

## Consultation on wild fisheries reform in Scotland



### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response to ensure that we handle your response appropriately

#### 1. Name/Organisation

##### Organisation Name

River Tweed Commission

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#### 3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes  No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick **ONE** of the following boxes

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate

Yes  No

Yes, make my response,  
name and address all  
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**or**

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name and address

**or**

Yes, make my response  
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**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

**Please tick as appropriate**

**Yes**

**No**

## CONSULTATION QUESTIONS – RESPONSE TEMPLATE

**Q1.** Do you agree with the balance of functions as set out in Table 1?

Yes

No

Don't know

The RTC understands that the proposed National Unit and FMOs would share responsibility for maintaining a structure of wild fisheries management capable of delivering a balanced suite of strategic outcomes that encompass supporting thriving fisheries on the one-hand and protecting habitat and all wild fish stocks on the other.

The current Salmon fisheries management infrastructure has worked well for Scotland in terms of developing a fisheries economy that supports a significant number of jobs, spread throughout Scotland, as well as developing the infrastructure that can deliver genuine 'evidence based' management. We believe that a great strength of the existing system is that it has been genuinely locally rooted with the development of fisheries plans and their funding being achieved in the locality (rather than from central government) delivering outcomes most relevant to it.

The RTC is concerned that the current proposals seek to change a management system that has been predominantly locally led to something that is centralised. We believe the proposed loss of local autonomy and responsibility of fisheries management would seriously damage the quality of that management. Genuine localism generates a dynamic, diverse and adaptive system of management. It can support regional variation and provides a stimulus to local engagement and participation. In short we believe that the National Strategy needs to be built from the 'bottom up' rather than imposed from 'the top down'.

That is not to say that the National Unit could not have an important role in terms of coordinating, facilitating and generally assisting local management including stipulating nationally approved methods and approaches. It should also identify strategic national issues that can support the achievement of local priorities as well as helping all local bodies to achieve the highest standards of management in what is an evolving science. Through a national reporting procedure, local structures could, in turn, support central Government in satisfying its national and international obligations.

The RTC believes that a stable and long-term system of resourcing is crucial to the success of fisheries management. The RTC believes that the freedom of Boards and the RTC to raise money locally and the responsibility to spend it on local priorities has been a key factor in the success of the system. A local system of raising and spending money ensures that the people who are best qualified to understand local priorities are making the decisions and yet are fully accountable to the persons who are paying/supplying the money. The system is proven to work, allows for a degree of freedom and diversity of approach that makes the system vibrant and stimulating to work in. It also allows Boards to make the necessary long-term investment in science in the knowledge that that the funding infrastructure will support that investment.

The RTC is concerned that a radical change in the funding model risks both the freedom of local managers to identify and action their own priorities and its ability

to fund the very 'evidence based' management that the Scottish Government is advocating. This is particularly the case with respect to the funding of long term monitoring programs. If these are expected to depend on annual grants (which are now hard to get) or short-term project funding from the National Unit then the data collected could be of an ad hoc nature and be of very limited long-term value. The RTC believes that genuine 'evidence based' management can only be supported by a robust long term and dependable funding model and that the best way of ensuring this is by allowing local bodies to raise their own funds as is the case at present. The RTC has the power to raise funding from across the catchment, a power which would not be available to the proposed national body.

Establishing the correct functions of fisheries management is essential and should in turn define the purpose of an FMO and its appropriate structure.

**Q2.** Do you consider that any main functions are missing? If so, please state what these are. Do you think that any of these functions might be best fulfilled at a different level?

The RTC believes that the overriding function of a wild fisheries management system is the ability to deliver strategic wild fisheries outcomes for the benefit of the people of Scotland. The RTC also delivers benefits for the people of North Northumberland in England.

For the reasons set out above, the RTC believes that the management system should be clearly subject to the subsidiarity organising principle that management is delivered at the local level in so far as possible. Ideally the boundaries between local and national responsibility should be clearly delineated. We would suggest:

National

- Developing and reviewing national strategic outcomes
- Advising the Scottish Ministers
- Public reporting
- Ensuring compliance with international obligations
- Advising on approved approaches and methodologies

Local

- Protection and improvement of Salmon and fisheries
- Maintaining and enhancing the economic contribution that wild fisheries make to the local economy
- Raising a local levy on the basis of an agreed local budget and maintaining proper accounts that clearly identify how that levy is spent within the district
- Generating and implementing local fishery management plans in support of all species recreational fisheries management and maximising natural biodiversity
- Identifying and expediting local fishery priorities
- Supporting and advising the NU in delivering on national strategic outcomes including compliance with international obligations
- Designing, maintaining and further developing 'evidence based' fishery management
- Public reporting
- Developing links with national and international bodies, independent of the National Unit

The RTC has a number of statutory powers which it considers to be essential for the effective delivery of functions (a) to protect and improve Salmon and other freshwater fisheries and (b) to both preserve and increase the number of salmon and other freshwater fish. These include not just powers of protection of fisheries, but also: to conduct enquiries, in relation to collection of information, for the removal of obstructions, for the enforcement of offences in relation to fishing, over illegal possession of salmon or trout, over the free passage of salmon, over contravention of the Protection Order etc.

The RTC considers that these are not just essential to the proper performance of local fisheries management, but that they can only be effectively delivered locally and not via a National Unit.

We would suggest the following as an overriding function for the new system:

*"A system of wild fisheries management delivered at local level and supported by a national unit that is capable of delivering agreed strategic fisheries outcomes both for Salmon and freshwater fisheries and for the benefit of the people of Scotland"\*.*

\*The RTC also works for the people of England.

**Q3. Do you agree that FMOs should be charitable bodies?**

Yes  No  Don't know

The RTC believe that a key role for FMOs is the effective protection of fisheries and, in practice that will mean deploying water bailiffs. We do not believe that this vital fisheries protection role (as distinct from policing wildlife crime) is compatible with charitable status.

