

Consultation on Seal Haul-Out Sites

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately



1. Name/Organisation

Organisation Name

OneKind

Title Mr Ms Mrs x Miss Dr *Please tick as appropriate*

Surname

Anderson

Forename

Libby

2. Postal Address

10 Queensferry Street

Edinburgh

Postcode EH2 4PG

Phone 0131 225 6039

Email policy@onekind.org

3. Permissions - I am responding as...

Individual

/ Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?
Please tick as appropriate x Yes

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis
Please tick ONE of the following boxes

Yes, make my response, name and address all available

Yes, make my response available, but not my name and address

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate xYes
No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate x Yes No

Consultation on Seal Haul-Out Sites Response from OneKind

INTRODUCTION

The following comments are submitted by OneKind in response to the Scottish Government Consultation on Seal Haul-Out Sites. Our comments refer to the approach taken to the selection and designation process rather than the particular sites.

Need to protect seals from harassment

Harassment of seals is an animal welfare issue. Actions such as approaching a seal or group of seals within (say) 25m, running, shouting, shooting in the air with shotguns, chasing a mother away from her pup, chasing seals by boat, driving a boat towards seals at a haul-out site or landing on a haul-out – can lead to pups being separated from their mothers, aggression between mothers trying to return to their pups and considerable harmful disruption to colonies.

Other marine species currently enjoy greater protection from both disturbance and harassment than Scotland's seals: dolphins, porpoises and otters are protected under the Conservation (Natural Habitats, &c) Regulations 1994; and s. 9 of the Wildlife and Countryside Act 1981 makes the disturbance of specific animals an offence. Seals are not currently protected in that way. Equally, in Northern Ireland and the Isle of Man, both common and grey seals are legally protected against disturbance and harassment by legislation enacting the Wildlife and Countryside Act 1981 in those regions.

Purpose of designating haul-out sites

S.117 of the Marine (Scotland) Act 2010 (*Protection at haul-out sites*) states:

117 Offence: harassment at haul-out sites

Harassing a seal (intentionally or recklessly) at a haul-out site is an offence. "haul-out site" means any place which the Scottish Ministers, after consulting the Natural Environment Research Council, by order designate as such for the purposes of this section.

Having promoted the amendment that created s.117, and taken a close interest in the passage of the Marine (Scotland) Act 2010, we believe that the sole purpose of designation is to provide guidance to the public who might otherwise not know what a haul-out site is, and thus where the offence applies. This guidance is intended to promote effective enforcement of the provision. We do not recall it being suggested that some sites should be preferred over others.

Although the consultation states that s.117 provides for Scottish Ministers to designate haul-out sites *which are considered suitable* to protect seals from harassment, we cannot see that s.117 places any duty on Ministers or the NERC to consider whether sites are "suitable" or that this was suggested during the passage of the Act. We believe that the consultation goes beyond what the Act requires and is inconsistent with the intention of the Scottish Parliament.

Consequences of not protecting sites

Professor Ian Boyd of the Sea Mammal Research Unit (SMRU) noted in his evidence to the Rural Affairs and Environment Committee that he would broadly support a provision to prevent harassment because:

A possible consequence of tighter management could be that harassment becomes a tool that is used in certain quarters for trying to reduce the number of seals in a particular area. Repeated harassment of animals at haul-out sites could be a problem in the future. I do not believe that is a problem just now, but it is sensible to think ahead¹.

The consequence of non-listing of any site used by seals is to permit harassment there, which we believe to be against the spirit of the legislation. It is unlikely that the Scottish Parliament intended only to protect seals in only 146 sites, used by only half of Scotland's seals, and to permit the harassment of seals elsewhere.

Definition of haul-out site

We understand that it is not a simple matter to define a haul-out site but any definition needs to cover all aspects of site use. The consultation defines a haul-out site only as "a location on land where seals haul themselves out to rest." We believe that this definition requires to be extended to include seals' use of these sites for breeding, pupping and moulting.

Advice from SMRU² indicates that a haul-out site is not only used for resting:

Both harbour and grey seals must spend time out of the water to rest, to moult and to breed. These land-based resting and moulting places are called 'haul-out sites' or 'haul-outs'.

Grey seals aggregate to breed at traditional 'colonies', between September and December in Scotland. At some colonies, they may move some distance, up to 700m, inland. On account of the difference in land use, grey seal breeding colonies should be considered separately from grey seal haul-out sites that are used at other times of the year or by non-breeding seals.

Harbour seals do not aggregate to breed but may occupy less busy (smaller) haul-out sites when breeding (June and July). Harbour seal use of breeding sites does not really differ from their use of haul-out sites at other times of the year, so breeding sites are not readily distinguishable from haul-out sites used at other times of the year.

