

**Synopsis of Responses received by DOE in respect of the Consultation Paper:  
“Marine Strategy Framework Directive Putting in place the legal framework for  
implementation”**

**1. Introduction**

The Marine Strategy Framework Directive (MSFD) which establishes a framework for community action in the field of marine environmental policy was published on 17 June 2008. Article 26 of the Directive requires Member States to bring into force laws, regulations and administrative provisions necessary to comply with requirements of the Directive (transposition) by 15 July 2010.

The consultation paper entitled “Marine Strategy Framework Directive Putting in place the legal framework for implementation” on proposed UK wide transposing regulations was launched on 30 October 2009.

This paper presents an overview of the consultation process and a summary of the responses received by the Department of the Environment (DOE). The Department would like to thank all those who responded to the consultation and participated in stakeholder events.

**2. Background**

The aim of the Directive is to achieve Good Environmental Status (GES) in Europe’s seas by 2020. The format is similar to that of the Water Framework Directive, with the key steps involving:

<b>Deadline</b>	<b>Action</b>
July 2010	Transpose the Directive
July 2012	Undertake an initial assessment of marine waters; Determine a set of characteristics of and comprehensive targets and indicators to guide progress to Good Environmental Status.
July 2014	Establish and implement a co-ordinated monitoring programme for the on-going assessment of Good Environmental Status.
December 2015	Develop a programme of cost effective measures to achieve Good Environmental Status.
December 2016	Implement the programme of measures.

The Directive defines GES in terms of 11 high level descriptors and work on the criteria and methodological standards to underpin these descriptors is on-going at a European level. It is anticipated that the Commission decision on the criteria and methodological standards will be made by July 2010. Work will follow to describe what GES will involve for UK waters by 2012.

### **3. Transposition Approach**

At its meeting of the 7 May 2009, the Northern Ireland Executive agreed to a UK wide approach to transposition of the Directive. This was to help ensure that the requirements in the Directive for coherence and co-ordinated implementation would be delivered.

The DOE is participating in a UK wide transposition project led by the Department for Environment, Food and Rural Affairs (Defra). DOE's project partners also include the Scottish Government and the Welsh Assembly Government.

### **4. Stakeholder Engagement**

The consultation, which was launched by the DOE Minister Edwin Poots, was advertised in the Belfast Telegraph, Irish News, News Letter and Belfast Gazette. The documents were also available for download on the MSFD page on the DOE website. Letters and emails highlighting the consultation were sent to key stakeholders.

During the consultation period Departmental officials gave presentations on the MSFD and the Department's legislative programme to members of the Coastal and Marine Forum on 25 November 2009. This group contains representatives from organisations which are responsible for managing activities in the coastal and marine environment in Northern Ireland. Officials also presented to representatives from Northern Ireland's commercial ports sector at a workshop organised by the Department for Regional Development and facilitated by Belfast Harbour Commissioners on 11 December 2009.

Representatives from the fisheries, ports and environmental sectors were also invited to attend a Defra led UK wide stakeholder workshop on 8 December 2009 in London.

### **5. Consultation Statistics**

The consultation period commenced on 30 October 2009 and closed on 22 January 2010. Over 350 copies of the consultation document were issued in Northern Ireland via a combination of electronic and paper media.

The Department was encouraged by the level of interest shown by stakeholders in the consultation and a total of 22 responses were received out of a UK total of 74. A list of UK responses is contained at Annex 1 and NI responses at Annex 2.

## **6. Objective of Consultation**

The aim of the consultation was to provide an introduction to the requirements of MSFD, invite views on the draft transposing Regulations, invite comments on the Regulatory Impact Assessment which examined the costs of transposition and to provide information on the steps required to implement the Directive.

## **7. Overview of Comments**

The consultation requested views on:-

1. the advantages and disadvantages of a single UK Marine Strategy (the Government and Devolved Administration's preferred approach) as opposed to separate strategies covering UK portions of the Celtic and Greater North Seas;
2. how the proposed division of responsibilities between the different competent authorities as set out in the draft regulations, can best be made to work and if any obligations arising from the Directive have been overlooked and need to be assigned to a competent authority; and
3. whether the regulations set out adequate safeguards to achieve the level of coordination needed to deliver a coherent strategy, whilst protecting the respective Devolution Settlements.

The comments received by DOE fell into a number of broad categories: responses to the questions posed within the consultation document; comments on individual regulations; Northern Ireland specific issues; linkages to wider marine policy; implementation issues; and comments on parallels with the Water Framework Directive. 4 responses were received which did not make any substantive comments.

### **Responses to the questions posed in the consultation document**

The responses to question 1 were supportive of the proposal to have a single UK strategy provided that regional specificities are taken into account.

The responses to question 2 were supportive of the proposed division of responsibilities between the different competent authorities. The majority of responses suggested that all Northern Ireland departments with responsibilities in the marine environment should

be cited as competent authorities. The Department, in conjunction with Defra and other the Devolved Authorities, has taken the view that a lead competent authority is best placed to undertake a co-ordinating role. DOE has been working closely with representatives from the other Departments and bodies with whom it shares responsibility for functions in the marine environment under the auspices of the Inter-departmental Marine Steering Group and will continue to do so to ensure compliant implementation.

The responses to question 3 were supportive of the UK-wide approach to transposition and of the proposed framework for co-operation.

### **Comments on the regulations**

Comments on the regulations were generally supportive and mainly concerned proposals for ensuring the co-ordinated delivery of the Directive in Northern Ireland, how the caveats within the Directive are being transposed, how co-operation with other member States will be delivered and the list of enactments contained at Schedule 1.

### **Comments on Northern Ireland specific issues**

Transposing the Directive is an integral part of DOE's programme for bringing forward legislation to ensure the sustainable use of Northern Ireland's marine environment. The programme includes measures which will be brought forward to implement the requirements of the UK Marine and Coastal Access Act in Northern Ireland including legislation to streamline the marine licensing regime and the development of the Marine Policy Statement; and also primary Northern Ireland legislation like the proposed Northern Ireland Marine Bill. This will make provision for the development of a Northern Ireland Marine Plan, enhanced nature conservation measures and further streamlining of the marine licensing process.

A number of responses highlight linkages between implementation of the Directive and elements of the Department's marine legislation programme. The Department notes these comments which are an indicator of the level of interest, maturity and sophistication of the Northern Ireland marine stakeholder community. The Department also welcomes the comments as an opportunity to clarify the timing of the proposed Northern Ireland Marine Bill. The consultation on the policy proposals for the proposed Northern Ireland Bill launched on 13 April 2010 and it is the Department's intention that the Bill will be introduced to the Assembly in 2011.

### **Comments on linkages to wider marine policy**

A number of useful observations were also received which highlight a range of Northern Ireland and UK wide issues in the marine environment.

### **Comments on implementation**

It is difficult to provide a definitive answer to some of the questions on implementation, such as the use of the Common Fisheries Policy to support the achievement of Good Environmental Status, as the timeframe for implementing the Directive stretches to 2020. The Department recognises however that transposition is the first stage on our journey to achieving Good Environmental Status and is keen to reassure stakeholders that their views will be vital in informing implementation; in particular DOE is cognisant of its duties under regulation 18 for on-going public participation.

### **Comments of parallels with the Water Framework Directive**

A limited number of comments were received which highlight areas of overlap with the Water Framework Directive and parallels between the two Directives.

## **8. Conclusion**

Comments received in Northern Ireland have been forwarded to Defra and incorporated into the Government's response to the consultation and the transposing Regulations have been updated to reflect responses to the consultation.

For ease of reference for Northern Ireland stakeholders, the Department intends to publish both the summary of Northern Ireland responses which is contained at Annex 3 and the UK response on its website.

The transposing Regulations have been updated to reflect responses to the consultation. The Department is confident these establish a legal framework which respects the UK's devolution settlements while providing for coherent and co-ordinated delivery of the Directive across the UK.