If the Scottish Government believes that FMOs could be charitable then it needs to clarify what their 'objects' would be and how the OSCR 'public benefit test' would be satisfied. The nearest possible OSCR head is; *"the advancement of public participation in sport (this objective is focused around health benefits)"* which does not come close to matching the fisheries management remit currently fulfilled by Fishery Boards.

We are concerned as to whether the deployment of bailiffs by FMOs to enact the Scottish Government's statutory national and international commitments to Salmon and other species is compatible with charitable status; we believe that it is not.

The protection and enhancement role of fisheries in private ownership, which is at the heart of the statutory duties of both the Boards, as currently structured, and the RTC, is clearly incompatible with charitable status.

That fundamental incompatibility is one reason why the RTC established The Tweed

Foundation as a separate entity because improvement of the biology and natural biodiversity of fish species within the river, as distinct from the fisheries, is clearly in the public interest. The Tweed Foundation has played a pioneering role in developing 'an ecosystem' approach to fisheries management and this role has been replicated over much of Scotland with the development of the rivers trust network.

The RTC believe that a dual structure of FMO and rivers trust is the model that best suits larger river catchments such as Tweed. The advantages of having a dual system are:

A fisheries trust can attract charitable status and therefore attract funding from other sources

A fisheries trust can encompass an 'all species' remit which can properly support a genuine ecosystem approach to management.

A fisheries trust can utilise its unique knowledge of local species to advise other economic users of the river environment bringing wider benefits to the community.

A fisheries trust is bound by its charitable status to serve the public interest, so must ensure that its advice remains in line with the public interest rather than the narrower fisheries interest of the FMO.

The Scottish Government has made it clear that two key drivers of the wild fisheries reform programme are the promotion of:

- Evidence based management; and
- All species management

The Tweed Foundation has been at the forefront in the development and practice of evidence-based management through a locally agreed management plan. This has enabled it to provide much better advice to the RTC, which has in turn led to more effective fisheries management (e.g. spring Salmon conservation, net fishery buy-outs, control of fish movements). We believe that in terms of 'evidence based', 'all species' fisheries management the RTC is indisputably a world leader.

The Tweed Foundation has an all species remit and so is able to provide the broad range of advice suitable for supporting 'all species management'. River eco-systems are complex and we believe that fisheries trusts are uniquely equipped to deliver advice in support of 'all species' management. The Foundation has already done much work in support of non-salmon fisheries and will continue to do so. We believe that this work exemplifies precisely what the Scottish Government are demanding as part of the Reform programme.

### **Tweed Specific Comment**

The RTC does not believe that the vital and unique statutory role it plays in supporting cross-border Tweed fisheries is compatible with charitable status. The RTC was created to fill a specific need and we do not see any reason to change its status.

As set out above, the RTC believes that there is a role for a charity in local fisheries management in the form of a fisheries trust dedicated to the study and enhancement of the whole fluvial environment, which is an acceptable 'object' for the purposes of

charitable status. The RTC believes that The Tweed Foundation has played a vital and innovative role in the success that Tweed fisheries have enjoyed nationally and internationally over the last two decades, and should most definitely continue to do so.

A dual structure of a non-charitable FMO and charitable river trust has served the Tweed very well and underpins its reputation as one of the best managed salmon fisheries in the world. This structure is able to underpin 'evidence-based' management and 'all species' management, which is precisely what the Scottish Government's reform programme is demanding.

**Q4.** Do you have any comments about the WFR's view that FMOs should be Scottish Charitable Incorporated Organisations rather than charitable companies?

We do not believe that either is an appropriate organisation for future fisheries management – see comments above.

SCIOs do not permit borrowing, loans or similar financial arrangements necessary to arrangements in advance for EU grant funding to be undertaken. Could the Scottish Government explain how SCIOs would be able to operate in this respect.

**Q5.** Do you agree that in order to ensure appropriate governance and fitness for purpose, FMOs should operate to a model constitution?

Yes  No  Don't know

The RTC believes that the issue is not so much about absolute uniformity as ensuring that the key characteristics in fisheries management demanded by the Scottish Government via the Reform programme are achieved by each FMO. The Scottish Government can achieve this through its approved body requirement without demanding absolute uniformity.

The RTC understands that the key 'management' objectives required by the Reform programme are:

- Broader social participation on FMOs
- Proprietor interest being reduced to a minority
- Governance mechanisms that are open and transparent.

Provided that these criteria are fulfilled then we do not see any merit in the Scottish Government insisting on uniformity, as uniformity is not an end in itself.

#### **Tweed Specific Comments**

The constitution of the RTC already fulfils the key management objectives being proposed by the Scottish Government's Reform programme. As the Scottish Government is aware, the RTC has a majority membership composed of local authority representatives, angling club representatives and independents, and fishery

proprietors are in a minority. The organisation works to high levels of accountability and transparency.

Furthermore, the unique structure of the RTC is in part a function of the organisation's cross-border character and is necessitated by that geographical reality.

**Q6. What do you consider is an appropriate balance of interests on the board and wider membership of FMOs?**

The RTC agrees that FMOs should encompass a wider range of interests than is currently the case on DSFBs. It is our view that an 'appropriate' balance is keeping the proprietor interest at between 40% and 50%.

However, the RTC believes that a high level of fishery proprietor involvement is key if FMOs are to have any chance of succeeding. The reason being that proprietors are the biggest stakeholders in fisheries and it is they who have liability for funding Salmon and freshwater fisheries. 'Fairness' should be an important design consideration so that all interest groups represented on the FMO should be expected to share an equal proportion of its costs in so far as practicable.

**Tweed Specific Comments**

The RTC believes that the structure and function of the Commission is an 'appropriate balance' of interests that fully complies with the Scottish Government's reform proposals for broader representation at local level. The RTC is composed of 38 'Proprietorial Commissioners, drawn from 165 registered Salmon fishery proprietors, and 43 Local Authority appointed 'Representative Commissioners'. The two relevant local authorities have a duty to appoint *'persons appearing to the local authority to be persons sufficiently representing the interests of those respective parts of the area'* for which they are appointed, with a designated proportion of those representatives being drawn from local freshwater fishing associations.

