



Marine Conservation Zones: roles and responsibilities in the design, and implementation and enforcement of management measures

V1.4: 30.06.11

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This document has been developed in response to questions asked by members of the regional MCZ project stakeholder groups. It supplements the detail provided in section 3.5 'Conservation objectives and management measures' of the [MCZ Project Delivery Guidance](#) and provides further information on who is responsible for MCZ management and how it will work in practice following the submission of MCZ recommendations by the regional stakeholder groups.

The document provides clarity on the roles and responsibilities of stakeholders, the Statutory Nature Conservation Bodies (SNCBs) and Public Authorities (PAs) in the development and implementation of MCZ management and defines common language used.

Background

The Government's aim is to develop an ecologically coherent and well-managed network of Marine Protected Areas that is understood and supported by sea-users, local communities, businesses, and other interest groups. This network will be made up of European Marine Sites, SSSIs, Ramsar sites and Marine Conservation Zones. The identification of possible MCZs is being led by stakeholders (through four regional MCZ project stakeholder groups). Each regional project will recommend MCZs and conservation objectives to Government. An impact assessment will be developed to assess the costs and benefits of the regional project recommendations. In order to assess the impact of their recommended sites and objectives, the regional MCZ projects will identify possible management measures that could be implemented to achieve the objectives of their recommended sites.

The regional MCZ project recommendations will be delivered to the SNCBs in August 2011. In January 2012 the Impact Assessment, alongside additional advice from JNCC and NE and the regional MCZ project recommendations, will be submitted to Defra. The Government will consider the recommendations and advice, and consult on those sites it proposes to designate. Once MCZs are designated, all public authorities have a duty to further the conservation objectives of sites^{1,2}. The Marine Management Organisation and Inshore Fisheries Conservation Authorities (IFCAs) also have the power to regulate activities in inshore sites through the making and enforcement of Byelaws. Fishing activities outside 12 nm (and outside 6nm where non-UK fisheries have historic rights) are regulated through the Common Fisheries Policy. It is therefore important that the Statutory Nature Conservation Bodies (SNCBs) and public authorities (PAs)³ provide advice and support

¹ Defra, 2010. Guidance on the duties on public authorities in relation to Marine Conservation Zones (Note 2)

² Marine and Coastal Access Act 2009. Section 125.

³ Public authority means any of a Minister of the Crown, a public body or a public office holder. The meaning of "public body" and "public office holder" are given in Section 322(1) of the Marine and Coastal Access Act 2009.

stakeholders to help them have informed discussions as management options are considered and site recommendations agreed.

The Government's policy⁴ is that:

1. Both regulatory and non-regulatory measures should be investigated.
2. Measures with the least social and economic impact should be implemented where effective in meeting conservation objectives.
3. Management of sites should be proportionate to the conservation objectives of the protected feature.

Definitions related to MCZ management:

Conservation objectives - A conservation objective is a statement describing the desired ecological/geological state (quality) of the habitat, species, or feature for which an MCZ is designated. MCZ conservation objectives will establish whether the feature meets the desired state and should be *maintained*, or whether it falls below and should be *recovered to favourable condition*.

Management implications –whether an activity, or a number of activities, will need to be managed in order to meet the conservation objective(s) of an MCZ e.g. if the conservation objective for a habitats is 'recover', then activities a, b and c will need to be managed i.e. 'WHAT' will need to be managed.

Management measures – 'HOW' a site could be managed (also sometimes called the management 'instrument'). Essentially any action (voluntary or regulatory) taken to achieve the conservation objectives of a site is a management measure. Management measures may be restrictive (e.g. a requirement to use a certain type of fishing gear in sensitive areas), or be mitigative. Specific measures could include physical modifications to practices (e.g. adaption of fishing gear type, introduction of mooring buoys), education, practical and planning measures such as voluntary agreements, administrative (e.g. permits and seasonal restrictions), financial (e.g. mooring fees or car park charges) and legislative measures such as byelaws.

Mitigation measures - are a type of management measure and include measures introduced in order to avoid, reduce and, if possible remedy any adverse effects resulting (or likely to result) from proposed or existing activities. This can include for example, technical measures, such as pollution control and treatment and ecological and planning measures such as buffer zones, moving buoys, measures to preserve habitats or create alternative habitats; and includes not undertaking the activity.

Roles and responsibilities during the MCZ recommendation stage (pre-September 30 2011)

Regional Stakeholder Groups (RSGs) - supported by the regional MCZ project teams will:

1. propose draft conservation objectives for their recommended MCZs;
2. identify if activities need to be managed to meet the conservation objectives of a site (drawing on advice provided by the SNCBs and PAs);

⁴ Defra, 2010 Guidance on selection and designation of Marine Conservation Zones (Note 1).

3. identify possible management measures that could be implemented to ensure conservation objectives are achieved. These may be voluntary or regulatory, restrictive or mitigative;
4. provide information to assure the Government that the options identified for management measures are practical and feasible (e.g. that they are enforceable);
5. identify the likely effectiveness of each option in achieving the conservation objective⁵ with advice from Statutory Nature Conservation Bodies (SNCBs);
6. assess the social and economic impact of each management measures option (positive and negative), and identify a preferred option if possible.

The possible management measures identified do not need to be detailed. For example, stakeholders could identify that a *'voluntary code of conduct for recreational boating'* could be effective in meeting the conservation objectives of a site. This would be sufficient detail to assess the impact of the measure. If, however, stakeholders do identify more detail (e.g. who the measure would be implemented by and when – such as that it could be *'implemented by a Harbour Authority, or 'only needs to be applied between April and June'*), any such additional information should be captured to help inform the IAs and implementation of management measures in the future.

In line with Defra Guidance Note 3, the Public Authorities will have regard to management measures proposed by stakeholders. However, for a number of reasons⁶ they may not be the same as those eventually implemented by Public Authorities if sites are designated.

SNCBs (Natural England and JNCC) will:

1. produce Conservation Objective Guidance (COG)⁷ to help the RSGs develop potential conservation objectives for MCZs;
2. review the draft conservation objectives to ensure they meet the Ecological Network Guidance (ENG)⁸ and COG and to log any concerns and advice which will be submitted to Defra;
3. advise (based on best available evidence) whether the management measures the RSGs identify will deliver the conservation objectives of the recommended MCZs;
4. provide advice, if requested and where appropriate, to PAs and RSGs on how to further conservation objectives; and
5. help RSGs and PAs identify options to mitigate pressures⁹ caused by activities to achieve the conservation objectives.

⁵ JNCC & Natural England, 2010, Conservation Objective Guidance.

⁶ For example, more evidence about the condition of the MCZ feature(s) becomes available and therefore different management measures are deemed more appropriate

⁷ http://www.naturalengland.org.uk/Images/conservation-objective-guidance_tcm6-24853.pdf

⁸ http://www.naturalengland.org.uk/Images/100608_ENG_v10_tcm6-17607.pdf

⁹ Pressures have been defined as 'the mechanism through which an activity has an effect on any part of the ecosystem'. Pressures can be physical, chemical or biological and the same pressure can be caused by a number of different activities, e.g. fishing using bottom gears and aggregate dredging both cause abrasion.

Public authorities (e.g. MMO, IFCA's¹⁰, local authorities, harbour authorities, Environment Agency etc) may :

1. within their respective remits advise the RSGs on the options for management measures (including mitigation) and associated enforcement, including feasibility, practicality, effectiveness and cost; and
2. review the possible management measures whether voluntary or regulatory (if it falls within the PAs remit) identified by the RSGs, and provide timely advice to the regional MCZ projects. This should include feasibility, practicality, effectiveness and cost, if known, by using the best available information at the time.

Defra will:

1. provide policy advice and guidance on management measures where appropriate.

Roles and responsibilities between October 2011 and Designation:

Stakeholders will:

1. have the opportunity to provide further information on the possible management measures for the proposed sites consulted on in 2012, and their impact. This opportunity will be provided through the public consultation on the MCZ sites.

