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UK fisheries policy five years after Brexit



Introduction

The UK's withdrawal from the EU in 2020 marked a profound shift in the governance of the marine environment and the management of fisheries. Five years on, fisheries remains one of the most symbolically charged and structurally complex areas of post-Brexit environmental governance.

Transition from the EU's Common Fisheries Policy (CFP) to a domestic framework has opened space for ambition and nationally tailored management, yet it has exposed structural weaknesses, implementation gaps and heightened scrutiny of the UK's ability to establish itself as a credible and scientifically grounded coastal state.

Experience since 2020 has shown that legislation does not guarantee effective governance. The credibility of the new system depends on the quality of implementation, scientific robustness and the UK's capacity to meet its international commitments, particularly those embedded in the Trade and Cooperation Agreement (TCA) with the EU.

Early post-Brexit experience has already exposed tensions between domestic ambitions and international duties. The 2024 UK–EU sandeel dispute offered an early stress test, exposing weaknesses in domestic evidentiary processes, procedural documentation and the transparency expected of an independent regulator operating under international law.

Five years on, the UK stands at a critical reflection point. While the Fisheries Act 2020 provides a coherent enabling framework, its operation has been uneven. Delivery of Fisheries Management Plans (FMPs), intended as the act's central operational mechanism, has been slower and less comprehensive than anticipated.

Devolution has encouraged innovation but also created fragmentation across licensing, Remote Electronic Monitoring (REM) deployment and FMP adoption. International engagement has developed reactively rather than strategically, highlighting the need for procedural rigour, scientific consistency and legal defensibility.

Forthcoming post-legislative scrutiny of the Fisheries Act 2020 presents a rare opportunity to strengthen the statutory framework, consolidate governance mechanisms and embed greater transparency, accountability and scientific coherence in law.

The act sets out that three years after the publication of the Joint Fisheries Statement, a report must be prepared, published and laid before parliament setting out how the policies contained within it have been achieved, or contributed to the achievement of, the eight objectives set out in the act. The government has said that, on the basis that the content of the Joint Fisheries Statement report will significantly contribute towards the post legislative scrutiny process in relation to the act, synchronising the timeline of both would

be sensible. It therefore intends to submit the post legislative scrutiny memorandum and Joint Fisheries Statement report to parliament no later than spring 2026.

In a system characterised by discretionary sustainability duties and limited judicial oversight, this scrutiny period provides one of the few structured processes through which overall effectiveness can be assessed and reform meaningfully guided.

The post-Brexit legal and policy landscape

Prior to Brexit, UK fisheries were governed by the CFP, which imposed binding sustainability duties, enforced total allowable catches (TACs), and codified precautionary and ecosystem-based approaches. While often criticised for inflexibility and perceived political biases, it provided a clear legal framework with obligations.

By contrast, the Fisheries Act 2020, presented as a flagship statute of the UK's new autonomy, established a set of sustainability objectives but ultimately left significant discretion to ministers in how those objectives should be interpreted and applied.

The High Court's judgment in 'Blue Marine Foundation v secretary of state for environment, food and rural affairs' confirmed that the duty to "have regard" is discretionary rather than mandatory, allowing ministers to depart from scientific advice, provided some engagement with sustainability principles is demonstrable.

Courts will intervene only when decisions are irrational or procedurally defective, a high threshold that is rarely met in environmental cases. Consequently, accountability remains largely political, dependent on parliamentary oversight, transparency and active ministerial engagement, while inconsistencies in reporting across devolved administrations further complicate governance.

Arguably, this softer legal formulation was a deliberate political compromise to preserve ministerial discretion, but it has since emerged as one of the most significant structural weaknesses in the UK system. The act's objectives are clear and well formulated, but their effectiveness depends entirely on governmental interpretation and prioritisation.

The Fisheries Act 2020's definition of an "ecosystem-based approach" links fisheries management to the broader ecological health of UK seas, requiring that collective pressures from human activities including fishing, do not compromise the resilience or integrity of marine ecosystems.

By reflecting Good Environmental Status (GES) under the Marine Strategy Regulations 2010, the act situates fisheries within a legally and scientifically informed framework for ecosystem management, emphasising that extraction activities must be balanced against the capacity of habitats and species to maintain their structure, function and productivity.

