



## **Briefing Note: Fishing Control Proposals: new rod and net byelaws in Wales 16.3.2018**

### **PROPOSED NEW FISHING CONTROLS TO ADDRESS THE DECLINE IN STOCKS OF SALMON AND SOME SEA TROUT IN WALES – AN UPDATE**

**NRW Fisheries Team.**

#### **INTRODUCTION**

Our salmon stocks are in serious trouble, having declined to historically low levels. The same is true of about half of our sea trout stocks. Neither can sustain uncontrolled killing of fish, as it is essential that we ensure all fish have the chance to survive and breed.

This phenomenon is widespread across the North Atlantic range of salmon, and the other jurisdictions in the British Isles and beyond are each currently addressing the same issue in broadly the same way.

Although there are several contributory reasons to stock decline, including mortality of fish at sea and poor conditions in our rivers including unacceptable agricultural pollution incidents, it is a fundamental requirement to protect our valuable breeding resource of wild fish.

Although most fishermen have accepted and adapted to the urgent requirement to return the fish they catch, so that they may survive to spawn, some have not. About a quarter of anglers do not practice so-called Catch-and Release fishing (C&R), preferring to kill the fish they catch. In more normal circumstances this would be acceptable, however the great shortfall in fish now means that currently, killing them is not sustainable.

To ensure the conservation of our stocks, NRW concluded that new statutory fishing controls were required. We talked extensively to fishermen and other stakeholders during a two-year process, and this culminated in a statutory consultation in the latter half of 2017 on proposals for new fishing controls. Our proposals are for all salmon to be returned, alive and well, to the river by rod and net fishermen, together with restrictions on methods to those commensurate with effective C&R fishing. Similar constraints are proposed for the poorly performing sea trout stocks.

This note sets out the background to this.

## ASSESSING SALMON AND SEA TROUT STOCKS

NRW reports each year on the status of salmon and sea trout stock in Wales, comparing estimates of the abundance of spawning fish in each of the principal catchments with quantitative targets. The approach used has been in place for 15 years, is the same as that used by the Environment Agency in England, has been sanctioned by respective governments and is reported each year to ICES (International Council for the Exploration of the Sea) and NASCO (North Atlantic Salmon Conservation Organisation, established under an intergovernmental convention).

The most recent assessments reported show that: -

### Salmon stock status

The status of our salmon stocks in Wales is very poor with 20 of the 23 principal salmon river stocks failing to achieve their management targets and likely to stay in this condition until at least 2021.

All but 3 are assessed to be in continuing decline.

Six failing rivers (including the 2 cross-border rivers Dee and Wye) are designated as Natura 2000 sites under the EU Habitats Directive, with salmon contributing to this designation.

Some fear that we are applying blanket measures across Wales for simplified reasons and without reference to individual river performance. However, the consistency of stock failure has triggered a broad geographical response, and one which is based on individual river assessments.

### Sea trout- stock status

Of the 33 recognised sea trout rivers in Wales, we assess that 21 are failing to achieve their targets.

## MANAGING STOCKS OF SALMON AND SEA TROUT

The salmon stock management regime in Wales and England was implemented in 1998 following a Ministerial Direction and followed advice from NASCO. An associated 'Decision Structure' requires us to address failing stocks by introducing measures which "urgently achieve zero exploitation by both rods and nets (including 100% C&R) whilst seeking to maintain socio-economic benefits where possible".

We have developed and adopted a broadly similar approach for sea trout management.

C&R fishing has previously been introduced in Wales over the past 20 years: -

- As stocks have declined over the past 20 years, NRW and predecessors have continually urged voluntary restraint on the killing of fish. This was broadly well received by anglers and rates of C&R increased year on year. However, they have now generally stalled and with variable uptake: -

- salmon (combined statutory and voluntary): 33% - 100% (mean 72%)
- sea trout: 28% to 100% (mean 76%).

In 2016 we strongly reiterated the message for maximum C&R, however anglers still declared that they had killed over 500 salmon. On rivers where anglers could take salmon, 56% released all their salmon, whilst 24% killed all the salmon they caught.

- National byelaws requiring statutory C&R) fishing for spring salmon (prior to June) in rod and net fisheries were first introduced in 1999 and renewed in 2009.
- The principles of the Decision Structure were followed in implementing statutory C&R fishing for salmon and sea trout on the Wye and Taff/Ely in 2012.

