

P-05-809 Proposed New Fishing Byelaws

Y Pwyllgor Deisebau | 01 Mai 2018

Petitions Committee | 01 May 2018

Research Briefing:

Petition number: P-05-809

Petition title: Proposed New Fishing Byelaws and failings of NRW

Text of petition:

As a matter of urgency, the Cabinet Minister of the Welsh Assembly investigate the conduct of the Natural Resources Wales Executive during the consultation process and recommendation for changes to rod and line fishing byelaws at the (NRW) Board Meeting held at Bangor University on the 18th January 2018, before accepting any proposals to change existing fishing byelaws.

1. The NRW Executive failed to follow democratic procedure by refusing the NRW Board members to vote on new proposals to new fishing Byelaws by rod and line fishermen. The NRW Executive adopted a draconian stance and ignored the concerns of, the stakeholders during the consultation process and NRW full board members at the meeting.

2. The NRW Executive recommended changes to the Byelaws to the Welsh Assembly having endorsed at the board meeting that the proposals will have little, to no effect on reducing Salmon and Sea Trout stocks within the Inland River catchments throughout Wales.

3. The NRW Executives having recognised “other issues” contributing to reduction in Salmon and Sea Trout stocks, failed to prioritise and take action on these “other issues” and have done so, over a number of decades with no future planning. The NRW Board are therefore in breach with Section 6 (6) Environment (Wales) Act 2016 and failing to achieve its objective in reducing risk to Salmon and Sea Trout stock levels in Welsh Rivers, particularly with:

(a) Pollution prevention, monitoring, effective enforcement and prosecution.

(b) Wildlife predation monitoring and recommending proportional controls.

Additional information

4. The NRW Executives at the board meeting openly accepted that they failed to effectively communicate and adopt a policy of implementing agreements with stakeholders, who are expected to monitor and report on behalf of Natural Resources Wales and voluntarily enforce the proposed changes to byelaws, which many disagree with.

5. Failed to adopt a strategy, that is recognised as best practice in other countries, to monitor and accurately risk assess each river and recommending any sanctions on an individual river by river basis, with relevant stakeholders.

6. NRW board and executives have failed to follow due care and diligence during the consultation process resulting in a failing to recognise the importance of how their new byelaws will adversely affect:

(a) Recreational angling opportunities, economic benefit to rural and coastal communities and in conflict to the Wellbeing of Future Generations Act of 2015.

(b) The good will of stakeholders who have effectively monitored and protected the natural environment in the absence of Natural Resources Wales for over a decade and put at risk that continued good will for future generations.

Background

There are 33 rivers in Wales that contain some [salmon stocks](#) and of these [23 are classified as principal salmon rivers \(PDF 155KB\)](#). Of these 23 rivers four are designated as Special Areas of Conservation (SAC's) under the [European Habitats Directive](#). Conservation limits and management targets are in place for the principal rivers.

Responsibility for managing inland fisheries and salmon fisheries in Wales rests with Natural Resources Wales (NRW). NRW, like other fisheries authorities in the UK, has powers to create national and local byelaws to assist with the conservation of fish stocks in Welsh rivers. These byelaws put in place a number of effort control measures to ensure that the exploitation of stocks takes place at sustainable levels. These can include measures such as restrictions on what gear can be used to fish different species, the times of year at which different species can be fished and the locations where different species can be fished. One such method of effort control is known as 'catch and release'; this is a requirement for all anglers to return any fish they catch to the river (without killing them).

NRW are able to make byelaws in exercise of powers vested in it by [section 210](#) of, and [paragraph 6 of Schedule 25](#) to, the [Water Resources Act 1991](#). [Schedule 26](#) of the Act sets out a procedure to be followed for making the byelaws which includes a process for a local inquiry if objections are received.

Environment (Wales) Act 2016 Duty

Relating to point 3 of the petition, Section 6 (6) of the [Environment \(Wales\) Act 2016](#) states:

6. Biodiversity and resilience of ecosystems duty

(1) A public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.

...

(6) A public authority other than a Minister of the Crown or government department must prepare and publish a plan setting out what it proposes to do to comply with subsection (1).

NRW are responsible for the development of [Area Statements](#), a requirement of the *Environment (Wales) Act 2016*. The [Natural Resources Policy](#) focuses on delivering [Sustainable Management of Natural Resources \(SMNR\)](#) and sets the context for Area Statements. Welsh Government [Guidance](#) on section 6, The Biodiversity and Resilience of Ecosystems Duty states:

Area Statements will:

- Provide evidence to support Public Authorities in complying with the S6 duty

NRW also publish [River Basin Management Plans](#) which look at the pressures facing Wales' water environment.

NRW Board

The [Terms of Responsibility](#) of the NRW Board are set out in a publically available paper which states:

The Chair will clearly conclude each agenda item with a summary of discussion; confirm any agreed actions and decisions taken.

There is no information available on whether a vote is required to pass any decisions.

Welsh Government action

NRW has responsibility for managing salmon fisheries in Wales on behalf of the Welsh Government. NRW has been going through a process of considering what additional actions, if any, may be required to address declines in salmon stocks in Welsh rivers.

