

<b>Title:</b> King Scallop Fishery Management Plan <b>Date:</b> 23 May 2023 <b>BRU No:</b> N/A <b>Lead department or agency:</b> Defra		<b>De-Minimus Assessment (DMA)</b>		
		<b>Stage:</b> Consultation		
		<b>Source of intervention:</b> Domestic		
		<b>Type of measure:</b> Other		
<b>Summary: Rationale and Options</b>		<b>Contact for enquiries:</b> annabel.stockwin@defra.gov.uk		
<b>Total Net Present Value</b> N/A	<b>Business Net Present Value</b> N/A	<b>Net cost to business per year</b> N/A		

### Rationale for intervention and intended outcomes

The Fisheries Act 2020<sup>1</sup> sets out the legal framework to achieve “a more competitive, profitable and sustainable fishing industry across the whole of the UK” and places an expectation on the UK’s Fisheries Policy Authorities to publish Fisheries Management Plans (FMPs). The Joint Fisheries Statement (JFS)<sup>2</sup>, published in November 2022 sets out how the ambition of the Fisheries Act 2020 will be achieved in practice and lists 43 proposed FMPs. The king scallop FMP is one of the first to be developed and is a long-term management plan for fisheries in English and Welsh waters. Once published, the policies and measures in the FMP will be implemented separately through appropriate mechanisms such as statutory instruments, licensing conditions or voluntary measures.

The purpose of the FMP is to harvest stocks within a maximum sustainable yield (MSY) and also protect the wider marine environment. The MSY is the theoretical largest yield that can be caught from a species stock over an infinite period so the stock can regenerate. Fish are a common good - they are non-excludable, yet rivalrous. They are non-excludable because it is not possible for one actor to exclude another from catching fish. Rivalrous here means once a fish is caught and retained it cannot be caught again. These characteristics mean unrestricted demand cannot be matched by finite supply, so government intervention is needed to avoid fisheries being overexploited and overconsumed. Government intervention is also required to protect the marine environment as a healthy marine environment has positive externalities. Market agents have minimal incentive to protect the marine environment as these actions will not be beneficial in the short run and there may be free riding.

Whilst there are existing management measures in place for king scallops, stock assessment outcomes estimate that the majority of scallop stocks in English waters are being fished above MSY, threatening the future existence of the stock. The FMP brings together the complete portfolio of existing management measures for king scallops plus all available science and evidence. The plan also highlights where information and knowledge gaps exist and what is required to fill those gaps to provide protection for stocks now and in the long term. The FMP will also consider the wider impacts of the fishery on the marine environment and set out long-term plans to improve data to inform future actions.

### Describe the policy options considered

**Option 0:** Do Nothing - no FMP or related management measures developed

- Lack of strengthened/ new, evidence-based management would increase the likelihood of stocks being further overexploited, and insufficient protection for the wider marine environment. Not legally compliant.

**Option 1:** Self- Regulation – no formal Government FMP but industry introduces voluntary management measures

- The introduction of non-regulatory measures, such as voluntary measures developed and introduced by industry, would unlikely go far enough to ensure stocks are being fished sustainably and the wider marine environment is protected. This is because financial incentives would not align as illustrated in the rationale.
- Voluntary measures are unenforceable so there’s no guarantee they will increase protection for stocks.

**Option 2 (preferred option):** King Scallop FMP

- Sets out policies designed to restore stocks or maintain them at MSY, compliant with Fisheries Act obligation.

### Rationale for DMA rating

A DMA has been produced because the FMP itself will have no direct monetised impacts and as such fall below the £5m threshold necessary for an IA. When individual measures are specifically implemented the statutory or non-statutory mechanism, through which these will be implemented, will have their own impacts assessed.

Will the policy be reviewed? Yes	If applicable, set review date:			
Are these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes

Senior Policy Sign-off: **Jane Barton**



Date: **21/04/2023**

Peer Review Sign-off: **Benjamin Drake**



Date: **14/04/2023**

Better Regulation Unit Sign-off: **Nadia Tiwana**



Date: **23/05/2023**

<sup>1</sup> Fisheries Act 2020 (legislation.gov.uk)

<sup>2</sup> Joint Fisheries Statement (JFS) - GOV.UK (www.gov.uk)

