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"Smarter" Regulation – An NGO and Industry Perspective

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Seabed User & Developer Group

- Loose affiliation of common interests
- Participants all pursuing sustainable development
- 7 Sectors:-



Oil & Gas

Ports

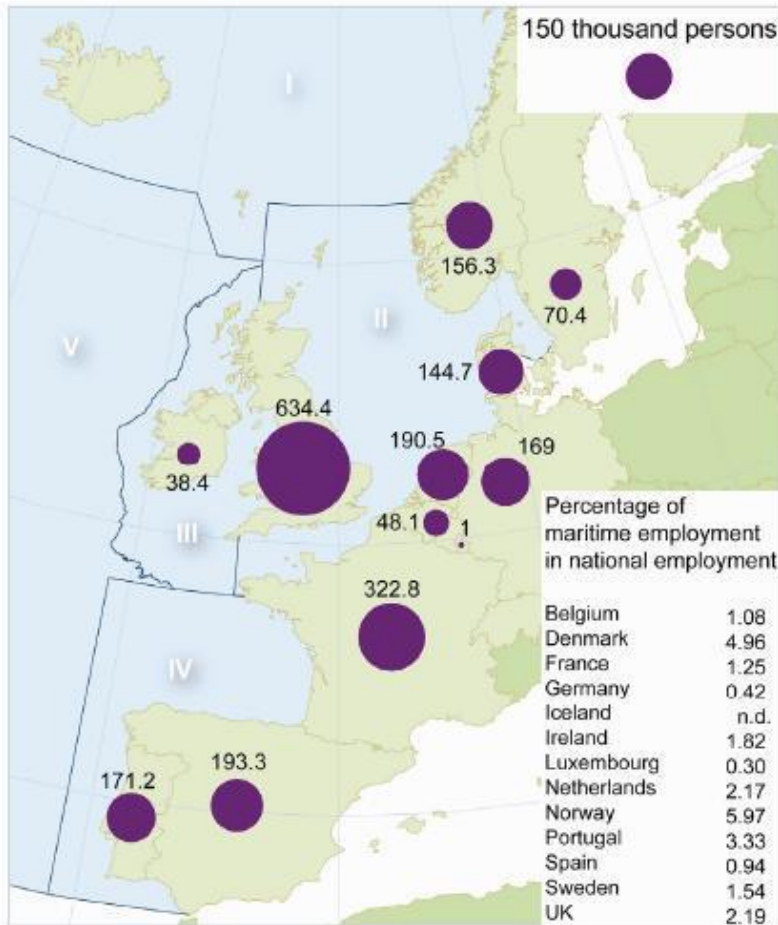
Recreational boating

Carbon capture

Renewable energy

Aggregates

Submarine cables



OSPAR: Draft
QSR 2010, Ch2

- 890,000 jobs
- 2.9% of total
- 4.2% GDP
- £46bn
- Direct + Indirect
6.0% - 6.8%
contribution to UK
economy

* Pugh 2008

Figure 2.1: Employment in all sea-related areas for the EU and Norway. Source: Policy Research Corporation, EU maritime clusters study 2008.

Economic importance of SUDG Industries





The RSPB



- Europe's largest nature conservation charity
 - > 1.1 million members
 - >2, 000 staff and >17,000 volunteers
- Our primary objective is to save nature.... and nature is in trouble

*Of the 3,148 species in the UK and UKOTs for which we have quantitative assessments, **60% have declined over the last 50 years****
- 213 UK nature reserves covering >143 K hectares
 - >102K ha within protected areas (SSSI, SPA, SAC etc)
- Campaign for the development, strengthening and enforcement of laws and policies that protect nature



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The RSPB



- Recognise the need for genuinely sustainable development
- Significant engagement in casework to avoid harm and seek win:win solutions
- Long history of constructive working with industry and regulators to secure the best outcomes for nature and development