It is not only adult fish that are at risk. Recent observations have shown an unprecedented reduction in juvenile salmon and trout populations across most of Wales and indicate a wide-scale failure of spawning success in the winter of 2015/2016. This has major implications for adult salmon numbers in 2019 and 2020. It appears that extreme weather, with wide-scale high temperatures and localised high flows at critical stages seriously damaged spawning success. NRW has also taken these findings into account.

## **TECHNICAL CASE SUPPORTING PROPOSALS FOR NEW CONTROLS**

Our proposals for fishing controls were published in 2017, supported by a comprehensive technical case with full background evidence -

<https://naturalresources.wales/media/684367/technical-case-structure-final.pdf>

Our case is that the poor status of our salmon and some sea trout stocks requires our urgent attention and although this paper focusses on the current fishing controls debate, it is clearly recognised that action is required under a broader set of initiatives.

The NASCO 1998 'Agreement on Adoption of a Precautionary Approach' makes the case for application of the 'Precautionary Approach' to salmon fishery management. It is this that requires a rational based on stock conservation limits and management targets set for each river and development of stock rebuilding programmes for stocks that are below their conservation limits. Salmon stocks are deemed to be at their lowest level ever, and the clear advice is that fishing on stocks that are below their conservation limits should not be permitted but if fishing is allowed based on overriding socioeconomic factors, it should be limited to a level that will still permit stock recovery within a stated timeframe.

## OUR PROPOSALS – IN BRIEF

Our full proposals, as amended, were presented to our Board on 18<sup>th</sup> January 2018, where approval was given for a formal application to be made to Welsh Government for confirmation. This application was submitted to WG on 20<sup>th</sup> February.

In summary, the proposals consist of: -

Salmon	Full statutory C&R in rod and net fisheries.
Sea trout	C&R in rod fisheries prior to 1 <sup>st</sup> May on targeted rivers A size limit to protect large fecund female fish.
Both species	Angling method restrictions (e.g. a ban on worm fishing for salmon, restrictions on treble and multiple hooks and the use of barbless hooks) to maximise the survival of released fish.
Net fisheries	a later start and an earlier end to specified net fishing seasons.

What they do not do: - They would not close any fishery. Rod and net fishing may continue, albeit with the controls set out above.

There is no ban on fishing with worm as bait, as perceived by some, except for salmon fishing. Worm fishing may continue for sea trout with few restrictions (e.g. prior to 1<sup>st</sup> May, to protect important stock components).

NRW is of the clear view that there is a compelling case for further urgent conservation action to help arrest the decline in the status of salmon stocks, and some sea trout stocks. This is essential to help restore stocks to healthier and more sustainable levels.

The proposed measures have been designed to ensure proportionality in balancing the interests of both net and rod fishery sectors while addressing the underlying need to better protect Welsh salmon and sea trout stocks. The proposed measures, are both proportionate and reasonable, in view of the risks to vulnerable and declining stocks throughout Wales.

Continuing to kill fish whilst stocks are far below their target levels is not sustainable and makes no sense.

Our case recognises that both species are facing a wide range of environmental pressures which are constraining stocks and fisheries (and details ongoing actions to address these).

For salmon, ongoing issues associated with poor survival at sea are a key concern in all salmon-producing nations. This highlights the importance of ensuring that conditions in freshwater are optimum for maximum production of young fish to go to sea.

Maximising the numbers of fish that survive to spawn is crucial, whilst other important work is underway to restore river habitats. This includes actions against activities that place the quality of our rivers and streams at risk.

## CONCERNS FROM ANGLERS

Measures such as those proposed will seldom be popular with stakeholders, even though our objective is clearly in the interest of the fish populations in question and, thereby, in the future fisheries that target them.

Some have said that the issue of concern is the potential 'imposition' of controls by a state body, rather than leaving the anglers to take their own decisions.

There have also been concerns about the potential impact on local economies, should the uptake of fishing decline. However, NRW's clear view is that in taking no action, fisheries will continue to decline and that these economic interests would face a very uncertain future if strong action is not taken to protect them. NRW views the current proposals as an investment in the future wellbeing of these natural resources.

The key concerns have been expressed as: -

- Just over 80% of the 549 representations to our consultation was from anglers who opposed some, or all, of the proposals.
- About a half of the 52 licenced netmen responded, mostly expressing concern.
- There has been ongoing correspondence from about 6 individual anglers, some of whom represent larger groups, targeted now at Welsh Government.
- The matter was raised in the Senedd during questions to the Cabinet Secretary for Energy, Planning and Rural Affairs on 14<sup>th</sup> February by Neil Hamilton AM, and again on 21<sup>st</sup> March by Siân Gwenllïan AM.
- There have been 3 petitions raised by anglers based in North Wales: -
  1. Created by Betws-y-Coed Anglers Club (raised on 23.2.18, lasting until 6.4.18. Currently 1,045 signatories, as at 27<sup>th</sup> March).