# 1.0 Policy Rationale

## Policy background

1. The Fisheries Act 2020 provides the framework to manage our fisheries as a independent coastal state outside of the EU Common Fisheries Policy. The Act requires the UK fisheries policy authorities (Defra, and the devolved administrations in Northern Ireland, Scotland and Wales) to prepare and publish fisheries management plans to help deliver our ambition for sustainable fisheries. The Joint Fisheries Statement (JFS), published in November 2022 sets out how the ambition of the Fisheries Act 2020 will be achieved in practice and lists 43 proposed FMPs to be published, one of which is the king scallop FMP in English and Welsh waters. The fisheries policy authorities have a statutory obligation to prepare and publish any FMP on that list in accordance with the timescales set out in the JFS.
2. FMPs set out the policies designed to restore one or more stocks of sea fish to, or maintain them at, sustainable levels. Each plan will specify the stock(s), type of fishing and the geographic area covered. Each FMP will also identify the measures that will be used to deliver its policies. Such measures may include both existing or new regulations, statutory instruments, technical measures, or non-statutory routes such as research plans, voluntary agreements, or codes of conduct. The precise mechanisms used will depend on the policies set out in the plan and, where appropriate, will be enforced by the relevant national fisheries authority.

## Problem under consideration

3. Non-quota species (NQS) fisheries, including king scallops, are of significant interest to both UK and EU vessels, given the high monetary value of NQS, and their importance to local communities. In 2020, landings of NQS made up 19% (118,370 tonnes) of the total quantity of landings (623,000 tonnes) by the UK fleet and 28% (£233m) of the total value (£831m) into the UK and abroad<sup>3</sup>. Scallops are one of our most valuable fisheries but, are data poor, compared to quota species, in terms of stock status, estimates of MSY and affecting factors, which leaves them vulnerable to unsustainable levels of fishing activity.
4. There are several existing management measures in place which are likely to have contributed positively to providing some level of protection to king scallop stocks in some areas. However, this is not widespread across all stock areas as demonstrated by stock assessment outcomes which estimate that most scallop stocks in English waters are being fished above MSY.

## Rationale for intervention

5. King scallops were prioritised for early development of a Fisheries Management Plan because they met the following criteria:
  - Current risk of over-exploitation without additional management action (which encompasses all sectors of the fleet and scallop removals).
  - High economic value contributing to coastal communities.

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<sup>3</sup> [UK Sea Fisheries Statistics 2020 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

- Wider social and economic importance of the stock and its associated fisheries, considering factors such as employment levels, local income, recreational fishing interest, contribution to coastal communities, and legal or governance and institutional structures.
  - Ecosystem significance of the stock, including factors such as its fisheries' impact on the ecosystem and interactions with non-target species including protected species.
6. The long-term goal of the king scallop FMP is to ensure that exploitation of king scallop stocks in English and Welsh waters are at a level which restores and maintains populations above biomass levels capable of producing maximum sustainable yield. The proposed management approaches/ measures are proposed to deliver this, both in terms of strengthening existing measures e.g. reviewing/ expanding closures to protect spawning and developing new, evidence-based approaches, such as setting science-based fishing activity limits. To achieve a sustainable fishery the FMP will identify and prioritise evidence gaps and develop plans to fill them to enable evidence-based management to be applied which will deliver sustainable fisheries. For some measures the evidence available will be incomplete. The plan identifies the steps to improve the evidence base and where a precautionary approach to management may be needed until sufficient evidence becomes available.
  7. The FMP will also consider evidence of the impacts of the fishery on the wider marine environment and will set out a long-term plan to improve data that will inform mitigation and management actions. The ecosystem management measures, such as development of a bycatch monitoring and reporting plan, will ensure the fishery operates harmoniously within the wider marine environment.
  8. A thriving marine environment has positive externalities to society which would not be captured by the market mechanism. Industry alone would not be able to provide adequate protection of the marine environment as this requires coordination and enforcement across multiple sectors that is not possible within markets.
  9. King scallop, like many other fish stocks, are a common pool resource. Common pool resource are non-excludable, yet rivalrous. Rivalrous here means anyone can catch a fish but once a fish is caught and retained it cannot be caught again. They are non-excludable because it is not possible for one actor to exclude another from catching fish. These characteristics would lead to the classic economic problem of 'the tragedy of the commons' were the government not to intervene. Market agents would only consider the benefits of catching king scallop, not weighing such harvesting against the impact on the stock health, leading to overexploitation of the stock. Government intervention would prevent this overexploitation of fish stocks and set out plans to protect the wider marine environment that will benefit social, economic, and environmental wellbeing of the whole population.