Respondents to UK consultation on the Marine Strategy Framework Directive draft transposing  
Regulations

- 1 Aberdeen City Council
- 2 Alliance Party
- 3 Aquaculture initiative
- 4 Archaeology Forum for the UK
- 5 Associated British Ports - ABP
- 6 Barry Jackson
- 7 British Ports Association
- 8 BWEA
- 9 Carbon Capture & Storage Association
- 10 City of Edinburgh Council
- 11 CNCC
- 12 Comhairle nan Eilean Siar
- 13 Commissioners of Irish Lights
- 14 Countryside Council for Wales
- 15 The Department of Finance and Personnel-  
Central Procurement Directorate
- 16 Department of Enterprise Trade and  
Investment
- 17 Devon County Council
- 18 Diane Dodds
- 19 Dr Sarah Jane Fox
- 20 E.ON
- 21 EDF Energy
- 22 English Heritage
- 23 Environment Agency
- 24 Godfrey Souter, Dept of Transport
- 25 Highland Council
- 26 Historic Monuments Council
- 27 Inst for Archaeologists
- 28 Institute of Civil Engineers & PIANC
- 29 JNAPC
- 30 Joint Links response through NIMTF
- 31 Joint Nature Conservation Committee
- 32 KIMO UK  
Local Government Association's Coastal  
Issues Special Interest Group's (LGA Coastal  
SIG)
- 33 Marine Biological Association
- 34 Marine Conservation Society
- 35 Marine Environment Data and Information  
Network (MEDIN)
- 36 National Federation of Fishermen's  
Organisations
- 37 Natural England
- 38 Natural Environment Research Council
- 39 NI Assembly Environment Committee
- 40

41	NI Water
42	NIEA
43	NIJAC
44	NIMTF
45	NITB - DETI
46	North Yorkshire County Council
47	Northumberland Sea Fisheries Committee
48	Ofwat
49	Oil & Gas UK
50	Peel Ports Group
51	Planning Service DOE
52	Port of London Authority
53	Royal Town Planning Institute Royal Town Planning Institute - Northern
54	Ireland Branch
55	RSPB
56	RYA
57	Scottish Borders Council
58	Scottish Environment Protection Agency
59	Scottish Natural Heritage
60	Scottish Water
61	Scottish Power Renewables
62	Seabed User and Developer Group
63	Seafish Industry Authority
64	Shellfish Association of Great Britain
65	Shetland Islands Council Sir Alister Hardy Foundation for Ocean
66	Science -SAHFOS
67	Southern Water
68	Trinity House
69	UK Hydrographic Office
70	UK Major Ports Ulster Society for Protection of the
71	Countryside
72	Wessex Archaeology
73	Wessex Water
74	WWF-UK

Responses received in Northern Ireland to consultation on the Marine Strategy Framework  
Directive draft transposing Regulations

1	Alliance Party
2	Aquaculture initiative
3	Department of Finance and Personnel- Central Procurement Directorate
4	Council for Nature Conservation and the Countryside
5	Department of Enterprise Trade and Investment- Central Liaison Unit
6	Department of Enterprise Trade and Investment- Energy Co-ordination
7	Department of the Environment – Northern Ireland Environment Agency
8	Department of the Environment- Planning Service
9	Diane Dodds (DUP-MEP)
10	Institute for Archaeologists
11	Joint Nautical Archaeology Policy Committee
12	Joint Link
13	NI Water
14	Northern Ireland Judicial Appointments Commission
15	Northern Ireland Marine Task Force
16	Royal Town Planning Institute – Northern Ireland Branch
17	Royal Society for the Protection of Birds
18	The Committee for the Environment
19	The Historic Monuments Council
20	Ulster Society for Protection of the Countryside
21	Wessex Archaeology
22	Wildlife and Countryside Link



Synopsis of replies received by DOE in response to the consultation paper:  
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**Annex 3**

<b>Questions</b>	<b>Issues</b>	
Question 1		Views are sought on the advantages and disadvantages of a single UK Marine Strategy as opposed to separate strategies covering UK portions of the Celtic and greater North Seas.
Question 2		Views are sought on how the proposed division of responsibilities between the different competent authorities, as set out in the draft regulations, can best be made to work, and also on whether there are any obligations arising from the directive which have been overlooked and need to be assigned to a competent authority.
Question 3		Views are sought on whether the regulations set out adequate safeguards to achieve the level of co-ordination needed to deliver a coherent strategy, whilst protecting the respective devolution settlements.
Comments on the Regulations	Issue 1	Co-operation between the UK and neighbouring states
	Issue 2	Implications of transfer of planning functions to councils under the Review of Public Administration (Regulation 2)
	Issue 3	Comments on the “general duty” contained at regulation 4
	Issue 4	Consideration of the socio-economic impact of any proposed measure within the Programme of Measures (Regulation 15).
	Issue 5	Transposition of the exceptions to the Directive (Article 14)
	Issue 6	Requirement for future consultations at key stages of the implementation process (Regulation 18)
	Issue 7	Power for DOE to seek assistance from other Departments (Regulation 19)
	Issue 8	Requirement for provision of information – Regulation 19
	Issue 9	Exclusion of Infrastructure Planning Commission from general duty and direction by Secretary of State (Regulation 20)
	Issue 10	Legislation contained in Schedule 1
	Issue 11	RSPB general comments on Regulations
	Issue 12	Stating the environmental aims and objectives of the Directive for Northern Ireland and for the UK
Linkages to wider marine policy	Issue 13	Perceived low level of ambition towards delivering positive change in the marine environment
Implementation	Issue 14	Use of OSPAR to facilitate regional co-operation
NI Specific Issues	Issue 15	Timescales for implementation of a marine spatial planning system in Northern Ireland
NI Specific	Issue 16	Delivery of spatial protection measures to support delivery of the Directive in Northern Ireland.

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Issues		
NI Specific Issues	Issue 17	Timescales for the introduction of the Northern Ireland Marine Bill
NI Specific Issues	Issue 18	Use of Pilot Projects in Northern Ireland
NI Specific Issues	Issue 19	Inclusion of Marine Strategy Framework Directive in the Northern Ireland Programme for Government
NI Specific Issues	Issue 20	Resourcing implementation
NI Specific Issues	Issue 21	Involvement of the Northern Ireland Environment Agency Built Heritage Directorate in implementation
NI Specific Issues	Issue 22	Importance of our seas and stakeholders.
Linkages to wider marine policy	Issue 23	Application of Marine Strategy Framework Directive to the historic marine environment
Linkages to wider marine policy	Issue 24	Interaction between Marine Strategy Framework Directive requirements and High Level Marine Objectives
Linkages to wider marine policy	Issue 25	Welcome of measures to protect and improve the quality of the marine environment
Implementation	Issue 26	Information on co-ordinated delivery of the Marine Strategy Framework Directive in the UK
Implementation	Issue 27	Use of Common Fisheries Policy to support the delivery of Good Environmental Status
Implementation	Issue 28	Timescales for implementing the Programme of Measures (POM)
Water Framework Directive	Issue 29	Overlap with the Water Framework Directive in the coastal zone
Water Framework Directive	Issue 30	Incomplete implementation of the Water Framework Directive due to focus on cost effectiveness
No Comment	Issue 31	No comments

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<b>Question 1 – Views are sought on the advantages and disadvantages of a single UK Marine Strategy as opposed to separate strategies covering UK portions of the Celtic and greater North Seas.</b>	
<b>Respondent</b>	<b>Comments</b>
AquaCulture Initiative	The AquaCulture Initiative notes that it is appropriate to mirror the development of a single Marine Policy Statement through the development of a single marine strategy for UK waters.
Diane Dodds (DUP MEP)	The response received from Diane Dodds supports the development of a single strategy although it notes that the significant regional differences between the seas around the UK should also be taken into consideration.
DOE Planning Service	The Planning Service response supports this approach on the grounds that it will allow the marine environment to be managed more effectively and would help minimise potential difficulties arising from the limitations of administrative boundaries.
The Environment Committee	The Environment Committee does not explicitly support the proposal to have a single UK strategy, rather it notes that different UK waters have different management requirements and highlights the need for monitoring and reporting under the Marine Framework Strategy to reflect this.
The Institute for Archaeologists	The Institute for Archaeologists supports the development of a single UK Marine Strategy which recognises the need for coordination across administrative boundaries. It also notes the UK Administrations' approach to a single Marine Policy Statement.
Link <sup>1</sup>	The Link response notes that the proposal to have a single marine strategy is acceptable provided the distinction between the Celtic and Greater North Sea is preserved in respect of the determination of GES, the initial assessment and the Programme of Measures. The response highlights this is vital if the UK is to deliver a biogeographic and ecosystem based approach to the management of the seas.
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force supports the delivery of a single UK strategy on the basis that it would promote efficiency and coherence. The response contains the proposal that each element of the marine strategy should differentiate between marine sub-regions.
NI Water	NI Water supports the establishment of a single UK strategy on the basis that it will

<sup>1</sup> A response was received from both Joint Link and Wildlife and Countryside Link. The responses were identical and for the purposes of this document have been referred to as the "Link" response.