<https://www.assembly.wales/en/gethome/e-petitions/Pages/petitiondetail.aspx?PetitionID=1315>

“As a matter of urgency, we ask the Cabinet Minister to investigate the conduct of the Natural Resources Wales Executive during the consultation process and recommendation for changes to rod and line fishing bye-laws at the (NRW) Board Meeting held at Bangor University on the 18th January 2018, before accepting any proposals to change existing fishing bye-laws.”

2. Created by Andrew Holmes, November 2017: (615 signatures as at 27<sup>th</sup> March).

To: George Eustice MP, Minister of State at the Department for Environment, Food and Rural Affairs (Defra) and First Minister of Wales Carwyn Jones "Give Welsh Salmon and Sea-Trout a chance!"

<https://you.38degrees.org.uk/petitions/give-welsh-salmon-and-sea-trout-a-chance?bucket%20-%20signature-form>

"Suspend all large scale commercial net fishing and factory ship operations around the Welsh coast for a minimum period of 5 years  
Suspend all Coracle and Seine Netting Licences in Welsh river estuary's for a minimum period of 5 years.  
Implement and enforce compulsory migratory fish 'catch and release' angling legislation on all Welsh Rivers for a minimum period of 5 years  
Implement a comprehensive stocking programme of native fish for every river by encouraging anglers to donate live fish for hatchery breeding purposes, similar to the highly successful River Tyne restoration programme.  
Tighten and enforce current legislation to eliminate the menace of farming and industrial pollution incidents."

3. Created by Reuben Woodford (unknown start and end dates. 1,706 signatories: as at 27<sup>th</sup> March).

To: George Eustice MP, Minister of State at DEFRA, Lesley Griffiths AM - Cabinet Secretary for Environment and Rural Affairs and The First Minister of Wales, Carwyn Jones.

"Give Welsh Fishing Clubs and Salmon and Seatrout a Chance"

<https://you.38degrees.org.uk/petitions/give-welsh-fishing-clubs-and-salmon-and-seatrout-a-chance>

"Give Welsh Fishing Clubs and Salmon and Seatrout a Chance"

"Prevent the excesses of catch and kill of Salmon by implementing bag limits for catch and keep on all Welsh Rivers for 4 years developed on the basis of catchment specific data in close consultation with fishing clubs.  
Implement a comprehensive stocking programme of native fish on all rivers.  
Tighten and enforce current legislation to eliminate the menace of farming pollution and industrial pollution.  
Suspend all large scale commercial net fishing and factory ship operations around the welsh coast for a minimum period of 10 years.  
Prioritise resource allocation to assist in managing catchment specific issues linked to excessive natural predation rates and barriers to fish migration."

## **TIMESCALES**

The application for the 'all-Wales' rod and net byelaws was made to Welsh Government on 20<sup>th</sup> February, and those for the cross-border (Dee and Wye) and the cross-border (Severn in Wales) byelaws will follow over the coming 2 and 6 months respectively. The timescales are set in the governance process, however there can be no set timescale for a confirmation by Welsh Government.

Given this uncertainty, and difficulties of introducing measures mid-season, NRW is proposing that new measures should be introduced to take effect from the beginning of the 2019 rod and net seasons.

## **INITIATIVE TO PROMOTE FISHING OPPORTUNITIES IN WALES**

One of the more frequent criticisms made in representations to the consultation was that the proposed new measures would result in closure of fishing clubs, a reduction in numbers of people fishing, and an adverse effect on visitors to Wales.

NRW is aware that the proposed measures might lead to a reduced uptake of fishing, but is of the firm believe that the measurers are important if our fisheries resources are to be protected and improved.

Nevertheless, we welcome ongoing angling in Wales and in order to protect clubs and associations from the risk of declining fishing activity and related income we have worked with Afonydd Cymru on a scheme to enable clubs, associations and others to promote their fishing through the all-Wales Fishing Passport: -

<https://www.fishingpassport.co.uk/>

This opportunity will be available throughout 2018 and we will promote this shortly.

## **CONCLUSION**

NRW's clear view is that the evidence supports the conclusion – that the sustainability of our salmon stocks and some sea trout stocks is at risk, and that ongoing killing of fish cannot be supported. In coming to this view and in setting out our proposals we have much in common with neighbouring jurisdictions in the UK and beyond.