## Policy objective

10. The objective of this policy, in accordance with the Fisheries Act 2020, the Joint Fisheries Statement and the Environmental Improvement Plan<sup>4</sup>, is to contribute to the health and abundance of key commercial species and promote healthy seas and economic stability.
11. The king scallop FMP sets out the policy framework for managing stocks in English and Welsh waters to achieve maximum sustainable yield (MSY). It draws together a complete portfolio of existing management measures for king scallops as well as proposals for future management approaches and measures. A research and evidence plan has also been developed, which sets out the available science and evidence, and identifies the additional evidence required to enable evidence-based management for the protection of stocks now and in the long term.
12. The plan's core objectives are to ensure stocks of king scallop are fished sustainably, by applying effective, evidence-based management measures, to have a thriving and profitable industry that uses natural resources sustainably and to protect the marine environment. This FMP will also consider evidence of the impacts of the fishery on the wider marine environment and will set out long-term plans to improve data that will inform mitigation and management actions. These ecosystem management measures will ensure the fishery operates harmoniously within the wider marine environment.
13. The king scallop FMP's high-level aim, to contribute to sustainable and well managed king scallop fisheries, will be achieved through the following objectives:
  - Objective 1: Deliver biological, social and economic sustainability
  - Objective 2: Deliver effective management of all English and Welsh fisheries applicable to all king scallop removals from all methods from all nations (UK & EU)
  - Objective 3: Deliver effective management that contributes to ecosystem functionality.
14. Priority objectives for achieving sustainable stocks aim to;
  - Develop a Harvest Strategy (which will specify a process for conducting assessments and monitoring) and Harvest Control rules (to control levels of fishing activity) to ensure fishing effort is responsive to the status of stocks by developing appropriate fisheries management measures. Such development will ensure that pressure on stock does not exceed the ability of the stock to regenerate.
  - Avoid the risk of overfishing while establishing the necessary conditions to allow effective management measures (harvest control rules) to be developed and introduced). This will increase the understanding of the impacts of latent capacity within different fleets and minimise the risk of significant expansion of fishing pressure and uncertainty for those invested in fisheries.
  - Seek to agree a coordinated management approach around the UK. Seek broad alignment of management measures across administrative boundaries where appropriate. Broad alignment of management regimes/technical measures across UK Fisheries Administrations reduces financial burdens on the industry as well as

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<sup>4</sup> Environmental Improvement Plan - GOV.UK ([www.gov.uk](http://www.gov.uk))

reducing further displacement effort which impacts remaining accessible scallop stocks.

## **Options considered**

### **Option 0: Do Nothing - no FMP or related management measures developed**

- The Government would fail to meet commitments under the Fisheries Act 2020 and Joint Fisheries Statement (JFS) to publish FMPs, increasing risk of legal challenge.
- Lack of strengthened/ new, evidence-based management would increase the likelihood of stocks being overexploited with insufficient protection for the wider marine environment.

### **Option 1: Self- Regulation – no formal Government FMP but industry introduces voluntary management measures**

- No legally recognised FMP which would result in above commitments not being met and associated legal risks.
- The introduction of non-regulatory measures, such as voluntary measures developed and introduced by industry, would unlikely go far enough to ensure stocks are being fished sustainably and the wider marine environment is protected. This is because it relies too heavily on the industry's desire to commit to and put resources to applying and observing voluntary measures. As voluntary measures are unenforceable, there is no guarantee they will be consistently adhered to and provide a high enough level of protection to stocks.

### **Option 2 (preferred option): King scallop FMP**

- Meets the above commitments under the Fisheries Act and JFS sets out the legal framework to achieve “a more competitive, profitable and sustainable fishing industry across the whole of the UK” and complies with the statutory obligation in the Fisheries Act to prepare and publish the King Scallop FMP (the FMP having been included in the JFS which was published in November 2022).
- Sets out the policies designed to restore stocks to, or maintain them at, sustainable levels, by bringing together information on existing measures and available evidence, mapping where there are gaps and opportunities to fill them, setting a clear pathway to developing and introducing improved, evidence-based management (both regulatory and non-regulatory) in collaboration with industry/ stakeholders.

## **2.0 Rationale for De Minimis Rating**

15. The purpose of this de-minimis assessment is to:

- Assess the impact of the king scallop FMP as a new policy according to the better regulation framework
- Demonstrate that, at this stage, there are no monetary impacts to business
- Allow Defra to formally consult on and publish the king scallop FMP
- Begin to assess proposed approaches and measures as set out in the draft FMP (specific measures will be assessed separately as and when they are developed and implemented)

16. Whilst the king scallop FMP includes a variety of proposed approaches and measures that will be used to deliver its policies, these actions will not be implemented immediately when the plan is published. Instead, specific measures must be developed through the appropriate processes before being implemented; such development may require further evidence and/or stakeholder, legal and policy input. The appropriate process will depend on whether the measures being introduced are statutory or non-statutory.
17. The king scallop FMP does not result in direct measurable impacts at this stage because the FMP does not result in new regulation upon publication. Therefore, this document is a narrative assessment and does not include monetised costs to business. It is also a de-minimis assessment rather than a full impact assessment because the impact is less than £5m.
18. As specific measures are implemented, further impact assessments or de-minimis assessments will be completed that include the monetised costs to business of that measure. Assessments will be completed in line with each national fisheries authority's individual assessment process as set out in section 4.0

### 3.0 Costs and Benefits

19. Rather than introducing new measures itself, the FMP identifies a variety of approaches and measures that could be introduced post-consultation. These proposed measures could be regulatory or deregulatory, and positive or negative to business, hence it is not possible to estimate impacts. As it is not possible to provide detailed costs and benefits in this DMA, background figures to understand the potential scale of impact and scope have been provided. When individual measures are specifically implemented, the statutory or non-statutory mechanism through which these will be implemented will have their own impacts assessed in the appropriate manner.
20. The king scallop FMP applies only to English and Welsh waters. The landings value of king scallops by UK vessels in 2021 was £26.7 million and catching live weight of approximately 16,000 tonnes<sup>5</sup>. Most of these landings are done by vessels over 10 meters, accounting for £24.6 million (92%) of sales value and approximately 14,000 tonnes (90%) of landings, whereas smaller vessels account for £2.1 million of sales value.<sup>6</sup> However, smaller vessels of 10 meters or less, still account for a significant part of the fleet catching scallops. Of the 367 vessels landing scallops, 174 (47%) are 10 meters or under<sup>7</sup>, so any policy changes could impact smaller businesses and small-scale scallop catchers. Furthermore, while this FMP covers English and Welsh waters, the measures will apply to vessels of all nationalities seeking to harvest scallops in those waters. Of the £26.7 million sales value Scottish registered vessels account for £12.6 million, English registered vessels £12.4 million, Northern Irish registered vessels £ 1.2 million, and Welsh registered vessels £0.4 million.

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<sup>5</sup> MMO Annual Statistics - UK sea fisheries annual statistics report 2021 - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>6</sup> MMO Annual Statistics - UK sea fisheries annual statistics report 2021 - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>7</sup> MMO statistics internal analysis, extracted from ifish2 on 10/03/2023

## 4.0 Post publication review

21. The king scallop FMP is a joint plan with the Welsh Government. Fisheries management is devolved, and the implementation of specific measures will be taken forward by respective national fisheries authorities as appropriate. Any assessment of impacts for specific measures will also be completed by the relevant national fisheries authority, in line with each authority's individual assessment processes. Requirements for Wales and England are set out below.

### Wales

22. The Well-being of Future Generations (Wales) Act 2015<sup>8</sup> provides a framework for Welsh Governments approach to impact assessments within the seven Well-being Goals and five ways of working.

23. Welsh Government will carry out any necessary impact assessments before any measures are implemented. An Integrated Impact Assessment (IIA) will be developed to help Welsh Government undertake a comprehensive assessment of the impact of a proposed action, with a view to maximising economic, social, cultural and environmental well-being, not just now, but for the long term. The Environment (Wales) Act 2016 also sets out national priorities which must be considered as part of the IIA process when setting new policy.

24. If new measures result in the introduction of subordinate legislation, Welsh Government will ensure compliance with requirements of the Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation<sup>9</sup> when they are implemented.

### England

25. When producing policy and determining the need for regulatory impact assessments, the Better Regulation Framework guidance and the better regulation principles of robust evidence, transparency and proportionality are taken into consideration. Where policies require legislation, a regulatory impact assessment is undertaken and submitted to the Regulatory Policy Committee (RPC) for independent scrutiny. Such scrutiny will be in advance of introducing any secondary legislation for all measures that are above the £5 million per annum threshold for net costs to business. Analysis to support these changes is produced in line with HMT Green Book methodology and includes consideration of the impact on small and micro businesses. This analysis is not required for measures below the £5 million equivalent annual net direct costs to business (EANDCB) threshold. For measures below this threshold Defra will, if appropriate, produce de-minimis assessments.

