

## Protocol A Comments log

This is the comments log for the SNCB's Advice strategic protocol - The Principles Underpinning Our Statutory Nature Conservation Body Advice On Marine Conservation Zone Designation (Strategic Protocol A)

The comments arise from the Independent Expert Review Group commissioned by Defra and stakeholders following a request for comments by Natural England and JNCC.

Log number	Date received	Review stage	MCZ section	MCZ protocol/Version	Organisation	Organisation Type	Response format	Response details	Action Owner	Comments
1	26/10/2011	Defra CSA	Overall	A	Defra	Defra	Email	<ul style="list-style-type: none"> <li>• The protocol provides a useful starting point to setting out the principles that will underpin the advice package. The protocol also sets out a number of actions that will be taken, e.g. quality assure the advice package. However, there is no information on the process that will be used and/or criteria that will be applied when implementing these actions. This may be covered in protocols B to H so may not be relevant for this protocol. However, in the suite of protocols, the criteria against which evidence will be used, the process for quality assuring the evidence etc. need to be clear.</li> <li>• Part 1, about the protocol: <ul style="list-style-type: none"> <li>o It would be useful to briefly summarise how the full set of protocols for the MCZ process link to each other. Will there be a guidance note for Natural England and JNCC staff to indicate the interdependencies between the protocols and how/when these should be used?</li> </ul> </li> <li>• Part 2, principles underpinning the advice package: <ul style="list-style-type: none"> <li>o The first bullet should be broadened to indicate that '...advice will be based on sound evidence (rather than science) using the best available information that is gathered and used according to good practice principles.'</li> </ul> </li> <li>• Annex 1 indicates who will be responsible for ensuring the</li> </ul>	Jen Ashworth	valid comments - will take forward to actions
2	26/10/2011	Defra policy	Overall	A	Defra	Defra	Track changes	Comments around original ask of SNCBs, questions on the principles and NE standards links	Jen Ashworth	Some to take on board others will be answered in other protocols
3	29/11/2011	Stakeholder	Overall	A	SAP	Academic	Email	This protocol outlines general approaches and I have no comment except that I note that the SNCBs will "give due consideration" to the advice of the SAP. My personal view is that the SNCBs should adopt the advice of the SAP which is an expert Panel whose advice should not be 'take it or leave it'.	Jen Ashworth	Comment relates to links between SNCB and SAP advice

4	01/12/2011	Stakeholder Overall		A	Brixham SAC	Recreation	Email	In the first protocol it outlines the need for sound evidence to inform the conservation advice for NE and JNCC. Many of the sites in the south west, especially the inshore sites, are in clear water and easily accessible areas. Many have been extensively mapped and so the habitats and species are already well known. They have also been subject to extensive sonar scans. Having all this evidence available begs the question why there is a need to delay any implementation of any of these sites. Clearly, there are sites that need more data but many do not. It appears from the outside, that this could simply be a delaying tactic by those industries that may be impacted by the implementation of the proposed network. In the south west, the Isles of Scillies sites were proposed and agreed by the local fishing community. Again, it seems baffling that sites which have general agreement from all parties, should be subject to any delay in implementation. Some sites are quite simply unique. The best example of this is found in the Canyons site, which has a habitat which is	Jen Ashworth	Comment is not directly related to the protocol more the MCZ designation process
5	02/12/2011	ALB Overall		A	Defra	Defra	Email	<p>Page 3: "In formulating our advice we will give due consideration to the outcomes of the regional MCZ projects and the advice provided by the MPA Science Advisory Panel"</p> <p>- I have not found information about how SNCBs will incorporate the comments from the SAP review into their analysis. I was hoping to find some information in Protocol E but it does not cover that point. Linked to that, I have not seen any references to the material that the in-depth review will provide and how that might be used (see also my comment below on whether additional sources of evidence will be used in the analysis described in Protocol E).</p> <p>Page 3: "We will provide our advice package in line with JNCC and Natural England's corporate standards for the use of evidence in providing advice, together with relevant detailed supporting operational standards<sup>5</sup>. This will enable us to be compliant with [...] the recommendations of the cSAC review"</p> <p>I am not sure if the above sentence is the right way to say this. The reason is that, when I read that sentence, the question that comes to mind is: "If those corporate standards and other operational standards are adequate to ensure that your advice is compliant with the recommendations of the cSAC review then why did the cSAC review identified some weaknesses in the process followed for the cSACs?" Is that question valid? If yes, I would recommend that you rephrase those two sentences and explain how the cSAC recommendations have</p>	Jen Ashworth	Need to consider whether details about how the SAP advice/IER will be incorporated in to our advice goes in to the protocol or not. Second comment is lack of understanding about the newness of our standards so text can be edited to clarify this.

