

Case ID: IESS.24.029

Description: Consideration of the current arrangements in respect of wrasse fishing activities on protected areas and species in Scotland

Case Summary

<p>What was the issue?</p>	<p>Environmental Standards Scotland (ESS) received a representation raising a concern that the Scottish Government Marine Directorate ('the Directorate') was not complying with its legal duties under the Habitats Regulations. The concern raised related to the lack of controls regarding fishing activities within protected areas, and the likely wider ecological impacts on other protected features and/or species.</p>
<p>What did ESS do?</p>	<p>ESS accepted the case for 'pre-investigation' and made enquiries of the Directorate and NatureScot, including seeking copies of relevant procedures, policies and processes in this area.</p>
<p>What outcome was achieved?</p>	<p>The Directorate accepted that, in light of new scientific evidence, the potential for wider adverse impacts from this type of fishing should be assessed. Accordingly, the Directorate has committed to undertaking an appropriate assessment¹ prior to the start of the next fishing season (1 May 2025).</p> <p>This commitment satisfies the outcome sought in the representation. ESS will monitor progress and, should an appropriate assessment fail to be completed within the agreed timescale, ESS will review what further action is required.</p>

¹ An 'appropriate assessment' is a scientific appraisal of the potential adverse impacts of a plan or project (in combination with other plans or projects) on a protected site.

Background

In June 2024, ESS received a representation expressing concerns about the lack of specific controls put in place by the Directorate over where wrasse fishing can occur in Scotland's inshore waters.² Fisheries specifically targeting wrasse have increased following the demand for 'cleaner fish' by the aquaculture industry since the late 1980s. Cleaner fish like wrasse are used to keep farmed fish free from sea lice, thus helping to reduce the use of chemical treatments, which can have adverse effects on the natural environment. However, wrasse species play an important role in maintaining an ecological balance in coastal, rocky and biogenic reef systems.³ Concerns have increased over the decline in their numbers and the wider biological implications caused by their removal in these areas.

In 2018, Marine Scotland (now the Marine Directorate) and the Scottish Salmon Producers' Organisation (now Salmon Scotland) developed a system of voluntary controls for the live capture of Scottish wild wrasse for salmon farms.⁴ Following consultation, the measures became mandatory in May 2021 through a licence condition to prohibit Scottish vessels from fishing for wrasse unless they successfully applied, on an annual basis, for a Letter of Derogation from Scottish Ministers. The Letters of Derogation allow fishing to occur between 1 May and 30 November.

The representation

The representation states that substantial wrasse fishing is taking place within protected areas and is likely to cause adverse impacts on ecosystems and habitats within these areas - for example coral reefs, which are designated features and

² Wrasse is a species of fish which live in rocky areas and are adapted to feed on animals found in this environment such as shellfish and crustaceans.

³ [Underwater television observations of *Serpula vermicularis* \(L.\) reefs and associated mobile fauna in Loch Creran, Scotland - ScienceDirect](#)

⁴ [Marine Scotland - Voluntary control measures for the live capture of Scottish wild wrasse for salmon farms](#)

therefore protected under the Habitats Regulations.⁵ The representation asserts that; accordingly, the Directorate should have undertaken an appropriate assessment to consider potential wider ecological impacts to reefs and other protected species (for example, otters) prior to allowing fishing to occur within these protected areas.

ESS' involvement

During ESS' consideration of the representation, information was sought from the Directorate and NatureScot about their Habitats Regulation Appraisal and appropriate assessment decision-making processes for this fishery.

ESS notes that the 2019 European Commission guidance⁶ and relevant ECJ case law⁷ in respect of appropriate assessments supports a broad interpretation of the term plan or project. Therefore, in ESS' view, this could reasonably apply when considering potential adverse impacts from wrasse fishing activities on protected sites and/or species.

NatureScot confirmed to ESS that introducing and improving fishing controls for wrasse has been the subject of discussion with the Directorate since 2017. However, poor spatial monitoring data had been a key challenge for NatureScot in offering advice in this connection. NatureScot advised that it recognised the need to address knowledge gaps to inform future management measures and

⁵ The Habitats Regulations provide the legal framework for protected sites and species requiring strict protection. Regulation 48 requires an 'appropriate assessment' to be undertaken of the implications of a plan or project which are likely to have a significant effect on a European site. For a project or development to proceed, the appropriate assessments must be sufficiently detailed and demonstrate that the site integrity (protected interests, species and habitats) will not be adversely affected. The level of evidence required is 'beyond reasonable scientific doubt.' See [The Conservation \(Natural Habitats, &c.\) Regulations 1994 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

⁶ [Managing Natura 2000 sites — The provisions of Article 6 of the Habitats Directive 92/43/EEC - Publications Office of the EU](#)

⁷ [European Court of Justice Waddenzee judgement \(C-127/02\)](#)

related assessment for a sustainable fishery and so, in 2019, it commissioned the University of Glasgow to undertake a study in this connection.⁸

The Directorate confirmed to ESS that, to date, no form of appraisal or appropriate assessment under the Habitats Regulations had been carried out for this fishery. The reason provided was that wrasse are not a protected feature in any of Scotland's Special Areas of Conservation sites and there was no evidence that wrasse fishing activities had a significant impact on rocky reefs. In addition, no other assessment had been carried out prior to the decision to implement mandatory measures in 2021. The decision to restrict wrasse fishing activities for parts of the year was based on literature reviews and scientific advice to protect the wrasse spawning season.

Outcome and next steps

The Directorate confirmed to ESS that, following consideration of the findings of the University of Glasgow report, an appropriate assessment will be undertaken before the start of the 2025 wrasse fishing season (1 May). The Directorate has also advised ESS that NatureScot will be formally consulted during this process.

ESS will monitor the progress of the appropriate assessment undertakings by the Directorate against the committed date of 1 May 2025. If an appropriate assessment is not completed within this timescale, and fishing is permitted to occur within protected areas during the 2025 season, ESS will consider what further action is required.

⁸ This study used a combination of methods to explore wrasse abundance, to understand the associations of wrasse species with particular habitats, and to recommend appropriate monitoring methodologies. The Marine Directorate and other stakeholders received a copy of this 2020 report in March 2024, however, to date the report has not been published.