26. When new king scallop measures are introduced and result in new or changed regulation, Defra will complete a monetised impact, or de-minimis assessment for the specific measures, depending on the monetised cost to business.

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<sup>8</sup> [Well-being of Future Generations \(Wales\) Act 2015 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>9</sup> [Welsh Ministers' regulatory impact assessment code for subordinate legislation | GOV.WALES](#)

**FMP review**

27. The Fisheries Act requires the effectiveness of the FMP is regularly assessed. The FMP must be reviewed at least every six years or sooner if relevant evidence, international obligations, or wider events require a change in the policies set out in the FMP.

28. The results from the individual FMP assessments will contribute to the formal report on the Joint Fisheries Statement (JFS) that will be published every three years. The JFS reports will be laid before the UK’s legislatures. The report will set out the extent to which the policies contained in FMPs have been implemented and have affected stock levels in the UK

1. **Review status:** Please classify with an ‘x’ and provide any explanations below.

<input type="checkbox"/>	Sunset clause	<input checked="" type="checkbox"/>	Other review clause	<input type="checkbox"/>	Political commitment	<input type="checkbox"/>	Other reason	<input type="checkbox"/>	No plan to review
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The Fisheries Act 2020 requires the king scallop FMP to be reviewed at least every 6 years to assess the extent to which the policies in the plan have been implemented and how the stock has been affected.

2. **Expected review date** (month and year, xx/xx):

<input type="text"/>	<input type="text"/>	/	<input type="text"/>	<input type="text"/>	Five years from when the Regulations come into force
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**Rationale for PIR approach:**

**Formal review:**

- The Fisheries Act 2020 requires the king scallop FMP to be reviewed at least every 6 years to assess the extent to which the policies in the plan have been implemented and how the stock has been affected.
- Depending upon the outcome of the review, the FMP could be revoked, amended, replaced or remain the same.
- This formal review is independent of the post implementation review process.

**Independent evaluation:**

- A 3-year independent process, impact and value for money evaluation of the FMP programme and individual FMPs is underway and currently due to run to March 2025. The evaluation will:
  - generate key learning to support adaptive management and provide an independent and objective assessment of the FMP programme objectives.
  - capture lessons learnt by the FMP to inform the design and implementation of future FMPs
  - Contribute to monitoring and evaluation plans to generate the evidence needed to assess performance to support the 6-yearly reviews of FMPs.

**Implementing measures:**



- The FMP sets out the policies and measures needed to achieve its stated objectives. It does not implement those measures upon publication. When proposed new measures are implemented, they will require separate impact assessments, monitoring regimes and post implementation reviews.
- The FMP will have an associated action plan that will set out the actions, timelines and milestones for effective implementation. Progress against this action plan will be routinely monitored and reported through Defra's normal corporate reporting functions.
- The FMPs are listed in the Environmental Improvement Plan 2023 as key measures to achieve the headline targets. FMPs will be part of the EIP23 reporting process.

#### **FMP post implementation review:**

- A post implementation review for the king scallop FMP will coincide with the formal review to assess the wider impacts of the FMP and its associated measures. This review will include wider impacts to business and unintended consequences.
- This review will also collate the impacts of individual measures where they have been implemented and provide a holistic assessment of the impact of the FMP.

#### **Monitoring:**

- The FMP must set out the indicators and specific monitoring required to assess its effectiveness.
- Stock status will be monitored using available stock assessment data.
- Compliance with harvesting rates will use the data on fish landings collected by the MMO.
- Information will be drawn from on-going data collection by the MMO and Seafish to assess progress against social and economic objectives in the FMP.
- The ongoing monitoring of the wider environment through the UK Marine Strategy and MPA programmes will provide information to assess the impact of the FMP' policies to mitigate the impact of the fishery on the wider environment.

#### **Stakeholder Views**

- Stakeholder views will be sought by the Scallop Industry Consultation Group Working Group as the delivery partner who developed the FMP. Such collaboration will be ongoing with a commitment to increased and widened engagement as the FMP is published and implemented.
- Stakeholder views will also be sought through the independent FMP Evaluation Programme
- Stakeholder views will be sought through any public consultation on specific management measures in the FMP and through public consultation during the formal review process if the FMP is amended, revoked or replaced.