The RTC believes that the balance of representation of Commissioners works very well and commends this as a model to the Scottish Government. The RTC has high levels of engagement from fishery proprietors who see a real benefit in volunteering to serve, but the Commission also enjoys valuable input from the wider community including local fishing clubs through the local authority involvement.

The vesting of authority in local representatives also solves the question of how to have democratic accountability across the Border. Scottish Ministers are not accountable to the people of North Northumberland, and can never be so, but the Northumberland representatives on the RTC are.

**Q7. Do you agree that bodies wishing to become FMOs should do so through seeking approved body status from Scottish Ministers?**

Yes

No

Don't know



The RTC understands that 'approved body status' is the means by which the Scottish Government intends to exercise control over the priorities and expenditure of FMOs. In so doing, the nature of the wild fisheries management will irrevocably change from being locally driven to being centrally driven by the priorities of the Scottish Government. We reject the view that this is compatible with charitable status.

The RTC believes that genuine local autonomy and the benefits that it creates in terms of diversity, innovation, genuine local empowerment (one of the current Government's cornerstones) and adaptive management is not compatible with the strong centralisation and the 'uniformity' agenda that is being driven by the Reform agenda of which 'approved status' is a key element.

#### **Tweed Specific Comment**

The RTC believes that local autonomy has been a key element in the success of the Commission in developing an innovative and adaptive fisheries management for many years. We believe that central control of funding and the fisheries management agenda would not have allowed the RTC the space and freedom to experiment and develop in the way it has, particularly in terms of the growth of ecosystem management of the Tweed.

We believe that Tweed fisheries management demonstrates that the RTC fulfils all the strategic objectives required by the Scottish Government and should be 'approved' as it is.

**Q8.** Do you agree that the cornerstone of the relationship between national and local management bodies should be the proposed plan-led approach? If not, why not?

Yes  No  Don't know

The RTC is concerned that the proposed approach amounts to a centralisation of fisheries management and we believe that this will damage the quality of fisheries management in Scotland. The RTC proposes that the cornerstone of the relationship between national and local management bodies should be:

1. A plan-led approach *that combines local priorities and* national and transnational obligations synergistically ; and
2. A funding model that will fully support this plan-led approach

The RTC agrees with a plan-led approach starting in the locality and given whatever support is necessary nationally to facilitate implementation. We believe that the existing Boards have a good understanding of local conditions and priorities and that future FMOs should be left to ascertain and fund projects according to a local assessment of priorities. This carries several benefits:

- There is genuine 'local empowerment' in the sense that the FMO has the responsibility to action priorities without reference to the Scottish

Government which may have an entirely different set of priorities

- It allows for the adoption of varied regional approaches, some of which will work and others won't, but the key point being that the system is 'adaptive' and can learn from its mistakes in a way that is more difficult in a 'command and control' system. Many of the great improvements in fisheries management over the last few decades would almost certainly not have happened under a 'command and control' system.
- Having the power and responsibility to act locally through a local funding mechanism creates an incentive for local involvement.

The National Unit should build national strategies from local priorities and issues and not vice versa. Regular local meetings with individual FMOs will allow the National Unit to make this an iterative process. A clear differentiation needs to be made between 'national and transnational' issues and 'local' issues and the National Unit should only supervise 'national and transnational' issues in each plan.

So far as funding is concerned, the RTC believes that the current model of raising and spending money locally works well and is fair. Whatever the funding model is in the future, the RTC is clear that it needs to be consistent, long term and dependable. This is because much of the key work necessary for fisheries management, particularly 'evidence based' management, is long term and requires a funding model that can support that. If FMOs are to be dependent on annual grants or short term project funding then fisheries management work that supports 'evidence based' management would not be feasible and would collapse.

We accept that the Scottish Government has its own set of fisheries management priorities driven in part by its own international obligations. Local bodies should be made aware of what these are and how to include them in their own planning with the guidance of the National Unit; indeed national approval of local fisheries management could ensure that. Irrespective of this, the Scottish Government already has all the powers it needs (in relation to Salmon) to take unilateral action under the Salmon Act 2003 if required to ensure compliance with International obligations.

### **Tweed Specific Comment**

The RTC has operated plan-led fisheries management for many years and has decades of achievement. That planning process is transparent and publicly accountable through the democratic structure of the RTC and it demonstrably works.

The local autonomy that the RTC has enjoyed has allowed it to become a world leader in 'evidence based' fisheries management and we are delighted that the Scottish Government now fully accepts this as a key principle of fisheries management. But we are concerned that national policies, such as the proposed kill licencing, do not follow this principle. National policies just as much as management work should be evidence based.

Local autonomy has also allowed the RTC the freedom to pursue other works, such as the buy-out of heritable netting rights, on a willing buyer willing seller basis, on which it has spent c£2m. We cannot envisage that this could have happened under a Scottish Government directed command and control system, even though the buy-out has done much to contribute to the Scottish Government's international obligations to

protect the conservation status of Salmon under the Tweed SAC.

In short, giving local organisations such as the RTC the freedom and power to act locally can greatly contribute to the achievement of the Scottish Government's own priorities, both economic and international.

The RTC's autonomy is central to its legitimacy as the manager of its cross-border catchment.

**Q9.** Do you agree that the proposed package of measures in terms of constitution, governance and a plan-based approach provides an appropriate framework for decentralised delivery of fishery management functions?

Yes

No

Don't know

The RTC cannot agree with the suggested characterisation of the new system as 'decentralised'. The system is currently decentralised and the proposals are for centralisation via centralisation of funding, central control of FMOs through 'approved status', and local funding only on the basis of the Scottish Government's priorities.

