



Department  
for Environment  
Food & Rural Affairs

T: 08459 33 55 77  
helpline@defra.gsi.gov.uk  
[www.defra.gov.uk](http://www.defra.gov.uk)

**Your ref:**  
**Our ref:** RFI 6691  
**Date:** 9 July 2014

Dear [redacted]

**REQUEST FOR INFORMATION: Special Areas of Conservation for Harbour Porpoise**

Thank you for your e-mail of 27 June 2014 requesting information in response to questions raised by the Planning Inspectorate regarding the proposed development in Swansea Bay.

Defra has handled your request under the Environmental Information Regulations 2004 (EIRs). The EIRs apply to requests for environmental information, which is a broad category of information defined in regulation 2 of the EIRs. Public authorities are required to handle requests for environmental information under the EIRs. They give similar access rights to the Freedom of Information Act 2000 (FOIA).

Firstly, you asked about the current position regarding the legal action started by the European Commission on 21 June 2013. The UK received, and has responded to, a Letter of Formal Notice (dated 20 June 2013) from the European Commission, which outlined their concern about a lack of Special Areas of Conservation (SACs) for harbour porpoise in the UK under the EU Habitats Directive. To date, we have not received any further correspondence from the European Commission regarding this specific case, which therefore remains open.

Secondly, you asked about the current position on progress towards establishing SACs for harbour porpoise in UK waters, particularly the establishment of the Outer Bristol Channel as a SAC for harbour porpoise. The UK has already submitted harbour porpoise as a qualifying feature of the Skerries and Causeway SAC. In line with our commitments under the Habitats Directive, we continue to work to identify other potential sites for harbour porpoise. The Joint Nature Conservation Committee (JNCC) has been undertaking work to analyse the most up-to-date and extensive dataset on harbour porpoise with the aim of determining whether any further areas suitable for designation as a SAC are present in UK waters. If potential SACs for harbour porpoise are identified through this analysis, standard consultation processes would follow, and would be led by the relevant UK Administration for the proposed location of the SAC. However, at this time I should be clear that we are still in the stages of data analysis, and no decisions on specific sites have yet been made.



Any further questions relating to harbour porpoise in Welsh waters fall within the remit of the Welsh Government, and as the relevant authority, you should direct your enquiries to them. Any further enquiries about the proposed development should be directed to the Department of Energy and Climate Change (DECC).

More generally, all cetaceans (including harbour porpoise) are fully protected in UK waters under the EU Habitats Directive, irrespective of whether they are likely to be present within or outside a SAC. The level of protection is high, and enforced by law, and includes the prevention of disturbance that could have an adverse effect on the population and its conservation status. An assessment of potential adverse effects on harbour porpoise is therefore an essential element of the environmental impact assessment process for marine developments, whether there is a SAC present or not.

The Government is committed to the full implementation of the Habitats Directive, and to proposing sites for harbour porpoise where they can be identified in accordance with our obligations under the Directive.

In keeping with the spirit and effect of the EIRs, and in keeping with the government's Transparency Agenda, all information is assumed to be releasable to the public unless exempt. Therefore, the information released to you will now be published on [www.gov.uk](http://www.gov.uk) together with any related information that will provide a key to its wider context. Please note that this will not include your personal data.

I attach an annex giving contact details should you be unhappy with the service you have received. If you have any queries about this letter, please contact me.

Yours sincerely

[redacted]

[redacted]

[redacted]

## **Annex**

### **Complaints**

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: [requestforinfo@defra.gsi.gov.uk](mailto:requestforinfo@defra.gsi.gov.uk)) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our [website](#).

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF