

Defra response to the Independent review of the evidence process for selecting marine Special Areas of Conservation

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Response by the Department for Environment, Food and Rural Affairs

Defra welcomes both the report of the independent review, which examined the evidence process used to identify marine Special Areas of Conservation (SACs)¹, and the supporting report by Dr Davies examining Natural England's tendering and consultation processes², based on three case study SACs. The reports provide assurance that the evidence underpinning the selection of the three marine SACs examined as part of the review is sufficient to support the proposed designation of these sites. However, the review also highlighted a number of important issues and recommendations for the future in terms of the processes used by both Natural England and Defra during the work to identify candidate marine SACs.

A number of the recommendations relate to and set out good practice principles for the use of evidence in policy-making and these recommendations have wider implications for other areas of Defra policy and other organisations in the Defra network (Defra's Arms Length Bodies (ALBs))³. Though the review focussed on ecological and geological evidence, since the Habitats Directive selection criteria require that only this evidence is taken in to account, the general principles recommended by the review report will be relevant to all forms of evidence, including natural and social research, economics, statistics, operational research, surveillance and monitoring etc.

Defra will be applying the broad principles highlighted by the review to all its work, and will be encouraging members of the network to do likewise, but the precise way in which they are implemented will need to vary according to the specific circumstances in each individual area. Defra is currently reviewing its operating model and we will ensure that the resulting guidance and processes take into consideration the review recommendations.

This response addresses:

- (a) Recommendations in the main review report addressed to/of relevance to Defra's Chief Scientific Adviser (CSA); it will also provide a summary of how review recommendations will be considered/taken forward with different policy areas and organisations in the Defra network.
- (b) How relevant recommendations in the main review report will be addressed by Defra's Marine Programme.

Defra's Chief Scientific Adviser's response to recommendations in the main review report

1. Natural England should adopt and embed the Government Chief Scientific Adviser's (GCSA) guidelines on use of scientific and engineering advice in policy-making

1.1 The GCSA guidelines and the review recommendations set out good practice principles on the use of evidence in policy-making. The guidelines are aimed at Departments and policy-makers within them. Though they do not explicitly apply to Non-Departmental public Bodies

¹ <http://www.defra.gov.uk/publications/files/pb13598-graham-bryce-independent-review-marine-sacs-110713.pdf>

² <http://www.defra.gov.uk/publications/files/pb13599-ihpr-independent-review-marine-sacs-110713.pdf>

³ Including Defra Non-Departmental Public Bodies (advisory and executive), and Executive Agencies

(NDPBs), such as Natural England, Defra agrees with the review report that these provide a benchmark of good practice which should be adopted by all organisations involved in or supporting its policy-making process. Defra welcomes the work Natural England is doing to review their internal procedures, developing overarching and operational evidence standards to further improve the robustness and transparency of their evidence processes. Defra has had the opportunity to comment on the draft standards which will help embed the principles set out in the GCSA guidelines. We also welcome the approach Natural England is taking to consult on these draft standards.

1.2 Defra is also considering how this review recommendation might be relevant to other organisations in its network. We have been working with our network partners to explore current processes and how these align to the principles within the GCSA guidelines. We have also invited Defra network organisations to become signatories to the Joint Code of Practice for Research (JCoPR) and a number of organisations have already committed to signing up, including Natural England, Veterinary Medicines Directorate, Animal Health and Veterinary Laboratories Agency, Marine Management Organisation, Food and Environment Research Agency, and the Forestry Commission. The JCoPR sets out standards for the quality of science and the quality of the research process that contractors who carry out research on behalf of signatory organisations should follow. This provides assurance that contractors' processes and procedures are appropriate, rigorous, repeatable and auditable. We will continue to work with other network partners to identify opportunities for developing common approaches whilst ensuring these are appropriate to the circumstances of the various organisations.

2. Defra's CSA should ensure that policy makers in Defra, particularly Senior Responsible Owners (SROs), are aware of and apply the GCSA guidelines. The CSA should provide SROs with guidance on their responsibilities in circumstances where Defra relies on Natural England (or other ALBs) to provide evidence-based advice.

2.1 The GCSA guidelines are targeted towards those in Government involved in the policy-making process. Policy SROs need to assure themselves of evidence underpinning policy decisions. Defra's 'policy cycle' identifies key stages in the policy-making process, each of which is informed by evidence. An evidence cycle sets out the issues that should be considered in the gathering and use of evidence through each stage of the policy-making process; this may vary depending on the specific circumstances/issue being addressed, and the process by which evidence and advice is being sought. The policy and evidence cycles address many of the issues/principles covered in the GCSA guidelines. However, it is clear that further work would be beneficial to raise awareness of the guidelines themselves with policy and evidence teams; we are exploring opportunities to further raise awareness through the current review of Defra's operating model. In the meantime, the CSA has reminded policy SROs of the GCSA guidelines and offered further advice as necessary.