The RTC cannot comment as to whether the proposed new system is 'appropriate' for the delivery of fisheries management without much more information from the Scottish Government as to how the proposed system is going to work. If 'appropriate' is to be read as 'contributing to the attainment of a reasonable suite of strategic wild fishery objectives', then on the current information provided and cognizant of the risks of replacing a proven system of fisheries management with an untried and untested model for which there is no explicit funding model, the answer must be 'no'.

#### **Tweed Specific Comment**

We believe that the existing model of governance of the Tweed is better than 'appropriate' and no case has been made to change it. The existing wild fisheries management model on Tweed makes an enormous contribution to the local Borders economy. The Tweed fisheries are estimated to contribute c.500 full time jobs and a direct expenditure into the Borders economy over £18 million per annum (figures based on a survey completed in 2006, and being updated later in 2015). These jobs are all the more valuable in a rural economy such as the Borders.

Given that the RTC already fulfils the stated strategic fishery objectives of the Scottish Government's reform programme we believe that destroying a proven and world famous fishery management system on which a great many jobs depend is manifestly unreasonable and prejudicial.

**Q10.** Do you agree that the FMO network should cover the whole of Scotland?

Yes

No

Don't know

An affirmative answer to this question cannot be given unless the form of an FMO has been decided. However, as a matter of general principle, given that there are wild fisheries all over Scotland, we agree that there should be a sensible system throughout Scotland.

### **Tweed Specific Comment**

Whilst the RTC agrees that it should be compatible with such a network of local FMOs, it does not agree that the form and function of the RTC should, or requires to, be changed because it considers that it is already a functioning and proven model for an FMO.

It is necessary for the Tweed fishery to have a separate management body because it is cross-border. It must be compatible not only with fisheries management in Scotland, but also that of England. It is different from the Border Esk, where both the Scottish and English parts are managed by the Environment Agency. The Esk has no significant Salmon rod fishery and it raises no funds from the fishery owners. The Tweed in contrast is the largest Salmon fishery in Europe and raises significant funds from its owners, both in Scotland and England. This is facilitated by the RTC being a separate body. It would be undemocratic and unconstitutional for Scottish Ministers to tax English fishery owners.

**Q11.** Do you agree that Scottish Ministers, following discussion with stakeholders, should set out the boundaries of FMO areas?

Yes  No  Don't know

The RTC considers that boundaries should be set with reference to a 'stakeholders' boundaries group. In the event that the group cannot reach agreement then Ministerial intervention should be offered.

**Q12.** What factors should be considered in determining the number and optimal coverage of FMOs?

In the first instance, consideration needs to be given as to what boundaries will work in terms of the perhaps conflicting requirements of cost and the need for local catchment based management.

We believe that catchment level management makes sense as the best natural scale for fisheries management and believe that this should be the general rule for larger rivers at the very least. There is an assumption sometimes that larger means better and we do not believe that is always the case with fisheries management where having a catchment scale management organisation can provide more incentives for local participation and provide a focus for fostering more inclusive approaches to fishery management. We consider that travel time should be taken into account in determining the size on an FMO with the extremities being perhaps no more than 3-4 hrs driving time apart.

A key consideration with respect to boundaries and number of FMOs is funding. Without more information regarding the likely cost of establishing and running FMOs and the likely pool of money available it will be difficult to be clear about what is practicable.

The RTC believes working at catchment scale works very well from the point of view of fisheries management and believe that this is the best 'default' position.

The River Basin units of the Water Framework direction also need to be taken in to account – no FMO should include areas in both the “Scotland” and the “Solway-Tweed” River Basins. For FMOs to try and participate fully in the WFD processes of two basins would a considerable administrative burden.

#### **Tweed Specific Comment**

The RTC in design and function is solely directed to serving the specific fisheries management requirement of the Tweed catchment, which encompasses both Scotland and England.

The Tweed catchment is 5000km<sup>2</sup> ; it has 18% of the Salmon spawning area of Scotland and the English part of the Tweed accounts for 50% of the Sea-trout and 26% of the Salmon catches annually, etc.

Tweed is an area which should remain as an FMO, in its current form.

**Q13.** Do you agree that bodies designated as FMOs should be able to deliver analogous work on behalf of local or national interests?

Yes  No  Don't know

We understand 'analogous' to mean work that may be related to the river environment but which may not be directly fisheries related. Within the existing management structure the pure fisheries issues are managed through the Boards and other 'analogous' issues related to rivers mostly via the rivers trusts. We believe that this 'dual' structure works well as it is capable of accommodating all socio/economic interests in rivers. It would appear that the Scottish Government is considering a unitary structure of FMOs that would combine the 'fishery management' role of the existing Boards with the 'all flora and fauna' advisory role enjoyed by the rivers trusts.

It would be unwise for FMOs to have fluvial responsibilities such as flood management. Whilst FMOs should be able to undertake analogous work it should not be incumbent on them to do so if such work is unimportant for fisheries management; this is the case in some areas.

In writing the 'objects' for the FMOs we believe that the Scottish Government will have to decide whether it wants them to be dedicated to promoting and developing fisheries or be dedicated to protecting and enhancing the fluvial environment in the public interest. We do not believe that an FMO can be both.

Our preference is that FMOs should be focused on promoting and developing fisheries because it will be fisheries that will be providing the great majority of the funding for FMOs. In our view there would be a serious 'fairness' issue if FMOs were funded by fishery interests but serving a wider community of interests. If an FMO is to

be a charitable body, care must be taken to ensure that “analogous” work falls within the objectives set for the charity and, in the case of the current rivers trusts, this is clearly covered off.

A unitary structure of FMOs dedicated to fisheries management leaves no room for the trust network and we believe that the network, while far from perfect, performs a very valuable role in advising on and protecting rivers.

#### **Tweed Specific Comment**

The RTC is focussed on all species fisheries management within the river Tweed catchment. We believe that it does this with great success and can see no merit or reasonable basis on which to change its mandate.

