

Proposals to close fishing for sandeel in Scottish Waters

Data protection impact assessment (DPIA)

March 2024

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1. Introduction

The purpose of this document is to report on and assess against any potential data protection risks as a result of the processing and publication of responses to a consultation on proposals to close fishing for sandeel in Scottish Waters.

2. Document metadata

2.1 Name of policy/project/initiative: Proposals to close fishing for sandeel in Scottish Waters

2.2 Date of report: January 2024

2.3 Version number: 1.0

2.4 Author of report: Clara Erso

2.5 Name of information asset owner (IAO) of relevant business unit: Rebecca Hackett

2.6 Date for review of DPIA

Review date	Details of update	Completion date	Approval Date
September 2023	Update section 3.2, 5.3 with the number of consultation responses received	02/11/2023	31/01/2024

3. Description of the project and personal data

3.1 Description of the work

In June 2023, the Marine Directorate of the Scottish Government launched a public consultation seeking views on proposals to close fishing for sandeel in Scottish waters. The work is jointly managed by the marine species team and international fisheries team. A risk register is used to help monitor concerns regarding the project, and biweekly meetings are held to discuss work and any issues that may be arising. Impact assessments are being carried out to ensure all procedures are followed.

The consultation asked six questions, which were:

1. Do you support the preferred option to close fishing for sandeel throughout all of Scottish waters?
2. If your answer is “no” or “unsure” to question 1, do you have any views on alternative or complementary measures that could be considered in the longer-term for the protection of sandeel in Scottish waters (please see the SEA Environmental Report for alternatives)?
3. Is there any further evidence that should be considered in terms of the potential benefits or value of the preferred option that could be considered?
4. Is there any further evidence that should be considered to demonstrate any impact on island communities?
5. Do you have any comments on the assumptions made in the partial Business and Regulatory Impact Assessments (BRIA) concerning the costs and benefits of the option?
6. Do you have any comments on the SEA Environmental Report?

The consultation was hosted on Citizen Space, the Scottish Government’s digital platform for consultations, and published on the [Consultation Hub](#), enabling people to submit their response online. Citizen Space is managed by the Scottish Government’s Digital Engagement Team. Consultations are also published on the Scottish Government website, enabling people to email or post a response to the relevant policy team.

3.2 Personal data to be processed

Variable: Name and/or organisation name

Data Source: Citizen Space (online responses)
Respondent Information Form (emailed responses)
Emails

Number of data subjects (people): Approx. 11,000

Categories of data subjects: Individuals, organisations

Data subjects relationship to controller: Stakeholders, interested parties, public sector service users, international parties

Variable: Email and/or postal address

Data Source: Citizen Space (online responses), Respondent Information Form (emailed responses), Emails

Number of data subjects (people): Approx. 11,000

Categories of data subjects: Individuals, organisations

Data subjects relationship to controller: Stakeholders, interested parties, public sector service users, international parties

Variable: Whether a person is responding on behalf of an organisation, or issuing a response as an individual (if respondent is from an organisation, they are asked the type of organisation – retailer, public sector, manufacturer, etc.).

Data Source: Citizen Space (online responses), Respondent Information Form (emailed responses), Emails

Number of data subjects (people): Approx. 11,000

Categories of data subjects: Individuals, organisations

Data subjects relationship to controller: Stakeholders, interested parties, public sector service users, international parties

Variable: Any personal data included in the free text response.

Data Source: Citizen Space (online responses), Respondent Information Form (emailed responses), Emails

Number of data subjects (people): Approx. 11,000

Categories of data subjects: Individuals, organisations

Data subjects relationship to controller: Stakeholders, interested parties, public sector service users, international parties

3.3 How this data will be processed

During the data collection process, all respondents were asked to provide information about themselves, either via the Citizen Space online platform or by completing the Respondent Information Form (RIF) if submitting a response via email.

The RIF asks respondents to state their publication preference as follows:

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

Publish response only (without name)
Do not publish response

If **individual** respondents do not answer this question, the default position is not to publish their response.

If **organisation** respondents select 'do not publish' or do not answer this question, the organisation name may still be listed as having responded to the consultation.

Respondents are also asked to indicate whether they are content to be contacted again in the future by the Scottish Government in relation to this specific consultation exercise.

Analysis of responses

Responses will be analysed externally. A contractor was selected through a tender process, which included questions on how personal data – including sensitive data and data on protected characteristics – would be processed and handled. This includes thorough data protection training for staff, password protection for files used, anti-virus software on all machines, and automatic updating of devices.

Publication of responses

Following the close of the consultation, an outcome report will be published online. Responses will be published alongside this, where permission has been given to do so. The aim of this is to evidence the independent and robust analysis of the consultation responses that help to shape the policy surrounding sandeel fisheries.

Responses will be published in accordance with respondents' expressed publication preferences (see above). Before publication of responses, they will be checked for any personal data included in the free-text response to the consultation question, and any personally identifiable information will be removed.

Where respondents have given permission for their response to be published, with or without their name, and after the Scottish Government has redacted any defamatory content, consultation responses will be published at <http://consult.gov.scot>. The data being published is an opinion provided by members of the public at a set point in time, and therefore will not require being checked for accuracy or being kept up to date.

Retention of data

Responses will be stored in eRDM, and retained in line with the SG retention policy. As our policy dictates, a review will be carried out after 1 year to decide whether data still requires to be retained, and if there is no rationale to justify continuing to hold the data it will be destroyed. If data continues to be held, reviews will be held annually.

3.4 The purpose/purposes of the processing

The purpose for processing this data is to gather opinions on proposals to close fishing for sandeel in all Scottish waters, and to use these opinions to help develop policy.

4. Data controllers and data processors/sub processors

4.1 Data controllers

Organisation	Scottish Ministers
Activities	Devolved Government
Is the organisation a public authority or body as set out in Part 2, Chapter 2, Section 7 of the Data Protection Act 2018?	Yes
Lawful basis for processing under UK General Data Protection Regulation (UK GDPR) Article 6 for the collection and sharing of personal data – general processing Please note relevant legislation if using lawful basis *public task”.	Public task Link to the Statement of Public Task under the Re-use of Public Sector Information regulations: Public sector information regulations: statement of public task - gov.scot (www.gov.scot)

4.2 Data processors and sub processors

Organisation	Activity	Contract in place compliant with UK GDPR Art 28? Yes/No
Diffley Partnership	Data Processor Processing data – analysis and evaluation of responses generated	Yes
Scottish Government	Data Controller Controlling data – informing data subjects of processing, responding to data subjects rights requests, keeping personal data secure, managing breach incidents, maintaining accurate records of data processing activities, ensure compliance with the UKGDPR	N/A

5. Stakeholder analysis and consultation

5.1 Stakeholders

Group	Interest
Responding individuals	Data subjects. They are self-selecting respondents to the consultation.
Responding organisations	Data subjects. They are self-selecting respondents to the consultation.
Scottish Government	Funder, analysis, evaluation, governance, implementation.
Digital Engagement Team	Management of Citizen Space online platform, on which most consultation responses will be submitted.

5.2 Method used to consult with these groups when making the DPIA

Respondents to the consultation are provided with advice and options in regards to data storage and usage.

5.3 Data protection issues identified by these groups during consultation

5.4 Method used to communicate the outcomes of the DPIA

Intention is to publish the DPIA outcome online with the results of the consultation

6. Questions to identify data protection issues

6.1 Necessity

The only personal data that is required to be submitted in order to complete the consultation is the respondent's email address, and whether they are responding as an individual or an organisation. Collecting a respondent's email address allows a confirmation of the consultation response to be sent, as well as a way for the respondent to access their response and change their answers whilst the consultation period is underway.

6.2 Proportionality

Collection of email addresses is a minimally intrusive method of associating a response to an individual or an organisation. It also provides a service to respondents, who can revisit their submission and make amendments until the consultation closes.

6.3 Justification

The consultation will help shape policy on proposals to close fishing for sandeel in all Scottish waters. Sandeels play a key role within the food web and by closing the fishery, the stock will be protected. Given the importance of sandeel, closure of the sandeel fishery has the potential to bring about wide benefits to a range of species, including seabirds impacted by Highly Pathogenic Avian Influenza (HPAI), that will improve their resilience to changes in the marine environment.

