

Title: Whelk Fishery Management Plan		De-Minimus Assessment (DMA)	
Date: 23 May 2023			
BRU No: N/A			
Lead department or agency: Defra		Stage: Consultation	
Summary: Rationale and Options		Source of intervention: Domestic	
		Type of measure: Other	
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Total Net Present Value N/A	Business Net Present Value N/A	Net cost to business per year N/A	

Rationale for intervention and intended outcomes

The Fisheries Act 2020¹ 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)², 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 Whelk FMP is one of the first to be developed and sets out the road map to manage whelk stocks in English waters and protect the wider environment. 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.

Whelk fisheries are currently classed as data limited, in terms of stock status and affecting factors. There are few voluntary or regulatory interventions in place, outside the Inshore Fisheries Conservation Authorities (IFCA) districts between 0-6 miles. Whelks, like many other fish stocks, are common goods. This means 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 anyone can catch a fish but once a fish is caught it cannot be caught again. These characteristics mean unrestricted demand cannot be matched by finite supply and government intervention is needed to avoid fisheries being overexploited and overconsumed.

With no formal fishery management plan, no formal stock assessments and limited inshore management to control fishing effort, combined with recent increases in vessel numbers and landings prior to 2020, there are implications for the long-term health of whelk stocks. The FMP brings together and builds on the complete portfolio of existing management measures and research for whelks with the purpose of achieving Maximum Sustainable Yield (MSY). The MSY is the theoretical largest yield that can be caught from a species stock over an infinite period so stock can regenerate. The plan also highlights where information and knowledge gaps exist and what is required to fill these to provide the necessary protection for stocks now and in the long term; including where a precautionary approach may be needed until sufficient evidence becomes available. The FMP will also consider evidence of the wider impacts the fishery has on the marine environment and will set out long-term plans to improve data to inform mitigation and management 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 overexploited with insufficient protection for the wider marine environment and fail to deliver legal obligations.

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 with change behaviour.
- Voluntary measures are unenforceable so there’s no guarantee they will increase protection to stocks.

Option 2 (preferred option): Whelk 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?	Micro Yes	Small Yes	Medium Yes	Large Yes
Senior Policy Sign-off: Jane Barton	<input checked="" type="checkbox"/>		Date: 21/04/2023	
Peer Review Sign-off: Gemma Wilson	<input checked="" type="checkbox"/>		Date: 17/04/2023	
Better Regulation Unit Sign-off: Nadia Tiwana	<input checked="" type="checkbox"/>		Date: 23/05/2023	

¹ Fisheries Act 2020 (legislation.gov.uk)

² 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 an 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 (FMPs) 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 whelk FMP in English 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

Non-quota species (NQS) fisheries, including whelks, are of significant interest to UK 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 abroad³.

3. Whelk stocks are currently classed as data limited with little voluntary or regulatory structure in place outside the Inshore Fisheries Conservation Authorities (IFCAs) that cover 0-6 nautical miles (nm). Currently, outside of the 6 nautical mile area the only management measure in place is a national Minimum Landing Size (MLS) of 45mm⁴ (EU regulation retained in UK law). There are currently no formal stock assessments for whelks in English waters, no delineation of stock boundaries and no Maximum Sustainable Yield (MSY) reference points or proxies. As a result, there is not a clear estimate or ongoing monitoring around the status of whelk stocks which makes them vulnerable to unsustainable levels of fishing activity.
4. Lack of appropriate management intervention in English offshore waters are further compounded by the species' biology which can vary at a local level, such as different growth rates across relatively small areas. As such, given the complexities of the biology and differing management needs, there is a risk that whelk stocks are particularly susceptible to localised depletion and slow recovery from overexploitation.

³ UK Sea Fisheries Statistics 2020 (publishing.service.gov.uk)

⁴ Minimum Conservation Reference Sizes (MCRS) in UK waters - GOV.UK (www.gov.uk)

Rationale for intervention

5. Whelks 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.
 - High economic value contributing to coastal communities.
 - 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 whelk FMP sets out the policy framework for managing whelk stocks in English waters to achieve maximum sustainable yield (MSY) and begins to develop the complete portfolio of existing management measures in inshore and offshore waters in addition to all available science and evidence; it also highlights where gaps exist and what is required to fill those gaps and provide the necessary protection for stocks now and in the long term.