Analogous work in the Tweed catchment has in the past been carried out by the Tweed Foundation and more recently through appropriate division of labour by the Tweed Forum; much of this current work whilst being appropriate for the Tweed catchment generally, is not significantly relevant to fisheries management in the Tweed. The scale and value of the commercial Salmon fisheries of the Tweed require a strong, direct, focus on them if they are to continue to make their present contribution to the local economy. A relatively often-forgotten element to a Natura 2000 designation is that it must consider the economic and social aspects as well as the conservation aspects of the designation. Other aspects of the fluvial environment in English & Scottish parts of the catchment are currently the responsibility of national agencies in the respective countries. The Scottish Government cannot change the responsibilities of English agencies, and there would be no advantage in RTC or TF having different responsibilities each side of the Border.

We strongly resist the imposition of a unitary FMO system that would in effect lead to the dissolution of the Trust network. Apart from anything this would lead to a reduction in 'evidence based' management and 'all species' management, two of the key elements in the Reform programme.

#### **Q14. Are there any potential conflicts of interest in this approach?**

We assume this question means, are there potential conflicts between a 'fisheries' mandate and 'other analogous work'. There are, of course, many conflicts of interest between different users of land and the river environment, for example, canoeing; there are also conflicts between riparian management strategies such as natural flood management: e.g. damming rivers may be good for water retention but is bad for fish migration. If FMOs have a broader remit that encompasses a wider range of river-based interest groups then they will not be FMOs at all but River Management Organisations and again we believe that this raises questions that are outside the stated scope of the WFR. Moreover it raises the issue of how such conflicts would be addressed with a wide remit.

The RTC considers that the dual structure such as the one that exists at the moment is correct, i.e. one that encompasses fisheries trusts with their much broader non-fisheries mandates where there is no conflict of interest.

#### **Tweed Specific Comment**

As mentioned above, the RTC absolutely rejects the broadening of its mandate to include other issues. We do not consider change is required when the current system works and has worked so well to the benefit of the people of the Borders and the people of both Scotland and England. This would require additional legislation through the Tweed Acts.

**Q15.** Do you agree that funding raised from proprietors should continue to provide the core strand of revenue for local fishery management?

Yes

No

Don't know

The current fishery board assessment (although not on Tweed) is in essence a voluntary payment since the formation of a Board is not compulsory and there is no requirement to raise a levy.

The Scottish Government propose to raise a new tax on sporting assets to pay for the new wild fisheries administration on the basis presumably that those who benefit from fishery assets should help pay for the administration costs. We do not argue with the proposition that fishery owners should provide the core funding for local fishery management, which is what the case in Scotland is generally today.

We consider that the more relevant question is what the costs of administering a new sporting rate will be and whether the costs of administering this will be deducted from the funds available. The imposition of a new tax may result in considerably higher administration costs with the result that there is less money to be spent on wild fisheries management in which case it is hard to see how this will contribute to the achievement of its wild fisheries objectives.

#### **Tweed Specific Comment**

The RTC is currently funded by the local Salmon fishery proprietors (from England and Scotland) and we see no reason why this should change. The Scottish Government cannot propose to raise a new sporting tax on assets in England. The RTC has an 'all-species' remit, which means in practice that Salmon proprietors are subsidising the management of all fish species – not only Brown trout and Grayling, but also those of no angling interest, such as Eel and Lamprey. Although the Tweed is a SAC for Lamprey, there are no external funds provided for their routine monitoring so this has been added on to the Tweed's salmonid monitoring programme which is funded through the Tweed Foundation – by the RTC, which derive its funding entirely from the Salmon fishery proprietors. The RTC has an extremely efficient and cost-effective collection service for this levy, which we doubt could be matched by central administration taking over the function. It is measure of the success of Tweed's current set-up and the collaborative nature of the RTC that the salmon proprietors have gladly funded this work. The Government's proposals to direct work on Tweed and to extract money from Tweed for use elsewhere would threaten this.

**Q16.** Do you agree that we should explore the potential for extending the responsibility for paying the levy to the owners of all fishing rights?

Yes

No

Don't know

Whilst we agree with the Scottish Government that there should be an 'all-species focus', it would be difficult for all proprietors of Salmon fisheries to bear the costs of management pertaining to 'non- salmonid' fisheries.

We believe that raising a levy on trout fisheries (or other fisheries) will inevitably result in raising the costs of wild fishing, which is likely to further hasten the decline of interest in this sport and which is counterproductive to what the Government seeks to achieve with its Opportunities & Access for All initiative. With respect to other species we do not see how a levy can practically be raised and, even if it were, it would be damaging to the expressed intention to develop these fisheries.

If the Scottish Government wants to invest money in developing these wild fisheries as is suggested in the Wild Fisheries Review, in the public interest, then the necessary resources will have to come from somewhere else.

Our position is that this money should not, and cannot, come out of the already stretched finances of Salmon fisheries without damaging Salmon fishery businesses.

#### **Tweed Specific Comment**

The RTC has had the power (between 1969 and 2007) to raise a levy on trout fishing but did not do so because it was considered impracticable.

The RTC has already worked successfully to develop other fisheries including trout and grayling fisheries. This work has been at the expense of Salmon proprietors as the commercial value of these fisheries is negligible in our opinion.

**Q17.** Do you agree that responsibility for collecting and distributing resources from fisheries proprietors for the purpose of delivering the national strategy at a local level should rest with the national unit?

Yes

No

Don't know

No. We believe that the responsibility for collecting and distributing resources should be at local level. It can be done efficiently and quickly by people who know the area and the local proprietors, and the payees have the reassurance that the money is being spent locally for local benefit.

We have not seen any evidence to suggest that the costs of creating and administering a new sporting rate centrally would offer any cost advantages over local collection and it leads to the difficult issue of how the funds are then divided up between regions. No fishery region as currently constituted is capable of delivering substantial subsidies elsewhere without negatively impacting management in that area.

If funds were collected centrally under Scottish Government control we strongly believe that donations and topping up from local sources would reduce: this would be particularly relevant to the proposed charitable status.



