



**Association of  
Salmon Fishery Boards**



## **Comments on 'Improving the physical condition of Scotland's water environment'**

**February 2013**

### **Introduction**

Formed in 2005, Rivers and Fisheries Trusts of Scotland (RAFTS) is an independent freshwater conservation charity representing Scotland's national network of 25 rivers and fisheries Trusts and Foundations. Our members work across over 90% of Scotland's freshwaters to protect and develop our native fish stocks and populations by undertaking a range of activities including freshwater, river habitat restoration, fish and fisheries monitoring, research and education programmes. RAFTS is the membership organisation of the fisheries and rivers trusts operating in Scotland and is, itself, a charity and company limited by guarantee.

The Association of Salmon Fishery Boards (ASFB) is the representative body for Scotland's 41 District Salmon Fishery Boards (DSFBs) including the River Tweed Commission (RTC), who have a statutory responsibility to protect and improve salmon and sea trout fisheries. The Association and Boards work to create the environment in which sustainable fisheries for salmon and sea trout can be enjoyed. Conservation of fish stocks, and the habitats on which they depend, is essential and many DSFB's operate riparian habitat enhancement schemes and have voluntarily adopted 'catch and release' practices, which in some cases are made mandatory by the introduction of Salmon Conservation Regulations. ASFB create policies that seek where possible to protect wider biodiversity and our environment as well as enhancing the economic benefits for our rural economy that result from angling.

We welcome the opportunity to comment on this consultation. This submission is made jointly by RAFTS and the ASFB recognising the close working relationship between these organisations directly and by our respective member organisations (fishery and river trusts and DSFBs) across Scotland and in the, often joint, delivery of habitat and physical restoration works and schemes.

### **General Comments**

We welcome the opportunity to contribute to the improvement of the physical conditions of Scotland's water environment in order to deliver multiple benefits to these environments and to the uses and users of these waters. We believe that fishery trusts and boards can make a significant contribution to this work centrally and locally and also that many of our member organisations are well placed to make continued contributions to the delivery of physical restoration activities.

District Salmon Fishery Boards, as the managers of the fisheries for Atlantic salmon and sea trout, and Fishery Trusts, as key organisations undertaking research, monitoring and delivering a range of projects related to the health of our water environment, already make a significant contribution to the achievement of RBMP objectives. As such, we welcome opportunities to deliver restoration, for example, through the Water Environment Fund. We agree that removing or easing man-made barriers to fish migration can make a significant contribution to the health of migratory fish populations and the economic, socially and culturally important fisheries they sustain and we wish to play a full part in taking this forward in the coming years with SEPA and other partners. To do this it will be essential that strategic support is provided to local delivery organisations such as fishery or river trusts and that the coordinating roles of RAFTS and

the ASFB are similarly recognised, supported and acknowledged. When this is the case then the local network of expertise available in the freshwater fisheries sector can be an effective means of ensuring strong local engagement, informed prioritisation and cost effective local delivery. Without such support then there is the very real risk that the local partner organisations sought to help deliver this important area of work will not have the capacity to fulfil this task.

We believe that to achieve the efficient, prioritised and cost effective restoration of Scotland's water environment it is important that:

- Work is delivered on an evidence-based and prioritised basis to ensure that the maximum environmental and public benefit is secured for the funds invested in restoration;
- There is a common understanding of what delivery at the "catchment scale" means in practice. Clearly it must ensure that actions and reactions within catchments are recognised and understood but, equally, it must not prevent the delivery of clearly beneficial actions where these are clear and can be agreed. In addition it must be recognised that catchment scale delivery should not prevent the taking forward of restorative actions in "simple" catchment scenarios where there is no complex set of interacting pressures. By taking forward obvious and agreed actions where these are identified then significant and timely environmental benefits can be achieved in parallel to more complex assessment exercises in complex catchments;
- Support may require to be provided to partner organisations to support the contributions they are best placed to make to the national restoration effort. This is particularly the case when non-public body partners are to be relied upon;
- In parallel to non-regulatory restorative measures there must be an effective and transparent means of co-ordinating this work with the delivery of regulatory measures. In particular the review by SEPA of CAR licences offers significant opportunities to deliver improvement at the catchment scale in relation to barriers to fish passage. When harmonised with spends and action on non-regulated barriers this will deliver significant and cost effective environmental improvements. If such harmonisation does not take place then the benefits of both regulatory effort and Water Environment Fund grant spends will be reduced;
- Although not the subject of this consultation many of our members have raised concerns as to the delivery of regulatory enforcement and CAR license review processes by SEPA. It is crucial that whilst a range of non-regulatory and voluntary efforts are made to restore and improve the physical environment of our waters that a full and timely contribution is made by the application and enforcement of SEPA's regulatory powers;
- We recognise that some barriers e.g. trunk road crossings are currently the sole responsibility of the asset owner. We do not believe that there is significant evidence of Local Authorities, Transport Scotland or Network Rail for example dealing with barriers to fish passage under their asset maintenance operations and so would strongly support any decision by Scottish Ministers to bring forward regulations giving SEPA powers to require improvements where these were not being taken forward by the asset owner; and
- Cost effective and proportionate monitoring of the success of implementation of improvement and restoration measures is put in place and supported and recognised as part of key restoration activities. It will be increasingly necessary to demonstrate the environmental and ecological benefits of some of these measures and this should be considered on a strategic basis to ensure that necessary and important monitoring is planned and delivered and that non-essential monitoring is not.

## Consultation Questions:

### *Section 2: Vision*

1. *The draft plan emphasises that multiple benefits can be achieved through restoring the physical condition of the water environment. Can you identify ways in which we can deliver a wider range of benefits?*

We agree that to achieve ongoing improvement of the physical condition of our water environments that many organisations and sectors will be required to play important roles. Clearly, the river basin planning process and architecture was formed in an attempt to both support the preparation of the River Basin Management Plans (RBMP) and the delivery of the associated programme of measures from these plans. Whilst the RBMPs have been prepared successfully it is less clear that the river basin planning process itself has actively facilitated and supported the delivery of the programme of measures or new individual measures; particularly non-regulatory measures. However, we believe that the process can be and should be refocused on the delivery of measures in order to make use of the skills, perspectives and roles of the range of bodies represented on the national and area advisory groups.

Beyond the river basin planning process, it is essential that responsible authorities are aware of their obligations in terms of WFD implementation and so that their plans and programmes can make effective contributions to the wider and national objectives of the RBMP. It is not clear the extent to which WFD has become integral or been included in the policies of development and other strategic planning processes in Scotland and this relationship and cross referencing in key planning processes should be revisited.

It is also key that the regulatory functions and decisions of many organisations provide opportunities both to protect the environment and provide direction or instruction to deliver environmental improvement linked to these regulatory decisions.

### *Section 3: How should we take action?*

2. *The draft plan proposes a framework of actions to deliver improvements in high priority areas for restoration.*

The framework of actions to deliver improvements is sensible and logical and we agree with the approaches available. The key to ensuring that this framework becomes effective in actually delivering the desired improvement actions lies with the organisations responsible for the application of each of the regulatory and other tools available. It is important that bodies such as SEPA, who have a more comprehensive knowledge of the water environment in Scotland than any other body, are prepared to and do use their regulatory and other intervention powers and mechanisms to ensure that improvements are achieved. Whilst voluntary measures, including education and awareness raising, must be given time to take hold and deliver improvements this time should be bounded and so that there is a clear incentive for sectors involved to deliver the improvements required. This is particularly the case in the rural environment in relation to diffuse pollution controls and measures.

3. *Do you have any comments on the proposed framework of actions? How can we encourage the adoption of voluntary measures?*

The reality is that very few voluntary measures are in fact voluntary. To achieve adoption of such measures incentives and/or penalties are likely to be required to ensure delivery in a timely fashion.

