



Evidence to the Environment and Sustainability Committee inquiry into Marine Policy in Wales

**Response from RSPB Cymru
September 2012**

The RSPB is Europe's largest wildlife charity, with over one million members, over 51,000 of them living in Wales. The Society manages one of the largest conservation estates in the UK, covering more than 140,000 hectares; 16,000 of these in Wales. The RSPB also works with a range of organisations, businesses and landowners to bring about habitat improvements for species of conservation concern. We work to protect and enhance habitats such as intertidal habitat, coastal heath, vegetated cliffs, estuaries and reedbeds, and our reserves help to protect rare and threatened wildlife. The RSPB champions the cause of biodiversity conservation within the wider debate on sustainable development. We are active across the UK and Wales at national, regional and local levels.

RSPB Cymru welcomes the opportunity to provide evidence to Environment and Sustainability Committee inquiry into marine policy in Wales.

Summary

The Welsh Government's current agenda of environmental policy and legislative reform provides substantial opportunities for the improved management of Welsh seas. The Marine and Coastal Access Act, provides the Welsh Government with the additional necessary tools to ensure that the marine environment delivers not only the ecosystems services, from which many economic and social benefits are derived, but also the long term protection and management of the underpinning ecosystems and their component biodiversity, hence protecting the inherent intrinsic value of Wales' marine environment.

Whilst there have been some positive steps with respect to Marine Protected Areas (MPAs) in Welsh waters, there is an underlining issue of inconsistent use of resources, lack of involvement by key management authorities and limited strategic steer from Welsh Government. The network is still incomplete and management of existing MPAs has been on an individual basis, lacking an overarching coordinated strategy that manages sites effectively and ensures that they contribute to a coherent network. Combined, these issues are hindering the effective protection of marine biodiversity in Wales and delivery of key national and international policies and targets such as the international target to halt and reverse the loss of biodiversity by 2020.

Without the right strategic structures in place, coupled with decisive and much needed use of the legislative powers available, Wales will continue to fail in delivering the shared UK vision of "*clean, healthy, safe, productive and biologically diverse seas*". RSPB Cymru are disappointed at the clear lack of ambition displayed by Welsh Government with regards to the designation of protected sites under Marine and Coastal Access Act, the failure to designate the sites required to meet Wales' obligations under the EU Birds and Habitats Directives and hence, the unlikelihood of delivering of an ecologically coherent and well managed network of MPAs. This is coupled with a lack of progress in other areas of marine policy, particularly Marine Spatial

Planning leaves our seas vulnerable to damage and disturbance. Our detailed comments are contained under the relevant questions below.

We would like to highlight the following key points:

- **Vision:** The vision for an ecosystem approach set out in *Sustaining a Living Wales* requires effective management, resourcing and recognition of the intrinsic value of our seas, as well as an understanding that species and habitats (i.e. biodiversity) are the building blocks of ecosystems.
- **Marine Spatial Planning:** Lack of a coherent Marine Spatial Plan risks Marine Protected Areas existing in isolation, and will result in failure to deliver Welsh Government's vision for Welsh Seas, as well as the requirements of the EU Marine Strategy Framework Directive.
- **Marine Protected Areas (MPAs):** The Welsh Government needs to urgently complete the existing network by designating protected areas under both domestic and EU legislation to contribute to an ecologically coherent, well managed network of MPAs at the UK and EU scales.
- **Licensing:** A clear and transparent process that considers applications both individually and cumulative effects especially on protected sites and delivery of sustainable development.
- **European legislation:** Greater effort is needed to achieve and comply with statutory targets, ensuring no further slippage in delivery for the Welsh marine environment.
- **Administrative collaboration:** Greater engagement on cross-border and UK-wide issues with neighbouring administrations to ensure adequate representation of Welsh interests and deliver sustainable management of our seas.
- **Resourcing:** Ensuring resource for the monitoring, management and enforcement of the Welsh marine environment is provided within Welsh Government and the new Single Body.
- **Stakeholder engagement:** Engaging stakeholders must involve effective communications from and between Government departments allowing stakeholders to influence the process and so support delivery of sustainable activities in Welsh waters.

RSPB Cymru response to the Inquiry Questions:

1. What progress has been made in relation to the development of marine spatial plans for Wales?

Welsh Government's approach to marine planning in Wales was launched in February 2011 through a consultation and informal stakeholder engagement. The Minister for Environment and Sustainability recommitted to marine planning in May 2012¹, but externally progress appears limited.