### Tweed Specific Comment

A two-tiered system of sporting rates and the RTC levy used to exist on Tweed and it was considered not to work due to cost and inefficiency. After sporting rates were abandoned because they were too expensive to collect the RTC took over the management of all funds for the Tweed fishery raising a The RTC believe that its collection system of levies is low cost, effective and fair. The costs for raising and collecting the levy on Tweed in 2015 are approximately 1-2% of the total sum raised.

The RTC is a cross border institution. The Scottish Government would not have the jurisdiction to assess or collect funds from the proprietors of English fisheries. In short, from the Tweed perspective, central collection would be both manifestly impractical and undemocratic.

**Q18.** Do you agree that we should explore the recommendation that redistribution of funds should form part of the new management system?

Yes

No

Don't know

The RTC opposes the redistribution of funds. The reason for this is twofold:

- Redistribution is based on the assumption that such an unnecessary 'surplus' exists. There is no readily available 'surplus' pool of funds in any area that can be redistributed without having serious implications for fishery management in the donor region. We are not aware of any such surplus funds in any Trust and there is certainly none on Tweed. This being the case, any redistribution will directly result in work being abandoned in the donor region.
- There is an assumption that lack of resources is the problem for some existing Board regions. We do not agree that lack of resources is necessarily always the key problem or at least this has not been demonstrated. In many instances lack of fish or lack of effective fishing effort in local fisheries may be the real problem, requiring a different set of potential solutions.

It should also be noted that one of the reasons for the proposed re-organisation is to allow for funding and support of the Scottish Government's international commitments with respect of Salmon. In practice these commitments tend to relate to the large populations of Salmon that inhabit the big east coast rivers, the very areas which would be expected to lose resources under any system of redistribution. In that sense such a redistribution would play against one of the main stated aims of the Reform programme and against the Scottish Government's commitments at an international level.

The fact that there is already some cross-subsidisation within the larger Board areas does not support the argument for a wider redistribution across the country. Redistribution within Boards is a decision for which Boards are directly accountable/elected on by those making the donations and occur within limited geographical areas.

### **Tweed Specific Comment**

The RTC raises money in accordance with fishery management needs within the Tweed catchment. It does make contributions from time to time to national initiatives where it can be demonstrated that there is a local benefit, albeit indirect. The RTC strongly disagrees that funds raised from the Tweed District should be spent in other catchments, when those funds are needed within the Tweed catchment and their loss would impact upon Tweed fishery businesses.

Specifically, the RTC strongly opposes the redistribution of funds raised in England to other Scottish rivers, which may well be 'ultra vires' for the Scottish Government unless sanctioned by the Westminster government.

### **Q19. If not, what other means might be used for funding local fisheries management at appropriate levels across the country?**

The RTC considers that it is certain that the proposals for redistribution will lead to a funding shortfall and, in which case, alternative funding streams including rod licences should be considered. However, this represents a tax on fishing, at a time when there is already an issue of encouraging new people into the sport and therefore seems wrong.

There is potential for FMOs to raise money through charging other bodies for their valuable data, management advice, etc. On Tweed, data has been supplied free to initiatives in which fisheries interests could benefit i.e. SAC work and some SNH studies. Other data is charged and this is a funding stream. It would help if statutory bodies could determine their long-term data requirements that FMOs could contract with them to supply.

EU funding is a potential source however this is not 'free money' as it has to be matched from the applicant body. Only independent and financially viable standalone FMOs, with the ability to borrow/service debts and demonstrate adequate record keeping would be able to apply for such funds; we repeat that a SCIO could not do this. These types of funds are almost always project-specific, and would not provide the long-term unrestricted funding required for evidence based management.

In general there is very little grant funding available, and this has been dwindling for several decades; the proposed new system is potentially much less attractive to grant funders, particularly if it is a unitary tier of FMOs which are controlled centrally.

### **Tweed Specific Comment**

Tweed Angling Clubs and Associations are strongly opposed to a rod licence, which they consider would act as a strong disincentive to angling and would not raise significant funds from non-Salmon fisheries.

### **Q20. Do you agree that we should explore the recommendation for a two-tier levy system?**

Yes

No

Don't know

The RTC does not agree that a two-tier levy system should be further explored. The problem is that any second tier levy would not be supported locally if the top tier levy was seen to be allocated to other rivers and therefore being raised to replace that top tier.

**Q21.** Do you agree that Ministers should have powers to control harvesting of all fish species on the grounds of conservation and be able to do so in line with the precautionary principle?

Yes

No

Don't know

The RTC believes that Scottish Ministers already have all the powers that they need to make conservation regulations for the conservation of Salmon or freshwater fish, respectively. The Act gives the Scottish Government discretion to use these powers when it considers *'it necessary or expedient to do so for conservation'* and therefore the RTC cannot agree with the proposition that the discretion of the Scottish Government is in any way limited or that further powers are needed.

In terms of the circumstances in which such powers or their equivalent under a new Act are in line with 'evidence based' management, the RTC believes that conservation measures should only be taken where the Scottish Government can demonstrate that there is reasonable evidence to show that measures are justified.

The RTC believes that the precautionary principle should only be invoked where data is insufficient, doubtful or non-existent.

**Tweed Specific Comment**

The RTC has always believed that conservation of Salmon stocks is an important element in fisheries management and has relied on the independent scientific advice of The Tweed Foundation to advise when voluntary measures need to be applied by the RTC to conserve stocks. The RTC has never shied away from taking action where necessary and we believe that this approach has worked very well in practice. The Tweed Foundation also monitors and researches other freshwater species.

**Q22.** If not, what other mechanisms should exist in order to ensure a flexible regulatory system which can ensure delivery of legal obligations and policy priorities for management of species and is capable of responding to future changes?

The RTC believes that current legislation (including Sections 38 and 51A of Salmon Act 2003 and the Tweed Regulation Order) provides the Scottish Government with all the powers that it reasonably needs to ensure delivery of international obligations and government policy in so far as these relate to issues of conservation of those species to which international obligations apply.

