

**REGULATORY & LEGISLATIVE
FRAMEWORKS FOR LICENSING NEW
AQUACULTURE FARMS (ONSHORE &
OFFSHORE) IN THE ATLANTIC AREA
REGION (WELSH REGION)**

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REGULATORY AND LEGISLATIVE FRAMEWORKS FOR LICENSING NEW AQUACULTURE FARMS (ONSHORE AND OFFSHORE) IN THE ATLANTIC AREA REGION (WELSH REGION)

INTRODUCTION

As part of the programme of work included in Work Package Six of the Access2Sea project, Action Two involved Project Partners undertaking to characterise the project territory's regulatory and legislative frameworks for licensing new aquaculture farms in the Atlantic Area (onshore and offshore). The objective of this Action is to facilitate data comparison across the participating regions and to highlight best case models in regulatory and legislative frameworks.

Project Partners from the Welsh region in the Access2Sea project collected the following information relating to the regulatory and legislative environment in their own region:

1. Policy Context for Aquaculture Regulation
2. Analysis of Socio-Economic Impact on Coastal Communities
3. Legislation and Regulations
4. Regulatory Agencies and their roles
5. Licensing Application Process
6. Identification of Best Practices in regulation and licensing
7. Related Scientific Publications

WELSH REGION

Partner: Swansea University
Country: United Kingdom

1) Policy Context for Aquaculture Regulation

The following are the key policies governing aquaculture regulation in Wales

- The Welsh National Marine Plan (Draft) is the first marine plan for Wales. Its purpose is to guide the sustainable development of the Welsh marine area by setting out how proposals for use will be considered by decision makers including, in particular, consenting authorities.
- Well-being of Future Generations (Wales) Act 2015. The Future Generations Commissioner for Wales' role is to act as a guardian for the interests of future generations in Wales, and to support the public bodies listed in the Act to work towards achieving the well-being goals.
- Habitats Regulations Assessment Report enables the Welsh Government to meet its obligations under the Habitats Regulations. It documents the assessment of the WNMP against the requirements of the Habitats Regulations, summarising the HRA process and its application to the WNMP, and detailing the results of the assessment.

2) Analysis of Socio-Economic Impact on Coastal Communities in Wales

The contribution of aquaculture to the economies of England, Wales and Northern Ireland is modest; but it is diverse, spread widely across all three countries, closely associated with quality seafood and aquatic products important to the image of some regions, and locally important in rural areas. Aquaculture produces healthy seafood, with opportunities for growth that do not exist in capture fisheries. Indirectly aquaculture makes a substantial contribution to healthy recreation and leisure for millions of people through countryside visits, angling and ornamentals.

The UK fish and seafood market is currently dominated by imports (43 per cent) and capture fisheries (40 per cent) with aquaculture making up only 17 per cent of domestic supply (Jennings et al. 2016).

The main export markets for UK salmon are the USA (34 per cent), France (23 per cent) and China (12 per cent). Aquaculture in Wales is worth £11.8m (2017, where shellfish play a key role generating £8.6m gross value added,

A report published in 2017 by the Government Office for Science entitled “*The future of the sea: trends in aquaculture*”, states that Aquaculture has considerable social benefits: for example, Scottish aquaculture production generates at least £1 billion in turnover across the UK and supports 8,800 jobs. This report highlights that there are relatively few studies on public attitudes to aquaculture development but those that have been undertaken do not point to a widespread antipathy to aquaculture (Whitmarsh and Palmieri 2009; 2011), especially when appropriate information is provided (Altintzoglou et al. 2010; Chu et al. 2010). In Wales the general sentiment towards aquaculture seems to be more positive than in the UK, based on a study assessing newspapers headlines sentiment (Froehlich *et al.*,2017)

