



Department
for Environment
Food & Rural Affairs

Consultation on the prohibition on landing egg- bearing lobsters and crawfish in England

Government response and summary of responses

8 September 2017



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Introduction

The Defra consultation on prohibiting the landing of egg bearing ('berried') lobster and crawfish in England closed on 15 May 2017. The consultation proposed banning the fishing for, and landing of, berried lobster and crawfish in England. It was proposed that the ban should apply to all relevant British fishing vessels registered in the UK, any other relevant British fishing vessels (including those exempt from licensing requirements) and Scottish fishing vessels¹.

Current stock assessments on European lobster and landing trends on crawfish in English waters indicate that these stocks are being over-fished. At the moment there are byelaws banning the removal of berried lobsters from the fishery in six of the nine Inshore Fishery Conservation Area (IFCA) districts. Two of these byelaws also cover berried crawfish. An English ban is intended to provide a more consistent and coherent approach to increasing the stock and in the long term increase the amount available to be caught by fishers.

The ban would apply within all British fishery limits, excluding:

- Scottish, Welsh and Northern Irish waters
- Territorial waters adjacent to the Isle of Man and Bailiwick of Jersey
- Waters within British fishery limits surrounding the Bailiwick of Guernsey

We held a public consultation seeking views on the sustainable exploitation of stocks, measures that could be introduced to protect the species and the impacts and timing of the introduction of a ban.

We received a total of 155 responses. Seventy seven were from the commercial fishing sector (68 from individuals and businesses and nine from fishing associations), four from the fish processing and retailing sector, two from Government Agencies (Non-Departmental Public Bodies), nine from the Inshore Fisheries Conservation Authorities (IFCAs), one from a Local Authority, 12 from the marine conservation sector, one from the marine science sector, two from MPs, two from Producer Organisations and nine from the recreation and leisure sector. Thirty six responses were received from individuals or companies not associated with a specific sector or where it was not clear which sector they represented. Each question in the consultation received between 26 and 155 responses.

A full summary of the consultation responses is included in Annex A of this response and a list of organisations that responded is in Annex B.

¹ A relevant British fishing boat is defined in the Sea Fish Conservation Act 1967 as a British boat which is not a Scottish fishing boat

Government response to the consultation

The views provided by respondents to the consultation covered the five main aspects of the proposal:

- Sustainability of the stock
- Current and future management
- Impacts of a ban on fishing for and landing berried lobsters and crawfish
- Enforcement of a ban
- Implementation of a ban

Sustainability of the stock

The majority of respondents (88%) thought that the issue of berried lobsters and crawfish needs to be addressed to ensure their long-term sustainability. Most respondents agreed that there is evidence that these species are currently over-exploited with stock assessments reflecting their own first-hand experience. Many of those who did not agree with this view still supported addressing the issue to protect stocks in the future. This has confirmed Defra's view that action is required on a national basis because regional and voluntary approaches, whilst offering some protection, do not go far enough to address over-exploitation. The profitability of the fishing industry is dependent on fishing sustainably now and in the future.

Current and future management

The majority of respondents (83%), including three quarters of commercial fishers, supported the introduction of a ban. Many fishers already return berried lobsters and crawfish to the sea and some expressed their frustration that their efforts may be in vain when others can still catch and land them. Respondents also thought that it was important to address the inconsistency of approach between different IFCA districts and between the inshore and offshore fisheries. The latter was particularly important because although there is some protection of berried lobsters in a number of IFCA districts it does not extend beyond the 6nm zone.

Respondents in support of a ban agreed that it would be an effective solution that provides fishers with consistency and clarity. They also felt the proposal was a fair solution that will help enhance the sustainability of the species and its implementation will not impose a burden on the industry because compliance will not require any technical adjustments (e.g. to gear). The government will therefore proceed with implementing a ban.

Some national management measures already exist to protect the future lobster and crawfish fishery, including a minimum landing size and a ban on landing 'v-notched' lobsters. IFCA's were established to engage with local stakeholders and consider

appropriate approaches to fisheries and conservation management in response to local conditions. They introduce byelaws to implement local management measures (including but not only banning landing berried lobsters). The majority of IFCA's support the government proposal to introduce a national ban because they believe it is necessary to prevent over-exploitation. The ban will complement existing national and local protection measures, not replace them. As such the Order will not revoke the legislative measures and byelaws that are already in place.