**Tweed Specific Comment**

The RTC has always believed in working constructively and co-operatively with anglers

in promoting conservation in the belief that unilateral imposition of measures can be alienating and risk the loss of custom to individual fishery businesses. Accordingly, the RTC operates a number of Conservation Codes designed to gain angler support; these have proved very effective; have not alienated anglers and are much more flexible than regulatory powers.

**Q23.** Do you agree that, in the context of the wider proposals in this paper, the creation of an offence of reckless or irresponsible exercise of fishing rights should not be pursued?

Yes  No  Don't know

The RTC believes that the current legislation with respect to the protection of fish is adequate and it agrees that this new offence should not be pursued.

**Q24.** Do you agree that data collection priorities and processes for fisheries management at a local and national level should be predicated on a consistent approach and that this should be via a national research and data strategy?

Yes  No  Don't know

The RTC agrees consistency of approach with respect to data collection for fisheries management is desirable and helping with this has always been one of the functions of the SFCC

The RTC does not agree that any national research and data strategy should inhibit the ability of FMOs to carry out data collection for their own local management purposes. We believe that the freedom for local management to identify and expedite local research is important, not just because it gives freedom of action to those best placed to make those judgement but also it allows for the development of relationships between FMOs and universities.

**Tweed Specific Comment**

The RTC has been a world leader in 'evidence based' fisheries management through applying a consistent and thorough monitoring strategy across the Tweed catchment. We believe that our local expertise makes us best placed to make the decisions as to what data is collected and how it is collected using the best scientific methodologies.

The RTC and The Tweed Foundation have been able to foster strong links with Napier and Durham Universities, and other international research bodies such as DTU in Denmark, which has worked well to the benefit of all parties.

**Q25.** Do you have any suggestions for additional means to ensure that evidence-based decision making is embedded within the fisheries management system?

The RTC agrees that 'evidence based' decision making should be a founding principle of fisheries management and this is an approach that has long been advocated and practiced by RTC.

Currently, Fishery Boards are empowered to *'do such acts, execute such works...as are necessary for the protection or improvement of the fisheries in their district'*. It is not clear what powers and duties, if any, the Scottish Government intend to give to FMOs, however we believe that if FMOs are to have duties to manage fisheries then that duty should be in line with the Scottish Government's own sustainable development duties, which include an obligation to 'use sound science responsibly'.

The RTC believes that the key to ensuring that 'evidence based' management continues to be practiced in areas such as the Tweed is to ensure that there is 'genuine' local management, which has a level of local knowledge that can ensure that scientific resources are directed where they are needed and the resources to fund these.

Each FMO will have its own distinctive research needs some of which will be local but some of which will have national or regional implications; for example, the development of a regional monitoring strategy to assess the impacts of aquaculture on West Coast wild salmonid populations. A function of the National Unit should be to co-ordinate similar research requirements in different local areas into regional and national research programs.

We agree that it would be desirable to have a common methodology by which local science plans could be formulated. Scottish Government needs to clarify how it envisages what powers and duties FMOs will have to expedite science plans and the works within them.

**Q26.** Do you have any suggestions for additional skills areas which might usefully be covered in training and CPD programmes?

We are not clear what is meant by "research" in this list. We do not see this as a skill in itself but rather many skills, from basic fish handling to use of small boats, and statistical analysis. Any programme of CPD or training must recognize that a considerable volume of effort is provided voluntarily.

**Q27.** Do you agree that annual and weekly close times should remain a key part of the management system for wild fisheries?

Yes  No  Don't know

The RTC believes that annual and weekly close times should remain a key element of wild fisheries management for conservation reasons. They are also are a useful way of accommodating other non- fishery interests on the river. We believe that decisions on close times are best agreed at local level.

**Q28.** Do you agree that the proposed local management organisations should have responsibility for considering such close times in line with the national strategy and the local fisheries management plan?

Yes  No  Don't know

Yes.

**Q29.** Do you agree that the purpose behind Protection Orders can be achieved via the design of the new management system in line with the fundamental principles set out in chapter 2?

Yes  No  Don't know

Protection Orders are a vital tool to allow non-Salmon fisheries to have the protection of the criminal law. This is often much needed to protect the viability of the fishery from unauthorised fishing.

The Wild Fisheries Reform programme, rightly, wishes to promote all species fishery management. We believe that providing proper legal protection of these fisheries is vital if this objective is to be achieved. Simply making the requirement to fish without permission a criminal offence would not achieve this. Protection orders place an obligation of the owners of fishery rights to provide fishing access, which should not be lost.

**Tweed Specific Comment**

A part of the Tweed catchment falls in England. Trout fisheries in England are protected by the criminal law. If Protection Orders are to be withdrawn as an option for fisheries then the Scottish Government must create a new criminal offence of fishing without right or permission as is the case in England.

We cannot see how, if Protection Orders are to be withdrawn, the Scottish Government proposes that all-species fisheries will be protected from poaching.

The policing of the non-salmon fisheries by angling associations under the Protection Orders has inspired many proprietors on the English bank of the lower Tweed to offer their trout and grayling fisheries to their local association, thus increasing the availability of Tweed trout and grayling fishing to anglers from both sides of the Border. That would be lost if the Protection Orders were withdrawn without providing proper legal protection on the Scots' side.

**Q30.** Do you agree that the principles of the existing bailiffing system should be retained, but with amendment to set compliance within an appropriate framework of accountability with warrants issued by the national unit?

Yes  No  Don't know

Bailiffs, and the criminal law that they enforce, are vital for the protection of fisheries. Bailiffs are deployed locally on the basis of local catchment knowledge and are currently paid for by the Salmon proprietors whose fisheries are being protected. This

system works well in general. The question refers to 'an appropriate framework of accountability'. It is not clear what this is or indeed what offences are being considered by the Scottish Government to ensure that fishery interests are protected from poaching.