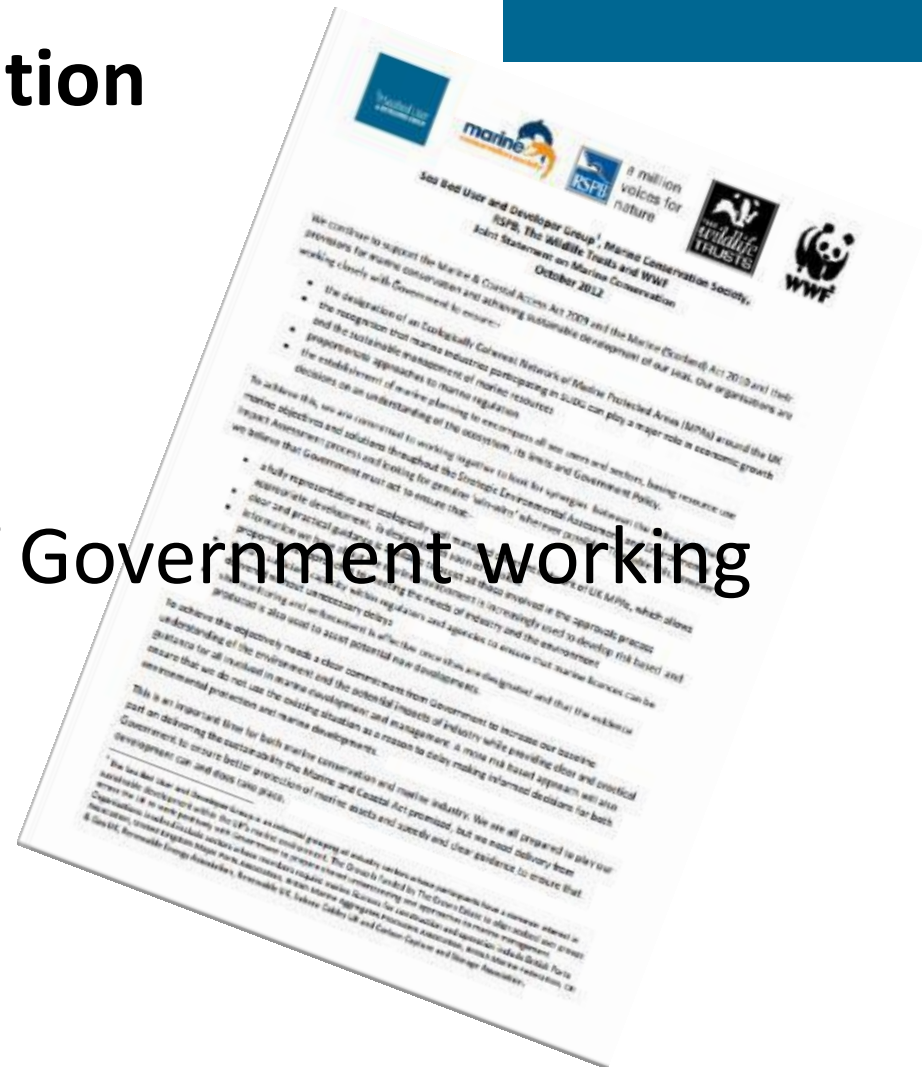


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Industry and Conservation Working together

- Working groups
- Developments
- Joint membership of Government working groups
- Joint statements



Joint objectives and asks

- Objectives:
 - Better protection of the marine environment
 - Sustainable economic development
 - A well managed network of MPAs
- To achieve this we need:
 - To know where things are (e.g. complete MPA network)
 - Understand constraints
 - Clear and stable regulatory framework
 - Practical guidance
 - Application of agreed good practice

Changes in marine management

1). New legislation

- Do they provide clear objectives? and
- Do they provide clear direction?

2). Smarter Regulation

- Smarter does not necessarily mean less

3). Reductions in regulators

- Loss of staff, expertise and confidence

4). Increase/change in regulatory organisations

- MMO, IFCA's, NRW
- New approaches to regulation

1). Legislation

Marine Protection

- Marine and Coastal Access Act
 - MCZs & MPAs
- Marine Strategies Framework Directive
- Habitats Regulations
 - Review
 - New SACs
 - New SPAs



2). Smarter Guidance: Govt goals

- a significant reduction in guidance from Government and its agencies,
- it should be clear and easily understood
- it should benefit industry and other users by saving cost and time,
- it should be complete by March 2015
- it should make legal obligations clear and assist compliance
- it should be in plain English with no confusing jargon
- existing guidance be reduced by 80%

(Defra website)

But does Smarter mean less?

But meanwhile...

Defra's 'Smarter Guidance' website states:

'it is not generally the government's role to give advice on good practice. We want increasingly to work with others to provide this kind of advice where needed'.

Current initiatives

- Conservation objectives and advice for MPAs
 - Some progress
- Marine Evidence Group
 - Yet to deliver
- Habitats Regulations Guidance Review
 - Where delivered new guidance contradictory and increasingly imprecise eg. ‘risk based approach’
 - Overarching guidance yet to appear...

Review of Implementation of the Birds and Habitats Directives in England (2012)

- Industry and NGOs engaged in the evidence review
- Conclusion:
‘It was clear from the wide range of evidence and views submitted in the course of the Review that in the large majority of cases the implementation of the Directives is working well, allowing both development of key infrastructure and ensuring that a high level of environmental protection is maintained’.
- 28 recommendations to improve *‘effectiveness of our regulations whilst reducing costs for business’* broadly supported by NGOs and industry

Review of Implementation of the Birds and Habitats Directives in England (2012)

- Substantial investment by NGOs and industry in work to implement recommendations
- BUT some perverse outcomes, little delivered to date and impetus from Government lost
- AND NOW – EC ‘Fitness Check’ of the Birds and Habitats Directives threatens stability of regulatory framework for both nature and industry



Where does this leave industry and conservation?