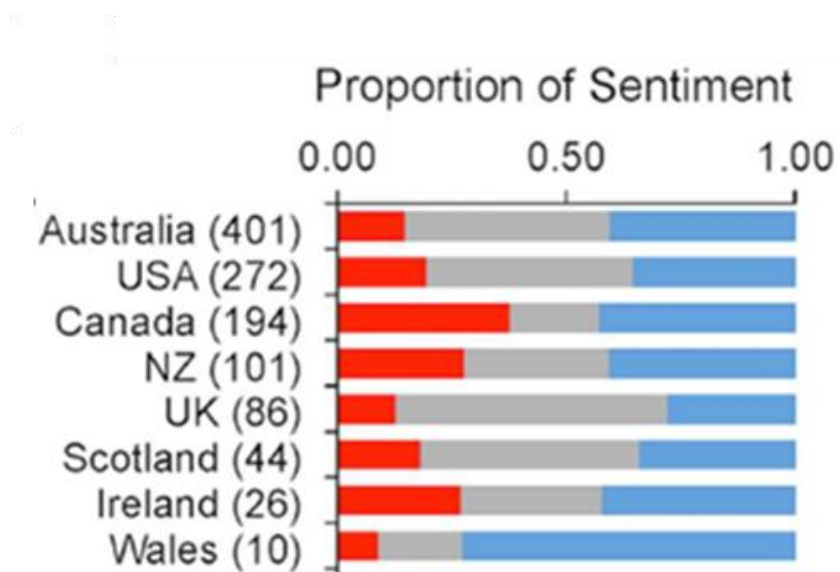


Figure 2.1: Newspapers aquaculture media sentiment, based on headlines negative (red), positive (blue), and neutral (grey) adapted from Froehlich et al.(2017).

This may be explained by the fact that the Welsh seafood industry is dominated by two key characteristics which makes it different from the rest of the UK. Firstly, the industry is based on shellfish, not finfish. Secondly, most exports are live, unprocessed and almost exclusively to the EU

market; with almost no preservation or processing capability. The Welsh seafood sector is characterised by micro and small businesses which are important to coastal communities. This also means the possible impacts of Brexit on fisheries and aquaculture trade, are different to and arguably more significant, than elsewhere in the UK. Welsh Government is working with the UK Government to try to mitigate the impact of Brexit on the Welsh shellfish and aquaculture industries.

3) Legislation and Regulations in Wales

The following lists the main legislation and regulations governing aquaculture in Wales

- The Marine and Coastal Access Act 2009 is an Act of the Parliament of the United Kingdom that creates a new marine planning system including marine conservation zones and improved management of inshore fisheries
- The Planning Act 2008 is an Act of the Parliament of the United Kingdom to establish the Infrastructure Planning Commission and make provision about its functions; to make provision about, and about matters ancillary to, the authorisation of projects for the development of nationally significant infrastructure; to make provision about town and country planning; to make provision about the imposition of a Community Infrastructure Levy; and for connected purposes.
- The Habitats Regulations 2010, which are made under section 2(2) of the European Communities Act 1972, are the principal means by which the Habitats Directive is transposed for England and Wales and territorial seas.
- The Water Framework Directive, the purpose of which is to establish a framework for the protection of inland surface waters, estuaries, coastal waters and groundwater. The framework for delivering the Directive is through River Basin Management Planning. The UK has been split into several River Basin Districts (RBDs).
- The Environment (Wales) Act 2016 puts in place a legislative framework to promote the Sustainable Management of Natural Resources (SMNR).

4) Regulatory Agencies and their roles in Wales

The organisations listed below are those that either regulate aquaculture development, routinely advise regulators, or grant seabed and foreshore title rights. (From: *Aquaculture Regulators in Wales*)

Local Authorities

- Granting of development consents for land based fish farms. Potential consultee for marine based aquaculture development
- Environmental Health Roles: Disposal of finfish and shellfish mortalities for onshore farming unless a notifiable disease, then Fish Health Inspectorate have overall responsibility
- Competent authority under nature conservation directives

Natural Resources Wales (NRW)

- Licensing of marine activities under the Marine and Coastal Access Act (2009) e.g. finfish and shellfish farms.
- Licence waste and veterinary discharges from fin fish farms & Abstraction and Discharges under Environmental Permitting Regulations (England & Wales) 2010 (as amended).
- NRW are responsible to improve or protect the Shellfish Water Protected Areas to support shellfish life and growth, and to contribute to the high quality of shellfish products suitable for human consumption
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Welsh Government (WG)

- Fisheries management, conservation and enforcement under the Marine and Coastal Access Act 2009, national and European fisheries legislation including the issuing of Several and Regulating Orders under the Sea Fisheries (Shellfish) Act 1967.
- Marine Spatial Planning including identification of aquaculture areas in Welsh seas and links to Welsh Aquaculture Strategy
- Designation of Shellfish Waters under the Water Framework Directive. WG are the appropriate authority for WFD
- Competent authority under nature conservation directives

Fish Health Inspectorate (FHI)

- Authorisation of aquaculture production businesses (APBs) under the Aquatic Animal Health (England & Wales) Regulations 2009
- Authorise the import of live fish and shellfish under the Aquatic Animal Health Directive 2006/88, and CITES where applicable
- Permitting under the Alien and Locally Absent Species in Aquaculture (England & Wales) Regulations 2011. Lobster licensing.
- Disposal of shellfish mortality in farmed fish and shellfish where notifiable disease involved
- Assist VMD and APHA with inspections regarding medicated feed and transport of live fish
- Competent/regulatory authority under nature conservation directives where APBs fall within a European protected area (Special Protected Area, Special Area of Conservation or Ramsar Site) *

Centre for Environment Fisheries & Aquaculture science (Cefas).