Respondents proposed several additional measures to strengthen stock sustainability. These included:

- increasing the minimum landing size to ensure that lobsters reach maturity and fertile lobsters are able to reproduce for longer;
- introducing a maximum landing size to protect the largest and most fertile lobsters; and
- restricting effort and reducing pot numbers to prevent over-exploitation

Introducing other national measures will require further consideration and consultation and the consultation responses will help to inform those discussions. We will continue to work with scientists, enforcement bodies and industry to consider whether changes to management measures are needed and what these might be. However, we would not want to delay the implementation of the ban and other measures will be considered separately.

The Order will include a requirement for the Secretary of State to carry out reviews of the regulatory provisions and the extent to which the objectives of the ban have been achieved every five years. The conclusions of these reviews will be published in a report. If the report proposes any amendments to the ban or introduction of additional measures, they will be subject to consultation.

Impacts of a ban on fishing for and landing berried lobsters and crawfish

The consultation asked for any evidence not included in the Impact Assessment that could help determine whether to introduce a ban. This question received the fewest number of responses. Most referred to information that had been considered in the preparation of the Impact Assessment.

The Impact Assessment estimates the value of national annual landings of lobsters at £17.85m based on the most recent available data on weight and value of landings. The estimated value of berried lobsters landed (£2.40m) represents a reasonably small proportion (13%) of these landings. However, this loss of revenue may be mitigated by some factors not reflected in the Impact Assessment due to the need to make some of the assumptions described above. Consultees highlighted the fact that prices tend to vary, with prices rising if availability goes down, which could partially compensate for any

reduction in the weight of the landed catch. In addition, the ban only prevents fishing for female lobsters temporarily, during the period they are visibly bearing eggs. This is typically for nine months in a two-year cycle.

A handful of people suggested additional factors, including recent and future price changes, they thought could affect the assessment of the impacts and benefits of a ban. To make a reasonable assessment of the impacts and benefits, the Impact Assessment includes a number of assumptions e.g. that lobster prices will remain the same as now and future landings will be the same as the average landings from recent years. This is because it is not possible to predict future variations with a sufficient degree certainty. The range of personal views on the factors that could affect the assessment of potential impacts reflected their uncertain nature. We did not receive evidence that challenged the assumptions made in the Impact Assessment or the reasons for needing to make them.

Some respondents, mostly those opposed to a ban, thought that its introduction should be delayed to allow time for the industry to diversify and/or that government should compensate fishers for short-term losses associated with the ban. We are introducing this ban because we believe it to be essential for the long term sustainability of the stock and the fishers that depend on it. Reducing stock numbers would put more pressure on the sustainability of the fishery and could require greater restrictions to be put on fishers in the future.

Therefore, we do not believe that a compensation scheme would be appropriate.

Enforcement of a ban

Respondents to the consultation were particularly concerned about the enforcement of the ban. The most commonly raised concerns were the removal of eggs before landing and British and Scottish boats that could catch berried lobsters in the English waters but land them in non-English ports.

The government has been clear that the ban will apply to any berried lobster or crawfish:

- **caught** within English waters by a British or Scottish fishing boat; or
- **landed** in England by a British or Scottish fishing boat, wherever it was caught.

Enforcement activity can take place at the point of landing or at sea. Where inspections are carried out at sea within English waters, inspectors will decide what action is appropriate if berried lobsters or crawfish are found on-board. The national ban will help to reduce enforcement issues caused by the difficulty of determining where a berried lobster or crawfish has been caught within English waters.

The ban will apply to any berried lobster or crawfish or any lobster or crawfish that can be shown to have been carrying eggs when it was taken. In order to enforce this the MMO

and IFCA's will invest in kits that detect whether eggs have been removed after they have been caught.

Implementation of a ban

There was a consensus, especially amongst fishers, that a ban could be introduced quickly and easily because it does not require changes to gear or the introduction of specialist equipment. The government's objective is to mitigate the risk to the future sustainability of the fishery and ensure that shellfish species are being exploited at sustainable levels. We believe that any delay or phased introduction is not necessary and would only further threaten the future of the stock and the rate at which it could recover. Consultees shared these concerns. It was suggested that introducing the ban during the winter would have the least immediate impact on industry due to the reduced number of lobsters typically caught at that time of year. In order to address the over-exploitation of these species and start seeing the benefits of protecting the spawning stock as soon as possible, the intention is for the ban to be introduced by legislative Order on 1 October 2017.

Consultees thought that the ban should also be applied to foreign vessels. The power to introduce this ban is derived from the Sea Fish Conservation Act 1967, which applies to British and Scottish boats operating within British fishery limits. It cannot be applied to foreign vessels fishing in UK waters or landing in UK ports without amending the 1967 Act, which could significantly delay the introduction of this protection measure, if indeed a change to the Act was desirable. Only 2% of the 10.4 tonnes of lobster landed in England² was caught by foreign vessels and does not significantly impact on conservation of the spawning stock. The benefits of introducing the ban immediately to protect stocks, outweigh the impact of not being able to apply the ban to foreign vessels. However, all European Union vessels should be prevented from taking berried lobsters in English waters when the European Union follows England in introducing its own Regulation banning catching berried lobsters. We anticipate this will be introduced in 2018.

² Marine Management Organisation, Fisheries Activity Database (FAD)

Annex A: Summary of responses

Table 1 illustrates the breakdown of consultation responses by sector.

Table 1: Breakdown of consultation responses by sector

Sector	Number of responses
Commercial Fishing	77
Fish Processing and Retail	4
Government Agencies (NDPBs)	2
Inshore Fisheries Conservation Authorities	9
Individuals	36
Local Authorities	1
Marine Conservation	12
Marine Science	1
MPs	2
Producer Organisations	2
Recreational and Leisure Fishers	9
Total	155

Q1. Do you agree that the issue of berried lobsters and crawfish needs to be addressed to ensure the long-term sustainability of both species?

All 155 respondents answered this question. One hundred and thirty six respondents agreed that berried lobsters and crawfish and the long-term sustainability of both species needed be addressed. Nineteen respondents stated that they did not think there was an issue to be addressed.

The main reasons given for needing to address the issue were the need to protect the sustainability of the stock and the fact that respondents felt that there is currently a decline in numbers. Many respondents cited the CEFAS stock assessments and fishers own first-hand experience as evidence. Respondents felt that the current measures do not go far enough to prevent or mitigate over-exploitation. In addition to addressing conservation a large number of respondents felt that the current arrangements are inconsistent and difficult to enforce. Some were concerned that some IFCA districts have bans and others do not. Others were concerned that some large boats could fish on either side of the 6nm boundary. Both cases led to difficulty enforcing bans in English IFCA districts if it could not be proved that berried animals found on board had been caught on a banned area.

All of the respondents who stated that there is not an issue to be addressed were commercial fishers (18 individuals and 1 association), 25% of the commercial fishers who responded. More than half of these fish off of the Northumberland coast. Each of these respondents stated that in their first-hand experience the stocks in that area are currently healthy, with some of them putting that down to the existing management measures already in place. Other respondents thought that fishers take action themselves (like returning berried lobsters or v-notching) and so further action is not required.

Some respondents were concerned that specifically protecting berried lobsters could result an un-natural gender imbalance that could have a counter-productive impact on the stock.

Q2. Do you agree that both species are over-exploited; or at risk of being so?

We received 153 responses to this question, with two thirds of respondents of the opinion that the stock is either over-exploited or at risk of being over-exploited.

Nearly all of the respondents who thought that the stock is not being over-exploited are either commercial fishers, recreational fishers or individuals who did not indicate whether they had a specific interest or background relating to this issue. The majority of views were based on respondents' personal experience of local fishing (particularly in the South West and Northumberland). They cited the number of juvenile lobsters they currently catch (and release) as evidence of healthy stocks. A small number of respondents challenged the evidence that the stock is at risk. They questioned whether the information is up-to-date and the methodology used to collect the information was correct because it did not reflect their experience.

Respondents who felt that there is over-exploitation stated that they are catching an increasing number of juvenile fish. They concluded that this was evidence of over-exploitation of mature lobsters rather than a sign that the stock is healthy. Some cited the CEFAS stock assessment as evidence of over-exploitation. Others concluded that the lack of restrictions on pot numbers and the fact that lobsters are caught year-round inarguably led to over exploitation. Respondents who either did not have a view on the current exploitation levels or felt that the evidence was inconclusive were still concerned about the risk of over-exploitation. Their concerns were based on the effect of removing spawning lobsters from the fishery and the lack of quotas for lobsters and crawfish, which make them an attractive and valuable alternative to quota species. Individual comments were also made about the impact of industrial cooling intakes and the use of tangle nets to catch crawfish, which was thought to be more damaging to the crawfish stock than pot fishing.

