intention is to protect around 50% of the seals. This approach does not take into account the role that haul-out sites play in maintaining the natural range and distribution of seals around Scotland and there are large spatial gaps in the current proposed list of sites. Favourable conservation status, including maintaining the natural range of the species is a requirement under the Habitats Directive.

It is inappropriate for the Scottish Government to suggest that allowing intentional harassment of seals on about half of their haul-out sites is part of some kind of 'balance' between seals and other sustainable activities. The use of 'sustainable' here is a distraction rather than a useful concept. An activity that forces a top predator from the local ecosystem in the long-term would not meet criteria for ecological sustainability. While many human activities have unintended impacts on the natural environment, most management authorities try to minimise these and show a level of respect to animals that stops short of deliberate harassment.

¹ <http://www.scottish.parliament.uk/s3/committees/rae/or-09/ru09-3002.htm#Col2248>

Question 2: Do you consider that additional sites should be included at national/regional/local level and, if so, why, how many additional sites and which sites?

All haul-out sites should be protected from harassment at levels that might result in the long-term abandonment of the site or seriously compromise the welfare of individual seals at the site. Therefore the complete list of haul-out sites supplied by the SMRU should be designated under Section 117.

Question 3: Do you consider that fewer sites should be included at national/regional/local level and, if so, why, how many fewer sites and which sites?

If clear guidance were issued that included deterrence or disturbance within the harassment offence, then there would be a case for reviewing the list of sites and selecting some which warranted additional protection according to pre-determined conservation and welfare criteria.

Question 4: Do you agree that existing Special Areas of Conservation for seals should be added to the list of seal haul-out sites being considered for possible designation?

If all sites were listed then this would include the Special Areas of Conservation. More extensive protection measures may also be considered appropriate within SACs.

Question 5: Do you consider that particular national or regional level activities might represent a potential risk of harassment to seals on haul-out sites in general?

If a guidance document provided a wider definition of harassment then the potential impacts of a range of activities would need to be considered, particularly those which generate high levels of underwater noise.

Question 6: Do you consider that particular local activities might represent a potential risk of harassment to seals on particular haul-out sites included on the list?

This would depend on any guidance as to the level of disturbance that constituted harassment.

Question 7: Do you have any views on whether the boundaries of particular haul-out sites included on the list might be revised ?

Seals frequently spend considerable time in the water close to haul-out sites. Consideration needs to be given to giving adequate protection to seals in the water as well as when hauled out.

Equality assessment

The Scottish Government must ensure that any policies that it implements do not unduly discriminate against persons defined by age, gender, disability, sexual orientation, race and religion and belief. We would welcome your views on whether you believe that any of the propositions set out in this consultation paper will unduly impact on any of these groups mentioned.

Not applicable