This framing effectively elevates ecosystem considerations from advisory guidance to a core normative principle, guiding decision making even when individual fisheries measures are developed in a discretionary context. It also underscores that the operationalisation of precaution and sustainability cannot be considered in isolation, but must account for cumulative environmental impacts, adaptive capacity and the long term maintenance of ecosystem services.

FMPs were intended to form the operational backbone of sustainable management under the Fisheries Act 2020, implementing the objectives detailed under the act. In theory, each FMP should deliver against the objectives set, providing a clear pathway for stock recovery, ecosystem-based management and integration of scientific advice. In practice, however, progress is highly uneven. The act requires FMPs to consider the objectives deemed relevant by authorities, rather than mandating comprehensive coverage, which introduces variability in scope and ambition.

This discretionary framework, combined with delays in data collection, limited administrative capacity, uneven stakeholder engagement and inadequate resourcing, has hindered standardisation and undermined the operational effectiveness of many plans. Some FMPs offer only broad guidance, while others fail to fully integrate spatial, climate or ecosystem considerations.

Without uniform standards, FMPs risk functioning as consultative documents rather than as enforceable management instruments. Integration with International Council for the Exploration of the Sea (ICES) advice and annual TAC negotiations is similarly inconsistent, reducing both ecological effectiveness and legal defensibility.

Comparative experience from other jurisdictions highlights both the potential of FMPs and the pitfalls of discretionary implementation. In New Zealand, [the Quota Management System](#) is underpinned by clearly defined sustainability objectives and legal requirements to set harvest limits based on the best available science, with FMPs specifying stock specific reference points, rebuilding timelines and explicit ecosystem considerations.

[Canada's Fisheries Act](#) and the [Pacific Fisheries Reform initiative](#) similarly tie management plans to statutory objectives, with prescribed performance indicators, formal consultation processes and mandatory review cycles, which ensures both accountability and enforceability.

The US provides another model through the [Magnuson-Stevens Fishery Conservation and Management Act](#), under which regional [Fishery Management Councils](#) are required to prepare FMPs with legally binding conservation measures, scientific reference points and regular performance evaluations, alongside statutory obligations for public consultation.

These examples illustrate the value of embedding standardised, legally enforceable requirements into management plans, which improves scientific rigour, operational clarity and accountability.

By contrast, the UK's FMP framework remains comparatively permissive. The discretionary nature of the act, combined with divergent approaches across the

four nations, means that some plans advance precautionary and ecosystem-based measures robustly, while others focus narrowly on sector specific or socioeconomic objectives.

Without a standardised framework for operationalising the act's objectives, FMPs risk remaining aspirational rather than effective instruments for sustainable fisheries governance across the UK. The international comparisons suggest that embedding clear legal obligations, uniform methodological standards and mandatory review mechanisms could significantly enhance the credibility, consistency and defensibility of UK FMPs.

Devolution has enabled the four nations to tailor fisheries management to local ecological conditions and socioeconomic priorities, fostering policy innovation and responsiveness. However, the lack of mechanisms to ensure consistency across jurisdictions has created significant fragmentation. In England, the Department for Environment, Food and Rural Affairs (Defra) has committed to rolling out Remote Electronic Monitoring (REM) on vessels over ten metres long, while the Scottish government has begun introducing mandatory REM for selected sectors through [legislation](#).

Governments in Wales and Northern Ireland, by contrast, are yet to establish firm REM requirements. This uneven implementation undermines the reliability and comparability of data across UK waters, limiting the capacity for evidence-based management and impeding the integration of FMPs into a coherent, UK-wide strategy.

Beyond technical considerations, fragmented REM deployment also weakens the UK's credibility in international fisheries negotiations and arbitration, where consistent monitoring and transparent reporting are increasingly viewed as prerequisites for demonstrating compliance with both domestic law and obligations under the Trade and Cooperation Agreement with the EU.

In effect, without co-ordinated REM standards, the operationalisation of the Fisheries Act's objectives remains uneven, leaving both ecological outcomes and legal defensibility vulnerable.