The Welsh Government is responsible for the development of marine plans both in the Welsh inshore region (out to 12 nautical miles (nm)²) and offshore region (beyond 12 nm). Welsh Government made a commitment to producing a Welsh Marine Spatial Plan(s) and to adopt them by 2012/13³, however, there are currently delays in developing it. As a result, we also risk missing the requirement of the EU Marine Strategy Framework Directive (MSFD) to produce a marine strategy of management. The opportunity to develop a Marine Spatial Plan for Wales, that is tailored to the Welsh environmental, social and economic needs, will be lost if Welsh Government opts to rely on UK Government to determine a Marine Strategy for Wales.

Marine Spatial Planning (MSP) is an effective and powerful tool in the strategic management of the Welsh marine area and the activities occurring there and hence contributing to sustainable development. It would enable Marine Protected Areas (MPAs)² to be fully integrated into all policy areas and again, contribute to sustainable development. A lack of a coherent Marine Spatial Plan risks MPAs existing in isolation i.e. becoming islands of biodiversity in otherwise barren seas, and threatens Wales's commitment to delivery of an Ecologically Coherent Network (ECN)². As we have seen on land, this is not effective and we must manage the wider environment to sustain and support wildlife and humans.

To fully deliver the Welsh Governments vision for Welsh seas and the requirements of the EU MSFD, there needs to be a high-level steer from the Welsh Government coupled with a strong commitment to fully integrate marine issues succinctly with emerging policies and legislation such as *Sustaining a Living Wales*. This will enable management authorities to better prioritise marine management within their work program, avoiding a perception that biodiversity protection policies are at times inconsistent with other policy drivers resulting in conflicting legislative obligations. This is where MSP would provide the tool to determine the most effective and appropriate way for developments to occur in a sustainable fashion.

2. What is the current status of marine protected areas in Wales and what role should the new marine conservation zones have in this network of protected areas?

Under the Marine & Coastal Access Act, the Welsh Government originally expressed their intention to identify and designate protected by 2012, to contribute to a UK-wide, well-managed

¹ 16th of May Plenary questions to Environment Minister John Griffiths from Russell George AM

² See Annex 1: Definition of terms used

³ Welsh Government consultation 2011: *Sustainable development for Welsh seas: Our approach to marine planning in Wales*

and Ecologically Coherent Network (ECN) of MPAs. The ecologically coherent MPA network was to be made up of sites of national importance, i.e. Marine Conservation Zones (MCZs)², and sites of EU importance, i.e. SPAs² and SACs² designated under the EU Birds and Habitats Directives respectively. Unlike SACs² or SPAs², which are designated only for species and habitats of European importance, MCZs can be designated to protect nationally rare, threatened and important species. This provides the tool to create a network of conservation sites across Wales that will both fill significant gaps in the existing MPA network and complement existing sites increasing their function and long term viability. MCZs can be representative of the range of features present in the Welsh marine environment, and site designation should reflect that conservation of a feature often requires designation of more than one site. By creating an effective network, Wales will take a significant step towards the delivery of an ECN and the agreed delivery of halting biodiversity loss by 2020 under the Convention on Biological Diversity (CBD).

The current hpMCZ proposals seek to designate sites predominately for benthic habitats, while mobile species, such as seabirds, have been largely excluded from process. Currently there are no other targeted or special conservation measures for seabirds at sea, and the sites proposed as Welsh hpMCZs do not consider designating sites with the aim of providing additional seabird protection. We are therefore concerned that the Welsh Government appears to be relying upon SPAs to deliver protection for seabirds but at a time when the SPA portion of the network is still incomplete (see our response to Q4).

Welsh Government's most recent report to the EU Commission on the status of marine sites designated under the EU Birds and Habitats Directives in 2007⁴ indicates that almost half of the species and habitats for which the sites are designated are not in Favourable Conservation Status. Further to this the report demonstrated that effective management was not in place to maintain or improve the condition of the species and habitats. In addition to the implications for EU statutory obligations (see our response to Q4), Welsh Government is failing to deliver its own key biodiversity outcome (Outcome 21) as set out in the *Environment Strategy Wales*; "Sites of international, Welsh and local importance are in favourable condition to support the species and habitats for which they have been identified".