On 17 March 2016 a [paper](#) was presented to the NRW Board which provided an update on the action taken by NRW in the previous year to address the decline in stocks. It outlined proposals for further action. The paper stated that whilst NRW does not believe fishing by rods and nets is the main cause of stock decline, it believes that increasing the numbers of fish surviving to spawn in Welsh rivers in the short term 'can only be achieved if rod and net fishermen stop killing altogether'.

NRW has undertaken formal and informal consultation on possible actions to manage salmon stocks with anglers and local fisheries groups, including the issuing of a questionnaire.

In 2017 NRW undertook a consultation on [Salmon and sea trout catch controls](#). The consultation was in 3 parts which each looked at:

- The application for a renewed ‘all Wales’ 2017 Net Limitation Order;
- Proposals for new net and rod fishing byelaws across the whole of Wales (with the exception of the cross-border rivers dee, Severn and Wye); and
- Proposals for new ‘Cross Borders (Wales) Byelaws’ to address matters in those three rivers.

NRW provided a [Technical Case](#) supporting the consultation, and an [Executive Summary](#) which looks at the options considered. NRW concluded the following for a 10 year period:

a ‘zero kill’ policy for salmon and some identified sea trout stocks through statutory catch-and-release fishing with appropriate restrictions on fishing methods – regulation of exploitation through new byelaw.

The Technical Case considers the closure of specified fisheries. However NRW concludes that this would result in disproportionate socio-economic impacts, and mandatory catch and release is favourable to fisheries closure.

The proposed new bylaws were discussed at the [NRW Board meeting](#) on 18 January 2018.

[Annex 4](#) of the papers presented to the NRW Board looks at each of the alternative management measures proposed during the consultation process, whether they will be adopted, and the NRW reasoning for the adoption decision.

[Annex 6](#) provides details of comparable management arrangements for other jurisdictions. It says procedures are resulting in “broadly similar outcomes” in Scotland, Ireland and Northern Ireland. The Scottish Government has the following management measures:

The Conservation of Salmon (Scotland) Regulations 2016: –

- Prohibits the retention of salmon caught in coastal waters
- Permits the retention of salmon caught in rivers where the stocks are above a defined conservation limit
- Requires mandatory C&R fishing where stocks fall below their conservation limit

The Environment Agency has also proposed [new measures](#) to address declining salmon stocks.

NRW Board minutes

The minutes of the NRW Board meeting of 18 January 2018 are not publically available at the time of writing this briefing. A copy has been made available to the Assembly and will be available on NRW's [website](#) in the near future. The minutes say:

The Board noted the strong concerns expressed by stakeholders via email correspondence submitted ahead of the Board Meeting. All correspondence had been shared with all Board members.

According to the meeting minutes a presentation from NRW's Principal Fisheries Advisor, Pete Gough, highlighted:

- Amendments to original proposals, in response to representations and advice received, including hook types on lures and flies and the seasonal use of shrimps as bait, and a proposed early end to catch-and release on the River Usk;
- The 2-year process delivered by NRW, which was considered to be too long and in need of improvements;
- A need to improve partnership working with stakeholders to build up trust;
- Current catch and release practice is good but needs to be improved; and
- Almost all salmon stocks are in ongoing decline, but this is due to a complex set of reasons.

According to the minutes, "after much discussion" the Board gave approval for an application to Welsh Government for the proposed changes to the byelaws. The NRW Executive Team supported the proposals.

National Assembly for Wales action

Ahead of the 2017 consultation by NRW, the Petitions Committee considered petition [P-05-703 Proposal to Postpone the Restrictions on Fishing in Welsh Rivers](#). The Committee considered the petition for the first time on 13 September 2018 and agreed to close it. It also agreed to send the petitioner's comments to NRW in advance of their planned consultation on salmon stock control measures originally due to take place in late 2016/early 2017.

In a Plenary question on 14 February 2018, Neil Hamilton AM asked the Cabinet Secretary for Energy, Planning and Rural Affairs, Lesley Griffiths AM, to give views on the "proposals to introduce a 10-year mandatory catch and release policy". The Cabinet Secretary responded that she is "waiting for Natural Resources Wales to supply their recommendations".

Neil Hamilton AM also raised the issue of the "predation by fish-eating birds" and the "extent of river pollution". The Cabinet Secretary recognised the "significant agricultural pollution of our river", stating that she "will ask the Minister for Environment to raise it with NRW at her next regular meeting".

On 15 February 2018, Janet Finch–Saunders AM asked a [written question](#) to the Cabinet Secretary for Energy, Planning and Rural Affairs requesting her to “provide the justification for the recommendation...of a catch–and–release policy”. The Cabinet Secretary responded:

NRW will now make a formal application to me to determine the byelaws under the Water Resources Act 1991.

Once I receive the formal application from NRW, hopefully later this month, I will consider the range of issues in detail before making a determination in line with the process set out in the Act. However, until this process is completed I am unable to comment further on the proposals

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.