

## Delivering the 25 Year Plan for the Environment, Sustainable Development Goals and other commitments through a revised UK Marine Strategy – a WCL Briefing to Defra, December 2017

### SUMMARY

To restore nature in a generation, we need to change the way we value and protect our environment, using legal and policy tools that exist already but making them fit for the future. For the marine environment, this means revamping and rebranding the UK Marine Strategy and using it proactively, not just to deliver on its own legal requirements but also be the action plan for delivering the marine elements of the 25 Year Plan for the Environment, Sustainable Development Goals and other commitments in a joined up way. To do this, however, the Marine Strategy itself needs to be much more ambitious to ensure the environment is left in a better state for future generations, backed up by a new legal duty in primary legislation to support healthy seas.

### 1. INTRODUCTION

The UK has already invested huge time and effort in developing a Marine Strategy<sup>1</sup> that provides a comprehensive set of definitions, targets, indicators, monitoring plans and measures to achieve Good Environmental Status (GES), as defined and required by the Marine Strategy Regulations (MSR) 2010.<sup>2</sup> No other holistic framework exists that brings together action to reduce all human pressures with the need to conserve and recover marine ecosystems generally, as well as protecting particular habitats and species.

Furthermore, many aspects of the UK Marine Strategy are coordinated with other countries in the North East Atlantic area through the UK's work in OSPAR, driving important new research and work on aspects such as food webs, litter and underwater noise, about which we know more than ever before.

**We must continue this good work but go further in its ambition.** Leaving the EU gives the Government the opportunity to be truly ambitious, leading the world in investing in and conserving nature while continuing to apply key environmental principles and ensuring that governments and businesses are held to account for their environmental record.

To recover nature at sea, we believe that a fully integrated and revised UK Marine Strategy, setting out the overarching framework and level of ambition for recovering the health of our seas, is required. This Strategy should be embedded across Government, rather than simply within Defra. As Part One of the Strategy is revised in the coming 12 months, it will be particularly important to set the level of Good Environmental Status for the long term in line with current Government aspirations to be world leaders in environmental stewardship.

<sup>1</sup> <https://www.gov.uk/government/publications/marine-strategy-part-one-uk-initial-assessment-and-good-environmental-status>

<sup>2</sup> "Good environmental status" means the environmental status of marine waters where these provide ecologically diverse and dynamic oceans and seas which are clean, healthy and productive within their intrinsic conditions, and the use of the marine environment is at a level that is sustainable, thus safeguarding the potential for uses and activities by current and future generations, i.e.: (a) the structure, functions and processes of the constituent marine ecosystems, together with the associated physiographic, geographic, geological and climatic factors, allow those ecosystems to function fully and to maintain their resilience to human-induced environmental change. Marine species and habitats are protected, human-induced decline of biodiversity is prevented and diverse biological components function in balance; (b) hydro-morphological, physical and chemical properties of the ecosystems, including those properties which result from human activities in the area concerned, support the ecosystems as described above. Anthropogenic inputs of substances and energy, including noise, into the marine environment do not cause pollution effects;"

## 2. A NEW MARINE STRATEGY INTEGRATED WITH UK AND INTERNATIONAL COMMITMENTS

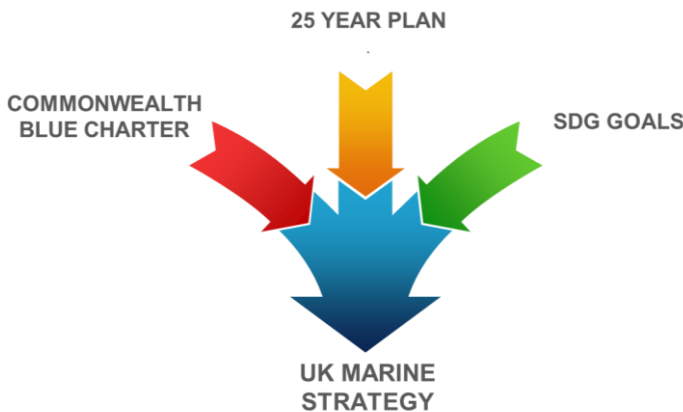


Figure 2. The UK Marine Strategy can deliver a range of high level UK goals and commitments in a shared, integrated process.



Figure 2. Although focussing on SDG14, implementing the Marine Strategy will require action across a range of other SDGs.

As part of this, we also have the opportunity to develop an integrated and long term marine strategy, with the Marine Strategy Regulations at its legal heart, but delivering much more for the shared UK governments.

In England, for example, **the 25-year Plan for the Environment** is an opportunity to set an ambitious new direction to restore and enhance the natural world and the natural capital that it provides, delivering towards GES in the process. It also offers the chance to properly integrate the terrestrial and marine spheres, critical given so many human pressures on UK seas originate, and must be prevented at source, from land.

The Marine Strategy also provides a ready-made framework to implement regional and international commitments, in particular **Sustainable Development Goal 14 (SDG14) on oceans** and requirements under **the OSPAR Convention**. There are strong similarities in particular with SDG Target 14.2, which states “By 2020, sustainably manage and protect marine and coastal ecosystems to avoid significant adverse impacts, including by strengthening their resilience and take action for their restoration in order to achieve healthy

*and productive oceans*”. As well as this, there are further links through the Marine Strategy with other SDGs, including action on clean water, energy and sustainable consumption (Figure 2).

Furthermore, in April 2018, the 52 Commonwealth members will come together in London as the UK takes over the presidency of the Commonwealth. There is an intention to develop a **Commonwealth ‘Blue Charter’** for restoring and cleaning the seas of each country, based on the values of the Commonwealth Charter, Section 10 of which states “*We recognise the importance of the protection and conservation of our natural ecosystems and affirm that sustainable management of the natural environment is the key to sustained human development.*”<sup>3</sup> Defra have indicated that such a Blue Charter could act as an implementation plan for SDG14.

Legal advice undertaken by WWF and RSPB on the UK Marine Strategy Regulations (MSR) 2010, which underpin the Marine Strategy, states clearly that “*there are reasonable [legal] arguments that [the ecosystem based approach] EBA and GES are required to meet obligations under those international conventions*”. This is a crucial point: **implementing an ambitious UK Marine Strategy to achieve GES is not just important for these other commitments; it is essential.**

<sup>3</sup> <http://thecommonwealth.org/our-charter>

### 3. WHAT WOULD A PRACTICAL FRAMEWORK LOOK LIKE?

By working across Government in an integrated fashion, the UK can achieve and surpass the SDG goals and other commitments through a shared process, rather than in separate teams and programmes. **The 25 year plan for the environment must provide the vision for restoring nature in a generation**, setting out a high level direction to achieve the ambitious agenda this Government is rightly aspiring for. A UK-owned Marine Strategy can then effectively provide a more detailed implementation plan for this in the marine environment, incorporating the UK’s vision for “clean, healthy, safe, productive and biologically diverse oceans and seas” as outlined in the High Level Marine Objectives<sup>4</sup>, with specific targets and indicators that already exist across the full range of ecosystem components and human pressures. Figure 3 offers a visual representation of how this might work in practice.

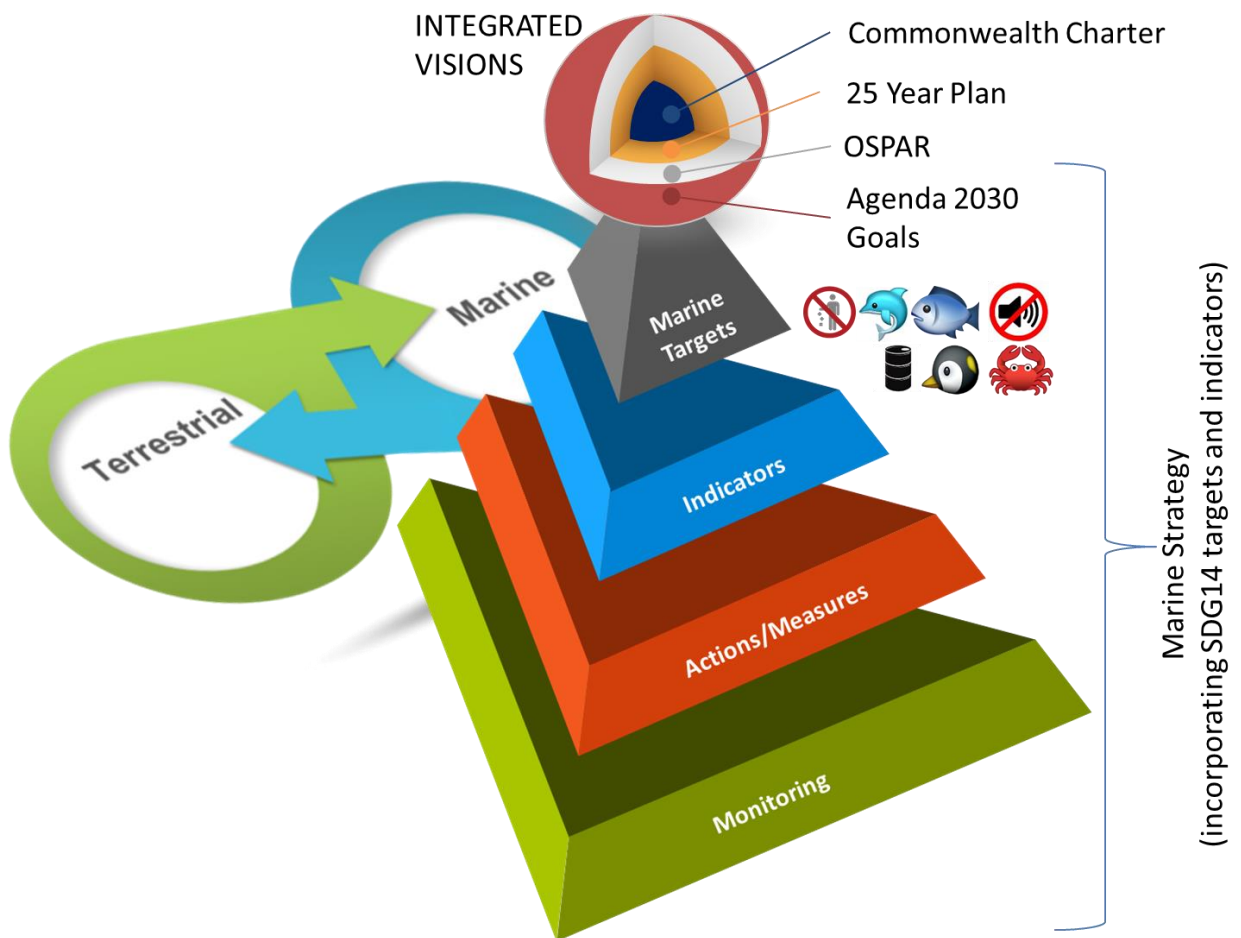


Figure 3. A visual illustration of the links between high level commitments and delivery through a revised Marine Strategy. To achieve these headline goals, however, the ambition of the current Marine Strategy must be increased to avoid an ‘ambition gap’.

Another key strength of the UK Marine Strategy and the 25 Year Plan for the Environment is that both are about more than just solving issues at sea, but require integrated action on land to address pressures such as eutrophication and plastics. A strong link in this regard with the full implementation of River Basin Management Plans is particularly important.

<sup>4</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/182486/ourseas-2009update.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/182486/ourseas-2009update.pdf)

#### **4. MILESTONES AND TIMELINES**

The timeframe for these visions and the Marine Strategy must be coordinated and long term, at least to 2050 with an interim 2030 milestone in line with the UN SDG agenda. The Marine Strategy should also contain measurable outcomes and an evaluation cycle every six years along that path, in order to maintain consistency with other countries' implementation of the Marine Strategy Framework Directive in shared sea basins.

Leaving the EU also provides the UK with an opportunity to bring together the shared Marine Strategies for targets, monitoring and measures into one integrated, clear process over time. Under the current MSFD rules, measures must be identified to meet targets three years after those targets have been identified, but we cannot wait that long if GES requires immediate action.

#### **5. COLLABORATION WITHIN AND OUTSIDE UK BOUNDARIES**

Marine ecosystems do not respect national or international borders. Collaboration between Westminster and Devolved Administrations, as well as continued coordination with other countries within the Celtic and Greater North Sea subregions, will continue to be critical going forward.

We believe that the common UK framework provided by the MSR 2010 and the Marine Strategy targets and indicators is a great strength and should be retained, while allowing each UK country the freedom to take the necessary actions to meet or go beyond these targets. The Marine Strategy also provides a framework to coordinate the implementation of the SDG agenda and link the delivery of the English 25 Year Plan for the Environment with equivalent visions in devolved administrations, for example through the implementation of the Well-being of Future Generations and Environment Acts in Wales.

At a Regional Seas level, the UK's continuing leadership in OSPAR at both strategic and scientific levels will be increasingly important going forward. The legal requirement under Annex V of the OSPAR Convention to *"take the necessary measures to protect and conserve the ecosystems and the biological diversity of the maritime area, and to restore, where practicable, marine areas which have been adversely affected"* corresponds strongly with Clause 5 of the MSR 2010.

#### **6. RECOMMENDATIONS FOR ACTION**

##### **6.1 REVISING THE EXISTING UK MARINE STRATEGY**

It is worth re-emphasising that much of this work has been done already through the current Marine Strategy to achieve and maintain GES by 2020. However, as Environment Links UK has noted in its joint responses over the first cycle of the MSFD, this strategy mainly aims to prevent further deterioration of the marine environment, rather than seeking its recovery, leaving an 'ambition gap' to leave our seas in a better state for future generations. Many targets (such as for underwater noise) currently just require further monitoring, or have very weak targets out of line with current government ambition (such as for marine litter). What's more, as evidenced by the State of Nature<sup>5</sup> and Living Planet<sup>6</sup> reports, nature is not coping with current levels of human pressure.

Strong targets drive strong action, in both the short and medium term. As such, WCL advocates the following:

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<sup>5</sup> <https://ww2.rspb.org.uk/our-work/stateofnature2016/>

<sup>6</sup> [http://wwf.panda.org/about\\_our\\_earth/all\\_publications/lpr\\_2016/](http://wwf.panda.org/about_our_earth/all_publications/lpr_2016/)

- **The UK should take the opportunity of the requirement to review the existing targets under the Marine Strategy Part One<sup>7</sup> by the end of 2018, to set an ambitious baseline for restoring UK seas that matches the UK's desire to enhance marine ecosystems and natural capital.** This should be based on both the legal obligations of the MSR 2010 and the spirit of the 25 Year Plan for the Environment, SDGs, OSPAR Convention and Convention for Biological Diversity (among others) to restore UK seas for future generations.
- **All parts of the UK Marine Strategy should be improved, integrated and rebranded, with an outward-looking focus on restoring UK seas for future generations.** This is a strong opportunity to develop a strategy that works for and delivers for the UK, leads the world in its scope and ambition, is supported across Government and makes best use of the UK's excellence in science and innovation. It should also explicitly commit to be guided by the same principles as contained in Part I(3) of the OSPAR Strategy for the Protection of the Marine Environment.<sup>8</sup>
- **A fully revised Marine Strategy should commit to filling existing data gaps and ensuring adequate monitoring to assess the status of our seas,** and consequently our ability to monitor any changes to ensure it is managed sustainably. Monitoring is a vital component to understanding the health of and impacts on our marine ecosystems and the current Marine Strategies highlight many gaps in data and understanding which need to be filled.

## 6.2 BRIDGING THE GOVERNANCE GAP

As we depart the EU, it is vital that the UK fills the 'governance gap' previously filled by the European Commission and European Court of Justice. Effective governance and enforcement mechanisms must allow governments across the UK to exercise democratic accountability and access to environmental justice. As such, we welcome the Secretary of State for the Environment's recent recognition of this and the intention to establish a world-leading independent environmental watchdog body, as well as potential new environmental legislation.

For the UK Marine Strategy, and in turn delivery of the 25 Year Plan for the Environment and other commitments, this primarily means that:

- a) **The UK Marine Strategy Regulations 2010, which underpin the Marine Strategy, must be maintained,** while any detail of the Marine Strategy Framework Directive criteria or annexes should also be carried over into UK law via appropriate means to ensure there is no 'Day One' inoperability.

Legal advice for WWF and RSPB shows that the MSR contain the strongest and most detailed requirement to use an ecosystem based approach to restore the marine environment in UK law, and that "*none of the legislation goes anywhere near setting a target standard equivalent to GES*". Furthermore, the obligations under Clause 5 of the MSR to restore marine ecosystems where practicable and to prevent and reduce inputs with a view to phasing out pollution match strongly with the current ambition of the SDGs and 25 Year Plan for the Environment.

- b) **A new legal duty in UK primary legislation should be introduced** that requires all those taking decisions affecting the marine environment to demonstrate how they are contributing to Good Environmental Status<sup>9</sup>, as well as applicants for marine licenses to show how their plans or projects do not prevent the

<sup>7</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69632/pb13860-marine-strategy-part1-20121220.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69632/pb13860-marine-strategy-part1-20121220.pdf)

<sup>8</sup> [https://www.ospar.org/site/assets/files/1200/ospar\\_strategy.pdf](https://www.ospar.org/site/assets/files/1200/ospar_strategy.pdf)

<sup>9</sup> Or an alternative title but which retains the definitions of GES in the MSR.

achievement of GES. Such a duty could be introduced as part of new environmental legislation or in amending existing legislation. Clause 9 of the MSR 2010 places a legal duty on all public authorities to “have regard” to this Marine Strategy, although we are not aware that this has been tested and this is much weaker than a duty to demonstrate support for GES.

Such a new legal duty would have two major benefits: firstly, it would create an obligation for GES that could be developed and tested in UK case law after the UK leaves the EU. Secondly, it would embed the responsibility for (and increase the awareness of) delivering healthy and restored seas across Government, rather than purely within a team at Defra.

- c) **Government must report progress on achieving the aims of the UK Marine strategy to any new environmental watchdog**, replacing the role of the European Commissions in this regard. There must be no loss of scrutiny in the delivery of healthy seas, and this new environmental watchdog must have the legal and financial tools necessary to compel Government to take action if these targets are not being met.

ENDS

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The following organisations support this briefing:

- Friends of the Earth
- Greenpeace
- Institute of Fisheries Management
- Marine Conservation Society
- MARINELife
- ORCA
- RSPB
- The Wildlife Trusts
- Whales and Dolphin Conservation
- Wildfowl and Wetland Trust
- WWF