In terms of the freshwater fisheries sector we have found the Water Environment Fund to be an excellent means of securing financial support for schemes of interest to both SEPA and fisheries groups and would strongly endorse and support the maintenance of this support mechanism for these areas of work. We do note, however, that the freshwater fisheries sector has been, by a considerable margin,

the largest user of the fund. Whilst this is very useful to us it does perhaps indicate that use of the fund by others has not been effectively encouraged and/or that some of the rules and terms of the fund are not attractive to take up by others.

We are not clear that the SRDP in its current form is a particularly useful mechanism of delivering strategic improvements in the water environment due to the restrictions on applications in place which require land owners or their agents to make applications and which make both catchment wide proposals difficult and would seem not to effectively direct environmental spends to areas of most need as they may be identified in the RBMP for example.

#### *Section 5: Barriers to fish migration*

##### *4. Do you agree with the approach we are proposing for prioritising barriers to migratory fish? If not, why?*

As recognised in the consultation document itself RAFTS is working closely with SEPA to develop and deliver an ongoing programme of barrier prioritisation, assessment and then easement or removal. We have welcomed the opportunity to work with SEPA in this area, to be able to access funds from the Water Environment Fund to support barrier assessment and removal/easement works and to work with our members at each stage of this process. We believe that we now have a mutually agreed and developed process which is better understood by those closest to it and where the complexities, risks and liabilities of this work are acknowledged and understood. We also believe that the programme of work now being brought forward will deliver genuine and prioritised environmental and fishery improvements across Scotland for many years.

As such we endorse and agree with the process being developed on an ongoing basis, believe that this should be continued and supported and also believe that RAFTS, working closely with SEPA and local fishery trusts and boards is best place to take this work forward.

##### *5. Can you suggest any improvements to the actions and responsibilities suggested to tackle fish barriers on rivers?*

We are working closely with SEPA to develop and refine and improve the process of barrier prioritisation, assessment and removal/easement. Key to this process is the financial support provided to these projects via the Water Environment Fund, as without this support, barriers to fish migration could not be competently and comprehensively dealt with.

Within the programme of barrier work being delivered and supported by the fund itself SEPA is aware of some of our concerns associated with the refined rules and requirements of the grant scheme. We are sure these can be resolved but are set out in summary form here:

- There is a need to resolve the extent to which local partner (often fishery trust) time can be accepted as a cost within each programme and from this the extent to which some of these costs can be recovered from the fund. As grant funds elsewhere disappear there is a need to ensure that, if river and fishery trusts are seen to be important partners in this work, that an appropriate level of funding is secured to ensure their financial sustainability;
- The central coordinating staff currently employed by RAFTS are funded until near the end of 2013. After that time there will be a need to secure further funding support to allow RAFTS to fully support this area of work effectively for and with SEPA and our members; and
- There is a need to find a sustainable way in which to secure expert engineering advice and input to the process so that more complex barriers and sites can be accommodated within the work programme.

Separate from these largely RAFTS and fishery trust logistical and financial issues there is an on-going need to ensure that the process of CAR licence reviews being undertaken by SEPA is linked to the barrier assessment and easement/removal process being undertaken on non regulated structures. Following

the catchment approached proposed by the consultation it is essential that these processes are clearly brought together so that CAR reviews can be, potentially, re-scheduled to secure maximum environmental benefit in catchments where there are both regulated (CAR) and non-regulated (Water Environment Fund) barriers in place. There is little point in removing only part of the fish barrier problem in a catchment if the other part of the problem remains and is not scheduled to be resolved until future river basin planning cycles. That is not to say that the programme of work on non-CAR barriers should drive the regulatory process; but these processes must be better integrated and it may reasonably bring about a reassessment of CAR review timetables in certain circumstances and with appropriate notice periods to the owners of regulated structures.

Whilst mechanisms are in place to resolve problems associated with barriers to fish passage which are both used (CAR) and unused (Water Environment Fund) we recognise that other barriers e.g. trunk road crossings are currently the responsibility of the asset owner. We do not believe that there is significant evidence of Local Authorities, Transport Scotland or Network Rail for example dealing with barriers to fish passage under their asset maintenance operations and so would strongly support any decision by Scottish Ministers to bring forward regulations giving SEPA powers to require improvements where these were not being taken forward by the asset owner.

*Section 6: Improving the condition of rural rivers and lochs*

*6. Can you suggest ways of improving the approach we have proposed for restoring the water environment in rural areas?*

*In particular, what are your views of the cost-benefit hierarchy proposed in Table 3?*

Delivering improvement in the condition of rural rivers and lochs can be complex and requires a sound knowledge and understanding of the existing land use, its priorities and value and timescales necessary for change (particularly the case for forestry issues). However, there are a range of measures and financial incentive schemes available to support the take up of necessary measures and these should be used effectively. In particular the next round of the SRDP should consider how environmental spends can be prioritised and directed to areas where improvement is identified as necessary, for example, within the RBMP or Area Management Plans.

Whilst we accept that improvement in these areas and with the sectors involved requires long term investment in good practice demonstration, information dissemination and education initiatives, we believe also that some of these measures and supports must be time bound so that if take up is not as required then some enforcement measures are known to be available. We are not expert in agri-environment schemes but the cross compliance model seems to be a good one if it were to be applied and enforced to better effect.

We are generally in agreement with the cost-benefit hierarchy of Table 3 if it is recognised as indicative only.

*7. Do you agree with the actions and responsibilities suggested to improve the condition of rivers and lochs in rural areas, and can you add to these by identifying additional actions and/or responsibilities?*

We generally agree with the actions and responsibilities suggested. However, the wide spread of roles and tasks across bodies does seem to increase the risk that the delivery of physical improvement in some instances becomes "everybody's problem but nobody's responsibility".

It would be useful for the extent of improvement to be or actually delivered by these responsibilities and actions to be set out and reported on a regular basis so that the success of this approach can be demonstrated.

*8. How can we encourage a voluntary approach by land managers to restore the water environment?*

See our response to Q3.

*Section 7: Improving the condition of rivers and lochs in towns and cities*

*9. Can you suggest ways of improving the approach that we have proposed for restoring the water environment in urban areas?*

Delivering improvements in the urban environment is complex and has many constraints. We can suggest no significant improvements to the approach outlined but observe that improvement opportunities are likely to come forward on an, often, opportunistic basis and associated with the redevelopment of change in the current urban environment. To take advantage of such opportunities Local Authorities and others must be aware of the potential to achieve physical improvement and, better still, to identify this as an objective and target in planning and policy documents so that developers are aware that such improvements will be sought.

*10. Do you agree with the actions and responsibilities suggested to improve the condition of rivers and lochs in urban areas and can you add to these by identifying additional actions and/or responsibilities?*

*Restoring the physical condition of the water environment will rely on links with existing policies and strategies, such as green network strategies, forest and woodland strategies, local and strategic planning policies.*

We agree with the actions and responsibilities suggested and have no additional suggestions at this time.

*11. Are there other policy links which should be highlighted in this document?*

None additional policy links are suggested by us although we do agree that there is a need to ensure that the plans and policies within plans such as Development Plans, master plans should be effectively linked and coordinated so as to help ensure that opportunities to deliver physical improvements are not lost when redevelopment and other urban change processes take place.

*12. How can we improve our links to key policies and strategies, both in this document and in practice?*

We have no specific proposals in this area but agree that in a largely plan led system that there is a need for the objectives of the RBMP to be reflected in Development Plans and other key plan documents in the urban environment so that developers are aware of the physical restoration objectives for any area in advance of new development or redevelopment proposals being brought forward.

*13. Do you have views on how we can work with local authorities and developers to support the delivery of improvements of urban rivers and lochs?*

No specific proposals.

*Section 8: Improving the condition of estuaries and coasts*

*14. Can you suggest ways of improving the approach we have proposed for restoring the water environment in coastal areas?*

Whilst this area of restoration is largely outside the remit of RAFTS and ASFB and our member trusts and DSFBs, we believe that there should be clear linkages with the developing processes for marine planning and Marine Protected Areas (MPA) prioritisation. RBMPs will clearly have a role in restoring the marine and coastal environment, and SEPA's regulatory functions may be required to ensure that MPA's are managed according to their conservation objectives.