SNCBs may:

1. provide advice on the quality of evidence available to support adoption of a possible management measure;
2. provide additional statutory advice to Government on whether the possible management implications and measures identified by the RSGs are likely to deliver the conservation objectives of the recommended sites¹¹ ;
3. if requested, provide further advice to the PAs on possible options for mitigation to support the finalisation of management measure proposals to achieve MCZ conservation objectives;
4. give advice on matters that could damage features and/or environmental processes, and how conservation objectives may be furthered or hindered; and
5. advise the PAs on which MCZs are most at risk from damage from activities to help prioritise the implementation of management measures.

Public authorities may:

1. based on SNCB advice on MCZs at risk from damage, start the design, planning and engagement on implementing management measures once MCZs have been designated (duties are fully explained in Guidance Note 2¹² and Sections 125, 126 and 127 of the MCAA);
2. with the advice of SNCBs, identify cases where due to the risks of damage to MCZ habitats or species emergency and interim byelaws may be required and progress if required (see Guidance Note 3 for further information¹³).

¹⁰ Replacing Sea Fisheries Committees after April 2011.

¹¹ It is intended that this advice will be consistent with advice provided during the stakeholder process of identifying possible measures, but may change if new evidence becomes available.

¹² Defra, 2010. Guidance on the duties on public authorities in relation to Marine Conservation Zones (Note 2).

¹³ Defra, 2010. Guidance on the new Regulatory powers to manage MCZs under Part 5 of the Marine and Coastal Access Act (Note 3).

Defra will:

1. undertake public consultation on MCZs the Government proposes to designate in 2012, including the possible management measures for each site (as set out in Guidance Note 1¹⁴)
2. review the consultation responses received and, as appropriate, seek advice from SNCBs and PAs;);
3. Decide on MCZs to designate in 2012. The designation order will include the conservation objectives for each site;
4. lead discussions with UK and Non-UK stakeholders and The European Commission on fisheries management measures outside 12nm (and outside 6nm where non-UK vessels with historic rights may be affected).

Roles and responsibilities once sites are designated (December 2012 onwards)

The exact manner in which the management of designated sites will be overseen, monitored and enforced is still to be decided (we welcome stakeholder and public authority views on how this could work). However;

Stakeholders can:

1. Implement voluntary management measures.

SNCBs may:

1. provide advice on the effects of activities and how the conservation objectives can be furthered including in response to development applications and the EIA process (as part of our duties under the MCAA and the Natural Environment and Rural Communities Act (2006));
2. provide advice to public authorities, if requested, on suitable management measures particularly if proposed activities are likely to risk not achieving the conservation objectives of an MCZ feature;
3. advise Defra on the progress towards meeting the conservation objectives through monitoring and reporting processes and network achievement.

Public authorities will:

1. consider and implement changes in the way they carry out their functions or activities to ensure that MCZ conservation objectives are furthered. Public authorities will use the MCZ recommendations and Impact Assessments developed by the RSG to inform their decisions to develop, implement and enforce any regulatory management measures required and may establish a management scheme;
2. consider the impact of proposed activities (within their remit) on MCZs before authorising them and consult SNCBs on applications that may affect the protected features and any ecological or geomorphological process of any protected feature of an MCZ (Section 126 MCAA);
3. take active steps to further (or as a minimum not hinder) the conservation objectives for MCZs when exercising their functions as required under Section 125 of the Marine and Coastal Access Act; where an authorising authority believes that there is or may be a significant risk of an act hindering the achievement of the conservation objectives of an MCZ it must:
 - a. notify the relevant SNCB;

¹⁴ Defra, 2010 Guidance on selection and designation of Marine Conservation Zones (Note 1).

- b. wait 28 days before granting the authorisation (unless the SNCB advises that authorisation can be given earlier); and
- c. have regard to the advice of the SNCB.”

Defra will:

1. publish notice of designated MCZs;
2. seek management measures through the relevant EU or international channels. For example this may be in relation to matters covered by the Common Fisheries Policy (CFP);
3. amend, review and revoke the designation of MCZs as part of the adaptive management of the MPA network;
4. report to Parliament on how the objective of the creation of an MPA network has been achieved and take any further steps necessary to achieve the MPA network.