

## Briefing for the Petitions Committee

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Petitions Committee | 12 September 2016

### Research Briefing:

Petition number: P-05-654

Petition title: **Objection to the current proposals for the designation of SACs for Porpoises.**

Text of petition: We call on the National Assembly for Wales to urge the Welsh Government to change the way in which the current boundaries of the proposed SACs for Porpoises have been established to include science to support the physical and biological factors essential to the life cycles of the Porpoise, to include where feeding and calving takes place, and not to be established with just a population of 10%, established from mapping which is artificial science.

As you are probably aware the UK is currently under threat of legal action, to designate further SACs under the Habitats Directive for the protection of Harbour Porpoises.

This objection has been established from the fact that at present it is impossible to quantify the future impact on the fishing industry that a newly designated SAC may have and to question the science used to establish the proposed areas.

### Background

The harbour porpoise is a marine mammal that is widespread across the cold and temperate seas of Europe including the coastal waters of Wales. According to the [Joint Nature Conversation Committee \(JNCC\)](#), the harbour porpoise population appears to concentrate in the North and Celtic Seas between June and September although a portion of the population remains all year round. Available data indicate that harbour porpoise are currently in “favourable conservation status” around the UK. However they are subject to pressures

including pollution and bycatch ([see question 15 in the attached FAQ sheet](#)). A detailed overview of the ecology and habitat of the harbour porpoise is given in chapter 1 of [a conservation literature review](#) produced by the Joint Nature Conversation Committee (JNCC).

The harbour porpoise is legally protected in UK waters through national, European and international, legislation. A detailed overview of the policy and legislative context for harbour porpoise is provided in chapter 2 of the [JNCC report](#).

In the EU, the key legislation is Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, otherwise known as the [Habitats Directive](#). The Directive requires Member States to designate Special Areas of Conservation (SACs) for species listed in the annexes of the Directive.

As is the case with all European legislation, the European Commission can take action against a Member State it believes is failing to implement the Habitats Directive. This action is known as an 'infringement proceeding'.

In October 2012 the European Commission initiated a [pilot case](#) regarding the lack of SACs for harbour porpoise in UK waters. A pilot case is designed to resolve compliance problems without having to resort to infringement proceedings. In June 2013 a formal notice was issued to the UK Government followed by a '[reasoned opinion](#)' in October 2014. A [reasoned opinion](#) is the first official stage in the infringement proceedings. In December 2014, the UK Government committed to identifying and designating SACs for harbour porpoise.

To determine the position of the proposed SACs (pSACs), the JNCC worked with the Statutory Nature Conservation Bodies in each of the UK countries in order to identify the best sites in UK waters. In Wales this body is Natural Resources Wales (NRW). SACs are intended to be clearly identifiable areas located by the best available scientific evidence.

The harbour porpoise data collected by JNCC was compiled using the [Joint Cetacean Protocol \(JCP\)](#) and is based on porpoise distribution in UK waters spanning an 18 year period from 1994–2011. This has been collected from Government commissioned survey data, NGOs, individuals and industry. It consists of sea-based data collected from shipboard or aerial surveys and land-based data from vantage points at coastal locations. Data was analysed by JNCC and published in two peer-reviewed reports numbered [543](#) and [544](#) which can be found on the JNCC website.

The results of these two reports were analysed by JNCC and the UK Statutory Nature Conservation Bodies. They identified five pSACs, the location of which and supporting documentation can be found on the consultation page of the [JNCC website](#).

The methodology used to identify the pSACs is outlined in JNCC paper [number 565](#):

- Species data was collected from ship and coastal surveys over an 18 year period;

- Environmental data was collated, including current and sea-bed information from hydrodynamic modelling and information such as shipping intensities;
- These two data sources were combined;
- This data was used to produce a spatio-temporal (i.e. place and time) distribution model of porpoise density and its relative uncertainty;
- The model data was used to predict and map porpoise densities, persistency and potential 'hot spot' locations.

The next step of the process involved a consultation to review these locations. In Wales the consultation was carried out by NRW on behalf of the Welsh Government. NRW is responsible for reviewing the consultation responses and using these as a basis to provide advice to Welsh Ministers on whether or not the pSACs should be designated.

## Welsh Government action

Between 19 January and the 3 May 2016, [NRW](#) in partnership with the JNCC ran a [consultation](#) regarding the “Proposed new marine Special Areas of Conservation and Special Protection Areas”. The consultation sought views on the proposal to create three new SACs for harbour porpoise in Welsh Waters. These areas are the [North Anglesey Marine](#), [West Wales Marine](#) and [Bristol Channel Approaches](#) which cover an area of 16,477km<sup>2</sup>. The Bristol Channel Approaches pSAC is covered in both the English (JNCC) and Welsh (NRW) consultations. Detailed documentation and a map of the pSACs can be found in the [consultation paper](#) which also includes links to site specific assessments, maps and conservation objectives.

For each site, the consultation looked at:

- The scientific basis on which the proposed boundaries are based. This is described in the “Selection Assessment Documentation” in the consultation paper; and
- The draft UK Socio-Economic Impact Assessment. This analysed the possible social and economic impacts of the sites which can help understand their impact and inform the management. These can be found under the “Draft Impact Assessments” in the consultation paper.

It is important to note that any socio-economic considerations that may arise during the consultation process, such as the impact of a SAC on existing or future commercial activities, cannot be taken into account in designating SACs or defining the boundaries. The purpose of the socio-economic Impact Assessment is to inform management decisions taken in relation to any sites that go forward for designation.

NRW is now expected to produce a report on the consultation responses and any consequent revisions. Their recommendations for designations will be submitted to Welsh Ministers for approval. If approved the pSACs will then be submitted to the European Commission (EC), if

the candidate SACs are accepted they are referred to as ‘Sites of Community Importance (SCI)’ which are upgraded to SACs when they have been formally designated by the Welsh Government. Welsh Ministers have up to 6 years to formally designate the sites and implement all of the necessary management measures. Further information on the timetable and process for designation can be found [in this question and answers document](#) prepared by JNCC and the Statutory Nature Conservation Bodies.

The letter from Lesley Griffith, the Cabinet secretary for Environment and Rural Affairs, on the 18<sup>th</sup> August 2016 to the Petitions Committee states that no decisions have been made yet on the designation of new sites. The Welsh Government expects to receive final recommendations from NRW on the outcomes of the consultation later this year.

## National Assembly for Wales action

The decision to designate the additional SACs was mentioned in a [Written Statement](#) on the 1 April 2015 by Carl Sargeant, the then Minister for Natural Resources. The statement gave an update on the Welsh Governments marine and fisheries action plan.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.