- Lack of clarity on objectives for conservation
- Lack of guidance on what the law requires
- ‘Work with others to provide ...advice where needed’

Constraint or opportunity?

Development of good practice:

- Based on common goals
 - Better protection of the marine environment
 - Sustainable economic development
 - A well managed network of MPAs
 - Practical guidance on how to achieve this
- Conservation bodies and industry working together
- Reducing burden for regulators

Examples

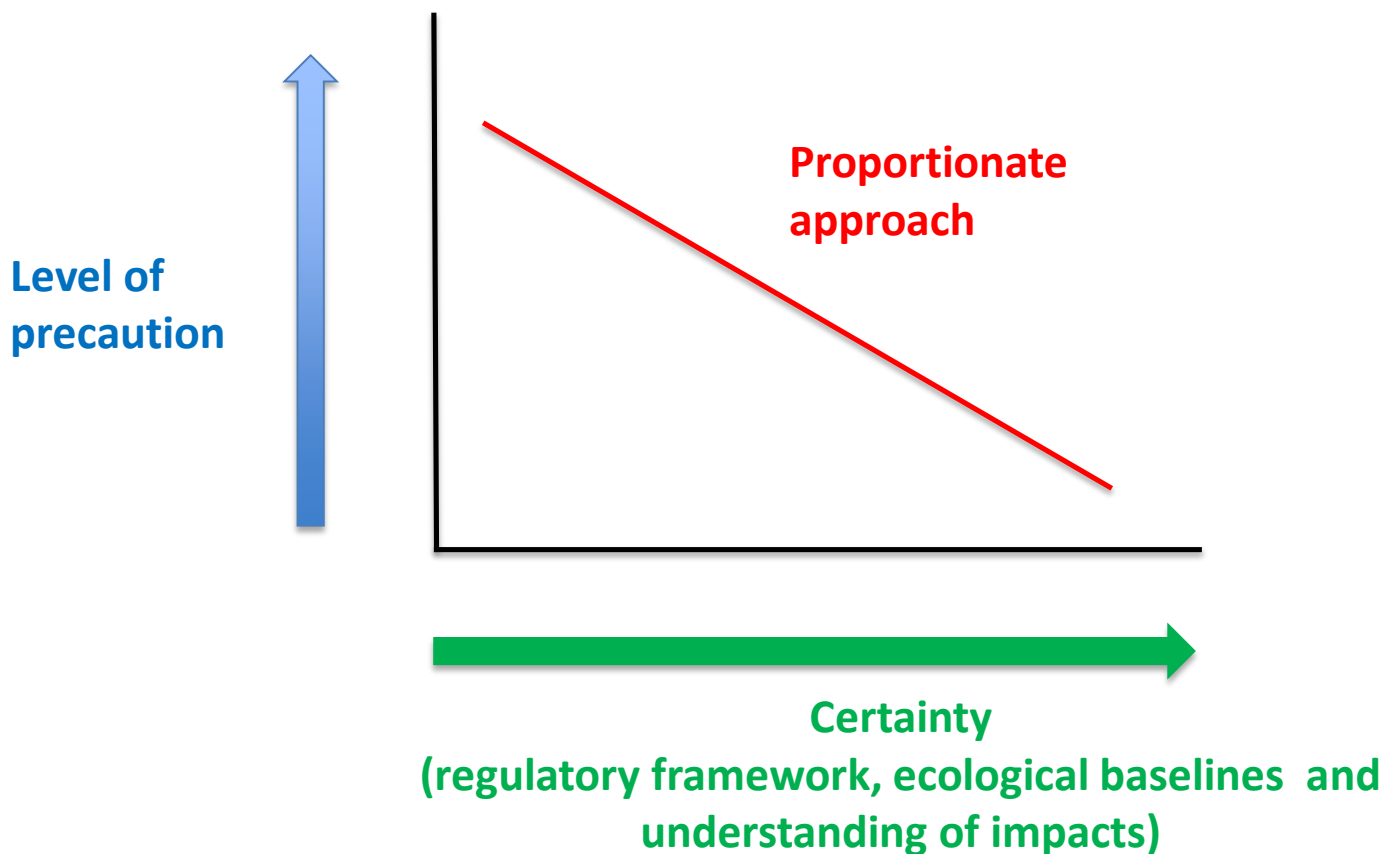
- Port of Falmouth MoU with Natural England on proposed Falmouth SPA
- Maintenance Dredging Protocol
- ABP – NE MoU on standard port operations in the Humber (noise levels etc)
- Regional assessment of herring and sandeel habitat potential in support of Marine Aggregate Licence applications

But....

If industry is to work with conservation to find solutions:-

- Data and good practices must be transferable
- Must ensure more proportionate licensing
- Need consistent and constructive engagement by regulators, including devolved administrations

Precautionary or proportionate?





Industry, NGOs and regulators working together
for better outcomes for nature and industry