2.2 Defra recognises that it is neither practical nor desirable to duplicate the evidence, analysis and advice undertaken and developed by its ALBs. Indeed some ALBs are statutory advisers to Defra on particular issues, and it is not therefore appropriate that Defra also maintains the relevant in-depth knowledge/capability within the core Department to re-assess all work/advice from ALBs. Assurance processes therefore need to be proportionate. We will explore how Framework Agreements and Memoranda of Understanding (MOUs) between Defra and its ALBs might be amended to clarify roles and responsibilities with regard to the

robustness of evidence and advice, as they fall for review. We will also consider whether any additional guidance is needed for policy staff on issues to consider when using evidence and advice from ALBs (whilst recognising the different roles and responsibilities between organisations).

3. Defra's CSA should adopt a proactive and risk-based approach to identifying and intervening on specific policy issues. The CSA should clarify his remit with regard to the work of the Department's ALBs.

3.1 Defra's CSA provides independent advice and challenge to the Department's evidence activities and is ultimately responsible for ensuring that the broad range of evidence needed to meet Defra's remit is robust and fit for purpose, including that provided by its ALBs which feeds into policy.

3.2 Part of the role of Defra's CSA is to ensure the quality, appropriateness and value for money of the department's evidence base, challenging Defra's priorities for and use of evidence and advice when appropriate. The CSA does this both reactively, when asked for advice, and proactively on his own initiative. Given the volume and breadth of Defra's evidence activities (including those of its ALBs), we recognise that it is neither practical nor desirable for Defra's CSA to challenge all evidence underpinning policy. Any intervention by the CSA in carrying out his oversight role therefore needs to be proportionate.

3.3 Ensuring that the Framework Agreements/MOUs between Defra and its ALBs are clear about roles and responsibilities will help ensure the robustness of evidence and advice from ALBs. We will also discuss with Defra's Science Advisory Council (SAC) how the SAC might provide additional advice or challenge to the CSA in his role of assessing specific policy areas, responding to immediate issues and risk management. Defra's SAC was recently reconstituted; this issue will be an agenda item on an early SAC meeting.

3.4 Defra's CSA has noted the recommendation to clarify his remit with regard to the work of the Department's Arms Length Bodies and is taking steps to do so as part of Defra's ongoing Change Programme, in discussion with Defra network Chief Scientists or Heads of Evidence.

4. In future, for evidence-based projects of this scale and length, Natural England and Defra should put in place clearer and more robust project management, better able to manage risks and cope with change, and they should ensure that accountabilities are clear and recorded.

4.1 Defra uses a Project and Programme Management (PPM) approach to planning, monitoring and delivering its activities. These principles are embedded within the Department through business planning processes, and a policy and evidence cycle which provide good practice guidelines on policy development. We will continue to work with Natural England to ensure cohesive management of evidence-based projects. We have brought this recommendation to the attention of Defra's other ALBs and policy SROs for their consideration.

5. Defra and Natural England should ensure that independent, expert review is built into processes which rely significantly on the gathering, synthesis and interpretation of evidence. Reviews should be transparent: the reviewers' comments and Natural England's response to them should be recorded and published.

When independent, expert review is used, Natural England should be clear, and make clear to reviewers, the purpose of the review and its expectations.

5.1 Defra recognises the importance of independent, expert review in helping to ensure that evidence activities are fit-for-purpose, meet stated aims and objectives, that synthesis of evidence is appropriate and advice is based on robust evidence. However, Defra must ensure that its use of independent review is proportionate; it would not be practical or give value for money for every individual evidence output to undergo independent review.

5.2 For Defra-funded research proposals, all those costing over £250,000 undergo independent expert review; proposers are required to respond to substantive peer review comments and as appropriate amend their proposal; in some cases, projects are not let. This information is recorded but, in line with Research Council practice, reviews and responses are not routinely published. Final reports arising from Defra-funded research and evidence gathering are evaluated by Defra evidence specialists as soon as possible after project completion. In addition, independent peer review of individual evidence outputs is used on a risk-based approach, in particular, for example, where the evidence is complex, may possibly be controversial, or where innovative methods are being used or developed. Again, contractors are required to respond to substantive review comments and as appropriate may amend reports before finalising. This recommendation has been brought to the attention of policy SROs for their consideration.

5.3 It is important to recognise that some of Defra's ALBs have a statutory purpose to provide advice, and will need to consider what level of separate independent, expert review is proportionate in these circumstances. We will explore how Framework Agreements and Memoranda of Understanding (MOUs) between Defra and its ALBs might be amended to provide further clarification on roles and responsibilities with regard to the robustness of evidence and advice, as they fall for review.

6. (Overall conclusion) The evidence seen is sufficient, in both quantity and quality, to support the proposed designation of the three case study sites as SACs, in the light of the requirements of the Habitats Directive. However, there are concerns about aspects of the processes which Natural England and Defra followed.

6.1 Defra welcomes the review and its conclusions. The review identified a number of additional recommendations which were addressed to Natural England regarding the development of formal guidelines for the gathering, selection, analysis and use of evidence; the development of protocols setting out key evidence needs and the principles against which these will be evaluated; and routine publication of background material showing how evidence has been gathered and synthesised, and we are working with Natural England to address these.

Though these recommendations were addressed to Natural England, we have brought these, and all other recommendations, to the attention of other organisations in the Defra network for their consideration and implementation as appropriate to their specific circumstances.

6.2 As the review recommendations address good practice guidelines that might be relevant to wider areas of policy, we have also brought the review recommendations to the attention of Defra's policy SROs. SROs will be considering the recommendations as appropriate to their specific policy activities/areas. As the review focussed on marine SACs, Defra's Marine Programme has provided a specific response to relevant recommendations in section b below.

Response to main review report in relation to Defra's Marine Programme

The Defra Marine Programme is considering the review recommendations in the context of all marine activities. To date most progress has been made on the activities related to marine protected areas which is summarised below in relation to the key recommendations from the review.

7. In future, for evidence-based projects of this scale and length, Natural England and Defra should put in place clearer and more robust project management, better able to manage risks and cope with change, and they should ensure that accountabilities are clear and recorded.

Since late 2010 processes to identify and designate Marine Protected Areas (MPAs) (including European Marine Sites and Marine Conservation Zones) have been subject to more robust project management overseen by the MPA Network Project Board. Delivery partners attend Project Board meetings where there is a strong emphasis on risk management. Project documentation for each of the workstreams clearly identifies accountabilities and dependencies.

8. Defra and Natural England should ensure that independent, expert review is built into processes which rely significantly on the gathering, synthesis and interpretation of evidence. Reviews should be transparent: the reviewers' comments and Natural England's response to them should be recorded and published.

In relation to MPAs, for processes that are part way through we are working with Natural England and other delivery partners to build in an independent expert review step in a proportionate and pragmatic manner. For MPA processes that have yet to start we expect this step to be included and built into project plans.

European Marine Sites

There are a number of designations planned for the future including some sites on which formal consultation has just been completed or is underway. Designation of Special Areas of Conservation (SACs) required under the Habitats Directive⁴ is expected to be completed by the end of 2012. For SACs where formal consultation is underway a light-touch independent expert

⁴ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

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review of the evidence underpinning these sites has been arranged to take place during the consultation period.

Work on identification of new marine Special Protection Areas (SPAs) for birds required under the Birds Directive⁵ should be completed by the end of 2015. Natural England and/or the Joint Nature Conservation Committee have agreed that measures to comply with this recommendation will be integrated into the SPA identification process before advice is provided to Defra.

Marine Conservation Zones

Natural England and the Joint Nature Conservation Committee (JNCC) are overseeing the process by which possible Marine Conservation Zones (MCZs) will be recommended to Government. To carry out this work and involve stakeholders from the very beginning of the process, JNCC and Natural England established four independent regional MCZ projects to work with sea users and interest groups to deliver MCZ recommendations to Natural England and JNCC prior to their submission to Ministers. The regional projects made their final recommendations for possible sites to be designated as MCZs in early September and will provide an impact assessment (including the wider social and environmental implications on the local community and commerce). Defra Ministers will consider these along with formal advice from JNCC and Natural England and make decisions about which sites to designate as MCZs following formal consultation.

The MCZ identification and designation process relies on both scientific/technical and socio-economic information and processes are being put in place to subject both of these to independent expert review.

Scientific/technical information

In late 2009 the then Secretary of State appointed the Marine Protected Areas Science Advisory Panel to assist in the work of selecting MCZs. The role of the Panel, made up of external marine scientists, is primarily to provide advice to the four regional projects on the scientific basis of their proposals for networks of MCZs. The Panel is also ensuring that the regional projects are following the Ecological Network Guidance⁶ produced by Natural England and JNCC for this purpose. The Panel has met and reviewed each of the iterations and the draft final reports making recommendations for possible MCZs. All of the iterations and the comments from the Panel are publicly available.⁷

Defra has been working with Natural England and JNCC to agree proportionate and pragmatic arrangements for independently reviewing the scientific and technical advice to feed into the formal advice from the SNCBs which will inform Ministerial decisions. This will include an in depth review of the evidence base for all the regional projects' site recommendations and independent expert review of the protocols by which the SNCBs will formulate their advice and the advice itself.

Socio-economic information

Defra will be reviewing the MCZ Impact Assessment (IA) to ensure that the analysis is robust. As well as policy advisors and economists in Defra, parts of the IA will be reviewed by relevant

⁵ Directive 2009/147/EC of 30 November 2009 on the conservation of wild birds

⁶ http://www.naturalengland.org.uk/Images/100608_ENG_v10_tcm6-17607.pdf

⁷ <http://www.defra.gov.uk/environment/marine/protect/mpa/mcz/sap/>

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government departments and regulators, and parts of the IA will be independently peer reviewed.

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