

<b>Title:</b> <b>Call for evidence on intertidal shellfish gathering in the Northern Ireland marine area.</b>	<b>Regulatory Impact Assessment (RIA)</b>		
	<b>Date: 18/3/2022</b>		
	<b>Type of measure: Secondary Legislation</b>		
<b>Lead department or agency:</b> <b>DAERA</b>	<b>Stage: Consultation</b>		
	<b>Source of intervention: Domestic NI</b>		
<b>Other departments or agencies:</b>	<b>Contact details:</b>		
	DAERA Marine Conservation and Reporting		
	MarineConservation@daera-ni.gov.uk		

### Summary Intervention and Options

**What is the problem under consideration? Why is government intervention necessary? (7 lines maximum)**  
 The intertidal hand gathering of shellfish in Northern Ireland is currently unregulated by the Department. Concerns have been raised by stakeholders about potential over exploitation of periwinkles and impacts of intertidal gathering on protected habitats and species. Government intervention is necessary to ensure the Northern Ireland marine area is being used sustainably and sensitive habitats and species are protected from damage.

**What are the policy objectives and the intended effects? (7 lines maximum)**  
 The first objective is to seek evidence from stakeholders through a call for evidence document and targeted questionnaire. This aims to build the evidence base which will allow the Department to finalise management measures to regulate intertidal shellfish gathering,  
 The objective of these management measures is to bring intertidal shellfish gathering into regulation. This aims to ensure that the activity is being undertaken sustainably and not causing adverse effects to protected habitats and species.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum)**  
 Do nothing - This Option is not viable as DAERA the Department has a duty to manage fishing within sustainable limits and to ensure fishing does not have detrimental impacts on protected habitats and species.  
 Option 1 – Prohibit intertidal shellfish gathering in the Northern Ireland marine area.  
 Option 2 – Introduce management measures that allow shellfish gathering to continue in a sustainable way, based on evidence and taking into account the views of stakeholders. Potential measures include: closed season, minimum landing size, night-time curfew, registration system for commercial gatherers and a bag limit for recreational gatherers.  
 Option 2 is the preferred option, option 1 has been discounted due to a lack of evidence Vs impact of measures.

<b>Will the policy be reviewed? Yes</b>	<b>If applicable, set review date: 2027</b>
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Cost of Preferred (or more likely) Option		
Total outlay cost for business	Total net cost to business per year	Annual cost for implementation by Regulator
Unknown	Unknown	Unknown

<b>Does Implementation go beyond minimum EU requirements?</b>	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>		
<b>Is this measure likely to impact on trade and investment?</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input checked="" type="checkbox"/>		
<b>Are any of these organisations in scope?</b>	<b>Micro</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Small</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Medium</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Large</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

**The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.**

Approved by: Colin Armstrong Date: 8/6/22

# Summary: Analysis and Evidence

# Policy Option 1

Description: - Regulation of intertidal shellfish gathering in the Northern Ireland marine area.

## ECONOMIC ASSESSMENT (Option 1)

Costs	Total Transitional (Policy)		Average Annual (recurring)	Total Cost
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
<b>Best Estimate</b>	<b>Nil</b>		<b>Nil</b>	<b>Nil</b>

**Description and scale of key monetised costs by 'main affected groups'** The Department has no figures to assess the impact of option 1 on businesses. The proposals however were considered too restrictive especially in light of the limited evidence held by The Department on quantities of shellfish harvested from the shore. Option 1 was discounted at an early stage during the development of management measures following engagement with stakeholders. As such the cost to affected groups has not been investigated. Option 1 has not been taken forward to consultation. If this option were to be pursued, a separate consultation to gauge the cost to those affected would be undertaken.

**Other key non-monetised costs by 'main affected groups'** Maximum 5 lines

NA

Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Benefit
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
<b>Best Estimate</b>				

**Description and scale of key monetised benefits by 'main affected groups'** Maximum 5 lines

This option would have no benefits to the main affected groups

**Other key non-monetised benefits by 'main affected groups'** Maximum 5 lines

NA

**Key Assumptions, Sensitivities, Risks** Maximum 5 lines

The assumption is that intertidal shellfish gathering is having a detrimental impact on the marine environment, protected habitats and species. The evidence is not yet available to confirm this assumption. Taking the decision to implement a blanket ban on shellfish gathering would be unnecessarily restrictive. The risk is that it could cause excessive economic impact on businesses and not be received well at consultation stage. It would also go against DAERAs objective for sustainable use of the marine environment.