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	ensure a common approach is adopted with common targets. The NI Water response expresses the opinion that the Water Framework Directive has resulted in the development of a wide range of aspirational targets for England, Scotland, Wales and Northern Ireland. The response concludes that a single strategy should prevent this happening.
Royal Society for the Protection of Birds (RSPB)	The RSPB response advises that this is an acceptable option provided the distinction between the 2 sub-regions; the Greater North Sea and the Celtic Sea, is clearly made.
The Royal Town Planning Institute - Northern Ireland Branch	The Royal Town Planning Institute accepts the proposal to have a single UK marine strategy and contends that monitoring, assessment and subsequent implementation should take place at a marine sub-regional level.
<p><b>Department's Position</b></p> <p>The Department welcomes the strong support for the proposal to have a single UK strategy. The Department recognises that regional specificities should be taken into account and will consult on proposals to implement elements of the marine strategy (as per regulation 18). Stakeholders will therefore be able to influence the level at which implementation and associated monitoring and assessment activities will take place.</p>	

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<b>Question 2 – Views are sought on how the proposed division of responsibilities between the different competent authorities, as set out in the draft regulations, can best be made to work, and also on whether there are any obligations arising from the directive which have been overlooked and need to be assigned to a competent authority.</b>	
<b>Respondent</b>	<b>Comments</b>
Alliance Party	The Alliance Party response notes that the competent authorities for implementing the MSFD are the Welsh and Scottish Ministers and that in Northern Ireland, the competent authority is the Department of the Environment (DOE). The response further notes that the responsibility for marine policy and delivery is widely dispersed across government departments and agencies and consequently suggests that all departments that have marine responsibilities should be cited as competent authority in Northern Ireland, contending that this would ensure that there is a coherent programme of measures and monitoring arrangements across all the involved Northern Ireland departments.
Environment Committee	The Environment Committee response notes that several departments have responsibility for marine functions. The response suggests that all these bodies should be nominated as competent authority for relevant aspects of marine management under the Directive.
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response notes that the competent authority in Northern Ireland is the Department of the Environment, however it contends that because the Descriptors for GES relate to management areas that are outside of DOE's control (for example, fisheries management), all departments in Northern Ireland that have a marine remit should be competent authorities in the transposition regulations (and not just placed with general duties under regulation 4).
Royal Town Planning Institute - Northern Ireland Branch	The Royal Town Planning Institute - Northern Ireland Branch response highlights that the descriptors of GES relate to management areas outside of DOE control and proposes that all NI Departments which have a remit in the marine environment should be cited as competent authorities.
Royal Society for the Protection of Birds	The Royal Society for the Protection of Birds response expresses concern that the regulations generally transpose the Directive adequately but not completely. The Royal Society for the Protection of Birds response provides a list of comments on specific regulations. These are contained in a table at paragraph (vii).
<b>Department's Position</b>	
As the MSFD has a strategic focus, the Department, in conjunction with Defra and the devolved administrations in Scotland and Wales has taken	

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the view that a single, or 'lead', competent authority is best placed to maintain an overview of the activities of the various parties delivering the Directive and to undertake a co-ordinating role.

In the Northern Ireland context the Department is cognisant of the shared responsibility for functions in the marine environment and has been working closely with representatives from the Departments and bodies with whom it shares this responsibility in developing the Regulations. An Inter-departmental Marine Co-ordination Group has been established and will be involved in considering cross-cutting issues as implementation progresses. This group contains representatives from the Department, the Northern Ireland Environment Agency, the Department of Agriculture and Rural Development, the Agric Food and Bio Sciences Institute, the Department for Regional Development, the Department of Enterprise, Trade and Investment, Department of Culture, Arts and Leisure and the Foyle, Carlingford and Irish Lights Commission (Loughs Agency).

There is a clear precedent, in the compliant implementation of the Water Framework Directive, for the DOE to undertake the role of a co-ordinating competent authority. There are clear parallels between the two Directives: both establish a framework for co-ordinated action to deliver environmental improvements.

The RSPB response contained a table which provided a detailed commentary on the draft regulations. The response was sent to Defra and copied to DOE. The issues raised have been included in the UK response.

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<b>Question 3 – Views are sought on whether the regulations set out adequate safeguards to achieve the level of co-ordination needed to deliver a coherent strategy, whilst protecting the respective devolution settlements.</b>	
<b>Respondent</b>	<b>Comments</b>
Alliance Party	The Alliance Party response broadly welcomes the UK transposing regulations and notes that the MSFD and draft regulations provide a good framework for co-operation between Member States to develop co-ordinated strategies.
AquaCulture Initiative	The AquaCulture Initiative response notes that the level of control proposed in the regulations appears appropriate.
Link	The Link welcomes UK-wide transposition and expresses the opinion that UK transposition will help ensure a consistent and co-ordinated approach to implementation throughout UK seas.
Northern Ireland Marine Task Force	This response strongly supports the implementation of the MSFD under UK-wide legislation and supports the duty on competent authorities to co-operate to ensure compliance.
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response requests clarification if regulation 7 (Coordination between competent authorities) will apply to all departments and agencies within Northern Ireland which have marine functions. The response expresses the opinion that if this is not the case a mechanism should be put in place to ensure that Northern Ireland can deliver the true coordination needed to reach GES as part of the UK Marine Strategy.
NI Water	The NI Water response explained that the company agreed with the proposed division of responsibility with the Secretary of State having ultimate responsibility with input from the different competent authorities. The response also agrees with the proposed division of responsibility and that the regulations contain adequate safeguards to achieve the level of coordination necessary to deliver a coherent strategy.
Royal Society for the Protection of Birds	The Royal Society for the Protection of Birds response welcomes UK-wide transposition of the Marine Strategy Framework Directive on the grounds that it will help secure a consistent approach to the delivery of good environmental status throughout UK waters.
<b>Department's Position</b>	
The Department appreciates support for UK-wide approach to transposition of the Directive. The transposing Regulations establish a legal framework which respects the UK's devolution settlements while providing for coherent and co-ordinated delivery of the Directive. The draft transposing regulations also establish a framework to ensure co-ordinated delivery of the MSFD through close cooperation between the	

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Secretary of State and devolved policy authorities/competent authorities (regulation 9). Regulation 9 of the draft transposing regulations places a reciprocal duty for obtaining consent on the Secretary of State and devolved policy authorities in respect of devolved and retained functions.

To clarify the issue raised by the Northern Ireland Marine Task Force, Regulation 7 applies only to the competent authorities identified in regulation 2, namely Scottish Ministers for the Scottish waters, Welsh Ministers in relation to the Welsh inshore region, the Department of the Environment in respect of the Northern Ireland inshore area and the Secretary of State in respect of all other areas. The Department's view is that provisions of regulations 4, 10, 19 and 20, supported by a collaborative approach to implementation and underpinned by the requirements of the Northern Ireland Ministerial Code will deliver full compliance with the requirements of the Directive.



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<b>Issue 1 – Co-operation between the UK and neighbouring states</b>	
<b>Respondent</b>	<b>Comments</b>
The AquaCulture Initiative	The AquaCulture Initiative response suggests that the UK and in particular Northern Ireland must engage in high levels of co-operation with the Republic of Ireland in implementing the Directive.
Link	The Link response expresses disappointment that the provisions within the Directive for regional co-operation with other member States are not included in the draft transposing Regulations.
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response supports the requirement for national, regional and pan-European co-operation. It requests information on what action is being undertaken in the Republic of Ireland to deliver on the requirements of the Directive and how the UK will interface with this. The response also notes that the requirement for the UK and Devolved Administrations to co-operate with other Member States at the regional scale to deliver GES for designated Marine (Sub-) Regions is not included in the draft transposing regulations.
<p><b>Department's Position</b></p> <p>Legal advice provided by Defra suggests that it would be difficult to place a duty on the Secretary of State to coordinate with other Member States because successful coordination will require action on their part as well and it is for this reason that this requirement is not included on the face of the Regulations.</p> <p>The Department recognises that co-operation with the Republic of Ireland will be an important tenet in delivering the requirements of the Directive. To ensure the strategic focus of the Directive is realised, the regulations place a duty on the Secretary of State to develop the marine strategy. In conjunction with Defra and the other devolved administrations, a number of potential platforms to facilitate a collaborative approach to implementation have been identified. These include OSPAR structures, the auspices of the British Irish Council and, where appropriate, the North/South Ministerial Council. Other bodies, such as the North/South implementation body the Foyle, Carlingford and Irish Lights Commission (which has been cited in the draft transposing regulations), will play an important role in fostering co-operation in delivering this Directive. The Water Framework Directive is a clear precedent for co-operative implementation of an EU Directive. The Department has worked closely with the Department of Environment Heritage and Local Government in the Republic of Ireland to ensure co-ordinated implementation of the Water Framework Directive, and could potentially build on this model to ensure co-ordinated and coherent delivery of the MSFD at an operational level.</p>	