- Advisors to regulating authorities on certain environmental impacts of development proposals.
- Where Cefas/FHI act as a regulatory authority they have a responsibility to carry out such HRA's, unless another regulatory body involved at an earlier stage of any given development has already carried out such an HRA*

Food Standards Agency (FSA)

- Classification and administration of shellfish harvesting areas (shellfish classified waters) and bio-toxin monitoring under Shellfish Hygiene Directive (EC Regulation 854/2004).
- Approval of shellfish purification plants under EC Regulation 853/2004, laying down specific hygiene rules for food of animal origin.
- Competent authority under nature conservation directives

Landowners including The Crown Estate (CE) and Swangrove Estate (SE) and Port Authorities

- Grant seabed/foreshore rights for aquaculture developments
- Competent authority under nature conservation directives

Maritime & Coastguard Agency (MCA)

- Works towards the prevention of the loss of life on the coast and at sea. Production of legislation and guidance on maritime matters, and provide certification to seafarers.
- MCA need to confirm no hazard to navigation for activities exempt from a marine licence.

Trinity House

- Trinity House are required to be contacted after receiving a marine license to determine if navigational markers are required for any aquaculture infrastructure.

Veterinary Medicines Directorate (VMD)

- Protects animal health, human health and the environment. Sampling and monitoring of aquaculture premises.
- Use of Medicated Feed and other medicines in fish farming.

Animal and Plant Health Agency (APHA)

- Notifiable disease regulation and reporting alongside FHI; fish mortalities reporting (via local authorities)
- Animal welfare in transport, on farm and during slaughter. APHA issue licences to all transporters of live animals under the Animal Welfare in Transport Regulations. Those fish farmers (or traders in ornamental animals) who transport their own animals, or specialist companies transporting fish must be licensed.
- Competent authority under nature conservation directives

Gangmasters Licensing Authority (GLA)

Protection of workers from exploitation set up under the Gangmasters (Licensing) Act 2004. The GLA regulates those who provide or employ workers to gather shellfish by hand. It would also cover those who supply workers to carry out processing and packaging of any fish or shellfish and any associated products.

Before setting up a fish, shellfish or crustacean farm (called an aquaculture production business) you must apply to the Fish Health Inspectorate (FHI) for authorisation. This is to prevent the introduction and spread of infectious diseases. From: <https://www.gov.uk/guidance/fish-shellfish-or-crustacean-farm-authorisation>

5) Licensing Application Process in Wales

When you apply for authorisation the steps are:

- 1) You apply to the FHI for [Authorisation to set up a new aquaculture production business](#)

- 2) You get a confirmation letter with guidance on developing a [biosecurity measures plan \(BMP\)](#). This will also explain if your application must undergo a statutory consultation with other government bodies
- 3) The inspector arranges a site visit
- 4) The inspector reviews your draft BMP and gives advice on record keeping
- 5) The inspector makes a recommendation to an authorisation officer

One of the following then happens:

- You get a licence (if your site is complete and you have a BMP)
- You get a licence in principle (if your BMP hasn't been submitted or your site is still at the planning stage)
- you don't get a licence (if your plans or species don't comply with the law or if it's more appropriate to register your site as a fishery or aquatic animal holding)

Authorisation can take up to 90 days.

If your application is unsuccessful

If your application is turned down FHI will tell you the reasons why and will work with you to resolve problems. They'll also tell you how you can appeal against their decision.

Authorisation conditions

The fish health inspector will outline the conditions of your authorisation. As a condition of your licence you must:

- keep records of all movements in the right format ([see the regulations on records, part 2, sections 6 & 7](#))
- follow good hygiene practice (see your BMP for further details)
- comply with surveillance requirements requested by FHI
- comply with procedures in your approved BMP

If you don't comply with authorisation conditions

If you don't comply with the conditions of your authorisation your authorisation may be suspended or cancelled. You may also be fined.

Records you must keep

You must keep the following records to show there's a low risk of spreading disease:

- details of movements of any fish, shellfish or crustacean or product into or out of your premises
- number of aquaculture animals that have died in each of your units
- results of your surveillance
- results of surveillance FHI notifies you about

If your details change

If there are changes you must apply to FHI to change your authorisation.