## BUSINESS ASSESSMENT (Option 1)

Direct Impact on business (Equivalent Annual) £m		
Costs: £0	Benefits:	Net: £0

## Cross Border Issues (Option 1)

**How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland)** Maximum 3 lines

This option is more extreme when compared to other parts of the UK. The scale of management of this activity amongst other UK authorities ranges from small scale prohibitions to protect a particular habitat/species to having no management at all. No other administration has imposed a blanket ban for the entire country.

## Summary: Analysis and Evidence

## Policy Option 2

Description: - Management measures bespoke to each MPA where there is a risk of disturbance to marine wildlife.

### ECONOMIC ASSESSMENT (Option 2)

Costs (£m)	Total Transitional (Policy) (constant price)	Years	Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	unknown		unknown	unknown

#### Description and scale of key monetised costs by 'main affected groups' Maximum 5 lines

The 'main affected groups' are likely to be fish processing businesses and shellfish gatherers, both recreational and commercial. Without having data on quantities bought and sold to market it is not possible to quantify the costs incurred. The Department's intention is to regulate this activity in a sustainable way rather than prohibit it altogether. This means that income gained from shellfish gathering will not be halted but could be affected depending on the time of year and location/species gathered. The call for evidence document seeks to gather more evidence to better quantify the economic cost of affected groups.

#### Other key non-monetised costs by 'main affected groups' Maximum 5 lines

The questionnaire in the call for evidence document asks specific questions to better understand the non-monetary costs that could be caused to the main affected groups. One assumption is that there could be a social and cultural impact on recreational gatherers that undertake the activity as part of their leisure. Any other non-monetised costs will be identified through the questionnaire and ongoing stakeholder engagement.

Benefits (£m)	Total Transitional (Policy) (constant price)	Years	Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	unknown		unknown	unknown

#### Description and scale of key monetised benefits by 'main affected groups' Maximum 5 lines

The primary benefits to be realised as a result of these proposals are non-monetary and have been outlined below.

#### Other key non-monetised benefits by 'main affected groups' Maximum 5 lines

The primary benefits that these proposals aim to introduce are to the marine environment. Ensuring that shellfish gathering is being undertaken sustainably will protect sensitive habitats and species and contribute to improvements in biodiversity. Unregulated shellfish gathering can lead to labour exploitation of unregistered workers. This negative social impact could be improved through introducing regulations and bringing fishing practices and employers into compliance.

#### Key Assumptions, Sensitivities, Risks Maximum 5 lines

The assumption is that intertidal shellfish gathering is having a detrimental impact on the marine environment, protected habitats and species. However, without the necessary evidence there is the risk that the Department could introduce regulation that is above and beyond what is required. Option 2 takes the balanced approach by seeking the evidence through the call for evidence questionnaire and formulating management options with input from stakeholders.

### BUSINESS ASSESSMENT (Option 2)

Direct Impact on business (Equivalent Annual) £m		
Costs: N/A	Benefits: N/A	Net: N/A

### Cross Border Issues (Option 2)

#### How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines

This option is comparable with other regions of the UK where regulation of gathering is favoured rather than total prohibition. This balanced approach allows gathering to continue in some form while minimising environmental impacts.

## Evidence Base

### 1. The policy issue and rationale for government intervention

Intertidal hand gathering of shellfish refers to the collection of wild shellfish from the shore without the aid of mechanised equipment. In Northern Ireland this is predominantly for periwinkles but also includes cockles, native oysters and blue mussels. The activity is common and is undertaken for both personal consumption and as a commercial activity.

There is a common law right for members of the public to gather shellfish from the shore for their personal consumption.

Shellfish gathering undertaken as a commercial activity and sold into the food chain must comply with retained EU Regulation 853/2004, which lays down specific hygiene rules for premises that handle or process fishery products. For bivalves such as native oyster, blue mussels and cockles, harvesting can only be undertaken within classified production or relaying areas. The classification of a production area determines the treatment required before live bivalve molluscs may be marketed for human consumption.

Section 42 of the Belfast Corporation Act 1930 prohibits all shellfish gathering along shores of Belfast Lough. The purpose of this regulation was to protect the public from poor water quality in Belfast Lough and enforcement of the Act is the responsibility of local council authorities.

The Strangford Lough (Prohibition of Fishing for Shellfish) Regulations (Northern Ireland) 2001 prohibits the removal of shellfish “from or by any means of any mechanically propelled vehicle” within Strangford Lough. This therefore prohibits the use of tractor dredges for harvesting of cockles and the use of quad bikes or other mechanised transport for the removal of animals from the intertidal.

The Inshore Fishing (Prohibition of Fishing and Fishing Methods) (Amendment) Regulations (Northern Ireland) 2003 prohibits diving for scallops in the North of Strangford Lough between the 1<sup>st</sup> May and 31<sup>st</sup> October. This relates to subtidal shellfish gathered by diving rather than intertidal gathering.