- We must consider the Environment (Wales) Act 2016 and the requirement to pursue the sustainable management of natural resources and the well-being goals set out in the Well-being of Future Generations (Wales) Act 2015. This is a good example of balancing short-term needs with the need to safeguard long-term needs and sustainability whilst acting to prevent problems getting worse
- Finally, NRW has given a clear commitment to address other issues affecting stocks, for example in our resolve to commission and implement River Restoration Plans.

## RECENT SUPREME COURT RULING

Following the recent Supreme Court decision in the case of *Mott v Environment Agency*, some stakeholders have again raised the issue of whether our proposals give rise to claims for compensation under Article 1 of the First Protocol of the European Convention on Human Rights ('A1P1 of the ECHR').

Although the Supreme Court found in favour of Mr Mott, it also emphasised that

- i) this was an exceptional case because of the severe and disproportionate burden on Mr Mott compared with other licence holders;
- ii) national authorities have a wide margin of discretion when imposing necessary environmental controls; and
- iii) there is no general expectation of compensation under A1P1 of the ECHR for adverse effects.

Taking the above into account together with our position that our proposals pursue a legitimate aim and that the means are reasonably proportionate to that aim, we do not consider that the impact on stakeholders is disproportionate so as to require compensation to be payable.

## **FURTHER BACKGROUND INFORMATION**

### **DEVELOPMENT OF PROPOSALS FOR NEW FISHING CONTROLS**

New proposals for further fishing controls have been developed to protect depleted stocks of salmon and sea trout in Welsh rivers.

Although most anglers have responded to ongoing requests for restraint and return their fish alive to the river so they may breed, some do not. Salmon stocks and many sea trout stocks are no longer sustainable and it is imperative that breeding populations are protected whilst other initiatives address underlying reason for stock declines.

### **Consultation and Engagement**

Throughout the preparation of our proposals for new fishing controls to address the ongoing decline in stocks, we liaised extensively with fishing stakeholders and Welsh Government and, where appropriate, the Environment Agency (EA).

We compiled a comprehensive technical case in which options were assessed and a final proposal for new byelaws was identified (all documents are on our website: [Catch control consultation pages](#)).

A formal consultation was undertaken lasting for 12 weeks (22<sup>nd</sup> August -14<sup>th</sup> November), and this was advertised, promoted on our website and presented to each of our Local Fisheries Groups.

### **Our proposed exploitation measures are based on:**

- Full statutory Catch-and-Release (C&R) for salmon in the rod and net fisheries across Wales as all stocks are assessed as unsustainable and vulnerable to ongoing decline.
- Additional controls where sea trout are in poor condition
- Wherever C&R is in place – additional statutory controls to prevent methods that are not commensurate with high survival rates of released fish.

### **Voluntary vs statutory: Why compulsory?**

A key difference between NRW and most fishermen has been whether the measures should be based on a voluntary or a statutory approach.

We have been setting out concerns about declining stocks of salmon and, in some cases, sea trout for several years. Throughout this period, we have continued to press the need for urgent voluntary measures. Specific concerns about 'spring salmon' resulted in the implementation in 1999 (measures renewed in 2009 for a second decade) of statutory C&R of rod-caught fish prior to June 16<sup>th</sup> and, prior to 1<sup>st</sup> June, for fish caught in exempted sea trout net fisheries.

Over the past 20 years or so there has been an increase in the number of fish being voluntarily returned, and there are good examples where individual fisheries and some whole-river organisations have made significant efforts. However not all clubs, fisheries and anglers across Wales appear to have taken up the challenge to actively promote or encourage greater take up of voluntary C&R. On some of our 'At Risk' rivers, voluntary C&R rates are less than 60%. In 2016, on rivers in Wales where salmon can be taken,

only 56% of anglers who caught salmon practiced 100% C&R. Whilst some 24% killed all the salmon they caught.

The introduction of statutory C&R measures on the Wye has not resulted in the collapse or decline of angling participation in the catchment. Indeed, in recent years there has been an increase in demand because there are more fish to be caught. A suite of measures including habitat improvements, improving connectivity, addressing water quality in addition to exploitation controls in the rod and net fisheries have taken effect. While we would accept that each river is managed differently in terms of its angling access there are more similarities than differences with a mixture of clubs, syndicated stretches, private and day ticket fisheries available.

We note that under a voluntary regime the option to kill a fish often means uncertainty for anglers as there will always be suspicion that other anglers elsewhere are killing fish.