We would welcome clarification of what 'framework of accountability' the Scottish Government is considering as part of a reformed management regime, in particular what offences currently within the 2003 Salmon Act are to be retained and what additional offences for other species might be created.

There remain a number of uncertainties regarding the proposed new system. One particular concern is that the proposed charitable status of an FMO would preclude it from handling the enforcement duties of Bailiffs.

Further legal advice that Scottish Government has on whether an FMO with a mandate to deploy bailiffs to protect private fishery interests is consistent with charitable status would be helpful.

There are also serious questions regarding the implications of the changes in the funding model and Programme by Scottish Government would result in a reduction in bailiffing activity on Scotland's rivers.

The RTC has no issue with the warranting of bailiffs by the National Unit.

#### **Tweed Specific Comment**

Bailiffing is very important to administering of the Tweed fishery and we seek reassurance from the Scottish Government that nothing will be done in terms of the funding model or new constitutional arrangement that will lead to any reduction in the RTC's ability to protect the fisheries in its district.

The mouth of the River Tweed is in England and any new arrangements in relation to bailiffing and law enforcement must not impede the ability of RTC to take forward prosecutions; the RTC takes its own prosecutions in England and prosecutes through the Procurator Fiscal system in Scotland.

**Q31.** Are there other mechanisms for enforcing fisheries legislation that should be considered?

No.

**Q32.** Do you consider that there are advantages in the bodies involved in recreational fishing being able to come together to speak through one lead body?

Yes

No

Don't know

In some ways we agree with this proposition, although it could equally be argued that diversity of opinion and approach can be a good thing as well. In any event, unity will depend on all the relevant bodies agreeing to merge. When this was tried in England, and the Anglers Trust was formed, unity was not achieved because certain organisation

including the S&TA wanted to remain independent.

**Q33.** If so, do you have views on how this could be facilitated and in what timescale?

The RTC believes that this will be difficult in practice as there are very real differences between interests. Ultimately it is up to those bodies to decide amongst themselves if they wish to merge. If the Scottish Government wishes to encourage this then it should offer some form of incentive.

An alternative way in which 'unity' of opinion could be achieved within recreational fisheries is through reactivating the Freshwater Fisheries Forum. This was the group that was facilitated by the Scottish Government but lapsed when it withdrew its support. The Forum brought together all sectors of the freshwater fisheries sector together and was well and enthusiastically supported. The current problem is that there are many organisations which seek to represent their own isolated sectors and have to do so to raise funds. The concept of the greater body circumvents this yet commands their participation.

We also recommend resurrecting the equivalent of the former post of Inspector of (Salmon and Freshwater) Fisheries. To be the head of the National Unit and serve, as in the past, as the link between local management and government policy. In the past this post was held by a person of stature who understood fisheries from a scientific angle and supported those working in the regions. The significant aspect of the role was that it was a relatively long term appointment so the incumbent got to know the sector and those who working in it. This provided stability and continuity.

**Q34.** Do you agree that promotion of opportunities and access should be a central theme for the strategy?

Yes  No  Don't know

We do not believe that there is any lack of opportunity or access within Scottish fisheries so we do not believe that this is necessary. There is currently an enormous abundance of fishing available in Scotland over a wide range of prices. There is also plenty of excellent Salmon fishing available at very little cost. Protection Order reports illustrate the amount of fishing opportunities that are available. Much of that fishing is low cost and, in most Angling Clubs, free for children.

Promotion of access is not required because lack of access is not the problem: the problem is a declining number of young people with an interest in fishing. Many Angling Clubs are working very hard to engage youngsters with their local fisheries and we believe more work could be done to encourage such initiatives. The Scottish Government need to be very clear that if they are to impose a rod licence that such a licence does not provide a further disincentive to people taking up angling.

**Tweed Specific Comment**



There is plenty of low-cost angling opportunity on Tweed. For example, Kelso Angling Association provides free membership for Under 13s, and is only £6 per annum for 13-16 year olds. The RTC supports any initiatives to encourage angling but is clear that access to fishing is not an issue.

**Q35.** We are interested to hear views on how increasing opportunities and access to fishing can be embedded within the fisheries management system.

There are already plenty of opportunities and an enormous amount of low cost fishing available throughout Scotland. The real challenge is getting young people engaged with rivers and fishing in general and we believe that this is best achieved by the many classroom projects supported by rivers trusts up and down the country.

**Tweed Specific Comment**

On Tweed this is achieved through the "TweedStart" programme.

**Q36.** Do you support the concept of the angling sector coming together to develop a programme for development of angling (Angling for All), including an emphasis on opportunities for young people and promoting social and economic benefits?

Yes  No  Don't know

The RTC supports any initiative to bring more young people into angling. There are a number of existing initiatives around Scotland that could be brought together under the auspices of a single forum such as a reinvigorated Freshwater Fisheries Forum.

As mentioned above, the imposition of a new tax on angling by way of a rod licence can only discourage new entries into angling and should be avoided.

**Q37.** Should funding for Angling for All come from a rod licence? If not, where should resources be found to support the programme?

Yes  No  Don't know

As mentioned above we believe a rod licence would be counterproductive.

The RTC believes more could be done to encourage and facilitate local initiatives such as our own "TweedStart" programme. Tweed also has a Wheelyboat facility, which it developed in conjunction with The Wheelyboat Trust, for providing access for less-abled anglers.

**Q38.** Do you agree that a rod licence should only be used to fund Angling for All, rather than also being used to support wider management activity?

Yes  No  Don't know

As set out above, the RTC believes a rod licence would be counter-productive if the aim is to encourage new angling participants.

If a decision is made to impose a licence then we believe that funding an 'Angling for All' programme would be a good way to use the funds.

Please send your response with the completed Respondent Information Form to:  
[wildfisheriesreform@scotland.gsi.gov.uk](mailto:wildfisheriesreform@scotland.gsi.gov.uk)

or

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