6	05/12/2011	Stakeholder Overall	General	BMAPA	Industry	Email	<p>v. Explanation of the SNCB's role in the process</p> <p>The protocols are comprehensive and presented in a very structured, corporate way. While this may be appropriate for an internal, science-led review such as that required for the cSAC process, it is important to remember that the MCZ process is quite different. There are numerous local stakeholders who have invested considerable time and effort in the process, stakeholders who have invested considerable time and effort in the process, and who rightly feel they have some ownership of the final recommendations made. There is also widespread suspicion of the role of the nature conservation agencies throughout the MCZ process.</p> <p>A stripped down explanation of the review process to be undertaken by the SNCB's should be produced. This should explain in non-technical language what the review is intended to do and the 'added value' that is expected to result from the outcomes, in terms of the quality and robustness of the site result from the outcomes, in terms of the quality and robustness of the site proposals – remembering that the</p>	Jen Ashworth	Consider whether this is something for protocol A or wider document
7	05/12/2011	Stakeholder Overall	General	RSPB	NGO	Email	<p>Part 1 of this protocol outlines that the aim of the SNCB advice package is to enable the Government to designate "sufficient" MCZs to meet legal and policy obligations. This should refer to the need to designate an ecologically coherent network that will benefit the marine environment. In analysis of the sufficiency or otherwise of the MCZ network designated, the principles of ecological coherence as outlined in the ENG should be taken into account.</p> <p>We would welcome some further clarification on the first principle underpinning the advice package. This principle refers to "sound evidence using the best available information". Is this different from the existing commitment to consider "best available evidence"? The whole Regional Projects process has been predicated on the use of "best available evidence" to support site selection decisions – this should not be changed at the end of the process.</p> <p>The third principle states that the SNCBs will consider the advice provided by the SAP. It is important that in doing so, the SNCBs consider the advice provided by the SAP at all</p>	Jen Ashworth	Looks like there is some clarification that could be done
8	05/12/2011	Stakeholder Overall	A	REA - Ocean Energy Group	Industry	Email	<p>1.1 The REA believes that the general principles the Protocol A contains are in the main appropriate for NE / JNCC to deliver advice to Defra and to ensure the advice is in line with the Government Chief Scientific Adviser's Guidelines on the Use of Scientific and Engineering Advice in Policy Making.</p> <p>1.2 We are pleased this Protocol recognises that many stakeholders have invested significant resources in the Marine Conservation Zone Project, but the REA would like a further recognition that for the majority of stakeholders, marine conservation is not their core business and it is difficult to justify the time and resource that stakeholders have been forced to commit to the project, in order to ensure that their interests are represented in the designation process.</p> <p>1.3 In the first of the principles underpinning the advice package, the REA applauds the statement that Natural England and JNCC's advice will be based on sound evidence but, given the paucity of data regarding marine habitats, features and species, we are very concerned that this statement is immediately followed by the phrase: "using the</p>	Jen Ashworth	Some clarification can be provided for points 2 and 3

9	12/12/2011	IER	Overall	A	IERG	Academic	via Defra	<p>The paradigm of <i>Best Available Information</i> has served its purpose. The use of <i>Best Available</i> in the ENG was linked to the requirement that decisions on site selection should not be deferred due to a lack of scientific certainty or until better evidence potentially became available. This was appropriate when the main risk to the RP recommendations would have been continued delays because of the search for better ecological data. Emphasis now needs to be placed upon the capture and use of <b>evidence that is fit for purpose</b>, even if that creates a delay to allow data mining and additional survey to make good shortfalls. This should be the paradigm for the current stage of the project where the risks of successful challenges to the quality of ecological data exceed those of delay.</p> <p>2. It is difficult for the reader to put this protocol into a broader context. What comes before and what comes after? It is also rather jargon-laden, which limits transparency.</p> <p>Page 3</p> <p>3. "Our advice package will ..." It is not clear what the relationship is between the recommendations and the advice package. Are they different?</p> <p>4. 'Natural England and JNCC's advice will be based on sound evidence using the best available information'.</p> <p>a) This is clearly contestable and hence a transparent methodology is required (i.e. how will you achieve this?).</p> <p>b) This assumes that the "best available" evidence is of sufficient quality and quantity to constitute sound</p>	Jen Ashworth	Need to clarify the text to respond to most of them and discuss with others some of the concepts they have suggested such as the move away from our advice using the best available evidence
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### Protocol A Action log

