



Wild Fisheries Review (WFR) – Members’ Bulletin: September 2015

1. Introduction

This bulletin provides the latest information on the key features and progress made in relation to the Wild Fisheries Reform (WFR) process. It also provides members with the latest information on the joint work which ASFB and RAFTS are undertaking through the Joint Working Group (JWG) and elsewhere, to produce ideas to input into the reform process.

2. Representation of members

There is evidence that the concerns amongst our sector (which have been well-expressed via members meetings and consultation responses) about the roll-out of a new management system are being heard and addressed by Government. We would emphasise strongly that ASFB and RAFTS and members are heavily represented in the overall reform process, not only through ASFB and RAFTS staff and Chairmen, but also through the key placement of individuals from both Boards and Trusts on a number of formal groups influencing the WFR process and advising Government. This includes membership of the [WFR Stakeholder Reference Group](#), [WFR Strategy Reference Group](#) and the [Bailiff Develop Group](#) (which is helping to specifically influence and inform future changes to enforcement and compliance measures). We hope that this provides reassurance that there is significant representation of members interests through a variety of means at formal level.

As stated, there is strong evidence that Government are listening to the sector and making adjustments in relation to views. This is currently most evident in relation to the revised proposals for licensed killing of salmon published on 28 September (see [HERE](#)) where Government have responded to concerns raised by a variety of stakeholders (including ASFB and RAFTS) and made significant adjustments to the proposals to accommodate these views. Copies of the ASFB and RAFTS responses can be viewed [HERE](#) and [HERE](#)

It is clear, however, that the new proposals have themselves raised concerns and both organisations will be putting together a response to the consultation to highlight these concerns by the end of the 28 day consultation period. We would encourage members to raise these concerns directly with Government.

3. Key points

We expand below under separate sub headings progress made on the various WFR work-streams on which we are working closely with Government. It is encouraging that the whole process of reform appears to be being driven by management needs, rather than politics. Whilst this could change, particularly during the legislative and parliamentary stages, it does put the fishery management sector in a strong position to influence and have input into the shaping of any new system.

It is very important to bear in mind that Government are unable, at this stage, to provide hard and fast positions on the possible outcomes to the many elements of the reform process. As well as the formal channels of representation outlined above, there is a close and regular dialogue with officials which allows ASFB and RAFTS to inform the process – this dialogue relies heavily on trust and certain degree of confidentiality. Because of this dynamic, and the fact that there are many ‘known unknowns’ in relation to funding, FMO form, legislative form etc at this stage, there are clearly limitations as to how clear we can be with members now on likely

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outcomes. Much depends on developing thinking, practical and legal workability, legal advice both to us and within Government and how current ideas can be framed in the draft bill and reflected in policy proposals.

- **Fishery Management Organisations** – Government are still considering various ideas on the constitutional form of FMOs. It is recognised that form must follow function, and ASFB & RAFTS, with the input of the JWG, have produced an outline of the likely functions. There is a clear expectation from Government that the development of FMOs should be undertaken locally, and driven by existing local needs – albeit within a more strategic framework of regional districts. We anticipate that a network of around 15 FMOs across Scotland is the likely number of organisations that will be settled on to deliver management at the right scale for national effectiveness in the context of a new system. It is unlikely that areas for FMOs will be defined in future legislation. We understand that the implementation process will be ‘bottom up’, with local solutions being developed so that ideas can be piloted and tested long before formal or legal implementation. This will help inform the process and ultimately reduce the need for radical change when formal implementation is required.
- **Input from DSFBs & Trusts** - To ensure that this process can begin, during the course of this year the ASFB and RAFTS Chairmen have been facilitating and encouraging local discussion (see [HERE](#)) and have already met with many Boards and Trusts to consider how rationalisation of local management might be achieved to best meet the direction of reform. The key aim of these meetings are to:
 - *facilitate such discussions*
 - *help with any difficulties that may emerge*
 - *help with the wider political context*
 - *assist in ensuring that discussions in one area are complementary to discussion in neighbouring areas*

Many of these discussions are proving very positive and productive and a number of Boards and Trusts have already advanced thinking about how structural, operational and financial matters might be addressed in a future FMO scenario. We intend shortly to share some of this work within the network which may help others develop ideas for transition into the new system. Predictably, this process is highlighting gaps, particularly in relation to funding and resources, and it is important that we recognise these and consider how they might be highlighted to Government, with a view to proposing solutions. The ASFB and RAFTS Chairmen will be happy to discuss this further and attend any meetings where it might be helpful to have our input.