Q3. Do you agree that imposing a national ban on the landing of berried lobsters and crawfish is the best way to tackle over-exploitation of the species?

All respondents answered this question. The large majority agreed that a national ban on landing berried lobsters and crawfish was the best way to tackle over-exploitation or the risk of over-exploitation in the future. It should be noted that 28 of the 49 respondents who thought that lobsters and crawfish aren't currently overexploited still indicated that they supported the proposed ban.

Thirty four respondents opposed the introduction of a ban, with 26 providing reasons for their view. This included six who said that they would support a ban as one of a suite of measures and one stated they would support a ban if it applied to both inshore and offshore fishing. Of the remainder, the majority of which came from the commercial fishing sector, only two stated that they felt no ban was necessary because there is no risk to stocks. Others (including two IFCA's) favoured a regional rather than national approach and/or using alternative measures to a ban, including those currently in place. Doubts were raised about the effectiveness of a ban due to the perceived difficulties of enforcement.

The main reason given in support for a ban was to ensure a clear, equitable and consistent approach to protecting stocks. A number of additional comments regarding its implementation were similar to those raised by those who opposed a ban. The main difference being that those in support of a ban did not feel that these issues should prevent a ban from being introduced. A very important concern related to boats that would be able to land fish caught in English waters in non-English ports. A number of respondents thought that a ban should be applied to all vessels fishing in English waters.

Q4. If you do not agree with a national ban, what other measures do you believe could be taken?

Sixty people responded to this question. Nine of the respondents who were unequivocally opposed to a ban did not suggest any alternative additional management methods. Nearly all of these respondents are commercial fishers in the Northumberland area and their view is that current methods are sufficient to ensure sustainability of the stock.

Eighteen of the respondents who oppose a ban suggested **alternative** management measures that could be taken. The other 42 respondents to this question supported a ban but thought **additional** methods should be considered to complement a ban on landing berried lobsters and crawfish.

The most common alternative or additional options suggested, particularly by commercial fishers and conservation bodies, were greater restrictions on effort and pot numbers. A number of respondents also suggested considering increasing the minimum landing size and/or introducing a maximum landing size for lobsters. Respondents felt that increasing the minimum landing size would help to ensure that lobsters reach maturity and were able to reproduce for longer. It was also suggested that including escapes in pots would help avoid smaller lobsters being preyed upon by larger animals and being killed before the pots were brought back to the surface. People thought that introducing a maximum landing

size would help protect the largest and most fertile animals. There was a view that this would have minimal impact on fishers because the larger animals were difficult to sell. The proportion of commercial fishers who suggested greater restrictions on effort and pot numbers, increasing the minimum landing size and introducing a maximum landing size was split evenly between those who supported and those who opposed a ban on landing berried animals.

Other alternatives that were suggested by a small number of respondents included:

- banning the landing of crippled lobsters;
- ensuring other fishing methods (e.g. scallop dredging) did not damage lobster habitats;
- extending the National Lobster hatchery;
- seasonal bans on catching all lobsters;
- extending v-notching, including paying fishers to do it;
- legislating to stop businesses buying berried animals;
- increased enforcement; and
- restrictions or bans on non-licence holders catching lobsters.

Although most responses focussed on lobsters it was proposed that there should be a moratorium on catching crawfish due to the precariousness of the stock.

Q5. Do you have any additional evidence on the impacts of a ban on landing berried lobsters and crawfish beyond that presented in the Impact Assessment?

Twenty six respondents provided additional information relating to the Impact Assessment in response to this question.

Comments mostly focussed on the financial impacts, relating specifically to lobster prices. One asked when the IA had been drafted because prices had fluctuated since June 2016. One respondent questioned whether the impact and benefits had been over-estimated because prices changed according to availability. It was argued that higher prices due to low availability and lower prices due to abundance could mean that the total value of a catch would not change significantly regardless of total weight.

Some respondents felt that the impact (and therefore possibly the benefits) could have been over-estimated because berried hens could still be caught once they had shed their eggs. One respondent thought that the benefits could be under-estimated due to the belief that landings of all lobsters are currently under-recorded. Other respondents thought that the impact had been underestimated, particularly during the times of year when the number of berried hens reaches its peak.

The most common responses recommended considering other studies and information held by IFCAs. The other most common response challenged the accuracy of the IA, based on their own experience of fishing in their area.