3. The development of the Welsh Government's functions in relation to marine licensing and fisheries and whether this has been effective?

The development of the current marine licensing system stems from duties under the Marine and Coastal Access Act (MCAA) to regulate and legislate activities within the Welsh marine area. However the system currently operates in the absence of an all Wales strategic plan, instead relying on guidance from the UK Marine Policy Statement. This often results in applications being determined on a case-by-case basis. Therefore, unlike terrestrial licensing in Wales, in-combination affects are difficult to determine, potentially allowing damaging activities to operate without full consideration of potential impacts to Marine Protected Areas or the wider marine environment. Whilst the Marine Consent Unit is required to maintain a record of all

⁴ Annex 2, Figure 1: Condition and conservation status of Marine SAC and SPAs habitat and species features in 2007.

activities relating to consents, compliance and enforcement, this is not yet in a format that demonstrates transparency or allows scrutiny. We are concerned that the decision to transfer the licensing powers to the new Single Body will not alleviate this issue.

The management of activities requiring licensing does not directly fall to a single Welsh Government department, resulting in a number of activities being exempt from the new licensing system, such as deposition of shellfish and some forms of dredging. Therefore a system that accurately records and monitors cumulative effects of licensed and non-licensed activities, in both the long and short term context, will ensure strategic considerations are made for achieving sustainable development that does not threaten environmental limits and enable effective management of Welsh seas.

The Wales Fisheries Strategy (2008) and its associated Implementation Plans, collectively aim to develop a sustainable fisheries industry in Wales, based on an ecosystem approach. Recently there have been a number of positive changes for Welsh Fisheries, such as the revocation of grandfather rights and move to utilise boat tracking systems to enable better management of certain fisheries.

However we are concerned that the enforcement and management tools available are not being used to their full potential. The MCAA provided additional powers in the form of Conservation Orders and Fisheries Orders. Together these allow the use of permits to regulate activities within the marine environment, ensuring that sustainable activities are able to continue and restricting or removing damaging activities that are currently unregulated.

We believe that plans developed at a regional level should be the principal medium for delivering fisheries policy and an ecosystem-based approach in the future, with the existing regional Inshore Fisheries Groups an ideal instrument for their provision. Plans developed for Welsh waters, whether for fisheries management or other activities need to be mindful of requirements under the MSFD, not only to ensure compliance but also to avoid stakeholder fatigue through repeated consultations and liaison. While no different ecological or management standards should be adopted for small or larger fleets, it may be necessary to apply flexible approaches to meet these objectives as management necessities are clearly different between small and large-scale fishing. We want to see a sustainable fishing industry that supports livelihoods alongside conservation outcomes.

4. What progress has been made by the Welsh Government in the implementation of key European Directives?

The EU Habitats and Birds Directives form the cornerstone of Europe's nature conservation policy. The Habitats Directive states "*A coherent European ecological network of special areas of conservation shall be set up under the title Natura 2000*", however Wales has still to complete the network of marine Natura 2000 sites, with a number of European Protected Species, including seabirds and cetaceans, lacking adequate protection.

RSPB Cymru is particularly concerned with the continued failure to classify the ‘most suitable territories’ as Special Protected Areas (SPAs), or to implement any other special conservation measures, for avian species at sea. A UK approach to the identification of ‘maintenance’ extensions to breeding colony SPAs, to protect areas used for behaviours directly associated with the colony, such as resting, bathing and mating, has been agreed since 2008. Despite this there has been a significant lack of progress to designate these site extensions within Welsh waters. **Completion of the SPA network requires adequate protection for seabirds not only near to nesting sites, as provided by the proposed extensions, but also offshore where the seabirds actively feed where more work is needed to identify the full suite of foraging areas.**

Natura 2000 sites are required to reach Favourable Conservation Status (FCS) with the Relevant Competent Authority having the duty to establish the necessary conservation measures and appropriate management to avoid “*deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated*”. The 2007 reporting for Welsh European Marine Sites³ demonstrates that almost 50% of marine habitats and species in Welsh sites are failing to achieve FCS and, by a significantly larger margin, failing to secure effective management. The next round of reporting on the Natura 2000 network is due in 2013.