Haul-out site use varies through the year for both species of seal. Harbour seals spend longer at sea in the winter months than during the summer. Both species

¹ Rural Affairs and Environment Committee Official Report 1 September 2009, col 1844

² Duck, C *Seal haul-out site - a definition* SMRU, provided for Advocates for Animals (now OneKind) 4 December 2009

spend longer ashore when moulting than at most other times of the year (December to April for grey seals; July to September for harbour seals).

CONSULTATION QUESTIONS

General questions

Question 1: Do you consider that the overall number of seal haul out sites proposed at national/regional/local level represent a reasonable balance between seal conservation and other sustainable activities around the Scottish coastline?

It is not clear to us why the consultation raises the question of balance between seal conservation and other sustainable activities. As explained in the Introduction, we consider that the main issue is animal welfare rather than conservation. In fields such as food production the concept of sustainability includes consideration of animal welfare³. Activities that involve the harassment of seals, at their haul-out sites or elsewhere, are damaging to animal welfare and therefore cannot be seen as sustainable.

OneKind is not a conservation organisation but, as has been noted by others, we cannot see how an activity that forces a top predator from the local ecosystem could ever meet the criteria for 'sustainability'⁴.

The consultation states:

This site selection process sought to focus on those haul-out sites that offered an optimum balance between maximising protection for the largest number of seals while minimising possible impacts on other sustainable activities around the coast. It therefore excluded the additional large numbers of smaller haul-out sites that contained fewer seals.

We feel that smaller haul-out sites should have been included and we request the Scottish Government to review the list so that it includes all known established sites. For clarity, the list should also cover all sites within SACs.

The consultation does not specify the "sustainable" activities referred to but if fish-farming, for example, is considered to be a sustainable activity, this should place an onus on the industry to operate in a genuinely sustainable manner. It was noted in the Stage 3 debate on the Marine (Scotland) Bill that deterrents used in aquaculture, such as acoustic devices, would not be come under the heading of harassment at haul-out sites. However the harassment of seals at their haul-out sites could not be seen as sustainable and should not be permitted anywhere.

³ See, for example, DEFRA report on attitudes to sustainable food production, April 2011

<http://www.defra.gov.uk/statistics/files/defra-stats-foodfarm-food-attitudes-report-110406-mainreport.pdf>

⁴ Vassili Papastavrou, International Fund for Animal Welfare cited in *Scotland's 'bizarre' seal plans under fire* BBC News 16 June 2011

Question 2: Do you consider that additional sites should be included at national/regional/local level and, if so, why, how many additional sites and which sites?

OneKind believes that all sites which it is possible to identify must be included in the list and that that was the intention of the Scottish Parliament. We welcome the statement in the consultation document that the current list is not fixed in stone and we hope that notifications from people with local knowledge of sites will be accepted.

Question 3: Do you consider that fewer sites should be included at national/ regional/local level and, if so, why, how many fewer sites and which sites?

We believe that more sites should be added.

Question 4: Do you agree that existing Special Areas of Conservation for seals should be added to the list of seal haul out sites being considered for possible designation?

All SACs for seals must be included in the list so that the offence of harassment is specifically covered.

Question 5: Do you consider that particular national or regional level activities might represent a potential risk of harassment to seals on haul out sites in general?

Scottish Natural Heritage (SNH) identifies the main anthropogenic threats to seals as pollution such as oil spills; toxic chemicals; angling and fish farms; entanglement in fishing nets; and marine renewable turbines. These would not appear to represent a particular risk of harassment to seals on haul-out sites in general. However predator control policies at a local level could pose a risk.

Question 6: Do you consider that particular local activities might represent a potential risk of harassment to seals on particular haul out sites included on the list?

Yes, we consider that fishing and fish farming activities which have traditionally come into conflict with seals represent a risk of harassment. Recreational activities such as canoe tours and seal watching cruises can also amount to harassment, as can dog walking. Irresponsible behaviour by seal watchers and photographers at the Donna Nook National Nature Reserve in Lincolnshire was associated with increased grey seal pup mortality in 2009.

Question 7: Do you have any views on whether the boundaries of particular haul out sites included on the list might be revised?

We believe that local knowledge must be harnessed to facilitate monitoring of sites.

Equality assessment

The Scottish Government must ensure that any policies that it implements do not unduly discriminate against persons defined by age, gender, disability, sexual orientation, race and religion and belief. We would welcome your views on whether you believe that any

of the propositions set out in this consultation paper will unduly impact on any of these groups mentioned.

We do not believe that there would be any such impact.