Fisheries law in the wider environmental governance framework

Fisheries management does not operate in isolation. It is embedded within a complex legal architecture that includes the [Marine Strategy Regulations 2010](#), the [Marine and Coastal Access Act 2009](#), the [Habitats Regulations](#) and the [Environment Act 2021](#). These impose legally binding obligations that intersect with fisheries management in substantive ways.

The Marine Strategy Regulations impose a statutory duty to achieve or maintain Good Environmental Status (GES) in UK waters. Fisheries pressures are incorporated within descriptors covering commercial stock status, food web stability, seabed integrity and the condition of seabirds, marine mammals and elasmobranchs (ie sharks, skates and rays). Bycatch is recognised under UK Marine Strategy Regulations Part One as a required monitoring criterion, conferring independent legal weight.

Regulation five reinforces an ecosystem-based approach, requiring authorities to ensure cumulative pressures of human activity, including fishing, do not compromise GES. These obligations intersect directly with the Fisheries Act's discretionary objectives, effectively elevating the normative force of ecosystem and precautionary principles. Even if the Fisheries Act 2020 allows discretion, ministers remain accountable for ensuring cumulative pressures from fishing are compatible with environmental targets under the Marine Strategy.

It is significant that the Fisheries Act is not listed in Schedule 2 of the Marine Strategy Regulations. Consequently, measures adopted under the act are not automatically treated as contributing to compliance with GES. Nevertheless, because fisheries activities are a major driver of pressures on marine ecosystems, management measures under the act must be assessed against statutory GES objectives, ecosystem-based principles and broader environmental duties.

The act functions as an enabling framework whose environmental impact is realised only when measures are implemented in alignment with binding obligations under the Marine Strategy Regulations, Habitats Regulations and related law.

The Blue Marine Foundation judgment reinforces this point; while courts will not enforce the act's objectives directly, implementation cannot ignore the wider statutory context. Environmental accountability depends on how Fisheries Act 2010 powers intersect with legally binding conservation and ecosystem-based duties.

Environment Act 2021

The Environment Act introduces legally binding targets for several environmental issues, including species abundance, water quality and habitat condition. Policy makers must have due regard to the Environmental Principles Policy Statement and the government has recently revised its Environmental Improvement Plan, with delivery plans on the legally binding targets.

The Office for Environmental Protection provides an additional compliance mechanism capable of investigation and enforcement. Together, these instruments create a legally pluralistic environment in which fisheries objectives operate alongside binding ecological duties.

Implications

The combined effect of the Marine Strategy Regulations, the Environment Act 2021, Habitats Regulations and Blue Marine jurisprudence demonstrates that the Fisheries Act operates within a broader, legally compelling environmental framework. While the act provides flexibility and enables policy innovation, it cannot be treated as a standalone instrument.

Achieving GES, delivering biodiversity targets and protecting ecosystem integrity all depend materially on the sustainable management of fishing activity. Fisheries management is therefore no longer a purely sectoral economic issue; it is increasingly a core element of environmental governance.

Lessons from the 2024 UK sandeel closures

In 2024, the UK and Scottish governments implemented the closure of sandeel fisheries in designated areas of the North Sea and North Atlantic, aiming to protect stocks vital for the broader marine ecosystem, particularly seabirds and marine mammals dependent on sandeels as a key prey species. The decision drew on ICES scientific advice indicating that sandeel populations were declining and that continued fishing posed ecological risks. Furthermore, in its response to a joint UK-EU request, ICES confirmed that it does not consider the wider ecosystem needs in its advice. The UK and Scottish governments implemented the closure, framing the decision around sustainability, the precautionary principle and ecosystem-based management.

While the scientific rationale was robust, the measure became the first test of procedural compliance under the TCA, which requires conservation measures to be proportionate, non-discriminatory, based on the best available scientific evidence and implemented with timely consultation.

In practice, the UK's initial documentation was incomplete. Evidence demonstrating non-discrimination toward EU fleets was limited, consultation with affected stakeholders was insufficiently documented and formal publication of socioeconomic impact assessments was delayed. Such gaps prompted the EU to initiate arbitration under the TCA, challenging the procedural adequacy of the closure.