*15. Do you agree with the actions and responsibilities suggested to improve the condition coastal areas and can you add to these by identifying additional actions and/or responsibilities?*

No specific comments.

*Section 9: Restoration and flood risk management*

*16. Can you suggest ways of improving the approach we have proposed for reducing flood risks and delivering improvements in the condition of the water environment?*

Not at this stage. However, given the synchronous timetable for preparation of the next RBMP and the Flood Management Plan there is a need for further information to be provided on an ongoing basis to ensure that the respective measures included within each plan are not contradictory or damaging to the achievement of the objectives of the other.

*17. Do you agree with the actions and responsibilities suggested and can you add to these by identifying additional actions and/or responsibilities?*

At this stage in the flood risk management process we agree with the general roles set out. However, we believe that there may be a need for a local facilitative and non-agency "honest broker" role in the future to work with landowners and others to negotiate and take forward the implementation of natural flood risk management measures in priority catchments. We would be keen to discuss this further as we believe that in many instances the current fishery / river trust network may provide a vehicle to deliver this role in a cost effective manner due to its distribution across Scotland and the connections of many trusts to local landowners and other strategic and key partners.

*Section 10: Implementing the plan*

*18. We have suggested that river basin planning advisory groups can play an important role in taking a partnership approach to setting and addressing restoration priorities. What are your views on this suggestion, and how it could operate?*

We agree with this suggestion as, after the preparation of the RBMPs themselves, the original intent and purpose of the AAG network was to provide connections and links to key partners and water users in each area and to, through them, develop effective non-regulatory measures. The AAG network remains able to do this and in some instances has been effective in supporting and facilitating the generation of new measures to implement the RBMP. However, in other areas the AAGs have been less effective and we understand from our own members that there is a need to re-focus and re-energise the groups so that they can make, and help others to make, a genuine contribution to the river basin planning process and the delivery of restoration activities.

Currently there is some frustration that some of the AAGs are not genuinely supporting the generation of measures and the delivery of improvements against the RBMP and that the agendas and activities of the groups are not substantive or of significant interest to members. Clearly, the delivery of improvements to the physical condition of the environment is an important role but attendance and support to the groups will require time to be prioritised for this by members. Within current financial positions in many organisations it is not clear such commitments will continue to be prioritised to the river basin planning process unless shared benefits of participation are clearly identified.

*We have identified a number of areas where policy and funding options are developing and may offer opportunities for the future.*

*19. Do you agree with the opportunities that we have identified?*

Generally yes. However, we believe the SRDP as operated in its first phase was not as effective as it might have been in delivering environmental benefits and must be better prioritised and targeted in the future. The SRDP was also not conducive to the development of partnership or catchment wide programmes of improvement.

We have used the Water Environment Fund to deliver physical improvements in recent years; notably in support of fish barrier related projects and work on the control of invasive non-native species. We believe this fund provides a crucial support to physical improvement schemes associated with the water

environment. However, we believe that the eligibility criterion should be subject to ongoing review. This consultation has identified significant funding streams available through SRDP and others associated with rural land use and so it may be necessary to ensure a segregation between schemes to ensure that applications to the Water Environment Fund are made for projects where these other funding sources are unavailable. It is also important to ensure both that works that should be funded by the SRDP (and where the applicant is eligible for this) are directed to that source and that recognition is made for applications which incorporate SRDP type measures but where it is acknowledged that the catchment wide approach to restoration cannot be achieved by the SRDP.

In RAFTS we are keen to explore the use of, and have been successful in securing, strategic European funds to support some of our project areas and priorities. We believe that, in some instances, European fund applications should be considered to augment funding available from internal national sources. Although many areas of the restoration plan would not be eligible we believe that some, including work on barriers to fish passage may be and would be keen to consider these opportunities with SEPA.

*20. Are there other emerging policies and funding streams which could help to deliver restoration?*

No specific comments.

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