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<b>Issue 2 – Implications of transfer of planning functions to councils under the Review of Public Administration (Regulation 2)</b>	
<b>Respondent</b>	<b>Comments</b>
DOE-Planning Service	The Planning Service response notes that under current proposals for the Review of Public Administration, its planning functions will transfer to new locally elected councils in May 2011. The response requests clarification on whether the draft regulations place a duty on councils to provide the DOE, as competent authority, with information and assistance.
<p><b>Department’s Position</b> The Department can confirm that councils are included in the definition of public body and are therefore subject to the requirement contained in regulation 19(11) to provide information and assistance to the DOE in its role as competent authority. Councils in Northern Ireland would also be bound by the duty to have regard for the marine strategy at regulation 10.</p>	

<b>Issue 3 - Comments on the “general duty” contained at regulation 4</b>	
<b>Respondent</b>	<b>Comments</b>
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force is supportive of the general duty being placed on ‘other Northern Ireland bodies’, and questions if the term “exercise its relevant functions” extends to policy and legislative development. The response then suggests that this would place a legal obligation on DARD to reform its policy and legislation in order to reach any targets under GES 3.
<p><b>Department’s Position :</b> The general duty which requires each competent authority and Northern Ireland body (the Foyle, Carlingford and Irish Lights Commission, the Department of Agriculture and Rural Development, the Department of Culture, Arts and Leisure; the Department of Enterprise, Trade and Investment and the Department for Regional Development) to exercise its relevant functions so as to secure compliance with the requirements of the Directive, will apply to the full range of devolved functions exercised by these organisations in the marine environment, including the development of policy and legislation. Like the other bodies cited, the Department of Agriculture and Rural Development would be under a legal obligation to take the necessary measures to achieve good environmental status including any targets developed to deliver on the requirements of descriptor 3.</p>	

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<b>Issue 4 – Consideration of the socio-economic impact of any proposed measure within the Programme of Measures (Regulation 15).</b>	
<b>Respondent</b>	<b>Comments</b>
Link	The Link response refers to a perceived disproportionate emphasis on cost throughout the consultation document. The response highlights the difference between disproportionate cost as a caveat contained within the Directive and the concept of cost effectiveness which the response contends is used within the consultation document.
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response expresses the opinion that the wording of regulation 11(2) shifts the focus of the Regulations generally towards the socio-economic, which is not the priority of the MSFD. The response makes the point that the Directive does not specify that an analysis of socio-economic impacts ‘in particular’ needs to take place, rather the Directive specifies that a socio-economic analysis is one of three elements that the initial assessment should contain. It also cautions against “trading off” economic and social goals against environmental goals and expresses the opinion that the term “cost effectiveness” is used with undue frequency through out the consultation document. The response also notes that the Directive uses the term “disproportionate costs” in reference to the development of measures for inclusion in the Programme of Measures and notes that there is a distinction between this concept and the concept of cost effectiveness.
NI Water	NI Water welcomes this requirement and would want the criteria applied fairly and proportionately to its point discharges.
Royal Society for the Protection of Birds	The Royal Society for the Protection of Birds response notes the use of “cost-effectiveness” through out the document. The response also notes that the Directive uses the term “disproportionate costs” in reference to the development of measures for inclusion in the Programme of Measures and notes that there is a distinction between this concept and the concept of cost effectiveness.
Royal Town Planning Institute - Northern Ireland Branch	The Royal Town Planning Institute - Northern Ireland Branch response expresses concern over a perceived disproportionate emphasis on cost rather than on the benefits which the Directive is intended to deliver in the marine environment.
<b>Department’s Position</b>	
The UK, Scottish Government and Sweden are co-leading a Commission work group to take forward this aspect of the Directive. DOE will apply analytical techniques in a fair and proportionate manner to ensure that the POM developed for the Northern Ireland inshore area will enable the UK to achieve GES by 2020. DOE is committed to managing the sustainable use of the marine environment by current and future generations.	

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In response to comments like these, and to ensure the transposing Regulations contain the appropriate balance, the references to the inclusion of an economic and social analysis have been removed.

**Issue 5 – Transposition of the exceptions to the Directive (Article 14)**

Respondent	Comments
Link	The Link response suggests Regulation 16(5) should be redrafted to take account of the requirements of Article 14(4) of the Directive.
Northern Ireland Marine Task Force	The response comments that the Directive contains a wider range of caveats than those included at schedule 3 to regulation 16.
Royal Town Planning Institute	The Royal Town Planning Institute response highlights an incomplete reference to the exceptions provided for in the Directive at regulation 16 as misleading and implies an approach which will not deliver real change in the marine environment. It also notes that the tone is in conflict with the intentions of the proposed Northern Ireland Marine Bill.

**Department's Position**

In response to the comments made by consultees the Statutory Instrument has been amended to ensure it fully reflects Article 14 of the Directive.

The Department wishes to highlight that Ministerial foreword to the consultation, which was issued jointly by Defra and the Devolved Administrations, sets out our shared vision for the delivery of "clean, healthy, safe, productive and biologically diverse oceans and seas". These objectives are compatible with the Marine and Coastal Access Act 2009 and comparable legislation in other parts of the UK.

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<b>Issue 6 - Requirement for future consultations at key stages of the implementation process (Regulation 18)</b>	
<b>Respondent</b>	<b>Comments</b>
Diane Dodds (DUP MEP)	The response from Diane Dodds welcomes the commitment to consult with stakeholders as the framework is developed, in particular with fishing industry representatives. The response requests confirmation that this will be the case.
NI Water	NI Water welcomes the opportunity to input to future consultations.
<p><b>Department's Position</b></p> <p>The Department notes both comments. Stakeholder groups and the public will be provided with comprehensive information on proposals to implement elements of the marine strategy as per regulation 18. This requires public consultation on the development of each element of the marine strategy. As a statutory consultee, NI Water will be invited to comment on implementation proposals. All comments will be considered and used to deliver the implementation.</p> <p>The Department is committed to working closely with officials in other Northern Ireland Departments, such as the Department of Agriculture and Rural Development which has responsibility for fisheries management and the Department for Regional Development which has responsibility for water policy, to ensure a holistic and integrated approach to implementing the Directive.</p>	

<b>Issue 7– Power for DOE to seek assistance from other Departments (Regulation 19)</b>	
<b>Respondent</b>	<b>Comments</b>
Alliance Party	The Alliance Party response notes that Welsh and Scottish Ministers can direct public bodies and issue guidance to them, whilst the DOE has the power to 'ask for assistance' from other departments. The response suggests that this may not be an adequate safeguard to achieve a high level of co-ordination needed to deliver a coherent strategy and could result in Northern Ireland not being able to meet the requirements of the Directive.
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response raises concerns that DOE does not hold all the functions in the marine environment necessary to deliver the Directive and that a mechanism should be included in the Regulations to provide for this. The Northern Ireland Marine Task Force response highlights that DOE can 'ask for assistance' from other departments but expresses the opinion that this provision is potentially very weak and could result in slow progress.
Royal Town Planning Institute	The Royal Town Planning Institute response raises concerns that there is no power to direct public bodies and issue guidance. The response also raises concerns that this has the potential to confuse progress towards satisfying the

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	requirements of the Directive in Northern Ireland and that this power is weak and could result in slow progress.
<p><b>Department's Position</b></p> <p>In Northern Ireland, power is vested with Departments and not with Ministers. It is not possible for the DOE to direct other Departments. The draft regulations bind Northern Ireland Departments which exercise functions in the marine environment and the Cross Border Body, the Foyle, Carlingford and Irish Lights Commission to secure compliance with the Directive. These bodies must also take the necessary measures to secure Good Environmental Status. A clear precedent for relying on a similar duty exists in the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003 which transpose the Water Framework Directive. Implementation of this Directive in Northern Ireland is on track.</p> <p>A close working relationship exists between the DOE and the other Departments and bodies which exercise functions in the marine area. The Department is confident that this collaborative approach to implementation, underpinned by the requirements of the Northern Ireland Ministerial Code will deliver full compliance with the requirements of the Directive.</p> <p>The Department wishes to highlight that it can issue guidance under Regulation 20(4).</p>	