In April 2025, the arbitration panel ultimately confirmed the UK's decision to establish the closures but emphasised that procedural rigour is a precondition for legally defensible unilateral measures. Scientific justification alone was deemed insufficient; transparent documentation, clear consultation and proportionate implementation were considered equally critical.

The sandeel dispute also illustrated the benefits of integrating fisheries management with broader environmental obligations. Aligning conservation measures with GES targets, marine spatial planning and ecosystem-based management strengthens the legal defensibility of unilateral actions and embeds fisheries governance within the wider ecological framework.

In summary, the sandeel closure demonstrates that post-Brexit autonomy is conditional. Effective fisheries governance depends not only on robust scientific evidence but also on procedural integrity, administrative co-ordination and careful attention to international obligations. This has quickly become a benchmark for evaluating the UK's capacity to exercise independent conservation measures while maintaining credibility under international law.

Towards a stronger future framework

The first statutory review of the Fisheries Act represents a pivotal opportunity to consolidate the post-Brexit settlement and address the structural and operational gaps exposed over the past five years.

Strengthening legal duties should be a central priority. Transforming the current requirement for ministers to “have regard to” sustainability objectives into binding obligations would clarify responsibilities while preserving necessary discretion. Explicit alignment with wider environmental governance, including GES targets, would enhance both legal defensibility and international credibility.

Equally urgent is the completion and standardisation of FMPs. To be effective, FMPs must incorporate scientifically robust reference points, clear rebuilding timelines and ecosystem considerations, including adaptation to climate change.

Integration with GES targets would transform these plans from aspirational statements into operational instruments capable of guiding evidence-based decision making and reducing legal vulnerability. Comprehensive deployment of REM across the UK is also essential, providing the data quality, transparency and enforcement capacity necessary to support both domestic management and international obligations.

Procedural rigour must underpin all regulatory decision making. As the 2024 sandeel dispute demonstrated, scientific justification alone is insufficient; transparent documentation, proportionate measures and thorough consultation processes are critical to defensible unilateral conservation measures.

Strengthening intergovernmental co-ordination across the four nations is similarly important. Binding or semi-binding agreements on methodology, data sharing and FMP standards would reduce fragmentation while maintaining flexibility for local adaptation, ensuring that the UK presents a coherent and credible approach both domestically and internationally.

Finally, fisheries governance should be fully integrated with broader environmental and spatial planning frameworks. Linking management measures to marine spatial planning, ecosystem modelling and climate adaptation strategies will ensure that decision making is responsive to dynamic ecological pressures, maintains ecosystem integrity and supports legally binding environmental targets.

By embedding fisheries within this wider governance architecture, the UK can maximise both ecological outcomes and the defensibility of its conservation measures.

Conclusion

Five years after Brexit, the UK's fisheries governance system is ambitious in its objectives but remains incomplete in practice. The Fisheries Act 2020 provides an enabling framework for sustainable management, yet its discretionary design, uneven implementation and procedural fragilities limit its effectiveness. The sandeel arbitration illustrates that post-Brexit autonomy is conditional, dependent not only on scientific rigour but also on procedural integrity, transparent decision making and adherence to international obligations.

At the same time, wider environmental legislation, including the Marine Strategy Regulations and the Environment Act 2021, imposes legally binding duties that elevate ecosystem considerations beyond discretionary objectives.

Forthcoming post-legislative scrutiny offers a critical window to strengthen the system. By enshrining binding sustainability duties, standardising FMPs aligned with GES criteria, expanding REM coverage, embedding ecosystem-based management, enhancing intergovernmental co-ordination and integrating climate and spatially informed planning, the UK can establish a resilient, credible and legally defensible fisheries governance framework.

Taken together, these reforms would position the UK to exercise genuine post-Brexit autonomy, while meeting its domestic and international commitments, delivering both ecological sustainability and regulatory credibility in the years ahead.

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Legislation and Governance Unit

This unit, run by Green Alliance, is a unique hub, offering expert knowledge sharing and detailed analysis of legislative and policy changes relevant to the environment. It monitors and influences environmental legislation, regulation and governance and provides detailed advice and responses to parliamentarians, government officials and the environment sector.

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