7. Fish stocks, including whelk, are a common pool resource. That is, that they 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 which means agents would act in their own self-interest and contrary to the common good of all actors. This is because market agents would only consider the benefits of catching whelk, not weighing it against the impact it will have on the stock health, leading to overexploitation of the stock. Overexploitation of the stock would lead to decreased fishing opportunities in the future, and would impact coastal communities and harm long term economic gain in favour of short run profit.

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 that is not possible within markets. Government intervention would prevent the overexploitation of fish stocks and increase protection of the wider marine environment. This FMP provides the framework through which government intervention would work.

Policy objective

9. The objective of this policy, in accordance with the Fisheries Act 2020, the Joint Fisheries Statement and the 25 Year Environment Plan, is to contribute to the health and abundance of key commercial species and promote healthy seas and economic stability.

10. The whelk FMP sets out the policy framework for managing whelk stocks in English waters to achieve MSY and contains the complete portfolio of existing management measures in inshore and offshore waters in addition to all available science and evidence. The FMP also highlights where gaps exist and what is required to fill those gaps and provide the necessary protection for stocks now and in the long term.
11. The fishery management objectives for the Whelk FMP are designed to address key fisheries management issues facing the whelk fisheries in English waters, and aim to:
 - Develop and pilot a comprehensive data collection programme for whelk fisheries, to support a data rich future which underpins sustainable management;
 - Define key whelk stock boundaries at a suitable scale for management;
 - Assess catch per unit effort (CPUE) in the whelk fishery;
 - Explore options for assessing stock(s) or exploitation status;
 - Assess the impact of whelk fishing activity on the wider marine environment;
 - Explore the need for management around interactions between the English whelk fishery and other fisheries; and
 - Create a proposed programme of management to align fishing effort with actual / likely stock status.
12. It is not yet known the extent to which lack of management intervention is a threat to achieving sustainably fished stocks. However, the absence of management and ongoing monitoring and data collection in English offshore waters, combined with the recent effort increases (landings and number of vessels), leaves stocks vulnerable to overexploitation. The management measures proposed in this first iteration of the whelk FMP are a starting point in the development of a long-term management and data collection framework for whelks in English waters.

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 not 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): Whelk 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 whelk 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

13. The purpose of this de-minimis assessment is to:
 - Assess the impact of the Whelk 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 Whelk 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)
14. Whilst the whelk 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.
15. The whelk 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.
16. 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.

3.0 Costs and Benefits

17. Whilst the whelk FMP identifies measures that could be introduced post-consultation, these proposed measures will be developed further and do not currently have sufficient detail for any economic analysis to be done. 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.

18. The whelk FMP applies only to English waters. The landings value of whelks by UK vessels in 2021 in English waters was £16 million and catching live weight of approximately 14,000 tonnes⁵. Whelk landings are dominated by small-scale vessels of 10 metres or less. They represent 236 vessels of the 313 vessels (75%) that landed whelks in English waters in 2021⁶. Any policy changes would, therefore, have significant impacts on smaller businesses. While they represent 75% of the fleet, under 10-metre vessels account for 47% of revenue, totalling £7.5 million in sales value of whelk catches in English waters. Reported landings since 2003⁷, align with industry views that some of the fisheries have expanded, especially in the under 10-metre fleet. Vessels catching in English waters are dominated by English registered vessels, accounting for 93% of tonnage and sales value⁸.

4.0 Post publication review

19. 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 RPC for independent scrutiny. This 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 is not required for measures below the £5 million equivalent annual net direct costs to business (EANDCB) threshold and for measures below this threshold Defra will, if appropriate, produce de-minimis assessments.

20. When new whelk 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.

FMP review

21. 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.

22. 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

⁵ UK sea fisheries annual statistics report 2021 - [GOV.UK \(www.gov.uk\)](http://GOV.UK (www.gov.uk))

⁶ MMO statistics internal analysis, extracted from ifish2 on 14/03/2023

⁷ [UK sea fisheries annual statistics - GOV.UK \(www.gov.uk\)](http://UK sea fisheries annual statistics - GOV.UK (www.gov.uk))

⁸ MMO statistics internal analysis, extracted from ifish2 on 14/03/2023

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 whelk 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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Before the end of the period of 6 years beginning with the day on which the FMP is published

3. Rationale for PIR approach:

Formal review:

- The Fisheries Act 2020 requires the whelk 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 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 whelk 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 through the Shellfish Industry Advisory Group and Whelk Management Group who have collaborated on the development of this FMP. This collaboration will be ongoing with a commitment to increased 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.