This is the action log for the SNCB's Advice strategic protocol - The Principles Underpinning Our Statutory Nature Conservation Body Advice On Marine Conservation Zone Designation (Strategic Protocol A)

The actions arise from the comments received from Independent Expert Review Group and stakeholders

version	Section / page	Comment	Response log number	Suggested action	Owner	Action undertaken	Date action completed
A	2	Overall	1	No action required - the detail will be in other protocols	JSA	n/a	n/a

A	2	Overall	useful to briefly summarise how the full set of protocols for the MCZ process link to each other. Will there be a guidance note for Natural England and JNCC staff to indicate the interdependencies between the protocols and how/when these should be used?	1	Clarify	JSA	Text added to part 1	02/11/2011
A	2	Overall	The first bullet should be broadened to indicate that '...advice will be based on sound evidence (rather than science) using the best available information that is gathered and used according to good practice principles	1	Alter text	JSA	Principle edited	02/11/2011
A	2	Overall	Annex 1 indicates who will be responsible for ensuring the protocol is implemented. It would be useful to include more information on how this will be done.	1	Clarify	JSA	Text altered slightly	02/11/2011
A	2	Part 1	Need to check on the wording in guidance note 1 about the request to the SNCBs (paraphrased)	2	Clarify	JSA	Text altered	02/11/2011
A	2	Part 1	Minor text changes	2	Alter text	JSA	text altered	02/11/2011
A	2	Part 1	Need to clarify who the protocol is for (paraphrased)	2	Clarify	JSA	text altered	02/11/2011
A	2	part 2	The decision was taken not to update this with the changes to the IA and timelines. Should these changes be reflected here as well as the reference to the PDG	2	Do not update as the timetable changes are not relevant to the point being made	JSA	n/a	02/11/2011
A	2	part 2	Insert reference to taking account of SAP advice	2	Alter text	JSA	text altered	02/11/2011
A	2	part 2	Comments around the principles in the GCSA guidelines	2	Do not alter as these are phrases come from our Standard and the GCSA guidelines	JSA	No action taken	02/11/2011
A	2	part 2	Clarify stakeholder involvement	2	Alter text	JSA	text altered	02/11/2011
A	2	part 2	Expand final 2 bullet points	2	update text but the detail of this will fall in to the relevant protocols (B and D)	JSA	text altered	02/11/2011
A	2	Annex 1	Clarify the text	2	Alter text	JSA	text altered	02/11/2011
A	3	part 2	change text to say we will accept SAP advice not just give it due consideration	3	No action required. This was text agreed with legal. However, we are discussing with Defra how exactly we will use the SAP advice.	JSA	N/A	01/12/2011
A	3	Overall	paraphrase - most sites have good evidence nad designation should not be delayed.	4	No action required. The comment is more strategic and not specific to the protocol	JSA	n/a	01/12/2011
A	3	part 2	paraphrase - clarify how we will take account of SAP advice and IER	5	Need to discuss with SROs and project managers	JSA	text altered	21/12/2011

A	3	part 2	paraphrase - it is not clear how our standards link to the cSAC recommendations	5	Alter text to clarify that the standards are new and have been developed to meet cSAC recommendations	JSA	text changed	12/12/2011
A	3	Overall	A stripped down explanation of the review process to be undertaken by the SNCB's should be produced. This should explain in non-technical language what the review is intended to do and the 'added value' that is expected to result from the outcomes, in terms of the quality and robustness of the site result from the outcomes, in terms of the quality and robustness of the site proposals – remembering that the process was never intended to be purely science-led. Equally, this should also clearly explain what the review is not intended to do.	6	this should be a separate document to the protocol	JSA	n/a	
A	3	part 1	refer to the need to designate an ecologically coherent network that will benefit the marine environment. In analysis of the sufficiency or otherwise of the MCZ network designated, the principles of ecological coherence as outlined in the ENG should be taken into account.	7	Clarify text to refer to ENG	JSA	text altered	12/12/2011
A	3	part 2	would welcome some further clarification on the first principle underpinning the advice package. This principle refers to "sound evidence using the best available information". Is this different from the existing commitment to consider "best available evidence"?	7	Discuss with the MCZPB what the key principle for evidence should be	JSA	text altered	21/12/2011
A	3	part 2	It is important that...the SNCBs consider the advice provided by the SAP at all stages of the process to the Regional Projects, as well as their final report (including where this scientific advice has not been followed by the Projects).	7	Clarify how the SAP advice will be used	JSA	text altered	21/12/2011
A	3	part 2	the REA applauds the statement that Natural England and JNCC's advice will be based on sound evidence but, given the paucity of data regarding marine habitats, features and species, we are very concerned that this statement is immediately followed by the phrase: "using the best available information". In our experience through the MCZ projects, all too often the best available information fails to provide an adequate basis for an informed decision-making process.	8	Discuss with the MCZPB what the key principle for evidence should be	JSA	text altered	21/12/2011