Q6. How long a time period should be allowed in order for affected parties to prepare and make any necessary adjustments to their business before a national ban comes into force? Please, explain the reasons for your answer.

One hundred and eight people answered this question.

Three quarters of respondents to this question thought that a ban could be introduced immediately and at most within a year or a season. That included three quarters of the respondents from the both commercial fishing sector and those who responded as individuals. The main reason given was that a ban would only require fishers to throw berried lobsters back and not change their gear. They felt that the stock needed to be protected as soon as possible and delaying would only damage the sustainability of the stock and the profitability of the industry further. One respondent feared that the stock would be increasingly over-exploited during any delay to try to offset the impact when the ban came into force. Others thought that the sooner action was taken the sooner the benefits would be realised. It was proposed that the ban should come into force over the winter when fewer lobsters are caught in order to minimise the short-term impact. A few respondents thought that there should be a delay of a year because that was a reasonable amount of time to allow fishers to adjust.

Ten respondents thought that the ban should be phased in over two years or more. Nearly all of these respondents were opposed to a ban. The reasons given were to allow fishers more time to plan ahead, diversify and to increase their effort to make up for loss of profit associated with the ban.

Q7. Do you think there are any issues that we have not identified in this consultation document?

Fifty four people responded directly to this question. However, respondents also raised issues for consideration throughout their responses to other questions. Where these issues weren't directly applicable to the respective questions they have been captured and summarised in this section. Similarly, responses included under this question that were relevant to other questions (e.g. alternative management methods) have been included in the summary to those questions.

Respondents mainly focussed on the issues of enforcement and the ban's application to vessels from the UK devolved administrations and non-UK vessels. The main issue in relation to enforcement was about the importance of being able to detect where berried lobsters had been 'scrubbed' to remove their eggs. Those opposed to a ban doubted the ability to develop and apply an effective test. Those in support of a ban stressed the importance of introducing the test and making sure enforcement is effective. Some respondents also recommended the inclusion of sufficient penalties for anyone caught breaking the law. Some respondents thought that enforcement action should be taken against any retailer or wholesaler caught selling berried lobsters and for further action to be taken against illegal fishing more generally.

Three other issues were raised by a small number of respondents. Some asked why lobsters and crawfish had been included in the same consultation when they face different challenges in terms of conservation. Some asked whether the current management rules would be removed and be replaced by the ban. Some were in favour of retaining existing rules (e.g. v-notching), others felt they should be removed to simplify the regulatory framework. Finally, a few respondents thought that fishers should be compensated for the short term losses they would incur as a result of a ban.

Annex B: List of organisations that responded

Amble Development Trust
Anglo Scottish Fish Producers Organisation
Berenberg
Blue Marine Foundation
Boscastle Fishing Co
Brighton and Newhaven Fish Sales Ltd
British Sub Aqua Club
By-water Products (Fishing)
Catholic Action for Animals
Colchester Oyster Fishery
Cornish Producer Organisation
Cornwall IFCA
Crazycatshellfish Ltd
Devon and Severn IFCA
Dong Energy UK
Eastern IFCA
Folkestone Fishermen's Association
Galloway Static Gear Fishermens Association
Go For It Fishing Co Ltd
Holderness Fishing Industry Group
Icflow Fishing
Jurassic Coast Fishing
Kent and Essex IFCA
Kent Wildlife Trust
Llyn Fishermans Association
Lyme Bay Fisheries and Conservation Reserve
Maidstone Borough Council
Marine Conservation Society
Marinet
ME Certification
Monteum Ltd / La Poissonnerie
Mudford and District Fishermen's Association
The National Lobster Hatchery
Natural England
New Economics Foundation
Norfolk-C-Larder Ltd
North Devon Fishermen's Association
North Eastern IFCA
North Sea Wildlife Trusts
North West Wildlife Trusts
North Western IFCA
Northumberland IFCA
Orme Sea Fishing Trips

Phoenix Charters Ltd
Portland Isle Ltd
RJ Garnett and Sons Ltd
Sea Fish Industry Authority
Shellfish Association of Great Britain
South Coast Fisheries Council
South Devon and Channel Shellfish
South Devon Fishers Limited
Southern IFCA
Sussex IFCA
Unity Fishing
W Harvey and Sons Shellfish Merchants
Wareham Marine
Wildlife Trusts