Beyond the above regulations, the hand-gathering of shellfish from intertidal areas is unregulated. The Department therefore does not hold accurate records on the number of commercial operators, the level of activity, or the value of the fishery. A number of studies have been undertaken and periwinkle landings reported in 2011 and 2012 had first sale values of £374,400 and £432,000 respectively. These figures are indicative of the potential value of

commercial shellfish gathering but it is impossible to assess the true value of this fishery without mandatory activity reports.

Sustainability is embedded within marine and fisheries policy and legislation, including the Northern Ireland Inshore Fisheries Strategy and more recently the Fisheries Act 2020 and draft Joint Fisheries Statement. The Department has a duty to manage fishing within sustainable limits and to ensure fishing does not have detrimental impacts on marine protected areas.

Small-scale collection of shellfish for personal consumption may be regarded as being sustainable and previous assessments by the Department have indicated that this could be the case. However, an increase in the number of reports of shellfish gathering received by the Department suggests that intensity of gathering may have increased in recent years. Responses received to the DAERA consultation on *Fisheries Management Measures in Marine Protected Areas* in 2021 called on the Department to ensure that shellfish gathering is regulated to protect biodiversity.

An Agri-Food and Biosciences Institute (AFBI) study that was commissioned by DAERA investigated the potential for a minimum landing size and a closed season for collection of periwinkles in Strangford Lough. The recommendations from this report were for the minimum landing size to be set at 16mm and a closed season between January and April to protect spawning stock.

A study on Management of the periwinkle fishery in the Strangford Lough and Lecale coast was undertaken by the Strangford Lough and Lecale Partnership (SLLP). This report recommended introducing a regulatory framework for hand gathering of periwinkles including implementing increased levels of certification of gatherers, introducing a minimum landing size and increased reporting of data by fish processors to better quantify amounts of shellfish gathered.

For the Department to introduce management measures, decisions need to be based on robust evidence and risk assessments. As this activity is unregulated, the Department does not have a source of reliable quantitative data on intensity and scale of activity within Northern Ireland.

The decision to publish a public call for evidence aims to address that by reaching out to the public and stakeholders seeking all available information and evidence on current shellfish gathering practices in Northern Ireland. This will improve the evidence base for the Department

and enable the Department to more accurately assess the ecological, social and economic impact of the activity.

Stakeholder involvement is fundamental in the development of any management measures and is welcomed by the Department. Initiating a call for evidence gives the opportunity for stakeholders to have their input into the decision making process from the start, having their knowledge and opinions incorporated into the development of measures.

The responses to this call for evidence will help inform the formulation of management measures but potential management options have been set out within the document to get stakeholder views on their implementation.

The potential management measures outlines in the document are:

### **Closed Season**

This is a defined section of the year where gathering is prohibited. It is usually based on the reproductive cycle of the target species, ensuring that the closed season covers the spawning period and therefore improves reproductive potential. Research undertaken by AFBI on periwinkles in Strangford Lough showed the spawning peak was in February and March, and recommended that a closed season for winkle gathering from January to April would be the most effective time to protect future stock. The Department recognises these are profitable months for periwinkle harvesting and welcomes views from gathers and processors on the recommendation for a January to April closed season.

### **Minimum Landing Size**

Minimum landing sizes can be introduced and will differ for individual species. The size is usually determined based on the size at which a species start to reproduce. Returning all undersize specimens to the shore will help to ensure they have the opportunity to spawn and enhance the biomass of the species. Research undertaken by AFBI on periwinkles in Strangford Lough recommended that a minimum landing size should be set at 16mm to allow all specimens a minimum of one winter spawning.

Periwinkle is the predominant target species in Northern Ireland and the Department will keep under review the need for management measures for other intertidal shellfish stocks.

### **Bag limits – for personal consumption**

Bag limits can be implemented to differentiate between gathering for personal consumption and commercial activity. A report for Strangford Lough and Lecale Partnership identified that

gatherers can collect 20-25kg in a single tide and some can collect up to 50kg. The report recommended a limit of 4kg / 2 litres in one tide for personal consumption. A bag limit could be a set weight, number of shellfish or a set size of bag/bucket.

### **Registration system for commercial harvesters**

Like other commercial fishers, the commercial gatherers would be required to be registered with the Department. There would be a requirement to complete an activity log, which includes the weight of catch and harvesting location.

### **Protection of native oyster and blue mussel beds in Strangford Lough.**

There are important blue mussel beds and native oyster beds in Strangford Lough, and the Department is gathering evidence to support the case for adding these blue carbon habitat types as designated features of Strangford Lough Marine Conservation Zone. Blue mussel beds are also a Northern Ireland priority habitat and native oyster is a priority species.