<b>Issue 8 – Requirement for provision of information – Regulation 19</b>	
<b>Respondent</b>	<b>Comments</b>
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response notes that although the draft regulations cite DOE as the competent authority in Northern Ireland, marine policy and delivery is the remit of multiple departments and agencies. The response proposes that regulation 19 should be strengthened so that Northern Ireland bodies and public authorities must provide the DOE with relevant information <i>within a realistic timescale</i> .
<p><b>Department's Position</b></p> <p>The Department acknowledges that other Departments and public bodies exercise functions in the marine area and recognises that the information it requires to discharge its functions should be provided within timescales which are realistic. The Department notes however that timeframes for the provision of information would however vary and be dependent on issues like the complexity, availability and amount of the data requested. The inclusion of the qualification that the timeframe for the provision of information must be realistic would not provide therefore additional security as it is unquantifiable and consequently unenforceable.</p> <p>Additionally there are clear parallels between the Marine Strategy Framework Directive and the Water Framework Directive: both establish a framework to achieve long term strategic outcomes and both cut across the functions of a number of Northern Ireland Departments and public bodies. There is no precedent in the Water Framework Directive transposing regulations to quantify the timescales for information provision and the Department as competent authority has been responsible for implementation of this Directive which to date has been on track.</p>	

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The Department will be working closely with the other Departments and bodies which exercise functions in the marine area and anticipates that realistic and achievable timeframes for data provision will be agreed on a case by case basis. The Department is confident that this collaborative approach to implementation will help deliver full compliance with the requirements of the Directive.

**Issue 9 – Exclusion of Infrastructure Planning Commission from general duty and direction by Secretary of State (Regulation 20)**

<b>Respondent</b>	<b>Comments</b>
Link	The Link response expresses concern that the role of the Infrastructure Planning Commission (IPC) in implementing the Directive is unclear and may lead to the IPC making decisions which are not consistent with the UK's obligation to achieve GES. The response also suggests that the powers for the Secretary of State to give guidance on the practical implementation of the MSFD (Regulation 20) could be strengthened to ensure the IPC is an explicit recipient of such guidance to enable it to be fully aware of how it is expected to take into account the MSFD's requirements, the marine strategy and the UK's measures for achieving GES. The response further proposes that it may be useful to strengthen the relationship between the IPC and the MMO, particularly if the MMO is to be the competent authority under delegation for the purpose of the Regulations, such that the MMO can give the IPC advice on the application of the MSFD and how it is to be considered by the IPC in examining applications.
Royal Society for the Protection of Birds	The Royal Society for the Protection of Birds response expresses concern that the exemption for the IPC from Ministerial direction to comply with the Regulations will result in the Regulations transposing the MSFD incompletely.

**Department's Position**

It would not be appropriate for the Department to comment on the extent of control over a body which does not exercise functions in Northern Ireland.

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<b>Issue 10 – Legislation contained in Schedule 1</b>	
<b>Respondent</b>	<b>Comments</b>
The AquaCulture Initiative	The AquaCulture Initiative response highlights that “The Surface Waters Shellfish Classification Regulations (NI) 1997” have been omitted from the list of enactments contained at Schedule 1 of the draft transposing Regulations to which the general duty in regulation 4 applies. The response notes that the equivalent legislation for England, Scotland and Wales is included at Schedule 1.
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response asks if the list of enactments applies to Northern Ireland fisheries legislation.
<p><b>Department’s Position</b> The list of enactments contained at Schedule 1 to which the general duty at regulation 4 applies is not an exhaustive list. The definition of “relevant function” contained within the regulations is “a function under these Regulations or, so far as material, a function under any other enactment, <b>including</b> in particular, an enactment specified in Schedule 1.” It would not be practical to cite every legislative instrument which applies in the marine environment. In response to the point raised by the AquaCulture Initiative the Surface Waters Shellfish Classification Regulations (NI) 1997 will be included at Schedule 1, as will the Fisheries Act (Northern Ireland) 1966.</p>	

<b>Issue 11 – RSPB comments on Regulations</b>	
<b>Respondent</b>	<b>Comments</b>
Royal Society for the Protection of Birds	
<p><b>Department’s Position</b> DOE was copied into the RSPB response and has not prepared a detailed analysis to the comments contained at paragraph (vii). These comments have been analysed by Defra and are part of the summary of responses.</p>	

<b>Issue 12 – Stating the environmental aims and objectives of the Directive for Northern Ireland and for the UK</b>	
<b>Respondent</b>	<b>Comments</b>
Alliance Party	The Alliance Party response notes that the central aim of the MSFD is to achieve or maintain Good Environmental Status (GES) by 2020. It suggests that the aims and objectives should be outlined in the document in order to provide greater clarity and interpretation of the draft transposing regulations. The response contends this would also provide a basis for the development of measures which would contribute towards the goal of GES.
The Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force requests that the environmental aims and



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	objectives of the Directive, like improving the way environmental impacts in UK waters are managed, should be stated for both Northern Ireland and for the UK.
Royal Town Planning Institute	The Royal Town Planning Institute proposes that the final version of the document should contain the aims and objectives at the outset.
Council for Nature Conservation and the Countryside	The Council for Nature Conservation and the Countryside response warmly welcomes the principals and processes set out in the proposals as a practical application of the ecosystem approach.
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response requests that the regulations should be amended to translate the requirements set out in Article 1 (3&4) of the MSFD; namely that there needs to be sustainable use of marine resources through: <ul style="list-style-type: none"> <li>• applying an ecosystem-based approach to the management of human activities;</li> <li>• ensuring that cumulative pressures are kept within levels that are compatible with the achievement of GES; and</li> <li>• ensuring that the capacity of marine ecosystems to respond to human-induced changes is not compromised and that the Directive and its transposition shall contribute to coherence and integration between environmental concerns and policies, agreements and legislation which have an impact on the marine environment (Article 1[4]).</li> </ul>
<b>Department's Position :</b> Many of the aims of the Directive have already been included in the regulations such as regulation 5(1) however in response to comments received in connection with the consultation; the Regulations have been revised to include an express reference to ecosystem-based approach.	

<b>Issue 13 – Perceived low level of ambition towards delivering positive change in the marine environment</b>	
<b>Respondent</b>	<b>Comments</b>
Link	The Link response notes a perceived concern that the tone used in the consultation document suggests an unambitious approach to delivering positive change in the marine environment. Link perceives this as a contrast to the level of ambition stated in relation to the Marine and Coastal Access Act and the Marine (Scotland) Bill.
Royal Society for the Protection of Birds	The Royal Society for the Protection of Birds response proposes that the UK Government and Devolved administrations must show a greater level of ambition towards MSFD and setting targets and indicators in the future to convince them

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	that they are serious about delivering the UK's vision for "clean, healthy, safe, productive and biologically diverse oceans and seas". The response also notes a contrast in tone to that used in the Marine and Coastal Access Act 2009 and in respect of the proposed Northern Ireland Bill.
<b>Department's Position</b>	
In response to the comments made by stakeholders, the Statutory Instrument transposing the Directive has been amended to make the aims and objectives of the Directive more transparent.	
The Department fully supports the aims of the Directive: to protect and preserve the marine environment; to prevent its deterioration; and, where practicable, to restore it where it has been adversely affected. This is in-line with the UK vision we share with the other UK-administrations of clean, healthy, safe, productive and biologically diverse oceans and seas. Along with the UK Marine and Coastal Access Act, and the proposed NI Bill, and the Scottish Marine Act; the transposition of this Directive will form a key element of the legislative framework for ensuring the sustainable use of the UK's marine waters.	

<b>Issue 14 – Use of OSPAR to facilitate regional co-operation</b>	
<b>Respondent</b>	<b>Comments</b>
DOE Planning Service	The Planning Service response supports the use of the Oslo and Paris Regional Sea Convention forum to achieve the regional cooperation envisaged by the Directive.
Royal Society for the Protection of Birds	The Royal Society for the Protection of Birds response supports regional cooperation and coordination, particularly through OSPAR
<b>Department's Position</b>	
The Department welcomes support for use of the OSPAR Regional Sea Convention as a platform to achieve the regional co-operation requirements of the Directive.	

<b>Issue 15 – Timescales for implementation of a marine spatial planning system in Northern Ireland</b>	
<b>Respondent</b>	<b>Comments</b>
The Royal Town Planning Institute	The Royal Town Planning Institute expresses the opinion that Northern Ireland is not currently on target to deliver a marine planning system and as a consequence, the region is unlikely to meet the spatial planning requirements of article 13(4) of the Directive.
Royal Society for the Protection of Birds	The Royal Society for the Protection of Birds response welcomes the intention to use the new marine planning system as a key tool to implement the Programme

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	<p>of Measures on the basis that as well as contributing to the achievement of sustainable development in the marine area, the new marine planning systems delivered by each administration (i.e. including the planning systems to be developed for Scottish and Northern Irish territorial waters) across the UK and the UK-wide Marine Policy Statement (MPS) must be required to deliver GES and support an ecosystem-based approach to the management of human activities.</p>
<p><b>Department's Position</b> DOE is taking forward work on spatial planning via the Marine Policy Statement (MPS) and the proposed Northern Ireland Marine Bill. The MPS, which is being developed in conjunction with colleagues in Defra and the Scottish and Welsh devolved administrations, will set the key policy priorities for the marine environment and its management and is likely to be in place in 2011. This will inform marine licensing decisions until the Northern Ireland Marine Plan is in place. The consultation on the policy proposals for the proposed NI Bill launched on the 13<sup>th</sup> April 2010 and it is the Department's intention that this Bill will be introduced to the Assembly in 2011. This Bill will make provision for spatial planning and will provide the Department with the power to plan for the Northern Ireland inshore region, which will augment the powers the Department obtained under the Marine and Coastal Access Act 2009 as the marine plan authority with responsibility for preparing a plan for the offshore region (in conjunction with other Northern Ireland Departments with marine functions).</p> <p>The Department anticipates that a Northern Ireland marine plan will be in place in 2014. This timescale is broadly in line with the rest of the UK.</p>	

<b>Issue 16 – Delivery of spatial protection measures to support delivery of the Directive in Northern Ireland.</b>	
<b>Respondent</b>	<b>Comments</b>
Alliance Party	The Alliance Party response contends that Northern Ireland is currently not on track to deliver either a Marine Planning System or a national network of Marine Protected Areas.
Environment Committee	The Environment Committee response raises concerns that the reliance on designations made under the Habitats and Birds Directives may fall short of the requirements of MSFD.
Link	The Link response welcomes the references within the Directive to marine spatial protection and within the consultation document to Marine Conservation Zones, which will be created under the Marine and Coastal Access Act and the Marine (Scotland) Bill. The response also notes the contribution that sites designated under the EU Habitats and Birds Directives will also make towards achieving GES. The response raises concerns that the timing of the proposed Northern Ireland Marine Bill will make it unlikely that DOE will have established an ecologically coherent network of Marine Protected Areas, comprising EU and nationally

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	important sites by 31 December 2013.
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response welcomes the linkages between the MSFD and the Habitats, Birds and Water Framework highlighted in the consultation document. The response also welcomes the special reference in the Directive to spatial protection measures and the references in the consultation document to Marine Conservation Zones which will be created under the Marine & Coastal Access Act and Marine Protected Areas under the Marine (Scotland) Bill. The response also expresses an opinion that Northern Ireland is not on target to deliver either a national network of Marine Protected Areas or a Marine Planning System on the same timetable as England, Scotland and Wales and asks how Northern Ireland intends to publish this information by 2013.
The Royal Society for the Protection of Birds (RSPB)	The Royal Society for the Protection of Birds raises concerns that Northern Ireland might not be able to deliver complete Programmes of Measures (POM) in respect of spatial protection measures, due to the timing of the Northern Ireland Marine Bill which is expected to become an act in 2012.
Royal Town Planning Institute	The Royal Town Planning Institute response expresses the opinion that Northern Ireland is not currently on target to deliver a national network of Marine Protected Areas on the same timescales as England, Wales and Scotland and is therefore unlikely to meet the obligations of Article 1 of the Directive.
<p><b>Department's Position</b></p> <p>There is a requirement to publish information on Marine Protected Areas by 31 Dec 2013. The proposed Northern Ireland Marine Bill is on target to be introduced to the Assembly in 2011 and will include provisions to designate Marine Conservation Zones. The Department is expected to finalise its European network of protected sites under the Habitats Directive by 2011 which will result in approximately 10% of our territorial waters being designated. Colleagues from the Department of Agriculture and Rural Development are in the process of imposing "no take zones" for fishing activity in Strangford Lough. We are working with Defra to identify what a coherent network of Marine Protected Areas might mean in terms of further designations for Northern Ireland, i.e. to what extent are further designations required. The Department is also working closely with other agencies, including AFBI, in an attempt to integrate and make better use of existing marine data.</p>	

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<b>Issue 17 – Timescales for the introduction of the Northern Ireland Marine Bill</b>	
<b>Respondent</b>	<b>Comments</b>
Alliance Party	The Alliance Party response notes that Department of the Environment has indicated its intention to deliver a Northern Ireland Marine Bill. The response expresses concerns that the proposed timetable for this legislation has slipped by several months and it is now unlikely to be enacted before 2012. The response indicates that this will leave Northern Ireland at least three years behind England, Scotland and Wales. The response highlights further clarification on how Northern Ireland intends to achieve goals under the timescales specified in the Directive.
The Environment Committee	The Environment Committee response raised concerns on the grounds that while England, Scotland and Wales have already introduced new primary legislation that will instigate mechanisms to enable them to progress rapidly towards meeting the Good Environmental Status required by the Directive, Northern Ireland is not due to have primary marine legislation for several years. The response also contends that Northern Ireland would also appear to have few of the mechanisms or tools required to deliver the Directive locally. The response requests clarification on how the Department intends to meet the time bound goals of the Directive and expresses concern about possible infraction procedures resulting from this.
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response requests information on how Northern Ireland will fulfil its obligations under MSFD and expresses an opinion that the Northern Ireland marine legislative process is significantly behind that of the other UK countries.
The Royal Town Planning Institute	The Royal Town Planning Institute's response requests assurances that Northern Ireland will be able to fulfil its requirements under the Directive and requests information on how it intends to make this happen.
<p><b>Department's Position</b></p> <p>It is important to note that the activities required under the MSFD by 2012 will not require the support of primary legislation like the proposed Northern Ireland Marine Bill. These activities are to:</p> <ul style="list-style-type: none"> <li>• undertake an initial assessment of marine waters by July 2012 (article 8);</li> <li>• determine good environmental status by July 2010 (article 9);and</li> <li>• develop a set of characteristics and comprehensive targets and indicators which guide progress to GES by 2012 (article 10).</li> </ul> <p>Northern Ireland is playing its full part in the collection and transmission of monitoring data under the auspices of the UK Marine Monitoring and Assessment Strategy (UKMMAS) and through monitoring platforms necessary to deliver the UK's commitments to OSPAR. Any gaps in data will</p>	

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be identified and plugged via UKMMAS.

Determination of GES and the development of associated targets and indicators to guide progress towards GES will be the responsibility of the Secretary of State and will be arrived at through discussion and agreement with other Member States.

The elements of the MSFD which will require the support of mechanisms introduced by primary legislation are the spatial protection measures contained in article 13 of the Directive and also the activities which will be required for the programme of measures which are to be developed by 2015 and implemented by 2016.

The Department has always been working towards the target that the proposed Northern Ireland Marine Bill will be introduced to the Assembly in 2011 and the consultation on the policy proposals for the Bill was launched on the 13<sup>th</sup> April 2010. The Bill will make provision for spatial planning and will provide the Department with the power to plan for the Northern Ireland inshore region which will augment the powers the Department obtained under the Marine and Coastal Access Act 2009. The Act cites DOE as a marine plan authority with responsibility for preparing a plan for the offshore region (in conjunction with other Northern Ireland Departments with marine functions). The Department anticipates that a Northern Ireland marine plan will be in place in 2014 and that it will be in a position to deliver on the requirements of the Directive. These timescales are broadly in line with the rest of the UK.

<b>Issue 18 – Use of Pilot Projects in Northern Ireland</b>	
<b>Respondent</b>	<b>Comments</b>
Alliance Party	The Alliance Party response notes that targets and monitoring programmes on progress made towards the designation of Marine Protected Areas needs to be reported by 2014. The response suggests that other regions of the UK will be more likely to achieve this target due to their present progress under their respective Marine Bills. The response proposes that pilot projects and preparation for equivalent legislation coming under the powers of the Marine Bill should begin now.
Environment Committee	The Environment Committee response recommends that pilot projects would be a useful short term measure to ensure rapid and successful protection of Northern Ireland's marine environment and would be relevant for implementation of the Marine Strategy Framework Directive, and for future local and national legislation. The response notes that the Committee hopes to be advised shortly by the Department of progress in this area.
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response contains a request to initiate pilot projects in Northern Ireland's waters for both marine spatial planning and

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	Marine Protected Areas in advance of the Northern Ireland Marine Bill which is due to become an Act in 2012.
<p><b>Department's Position</b> The Department's priority at this point is to develop the policies and legislation that will set the foundation for the development of the new marine legislation system. The detail of how that system will operate in practice, together with the evidence base to inform it, will be taken forward separately.</p>	

<b>Issue 19 - Inclusion of Marine Strategy Framework Directive in the Northern Ireland Programme for Government</b>	
<b>Respondent</b>	<b>Comments</b>
Council for Nature Conservation	The Council For Nature Conservation response suggests that Marine Strategy Framework Directive milestones are included in the Programme for Government (PfG).
<p><b>Department's Position</b> The Marine Strategy Framework Directive is an important element in the Department of the Environment's programme for marine legislation. The current PfG will expire in 2011 before the initial implementation of the 2012 MSFD targets. Due consideration will be given to the inclusion of key milestones for Directive implementation in official statements of priorities, including the new PfG.</p>	

<b>Issue 20 – Resourcing implementation</b>	
<b>Respondent</b>	<b>Comments</b>
Council for Nature Conservation	The Council For Nature Conservation response expresses the opinion that to be successful it must be demonstrated that adequate resources will be made available to allow the determination of the condition of Northern Ireland waters.
<p><b>Department's Position</b> The DOE is cognisant of its responsibility to implement the Directive effectively and is working to ensure the appropriate structures and resources are available to deliver implementation. However, Northern Ireland has a limited public sector budget and the Department recognises that successful implementation can only be achieved by coherent and co-ordinated work between all bodies which have functions in Northern Ireland's marine environment. The Department will continue to work closely with these bodies to ensure resources are used in the most effective and efficient manner.</p>	

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<b>Issue 21 – Involvement of the Northern Ireland Environment Agency Built Heritage Directorate in implementation</b>	
<b>Respondent</b>	<b>Comments</b>
The Historic Monuments Council	The response strongly recommends that the Department consults with the Built Heritage Directorate of the NIEA to ensure that cultural heritage is taken into account when determining the current environmental status of the marine waters and in defining GES for Northern Ireland's Marine Waters. Furthermore, the response strongly recommends that the Built Heritage Directorate should be represented on the Interdepartmental Marine Working Group to ensure that cultural heritage approach will be taken into account in the marine strategy.
<b>Department's Position</b>	
<p>The Department will consult with the public under the requirements of regulation 18 (public participation). Built Heritage Directorate of NIEA is a statutory consultee and will therefore automatically receive copies of future consultation documents.</p> <p>The Policy and Natural Resources Division of the Department which hosts the Inter-departmental Marine Steering Group has approached the Built Heritage Directorate and invited them to participate in the Inter Departmental Marine Steering Group which discusses marine issues.</p>	

<b>Issue 22 – Importance of our seas and stakeholders.</b>	
<b>Respondent</b>	<b>Comments</b>
Diane Dodds (MEP)	The response received from Diane Dodds expresses the opinion that our seas represent a vital but undervalued resource that requires careful management which reflects the opinions of stakeholders, many of whom possess unsurpassed knowledge of the marine environment. The response also contends that many stakeholders, in particular fishermen, feel their advice and opinions are often sidelined.
Northern Ireland Tourist Board (submitted through DETI)	The NITB response highlights the importance of a high quality marine environment to tourism.
<b>Department's Position</b>	
<p>The Department shares Ms Dodd's view that our seas represent a vital and undervalued resource that requires careful management which reflects the opinions of stakeholders. The future management of Northern Ireland's marine environment will be supported through the Department's marine legislative programme which includes measures like the Marine Policy Statement, the Northern Ireland Marine Bill and legislation arising from the UK Marine and Coastal Act which will streamline the licensing of activities in the marine area.</p> <p>The Department recognises the important contribution fishermen can play in managing the marine environment. DOE has consulted widely on the draft transposing regulations and has actively sought the views of stakeholders in Northern Ireland across a range of sectors. The</p>	



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transposing Regulations contain provisions for public participation on proposals to implement each element of the marine strategy. The opinions of all stakeholders will be considered as the marine strategy is developed. Defra is leading a UK-wide stakeholder group, of which a representative from the Anglo Northern Irish Fish Producers Organisation is one of the Northern Ireland delegates.

The Department is aware of the importance of the marine environment to the Northern Ireland economy and will continue to work with stakeholders including representatives from Northern Ireland departments and public bodies to ensure that the use of our marine environment is at a sustainable level. This will meet the objective of the MSFD that the marine environment is safeguarded for the use of current and future generations.

**Issue 23 – Application of Marine Strategy Framework Directive to the historic marine environment**

<b>Respondent</b>	<b>Comments</b>
Historic Monuments Council	The Historic Monuments Council’s response expresses disappointment that there is no specific mention of cultural heritage protection in the Marine Strategy Framework Directive. It raises the question of whether a sustainable policy can be put in place if it doesn’t take account of human interaction with the marine zone, or seek to measure it.
Institute for Archaeologists	This response proposes that the scope of the transposing Regulations should be extended to include the marine historic environment and that the steps taken to achieve good environmental status do not compromise this environment.
Joint Nautical Archaeology Policy Committee	This response is concerned that the draft transposing Regulations do not recognise the marine historic environment as part of the marine environment and that implementation might protect the natural environment at the expense of marine cultural heritage.
Northern Ireland Environment Agency – Built Heritage Unit	This response notes that there is no mention of cultural heritage protection within the consultation document.
Wessex Archaeology	This response highlights concerns that the Directive omits the historic environment from its definition of the marine environment.

**Department’s Position**

The Department recognises that the Marine Strategy Framework Directive is an environmental Directive which seeks to manage the current and future pressure of human activity in the marine environment. It does not encompass the management of historic and cultural heritage remains therein, which are not included in the definition of GES in the Directive; consequently these are omitted from the scope of the draft transposing regulations. However, cultural factors will be considered in the socio-economic analysis that will form part of the initial assessment and programmes of measures. It is anticipated therefore that the impact of the Directive on the marine historic environment will be taken into account.

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<b>Issue 24 – Interaction between Marine Strategy Framework Directive requirements and High Level Marine Objectives</b>	
<b>Respondent</b>	<b>Comments</b>
The Institute of Archaeologists	The Institute of Archaeologists response highlights that <i>Our Seas – A Shared Resource: High Level Marine Objectives (2009)</i> published by Defra on behalf of the UK Government and Devolved Administrations recognises that the marine environment encompasses the natural and the historic environment, both of which require protection and preservation. This response also notes that this was also recognised in the recently enacted Marine and Coastal Access Act 2009).
Joint Nautical Archaeology Policy Committee	This response notes that the regulations differ from other recent Marine legislation, for example, The Marine and Coastal Access Act 2009, by not recognising that the marine environment includes features of archaeological or historic interest.
Wessex Archaeology	The Wessex Archaeology response raises concerns that the omission of the marine historic environment from UK implementation of MSFD would be contrary to the high level marine objectives of the UK Government and Devolved Administrations as set out in <i>Our Seas – A Shared Resource</i> . The response also highlights that the vision, set out in <i>Our Seas</i> , of the rich natural and cultural heritage being better protected would be jeopardised if marine strategy, assessment and monitoring attend only to the natural environment.
<p><b>Department’s Position</b></p> <p>The publication “<i>Our Seas – A Shared Resource: High Level Marine Objectives (2009)</i>” which sets out the UK Government and Devolved Administrations’ objectives for the marine environment reflect the full range of policies in the marine environment and not the priorities of any particular Government Department, for example in relation to specific marine uses or marine environment conservation. The publication highlights that it unpacks “the individual elements at this stage simply to allow us to identify explicitly and transparently the full range of objectives in the marine environment”. This is a much larger scope than the draft regulations to transpose the Marine Strategy Framework Directive, whose objective is to establish a framework to deliver effective implementation of the Directive while respecting the devolution settlement. It is not appropriate to compare the two documents, especially since the publication “<i>Our Seas – A Shared Resource: High Level Marine Objectives (2009)</i>” states clearly that the “Articulation of these high level objectives starts the process of the preparation of an integrated Marine Policy Statement by all Administrations across the UK. This Policy Statement will prioritise different policies and objectives where required. It will provide a practical tool for organisations that make decisions in the marine area and therefore a framework for achieving sustainable development in the marine area and the wider context therefore protection for the historic environment is afforded through other marine policy documents”</p>	

Synopsis of replies received by DOE in response to the consultation paper:  
Marine Strategy Framework Directive putting in place the legal framework for implementation

<b>Issue 25 – Welcome of measures to protect and improve the quality of the marine environment</b>	
<b>Respondent</b>	<b>Comments</b>
The Alliance Party	The Alliance Party response welcomes the move to establish a legal framework to transpose the Marine Strategy Framework Directive (MSFD) in the UK and Northern Ireland.
The Historic Monuments Council	The Historic Monuments Council broadly welcomes the regulations and notes that at a time of increased change and pressure on the marine environment, there is the need for Member States to develop a marine strategy to achieve good environmental status.
Joint Nautical Archaeology Policy Committee	Welcomes the provision of a legal framework to facilitate the development of a UK Marine Strategy to protect and preserve the marine environment.
Northern Ireland Tourist Board	The Northern Ireland Tourist Board response welcomes measures to protect and improve the quality of the marine environment. Consequently the organisation is supportive of the proposals for implementation of the Marine Strategy Framework Directive on the basis that these would provide a statutory framework to enable Member States to achieve Good Environmental Status in their marine waters by 2020.
The Royal Town Planning Institute – Northern Ireland Branch	The Royal Town Planning Institute - Northern Ireland Branch response welcomes both the Marine Strategy Framework Directive and the moves being made towards its transposition in the UK and Northern Ireland. The response comments that the policy development could provide a real opportunity to move towards a more holistic approach to management of the UK sea area. The response also contends that the Marine Strategy Framework Directive gives a real steer to Northern Ireland to catch up with other parts of the UK on policy reform and that the measures required by the Directive can only be realistically delivered by a Northern Ireland Marine Bill.
Ulster Society for the Protection of the Countryside	The response supports the introduction of the regulations.
<b>Department's Position:</b> The Department welcomes support of its proposals.	

Synopsis of replies received by DOE in response to the consultation paper:  
Marine Strategy Framework Directive putting in place the legal framework for implementation

<b>Issue 26 – Information on co-ordinated delivery of the Marine Strategy Framework Directive in the UK</b>	
<b>Respondent</b>	<b>Comments</b>
Northern Ireland Marine Task Force	The Northern Ireland Marine Task Force response requests information on the proposals to ensure co-ordinated delivery. It asks if there will be working groups established to ensure coherent UK seas management and what form these will take.
<p><b>Department's Position:</b></p> <p>The collection of marine data will play an important role in implementing the Directive. UK currently undertakes marine monitoring under the auspices of the UK Marine Monitoring and Assessment Strategy (UKMMAS). The strategy delivered the Charting Progress report in 2005 into the state of the UK's sea; the result of co-ordinated monitoring and assessment by the Departments, Agencies and other organisations within the UK which have responsibility for marine monitoring and assessment. It is anticipated that Charting Progress 2 will be published in July 2010 and that this will form the backbone of the initial assessment.</p> <p>The UKMMAS strategy consists of a number of working groups which include co-ordination groups at both a policy and working level. An additional group which will focus on identifying additional areas where work might be required to implement the Marine Strategy Framework Directive has been established.</p> <p>Data collection is also co-ordinated at a regional seas level under the auspices of OSPAR. DOE will continue to work within these structures and also to provide data.</p>	

<b>Issue 27 – Use of Common Fisheries Policy to support the delivery of Good Environmental Status</b>	
<b>Respondent</b>	<b>Comments</b>
Northern Ireland Marine Task Force	<p>The Northern Ireland Marine Task Force response requests information on how the UK administrations intend to use the CFP in conjunction with the MSFD to satisfy descriptor 3 for Northern Ireland and UK waters. In their view, the CFP should proactively contribute to the achievement of GES under the MSFD, particularly if monitoring reveals that GES is not being achieved for commercially exploited fish and shellfish, and where fishing activities are stopping GES from being achieved through any descriptor.</p> <p>In addition, the Northern Ireland Marine Task Force would like to see strong enforcement of this descriptor of GES so that the requirement of the Member States to notify the Commission where the operation of the Common Fisheries Policy (CFP) is having an effect on the ability to achieve GES is strongly</p>

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	implemented. The response requests information on how the UK administrations intend to use the CFP in conjunction with the MSFD to satisfy this descriptor of GES for Northern Ireland and UK waters.
<p><b>Department's Position:</b> The Department will continue to work closely and in a collaborative way with officials from the Department for Agriculture and Rural Development which is responsible for the management of fisheries in Northern Ireland to ensure that Northern Ireland plays a full part in helping the UK achieve Good Environmental Status within its marine waters by 2020. Defra is currently leading on amending the CFP and within Northern Ireland this work is being delivered by the Department of Agriculture and Rural Development. It would not be appropriate for the Department to offer an opinion on work it has not been directly involved in.</p>	

<b>Issue 28 – Timescales for implementing the Programme of Measures (POM)</b>	
<b>Respondent</b>	<b>Comments</b>
NI Water	Regulation 15 which transposes Article 15 of the Directive requires the POM to be operational within 1 year of their publication. NI water notes that this timeframe is challenging especially in relation to its Capital Works Schemes which could not be implemented in this timeframe.
<p><b>Department's Position</b> The initial assessment of the state of the UK's marine environment, determination of good environmental status and establishment of targets and indicators to guide progress towards GES, will include a public consultation. NI Water, and other operators whose activities in the marine environment will affect the UK's ability to meet GES, will be aware of the impact achieving GES might have on their businesses, and will therefore have the opportunity to factor this into their capital works programmes from 2012 onwards. Achieving GES will be supported by measures being introduced to meet the requirements of other Directives, like the Water Framework Directive, the Habitats, Urban Waste Water Treatment and the Bathing Waters Directives. A number of these measures might already be included in capital works programmes of economic operators like NI Water.</p>	

<b>Issue 29 – Overlap with the Water Framework Directive in the coastal zone</b>	
<b>Respondent</b>	<b>Comments</b>
NI Water	NI Water notes the overlap between the Water Framework Directive and the Marine Strategy Framework Directive and suggests that the aims of both Directives must be consistent.
<p><b>Department's Position</b> The objective of the Water Framework Directive is to achieve Good Ecological Status while the objective of MSFD is to achieve Good Environmental Status. Article 10.1 of the MSFD requires Member States to take into account “the continuing application of relevant existing</p>	

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environmental targets laid down at national, Community or international level in respect of the same waters, ensuring that these targets are mutually compatible.” The Department will work to ensure that the targets established to meet the requirements of both Directives are compatible.

**Issue 30 – Incomplete implementation of the Water Framework Directive due to focus on cost effectiveness**

Respondent	Comments
Link	The Link response suggests there should not be a repeat of the delays that have occurred in implementing similar Directives such as the Water Framework Directive (WFD). It makes a point that implementation of WFD measures has been deferred due to the interpretation of what is considered to be ‘cost effective’ - the costs are currently considered to be disproportionate to the benefits.

**Department’s Position**

Implementation of the Water Framework Directive in Northern Ireland is currently on track, and there have been no delays in implementation. The Directive recognises that many problems in the water environment have developed over decades or even centuries and cannot be fixed easily or quickly without disproportionate expense. The Directive therefore provides for a phased approach to return waters to near natural conditions. The Department has employed a methodology to prioritise how water bodies will be returned to good status over 3 river basin planning cycles 2009-2015, 2015-2021 and 2021-2027. In Northern Ireland, the planned improvement in status for the first planning cycle appears to be above average for the EU.

**Issue 31 – No comments**

Respondent	Comments
Central Procurement Directorate	The Central Procurement Directorate response does not make any comments.
Department of the Environment-Northern Ireland Environment Agency (NIEA)	The Built Heritage Directorate of the NIEA response advised that the organisation did not wish to make any comments at this stage.
Department of Enterprise, Trade and Investment (DETI)	The DETI response notes that the Department has no comments to make although it does make an observation regarding descriptor 11.
Northern Ireland Judicial Appointments Commission	This organisation does not make any comments.

**Department’s Position**

The Department notes these nil responses.