

## **Offshore wind farms and fishing**

### **Framework for dialogue between the fishing and wind farm industries on how to assess the value of fishing activities and any disruption or displacement caused to them by wind farm developments**

#### **Summary**

Disruption or displacement of fishing activities by wind farms is recognised by both industries as a significant issue and one that is likely to affect many offshore wind developments. Where it does arise the contentious issue of commercial compensation is also likely to be raised.

The Fisheries Liaison with Offshore Wind<sup>1</sup> (FLOW) working group has prepared this framework guidance to assist dialogues between the industries in the context of specific development proposals. As such it supplements the existing guidance prepared by FLOW on best practice in liaison between the two industries. It does not seek to provide a methodology by which any compensation might be calculated nor assume that compensation will be a relevant consideration for every development. Similarly it does not take the place of the detailed impact assessments and consultations that developers will conduct in preparing their consent application; fishing will only be one of many aspects of that work.

It does, however, offer advice on how the value of fisheries can be assessed and on approaches to the consideration of compensation, focusing on the principles underlying these issues. DTI and Defra as the regulators (responsible for consents under Section 36 of the Electricity Act and FEPA licences respectively) will find it helpful in considering development applications if the parties have followed this guidance; it will enable them to take a more objective view should there be any outstanding differences between the applicant and fishing stakeholders. It is also hoped that the number of outstanding differences will be reduced.

This guidance does not address the issue of compensation for loss of fishing gear due to interaction with wind farm structures. FLOW is looking at that separately.

#### **Principles**

The overall aim is to achieve a position whereby fishing interests are neither advantaged nor disadvantaged by the development of a wind farm project. Given the variation in fishing techniques and prosecution across the strategic areas identified for wind farms, no single formula or regional approach is likely to be suitable for all sites. Hence the focus on a general framework based on best practice principles.

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<sup>1</sup> The Fisheries Liaison with Offshore Wind group comprises of representatives of the fishing industry, renewable energy developers and Government regulators.

Within this framework, FLOW has developed the following definitions.

<b>Term</b>	<b>Usage</b>
Compensation	Monetary payment for loss of access and demonstrable economic disadvantage caused directly by disruption or displacement by a windfarm
Disruption	Temporary exclusion from normal fishing zone during construction, maintenance etc
Displacement	Permanent closure of fishing grounds directly caused by a wind farm/cable route

### Principles – value of a fishery and assessment of any disruption or displacement

The value of a fishery should be established based upon published data from an appropriate source, e.g. DEFRA, Sea Fisheries Committees, or other verified data, e.g. fully audited accounts. There are a wide range of issues that may need to be considered in determining value and whether fishing interests have been subject to disruption or displacement. The following list is therefore provided for illustrative purposes only and it should not be read that all the issues listed have to be considered or that the list is complete:

- Is it a heavily or lightly fished area?
- Will fishing interests be prevented from carrying out their normal revenue generating activities as a result of the project?
- Will there be an actual loss of fishing opportunity and loss of earnings? (This is the important consideration rather than any “loss of right to fish an area”).
- Would the fishing interests be able to replace lost earnings by moving their activities nearby? (This may have knock on effects on other fishing interests which will need to be considered).
- Have the fishing interests been able to demonstrate that they normally and traditionally fish the area at the time of year when the project is taking place? (This is relevant to the construction period and may inform decisions on the timing of construction).
- Do the fishing interests hold licences and/or permits to fish the area?
- Do the fishing interests use properly registered and certified fishing boats suitable for the particular fishery in the area of the project?
- Have the vessels been operational for a reasonable qualifying period?
- Have the fishing interests had revenue earning gear deployed in the area of the project?
- Will the fishing interests incur additional costs as part of their inter-action with the project (e.g. time and effort in moving and replacing static gear)?

In assessing the above the developers should work through their designated Fishing Liaison Officer who should take advantage of local advice from

sources such as Sea Fisheries Committees, Local Fishery Officers and representatives of the national fishing associations and federations. Developers in the same strategic area should also engage with each other to consider whether their projects will have cumulative impacts.

### Principles – settlement and distribution of any compensation

Given the wide variation in fishing techniques and the scope for a wide range of approaches to dialogue between the two industries, there is no “right way” to decide on settlement and distribution of any compensation. The process of dialogue may quite reasonably start on a site-by-site basis if that is the best way that the relationship between the developer and the affected groups can be established. Whether a project then continues through individual dialogues or moves on to negotiations around a community/regional fund approach will depend on the specific project, individual fishing interests and the nature of the local fishery. In essence, a fund approach may work well but will not be appropriate for all sites.

There are 3 possible approaches (which are not mutually exclusive):

1. Individual site by site negotiations and discussions between developers and local fishermen;
2. Multi-site sub regional approach;
3. The Community Fund approach.

The suitability of these approaches will vary from case to case. The potential pros and cons of each include the following.

- Individual site by site discussions
  - Better understanding of exactly what the effects of the windfarm are.
  - Better understanding of fishing techniques and fisheries within site.
  - Able to accommodate needs of individual local fishermen better.
  - May be less transparent.
  - May not best consider fully knock on effects from specific site to the wider area of the sea,
- Multi-site sub regional approach (involving at least 2 sites)
  - Cuts out separate negotiations with multiple developers and multiple fishing groups.
  - Sub-region likely to be more than one site but could be as many as appropriate.
  - Discussion at sub regional level loses the direct relationship between developers and fishermen.
  - Fishing activity may be so varied that a sub-regional solution would not reflect the full use of the fishery.
  - Difficult to co-ordinate and secure agreement between multiple developers and multiple fishing groups.

- Community Fund approach (could be adopted as a single or multi site solution)
  - Could be used for specific projects e.g. reseeded, which benefit the fishery as a whole.
  - May offer best vehicle to achieve fairness and transparency.
  - Does not necessarily assist those most affected in proportion to that affect.
  - Could create confusion if its legal status were not sufficiently clarified.
  - Does not address treatment of individual fishermen wishing to present their own case

Two principles that it is recommended that should be applied with the community fund approach are:

- A representative and independently chaired committee should be used to consider the allocation of any community funds.
- All dealings should be transparent, with representation and participation open to developers in the fishing industry's process of evidence gathering wherever possible (commercial confidentiality of any agreements between individuals being one constraint on this).

If a fund is established, the following suggestions for management are proposed for consideration:

### **1. Establish an administration system**

- Chair – Defra, Marine Fisheries Agency, District Inspector or similar (*independent*). [*n.b resource constraints permitting*]
- Fishing representatives drawn primarily from affected fishing sectors.
- Sea Fisheries Committee – 1 Rep.
- NFFO – 1 Rep.
- Project representative
- Quarterly meetings.

### **2. Utilisation of fund**

- At the discretion of fishing representatives based on local views and ideas.
- Distribution could include fishing community benefits such as improved facilities and/or long term financial support.
- Fishery support, e.g. stock enhancement, re-seeding etc.
- Installation of safety equipment on affected vessels.
- Equipping affected vessels with new fishing gear to assist a switch to other fishing methods.
- Representatives from contributing wind farms would have open invitation to attend management meetings and/or appoint representatives.

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