A feasibility study is being undertaken for a native oyster restoration project in Strangford Lough. Potential management measures could include prohibition or restriction of hand gathering native oysters and blue mussels in Strangford Lough.

### **Prohibited areas/No-take zones**

These can be introduced to remove all pressures associated with intertidal gathering in defined areas to protect sensitive habitats or species from damage or disturbance such as bird nesting sites and seal haul-outs. Closed areas also protect nursery areas and there can be spill over benefits to adjacent areas through larvae dispersal.

### **Code of practice**

Voluntary or mandatory codes of practice can be introduced for gatherers which set out how gatherers can minimise their impact to the environment by complying with a list of conditions.

For example:

- Sorting and returning small shellfish to the shore.
- Being aware environmental legislation relating to protected habitats and species in your area (For example: Marine Protected Areas or bird nesting sites)
- Replacing any rocks or clumps of seaweed that have been moved while gathering to their original location.

## **Night time curfew**

Introducing a night time curfew can have benefits for shellfish stock, as well as protection of sensitive habitats and species.

When gathering at night it is not possible for gatherers to see what damage or disturbance they could be causing to sensitive habitats and species. It is also difficult for enforcement officers to operate during the hours of darkness. A night time curfew can also contribute to sustainable fishing practices by reducing the amount of hours available to gather and therefore reducing effort.

## 2. Policy objectives

The main aim of this option is to create a sustainable intertidal gathering fishery, in which stocks are protected for the future and any negative impacts to the marine environment are minimised. This will allow businesses to continue to operate and recreational gatherers to continue to do so but with conditions placed on their activities to minimise impact.

This is in line with the Department's vision for sustainability at the heart of a living, working active landscape valued by everyone.

## 3. Policy options considered, including alternatives to regulation

The Department has considered the following options when developing its potential management measures for shellfish gathering.

- Do Nothing.
- Total prohibition of all gathering in NI.
- A suite of tailored management measures.

### **Do nothing option**

This option has not been considered as The Department is bound by national policies and legislation and international commitments, to introduce management measures to avoid damage being caused to Marine Protected Areas (MPAs), protected species and habitats.

### **Total prohibition of all gathering in NI**

This option has been considered too extreme and unnecessary at this time. The Department does not have the required level of evidence to suggest that this is the best option with regard to protection of the marine environment and it would cause unnecessarily severe negative impacts on business and the public.

### **A suite of tailored management measures**

This option is preferred as it seeks to gain the additional evidence required to formulate the management measures. It also considers location, species and current gathering practices rather than implementing a blanket ban without due consideration. It is considered the best option to achieve the policy objectives outlined above.

## 4. Expected level of impact on business and government

### **Cost to Business**

As stated above it is not currently possible to quantify the economic impact on businesses through the implementation of regulating shellfish gathering. The activity is largely unregulated and accurate data is not available on market values and quantities sold to market.

The balanced approach favoured by the Department will ensure that costs to businesses are minimised compared with the alternative of prohibiting the activity completely.

### **Benefit to business**

Sustainable fishing practices will ensure that shellfish populations are safeguarded for future generations and give confidence on future viability of businesses related to this activity.

### **Cost to DAERA**

There is not expected to be any additional impact to The Department as enforcement needs will be met through its existing resource.

### **Benefits to DAERA**

- An improvement in understanding of current shellfish harvesting practices within Northern Ireland.
- Increased evidence base from which to base finalised management measures on.
- Introducing management of this activity will provide added protection to sensitive habitats and species.
- Bringing a largely unregulated activity into government regulation and ensuring that it is being undertaken sustainably in line with DAERA's vision.
- Further stakeholder engagement with industry, community groups, NGPBs and NGOs.

### **Risks**

The main risk is that the Department introduces management measures that are based on insufficient evidence and as a result unnecessary negative economic and social impacts are caused as a result. As stated, the current evidence base is insufficient for the Department to confidently introduce effective management measures. This consultation has specifically been designed to address this risk and gather the information required through a targeted stakeholder questionnaire to ensure that these unnecessary negative consequences are avoided.

## **5. Summary and preferred option**

Based on the information provided above it has been decided that the preferred option is to implement a suite of tailored management measures. These measures will be formulated based on the current knowledge and evidence base and the responses and evidence provided through this consultation.

## **6. Other Impact Assessments**

The proposed management measures have also been subject to a Habitats Regulations Assessment, an Equality and Human Rights Impact Screening exercise, and a Rural Needs Impact Assessment. The accompanying assessments are available to download from the Department's website.