We believe that it is essential to maximise the numbers of fish that survive to spawn if we are to fulfil our commitment to sustainable management of our fisheries resources. A statutory regime means that all uncertainty in uptake of the measure is addressed – everyone knows that release is required and that to kill fish would represent a chance of enforcement action being taken.

## **CONSULTATION OUTCOMES**

There were over 2,598 unique-hits on our consultation web page, and we received 549 responses. Some of these responses were anonymous, others had no contact details, and many were replicates sent by members of angling associations. A total of 70% of the responses for which we had contact details originated from North Wales.

We responded individually to correspondents and have placed a [Compiled note on responses](#) on our web site, detailing responses to all questions and points raised during the consultation.

We acknowledge that there is not widespread support from fisheries for mandatory measures, some 83% of responses disagreed with our proposed rod byelaws, whilst some 33% disagreed with the proposed net byelaws.

Respondents also referred to a wide variety of other factors affecting salmon and sea trout stocks: The 'top' 10' issues raised were:

- 1) Predation by fish eating birds
- 2) Enforcement Resources – NRW would not be able to enforce new rules,
- 3) Should ban all nets,
- 4) Technical and evidence not adequate,
- 5) Bag Limits (with or without a tagging scheme),
- 6) Proposals would result in closure of clubs and/or loss of members,
- 7) Spring Salmon byelaws haven't made a difference,
- 8) Proposals would result in a reduction in economic Value,
- 9) Why have you not taken account of the 2017 catches
- 10) Agricultural pollution damaging water quality

Detailed responses to all these issues can be found in the compiled note on our website:

[Compiled note on responses](#)

We are aware of these concerns. We are aware of the risk of reduced uptake of fishing for clubs and other fisheries interests, which comes against a background of declining membership over the past 10 years or so. This has probably been triggered, in part at least, by the reduction in numbers of fish.

NRW has clear responsibilities to protect salmon and we believe that the approach taken provides the most appropriate balance between the needs of anglers and clubs, and the duty to protect the species for the future.

Following the consultation, we have listened to all points made and have amended our proposals around fishing techniques.

We still strongly believe that our technical case makes an accurate and compelling case for further urgent conservation action to help arrest the decline in the status of salmon stocks and that mandatory C&R is required.

### **NRW BOARD OUTCOME**

The amended proposals were set out in our recommendation to the NRW Board meeting held on 18.1.18 for an application to be made to the Welsh Government for confirmation of the proposed byelaws. In approving this the Board advised that NRW should initiate work on an all-Wales river restoration plan to address the other constraints adversely affecting or fish populations.

### **DECISIONS IN OTHER JURISDICTIONS**

Similar concerns have been expressed in Scotland and Ireland where C&R has been introduced, although there does not appear to be evidence of collapse or demise of angling clubs, fisheries or participation in these jurisdictions.

It is noteworthy that similar responses to declining salmon stocks have been proposed elsewhere in the British Isles. See Box below.

## **FISHING CONTROLS FOR SALMON IN OTHER JURISDICTIONS**

### **England**

The Environment Agency will launch their statutory consultation in early March.  
Their proposals include: -

- Closure of drift net fisheries
- Statutory catch-and-release fishing on 10 rivers considered to be at 'At Risk'
- Targets of at least 90% C&R in 28 rivers considered to be 'Probably at Risk', with byelaws proposed in 2019 if targets are not met
- Renewal of national spring salmon byelaws requiring full C&R

### **Scotland**

Confirmed arrangements for 2018 are: -

- Prohibition on retention of salmon caught in coastal waters
- Statutory C&R in 122 rivers
- Voluntary C&R in 21 rivers
- Rod caught fish may be retained in 28 rivers.

### **Republic of Ireland**

Confirmed arrangements for 2018 are: -

- 68 rivers closed for salmon angling as there is no surplus of fish
- Statutory C&R fishing in 36 rivers
- Rod caught fish may be retained in 42 rivers

### **Northern Ireland**

"As salmon stocks are declining across all North Atlantic countries there are limits on the number of salmon that may be retained."

There is therefore a requirement for C&R to apply to all salmon and sea trout caught at any time in the DAERA licensing area except where there is a surplus of fish above the conservation limit.

## **Timetable**

Following Board approval, we have submitted our modified proposals to Welsh Government on the 20<sup>th</sup> February in an application for confirmation of the new byelaws as amended.

The Cabinet Secretary may, after due consideration: -

- approve our application and confirm the byelaws as amended
- approve byelaws with other modifications required by WG
- refuse to confirm byelaws with or without amendments.