7. UK General Data Protection Regulation (UK GDPR) principles

Principle	Compliant – Yes/No	Description of how you have complied
7.1 Principle 1 – fair and lawful (see 4.1), and transparent	Yes	The lawful basis' for processing personal data is public task.
7.2 Principle 2 – purpose limitation	Yes	The data will be collected for specific purposes and will not be processed in a manner incompatible with those purposes. The purpose is clearly explained to respondents prior to responding.
7.3 Principle 3 – adequacy, relevance and data minimisation	Yes	The consultation will not gather information that is not necessary to achieve the project's objectives. Participants are able to input as much information as they would like to open questions, and are able to skip open questions.
7.4 Principle 4 – accurate, kept up to date, deletion	Yes	The data from the consultation does not need to be kept up to date as it represents the participants' views and circumstances at the point of collection. (See Principle 5 for deletion).
7.5 Principle 5 – kept for no longer than necessary, anonymization	Yes	Review measures will be in place to ensure that the data will be kept for no longer than is necessary. Reviews will take place annually, with data destroyed when its retention is no longer required.
7.6 UK GDPR Articles 12-22 – data subject rights	Yes	Data subject rights are outlined in the standard privacy policy linked to from the consultation document.
7.7 Principle 6 - security	Yes	Data will be protected from loss or unlawful processing using appropriate methods, including storing electronic data on password protected secure servers.
7.8 UK GDPR Article 44 - Personal data shall not be transferred to a country or territory outside the European Economic Area.	Yes	The data gathered is only expected to be transferred within the United Kingdom. The UK is not within the European Economic Area, however the data will not be transferred onward outwith the UK.

8. Data Protection Officer (DPO) advice

Advice from DPO	Action	Reason advice not actioned
N/A	N/A	Initial DPIA provided to IA&DP team for review (04 April 2023). Did not pass to DPO. Updated DPIA provided to IA&DP team for review (02 November 2023). Did not pass to DPO.

9. Authorisation and publication

The DPIA report should be signed by your information asset owner (IAO). The IAO will be the Deputy Director or Head of Division.

- Before signing the DPIA report, an IAO should ensure that she/he is satisfied that the impact assessment is robust, has addressed all the relevant issues and that appropriate actions have been taken.
- By signing the DPIA report, the IAO is confirming that the impact of applying the policy/undertaking the project or initiative etc has been sufficiently assessed against the risk to individuals' rights and freedoms.
- The results of the impact assessment must be published in the eRDM with the phrase "DPIA report" and the name of the project or initiative in the title.
- Details of any relevant information asset must be added to the Information Asset Register, with a note that a DPIA has been conducted.

I confirm that the impact of applying the policy has been sufficiently assessed against the rights of the data subjects (people):

Name and job title of an IAO or equivalent	Date each version authorised
Rebecca Hackett	31/1/24

10. Annex A – privacy information

Consultation period and responses to the consultation

This consultation will run for 12 weeks, with a closing date for responses of 13 October 2023.

The consultation Respondent Information Form (RIF) should be completed and returned by email, to sandeelconsultation@gov.scot

If you have any queries, please contact the email address given above.

Handling your response

We need to know how you wish your response to be handled. Please complete and return the Respondent Information Form which forms part of the consultation questionnaire as this will ensure that we treat your response appropriately.

The views and suggestions detailed in consultation responses are analysed and used as part of the decision-making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review;
- inform the development of a particular policy;
- help decision to be made between alternative policy proposals; or,
- be used to finalise legislation before it is implemented.

Final decisions on the issues under consideration will, if appropriate, also take account of a range of other factors, including other available information. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process; consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Privacy

Your responses, which will include personal information, are being processed as a public task. You have the right to object to this processing.

Your information will be held securely on the Scottish Government IT system and will only be accessible by authorised officials.

You have the right to ask for any personal information we hold about you.

We will only collect as much information about you as we need and will not share it with anyone outside of Scottish Government. If we share your responses, we will remove your personal details. We will only store your personal information for as long as we need it.

We will only contact you about your responses if you have given consent for us to do so. If you give consent for us to contact, you then you have the right to withdraw that consent and you will no longer hear from us. We will continue to process your response information.

If you are unhappy about how your information is being handled, then you can contact our data protection officer dataprotectionofficer@gov.scot

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (FOI) (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise. In the event of an FOI request, personal details would be redacted.

If you have any comments about how this consultation exercise has been conducted, please send them to the same address as for your response.



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