A	3	part 2	The paradigm of Best Available Evidence or Information has served its purpose. The use of Best Available in the ENG was linked to the requirement that decisions on site selection should not be deferred due to a lack of scientific certainty or until better evidence potentially became available. This was appropriate when the main risk to the RP recommendations would have been continued delays because of the search for better ecological data. Emphasis now needs to be placed upon the capture and use of evidence that is fit for purpose	9	Discuss with the MCZPB what the key principle for evidence should be	JSA	text altered	21/12/2011
A	3	part 2	It is difficult for the reader to put this protocol into a broader context. What comes before and what comes after? It is also rather jargon-laden, which limits transparency.	9	Try and remove or clarify jargon	JSA	text altered	12/12/2011
A	3	part 2	Our advice package will ..." It is not clear what the relationship is between the recommendations and the advice package. Are they different?	9	Clarify what is meant by the SNCB advice package	JSA	text altered	12/12/2011
A	3	part 2	Natural England and JNCC's advice will be based on sound evidence using the best available information'. a) This is clearly contestable and hence a transparent methodology is required (i.e. how will you achieve this?). b) This assumes that the "best available" evidence is of sufficient quality and quantity to constitute sound evidence. The Independent Expert Review Group (IERG) would prefer to see a principle that the best available evidence will be used and that sound advice will be given but with the previous caveat. This sound advice should include an evaluation of the quantity and quality of the evidence available so as to give an assessment of the confidence associated with the advice. Just because the evidence is the best available it does not necessarily mean that it is fit for purpose. The proposed principle will address that. This is more consistent with the Government's Chief Scientific Adviser Guidelines and would provide consistency with the 4th bullet.	9	Consider changing the bullet on best available evidence	JSA	text altered	21/12/2011
A	3	part 2	There should be an emphasis on the importance of not just using the evidence but documenting that it has been used rigorously.	9	Alter text	JSA	text altered	12/12/2011

A	3	part 2	<p>It would have been helpful to have seen the wording used in the NE corporate principles (footnote 5) but the principle that "Evidence used is of a quality and relevance appropriate to give advice or decisions" carries with it the idea of fitness for purpose and is supported. Despite this, the RP recommendations were also judged by the Scientific Advisory Panel (SAP) according to their quantity and site-specificity of information. 9</p>	<p>See if NE standards are available to reference. Clarify bullet on best available evidence JSA</p>	<p>Standards will not be published until March 2012 so text altered</p>	
A	3	part 2	<p>Uncertainty requires something more than "identification" and "explanation", and the focus on evidence and analysis is quite narrow. There may be uncertainty in the evidence, analysis and interpretation (and later, in implementation). Uncertainty creates risk and risks need to be managed, by use of the precautionary principle, for example, or more nuanced actions. The absence of the concept of risk management in the principles is a serious weakness and should be rectified by something along the lines of "Uncertainty arising due to the nature of the evidence, analysis and interpretation is clearly identified and explained, and the associated risks are quantified and managed". However, there are several areas of uncertainty - in gathering the original data, in collating and interpreting it, in presenting it by the RP and then in the SNCB adding their interpretation. 9</p>	<p>Add a new bullet on uncertainty JSA</p>	<p>text altered</p>	12/12/2011
A	3	part 2	<p>We will document our evidence-based decisions (i.e. keep records)'. Should presumably include documentation of the evidence as well as the decisions? The QA (Quality Assurance, Protocol B) should centre on the documented audit trail covering obtaining and using the data and information. Suggest adding additional bullet "Evidence and analysis underpinning the conclusions are documented and accessible" (also see comment 13) 9</p>	<p>Add bullet or adapt current text JSA</p>	<p>text altered</p>	12/12/2011