Points which are under consideration within the JWG and being shared with Government:

- Mapping out functions of FMOs (this will influence the form they take)
- Form and constitution of FMOs – ie charity, company, other
- Membership and structure – ie 2 tier – wider constituency and executive ‘board/committee’
- The concept of ‘federalism’ – ie sharing specific skills and resources across several FMOs where that makes economic and practical sense
- Funding and resourcing – this is clearly one of the most challenging parts of the reform, both in terms of raising sufficient funding to manage larger areas effectively and developing the most appropriate and efficient mechanism by which that money will be collected. No decisions or hard direction has yet been established, however options remain open for either a central system of collection or a regional one. It would appear that the maintenance of a regional levy collection system is still very much in play. The concept of raising additional finance beyond the established levy principle has not be discounted, however any system of additional contributions will need to be practical and politically saleable.

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A common concern which has been expressed is the actual or perceived loss of local authority and statutory control when moving to a new structure. It is worth noting that there are very few matters where Boards have sole legal autonomy; the key ones are powers to raise a levy and appoint bailiffs. Beyond that, most other regulatory action requires the input of Ministers to create regulations, and a number of other management actions still require official consents. We do not anticipate that the ability to deliver management will differ materially from the status quo. ASFB and RAFTS have been emphasising that the actual ability to deliver local management must remain (however we do recognise the need that this must be delivered consistently and within a different framework of accountability). A strong factor will be the relationship between the National Unit and FMOs and the management responsibilities vested in both – this has yet to be determined.

4. Timelines for the next formal stages

Work is underway within Government in terms of developing a draft national fisheries strategy for the new system, along with a draft bill. It is anticipated that both work-streams will be subject to public consultation in the New Year (possibly around February). Again, we are inputting to this work through a working group on which ASFB, RAFTS and other sector stakeholders are represented. Whilst it is far too early to speculate on the form the bill is likely to take, it will potentially be broad and enabling, rather than prescriptive and detailed. It seems likely that implementation of the FMO network will be staged over a series of years. Again, local/regional need is going to be a strong influencing factor for determining the geography of a new system, and as we mentioned above, it is imperative that this is driven locally. Local Boards and Trusts must ensure that this happens, as the failure to reach consensus locally is likely to mean that jurisdictional areas may well be imposed.

We anticipate the outline timescale to be approximately as below. Please note that there are strong caveats on the timings, as these may well be subject to change and delay, as a result of a range of external factors. It is therefore only intended as a best case scenario guide.

- Present-December 2015 – development of draft strategy and bill
- February 2015 > - public consultation on draft strategy and bill
- June – August – Government consideration of responses
- Autumn 2016 (**at earliest**) – potential for a bill to be tabled before Parliament
- 2017? Possible enactment of legislation (but not necessarily actual implementation)
- 2017 onwards – potential implementation (phased).

The Joint Working Group will also be working on a timetable to run alongside the official timetable which may help Boards and Trusts with transition arrangements to the new system. It is recognised that a proportion of the new proposals do not require legislative action and that it may be possible to start the transition process earlier along the lines suggested in the Thin report for “shadow structures”. This we believe will help organisations plan ahead and anticipate some of the significant challenges which will emerge as we transfer to the new system.

5. Professional Advice

ASFB and RAFTS, through specifications agreed within the JWG, has been commissioning specialist advice as and when required to help provide a solid understanding of any legal and technical matters which may influence the changes proposed. At present, we have sought advice on two areas – 1) the potential impact of WFR on fishing ownership heritable rights, and 2), advice to explore the various constitutional options which might be used as vehicles for FMOs. Included in this will be the pros and cons of charitable status. These have been shared with members. There is clearly potential for a need to seek further advice on other matters as the need arises.

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The JWG will be examining this, and there are two key matters on which it is likely that advice will be required **1)** the issue of employment and rights of those currently holding positions with Boards and Trusts and how these will be handled correctly in any transition **2)** how current board and trust assets should be handled in any transfer to a future FMO system. This could include a wide range of matters, from offices, vehicles and other assets and other property, such as fishing rights purchased for conservation reasons. Both these areas will require careful consideration and ASFB and RAFTS will commission advice as appropriate which will be shared.

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