You must tell FHI in writing in advance if:

- the owner or operator of the farm changes
- the farm is no longer operational
- the species farmed changes
- the number of tanks, ponds or other holding facilities changes

Authorisation for a purification plant

To set up a shellfish purification plant you need to:

1. apply to FHI for [Authorisation to set up a new aquaculture production business](#).
2. contact environmental health at your [local council](#) to organise an inspection.

Rules for purification centres are set by the [Food Standards Agency](#).

Other Relevant Agencies include:

- Local Authority Planning:
- Natural Resource Wales:
 - Marine licensing:
 - Water abstraction and discharge:
 - HRA & EIA
- Centre for Environment Fisheries & Aquaculture Science (CEFAS)
- Food Standards Agency
- The Crown Estate (CE)
- Maritime & Coastguard Agency (MCA)

6) Best practice in regulation and licensing in Wales

The Welsh Government is committed to delivering ‘clean, healthy, safe, productive and biologically diverse oceans and seas’. The Marine and Coastal Access Act 2009 (MCAA) provides the legal

mechanism to deliver this vision through a system of management and protection measures for both the marine and coastal environment.

At the present moment regulation concerns include Brexit and the Welsh Government has compiled a consultation report entitled “*Brexit and our Seas*”. The Welsh Government (WG) has committed to retaining, and enhancing where needed, to ensure stability and continuity in key areas as follows:

- WG is committed to the principles and ways of working of Well-being and Future Generations (Wales) Act 2015 (WFG) and this is enshrined in the first Welsh National Marine Plan.
- WG will continue to implement the Environment (Wales) Act 2016, the Marine and Coastal Access Act 2009 and the Nature Directives to improve biodiversity and work toward ecosystem resilience.
- Welsh Government will continue to ensure environmental standards are upheld and enforced, where appropriate, in Welsh waters and the broad framework, as currently set out in the Common Fisheries Policy (CFP), continues for the time being.
- WG is investing in new systems, new staff and new vessels to enforce standards and seek to prosecute those who do not comply.

Shellfish

The Welsh Government recognizes that the process of applying for a Several or Regulating Order to have exclusive access to the seabed for a period of time for aquaculture is currently lengthy. The mechanism for creating Several and Regulating Shellfishery Orders under the Sea Fisheries (Shellfish) Act 1967 could be considered to no longer be the most appropriate management tool. The Welsh Government intends to incorporate an adaptive management system, where both fisheries and aquaculture for shellfish can be flexibly managed so policy changes can be responsive and quick.

7) References:

The Marine and Coastal Access Act 2009

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwjFjsr16eHjAhVQa8AKHdD-BvoQFjAAegQIAhAC&url=http%3A%2F%2Fwww.legislation.gov.uk%2Fukpga%2F2009%2F23%2Fpdfs%2Fukpga_20090023_en.pdf&usg=AOvVaw372rJGMhoAxDt5aCMYoD77

The Planning Act 2008

www.legislation.gov.uk/ukpga/2008/29/pdfs/ukpga_20080029_en.pdf

The Habitats Regulations 2010

<http://www.legislation.gov.uk/uksi/2010/490/contents/made>

Water Framework Directive

<http://www.legislation.gov.uk/uksi/2017/407/contents/made>

The Environment (Wales) Act 2016

<http://www.legislation.gov.uk/anaw/2016/3/contents/enacted>

Welsh National Marine Plan (Draft)

<https://gov.wales/sites/default/files/consultations/2018-02/draft-plan-en.pdf>

Well-being of Future Generations (Wales) Act 2015

<https://futuregenerations.wales/wp-content/.../02/150623-guide-to-the-fg-act-en.pdf>

Habitats Regulations Assessment Report

<https://gov.wales/draft-welsh-national-marine-plan>

Aquaculture Regulators in Wales

<https://businesswales.gov.wales/marineandfisheries/sites/marineandfisheries/files/documents/Aquaculture%20Regulators%20in%20Wales.pdf>

Application Process in Wales <https://www.gov.uk/guidance/fish-shellfish-or-crustacean-farm-authorisation>

Brexit and our Seas <https://gov.wales/sites/default/files/consultations/2019-05/marine-and-fisheries-policies-for-wales-after-brexit-consultation-document.pdf>

Froehlich HE, Gentry RR, Rust MB, Grimm D, Halpern BS (2017) Public Perceptions of Aquaculture: Evaluating Spatiotemporal Patterns of Sentiment around the World. PLoS ONE 12(1): e0169281. doi:10.1371/journal.pone.0169281



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