The OSPAR Convention⁵ set a clear target to establish a network of marine sites by 2012, that is ecologically coherent and consistent with the Convention of Biological Diversity (CBD) target for effectively conserved marine and coastal ecological regions. It is clear that the slow progress in the completion of the Natura 2000 network, designation of MCZs under the MCCA, and failure to secure effective management of protected sites, Welsh Government is failing to achieve delivery of this key international commitment. OSPAR sets a further target for 2016 that for all sites, designated up until 2012, are well managed, *i.e.* coherent management measures have been set up and are being implemented effectively. The delay in designating Welsh MCZs raises concern that Welsh Government will circumvent, either intentionally or unintentionally, this commitment for sites designated after 2012.

An incomplete Ecologically Coherent Network has further ramifications to Wales’ ability to meet requirements of the EU Marine Strategy Framework Directive (MSFD). The first of which is to “*Establish spatial protection measures that contribute to a coherent and representative network of marine protected areas, adequately covering the diversity of the constituent ecosystems*”, with a statutory duty to report on progress towards this requirement by 2013. It is our view that the EU Habitats and Birds Directives are key delivery mechanisms for this, and as such effective management of the Welsh MPA network is essential.

It is therefore essential that the Welsh Government makes urgent progress in securing effective management and monitoring for existing sites, designating new sites as necessary to deliver Wales’ contribution to the UK ECN, ensuring that Welsh sustainable development plans fully integrate the network of MPAs. If the right approach is taken, with the correct management

⁵ The OSPAR Convention for the Protection of the marine Environment of the North-East Atlantic – the UK is a Contracting Party.

structure in place, Wales will be in a strong position to deliver the EU MSFD target of Good Ecological Status for Welsh waters by 2020.

5. Whether there is sufficient cooperation and coordination between the Welsh Government and its neighbouring administrations in relation to the management of its seas?

In order to deliver effective marine management, Welsh Government needs to co-operate effectively with the UK, the other Devolved Governments, the Isle of Man and with the Republic of Ireland. With the exception of the Common Fisheries Policy reform, there appears to have been limited dialogue with Administrations sharing a coastal or marine boundary.

The EU Marine Strategy Framework Directive (MSFD) places a strong emphasis on the need for regional co-operation. To date Welsh Government does not appear to have fully engaged with the MSFD process. Instead relying on DEFRA to deliver the programme of measures required to deliver Good Environmental Status (GES), despite the implementation of these falling to Wales. The lack of engagement in the process is likely to result in targets that are not reflected in *Sustaining a Living Wales* and emerging Welsh policies that may conflict with delivery.

The management of existing and future designations of cross border and neighbouring European Marine Sites, will require greater coordination with the UK administration. There is also need for greater representation of Welsh interests in the English MCZ process. Two of the English regional MCZ projects have identified sites adjacent to Welsh waters, with one of the projects potentially designating sites within the Welsh offshore waters. These sites would contribute to Welsh Government's commitments to establishing an Ecologically Coherent Network of Marine Protected Areas, however, the Welsh Government is not actively engaging with the process.

6. Whether the Welsh Government has sufficient financial and staff resource to deliver on its marine policy and legislation objectives?

RSPB Cymru are of the view that the available resource for the monitoring, management and enforcement of the Welsh marine environment does not accurately reflect the commitment to deliver UK and Welsh Governments' shared vision of clean, healthy, safe, productive and biologically diverse seas. Since the enactment of the Marine and Coastal Access Act in 2009, there has been no notable increase in staff or financial resourcing to ensure the effective delivery of marine legislation. In contrast, to deliver comparable functions, in England (and UK offshore areas), the Marine Management Organisation has been established with 250 staff; and set-up costs of an English marine planning system estimated at around £40m, with running costs of £1million per annum⁶.

The Welsh Government instead relies on a finite number of staff to deliver emerging policy such as the Marine Conservation Zones, and the Marine Strategy Framework Directive. With what

⁶ Defra (July 2010) Consultation on a marine planning system for England.

appears to be limited resource allocated, Welsh Government is currently using a “virtual team”, to deliver Marine Spatial Planning (MSP), despite Welsh Governments ambitious targets for the development of offshore renewable energy.

Resource limitations are affecting the management of existing Marine Protected Areas, an issue highlighted in CCW’s recent reports regarding protected site management in Wales. Limited resourcing has prevented comprehensive monitoring which would provide information to inform the designation of new sites to create an Ecologically Coherent Network and to adequately address questions posed by the deployment of renewables and development of the first MSP. Therefore whilst the new Single Body creates opportunity for greater sharing of resources and expertise in many areas, overall increased resourcing is needed for Wales to meet policy and legislative objectives.

The Welsh Government units responsible for fisheries policy, management and enforcement of activities at sea, have recently been restructured and a single unit formed. However there has been no increase in resources to this unit for the provision of enforcement in the Welsh marine environment, despite the Wales having additional enforcement duties since the transfer of boundaries and functions in 2010 under the Marine & Coastal Access Act up to the boundary line with England and the Republic of Ireland.

7. Whether stakeholders have been sufficiently involved in the shaping of new policies and the development of legislation?

A strategic steer is needed from Welsh Government on wide ranging marine issues, however stakeholder engagement is essential to delivery of successful marine policy and in ensuring shared ownership. There is need for greater communication of the benefits and importance of Welsh seas to all stakeholders, enabling effective buy in and understanding of the developing legislation. A transparent decision making process is crucial to foster stakeholder acceptance of policy decisions. Failure to demonstrate that stakeholder opinion has been represented and considered will result in disillusion and scepticism of the process in general.

There are a number of existing, underused, networks such as the Wales Coastal and Maritime Partnership (WCMP), Wales Marine Fisheries Advisory Group (WMFAG) and Stakeholder and Citizen Engagement Group (SCEG) that provide an excellent mechanism for discussion of emerging policies with a range of stakeholders. Drawing on the expertise of these groups ensures that future consultations are engaged and representative of the full spectrum of interests and opinions. The current secular approach to the development of marine policies in Wales has resulted in the development of several simultaneous projects requiring involvement of stakeholders, increasing the risk of stakeholder fatigue and creating confusion over technical variations between important consultations.

The recently published WFA approach *Striking the Balance* provides a unique mechanism for true partnership working across stakeholder interests and if current momentum is maintained delivery of key targets will be more readily realised. It is important to note that the alternative approach stems from concerns over the proposed hpMCZ approach and the limited involvement of stakeholders to the process.

Annex 1: Definition of terms used

- **ECN** (An Ecological Coherent Network) is a network of marine protected areas;
 - that interact and support the marine environment;
 - maintain the processes, functions and structures of the intended protected features across their natural range;
 - Function synergistically as a whole, such that the individual protected sites benefit from each other to achieve the above two objectives.

Under the OSPAR Convention, a network is characterised by a coherence in purpose and by the connections between its constituent parts. Networks can also be designed to be resilient to changing conditions. The following points are identified as contributing to network coherence:

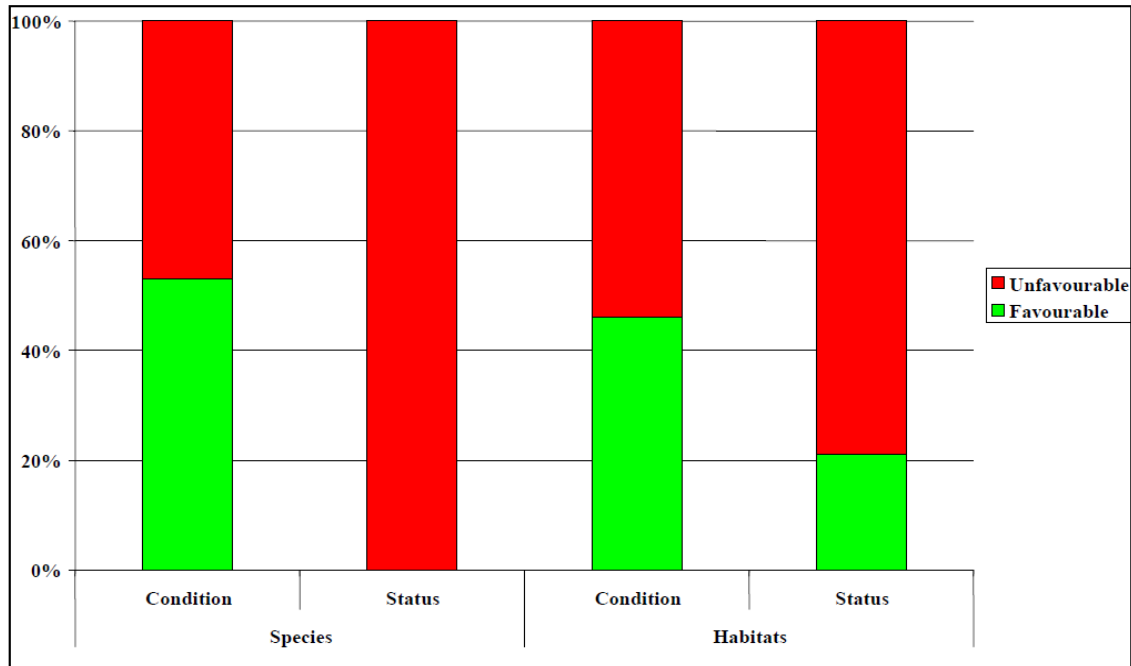
- A network's constituent parts should firstly be identified on the basis of criteria which aim to support the purpose of the network.
 - The development of an ecologically coherent network of MPAs should take account of the relationships and interactions between marine species and their environment both in the establishment of its purpose and in the criteria by which the constituent elements are identified.
 - A functioning ecologically coherent network of MPAs should interact with, and support, the wider environment as well as other MPAs although this is dependent on appropriate management to support good ecosystem health and function within and outside the MPAs.
- **Ramsar**. Ramsar sites are wetlands of international importance designated under the Ramsar Convention and have the same status as Special Protection Areas (SPAs) classified under the Birds Directive. Commonly sites of importance for waterbirds within the UK, and consequently many Ramsar sites are also SPAs.
 - **SPAs** are a European Designation. Special Protection Areas (SPAs) are strictly protected sites classified in accordance with Article 4 of the EC Birds Directive which came into force in April 1979. They are classified for rare and vulnerable birds (as listed on Annex I of the Directive), and for regularly occurring migratory species.
 - **SACs** are a European Designation. Special Areas of Conservation (SACs) are protected sites designated under the EC Habitats Directive. Article 3 of the Habitats Directive requires the establishment of a European network of important high-quality conservation sites that will make a significant contribution to conserving the 189 habitat types and 788 species identified in Annexes I and II of the Directive (as amended). The listed habitat types and species are those considered to be most in need of conservation at a

European level (excluding birds). Being primarily terrestrial focused, the list of marine species and habitats is limited.

- **SSSIs** are domestic (UK) designations. The nature conservation agencies, CCW in Wales, have a duty under the Wildlife and Countryside Act 1981, as amended, to notify any area of land which in their opinion is 'of special interest by reason of any of its flora, fauna, or geological or physiographical features'. Such areas are known as Sites of Special Scientific Interest (SSSIs).
- **MCZ** (Marine Conservation Zone) a domestic (England & Wales) designation, stemming from the Marine and Coastal Access Act 2009. In Welsh inshore waters the MCZ Project currently aims to designate a small number of highly protected MCZs. Site selection is being managed by Welsh Government.
- **MPA** (Marine Protected Area) a collective term that covers all types of designations and protected sites that have marine elements.
- **1 nm** (nautical mile) = 1.85 kilometres
- **MCAA** - Marine and Coastal Access Act, received Royal assent in 2009.

Annex 2:

Figure 1: Condition and conservation status of Marine SAC and SPAs habitat and species features in 2007.



- Article 17 of the Habitat Regulations requires Member States to report every six years about the progress made with the implementation of the Habitats Directive. As the main focus of the directive is on maintaining and/or restoring a favourable conservation status for habitat types & species of community interest, monitoring & reporting under the directive is focusing on that.
- Condition refers to assessing the species or habitats against the Conservation objectives and provides a snapshot of their current viability. Overall, of the marine species and habitats that were assessed 53% of species features and 46% of habitat features were reported as being in favourable condition.
- Assessment of status refers to having effective management secured to maintain or improve feature condition; therefore in the short term a habitat or feature may be in favourable condition, but without effective long term management in place the features will not be maintained in favourable conservation status or restored if already failing. For the habitats and species that were assessed for status almost 100% of species and 79% of habitats were reported as being in unfavourable status.
- It should also be noted that in 2007, information on condition but not status was sent to JNCC for collation with other countries to be sent to Europe. Thus masking the true picture of Welsh features.