



Environment, Food and Rural Affairs Committee  
Scrutiny of the Fisheries Bill Inquiry

Written Submission submitted by  
**Honor Frost Foundation (HFF)**  
**Steering Committee on Underwater Cultural Heritage**

1. The HFF Steering Committee on Underwater Cultural Heritage (UCH) advises and helps shape the policy and work of the Honor Frost Foundation, which was founded in 2011 and seeks to foster and promote the protection of underwater cultural heritage. The Steering Committee's position is summarised below. All references are to the Fisheries Bill as introduced, printed 25 October 2018.
  - Over many decades, the fishing industry has played an important role in bringing discoveries recovered in their nets or snagged by their gear to the attention of archaeologists. Some of the UK's most significant heritage assets are sites discovered by fishermen.
  - The heritage of the fishing industry – ranging from fishing boat wrecks to fishing-related buildings on land – is a valuable component of our maritime heritage.
  - Whilst fishermen undoubtedly seek to avoid snagging their gear on underwater heritage assets because of the hazards and costs involved, impacts that cause damage to underwater heritage sometimes occur nonetheless.
  - The Fisheries Bill presents an opportunity to cement a steadily improving relationship between fishing and heritage. The Fisheries Bill should ensure that good work on heritage within six nautical miles by IFCA's using their powers under MCAA 2009 can be replicated to the full extent of British fishery limits. The Fisheries Bill also presents an opportunity to introduce powers to safeguard specific heritage assets from fishing impacts using byelaws where this need arises.
  - We welcome the inclusion of 'features of archaeological or historic interest' within the definition of 'marine and aquatic environment' in Section 40 (Interpretation).
  - Section 1 on Fisheries Objectives should be amended to ensure that it encompasses the definition of 'marine and aquatic environment' in s. 40 e.g. by amending s. 1(4)(b) to refer to 'marine and aquatic environment' rather than 'marine environment'.

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- Section 2 on Fisheries Statements should be amended to make express reference to the ‘marine and aquatic environment’, e.g. by adding ‘marine and aquatic environment’ to s. 2(2) as (h).
  - ‘Features of archaeological or historic interest’ should be added to the lists of features that can be conserved with byelaws relating to exploitation of sea fisheries resources, by amendments to various paragraphs specific to the home countries in Schedule 7 (amending the Marine and Coastal Access Act (MCAA) 2009).
  - The provision for Interim Byelaws should be amended to encompass ‘features of archaeological or historic interest’, e.g. by changing ‘and’ to ‘or’ in Schedule 7 paragraph 9(2) – new MCAA 2009 s. 132(1A)(a) – and so on, for each home country.
2. The HFF Steering Committee on UCH has previously submitted a response to Defra in respect of the Fisheries White Paper: Sustainable Fisheries for Future Generations, which is attached. The Steering Committee’s response to Defra sets out the importance of the relationship between fishing and heritage and the case for integration.
  3. The Steering Committee was heartened to see express reference to ‘features of archaeological or historic interest’ in the definition of the marine and aquatic environment in s. 40 (Interpretation). This meets our primary concern in our submission to Defra and matches the obligations on IFCAs towards features of archaeological or historic interest as components of the marine environment set out under s. 186(1) of the Marine and Coastal Access Act (MCAA) 2009.
  4. However, this comprehensive reference to the marine and aquatic environment is not used within the Fisheries Bill as much as it might be. This is of concern in respect of the treatment of the marine environment in fisheries management as a whole, not just heritage. Specifically, it seems anomalous to give the Secretary of State and home country Ministers the power to make provisions for a conservation purpose which include the marine and aquatic environment (e.g. s. 31(2)(b)), without that purpose being a Fisheries Objective or included within the scope of Fisheries Statements. Consequently, we would like to see the marine and aquatic environment being referred to expressly in the sections on Fisheries Objectives and on Fisheries Statements and propose the following amendments:
    - amend s. 1(4)(b) to refer to ‘marine and aquatic environment’ rather than ‘marine environment’;
    - add ‘marine and aquatic environment’ to s. 2(2) as (h).
  5. The Bill appears to expand the scope of the Nature Conservation provisions in MCAA 2009 to encompass ‘marine conservation’ rather than just ‘marine conservation zones’ (MCZs). Insofar as the scope is extending beyond MCZs, the provisions need not be limited only to the features that are eligible for MCZs. The Bill could add ‘features of archaeological or historic interest’ to the lists of features that can be conserved with byelaws relating to exploitation of sea fisheries. This would achieve consistency with the definition of marine and aquatic environment and would also add a useful capability. The following amendments are proposed:

– add ‘features of archaeological or historic interest’ to lists of features, as follows:

England	Schedule 7, paragraph 6	new MCAA 129A(1)
English Offshore Region	Schedule 7, paragraph 6	new MCAA 129B(1)
Wales	Schedule 7, paragraph 12	new MCAA 134A(1)
Welsh Offshore Region	Schedule 7, paragraph 12	new MCAA 134B(1)
Scottish Offshore Region	Schedule 7, paragraph 16	new MCAA 137A(1)

6. The capacity to make byelaws relating to the exploitation of sea fisheries resources for the purpose of conserving features of archaeological or historic interest would have been very valuable in the case of HMS Victory (1744). A case for commercial exploitation that would have destroyed this highly significant wreck for private profit was built in large part on damage blamed on commercial fishing. If the Secretary of State had been able to point to a power to introduce byelaws to protect historic wrecks from fishing activity – even if these powers were not used – then Government would have been under less pressure to agree to commercial exploitation. Fortunately, this eventuality appears to have been avoided by demonstrating that the site is in fact stable. However, a process that has taken many years, absorbed considerable effort and caused unnecessary damage to important relationships could have been avoided if the Government had the capacity to protect specific wrecks from potential impacts from fishing.

7. It is worth noting that neither the Protection of Wrecks Act 1973 nor the Protection of Military Remains Act 1986 are easily able to prevent (and thereby deter) fishing on sensitive wrecks. Although ‘damage’ is an offence, it would be very difficult to prove damage as being attributable to a particular episode of fishing activity. Although fishermen tend to avoid direct contact with wrecks because of the risk to gear, they do seek to get as close as practicable to harvest the fish that aggregate around wrecks, and some fishing methods actively target wrecks. Having the ability to restrict fishing around specific wrecks would be a reassurance to the public that Government is able to act if needs be – which would also have some sensitising and deterrent effect – even if such new powers were only used very rarely.

8. The Bill also makes provision for interim byelaws and orders, which could be usefully extended to encompass features of archaeological or historic interest as above. The Bill frames interim byelaws and orders with reference to MCZs so a different formulation might be required. The following amendment is suggested:

– change ‘and’ to ‘or’ in the following:

English Offshore Region	Schedule 7, paragraph 9(2)	new MCAA 132(1A)(a)
Welsh Offshore Region	Schedule 7, paragraph 14(2)	new MCAA 136(1A)(a)
Scottish Offshore Region	Schedule 7, paragraph 16	new MCAA 137C(1)(a)

NB: With respect to the MMO and Welsh Ministers, it may also be necessary to amend the definition of feature in MCAA 2009 s. 132(13) and s. 136(10) respectively. In Scotland, features of archaeological or historic interest are already encompassed by the features which can be designated as an MCZ through their provisions on Historic Marine Protected Areas (MPAs).

9. Any queries regarding this submission can be addressed to [info@honorfrostfoundation.org](mailto:info@honorfrostfoundation.org).

HFF Steering Committee on Underwater Cultural Heritage  
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### **About the Honor Frost Foundation**

10. The Honor Frost Foundation's mission is to promote the advancement and research, including publication, of marine and maritime archaeology with particular but not exclusive focus on the Eastern Mediterranean with an emphasis on Lebanon, Syria and Cyprus.
11. The Foundation also seeks to foster and promote the protection of underwater cultural heritage (UCH).
12. The Foundation was founded in 2011 with a legacy from the pioneering underwater archaeologist Honor Frost. For further information please see <http://honorfrostfoundation.org/>.



## Sustainable Fisheries for Future Generations

### **Response by the Honor Frost Foundation Steering Committee on Underwater Cultural Heritage**

The Honor Frost Foundation (HFF) was founded in 2011 to promote the advancement of maritime archaeology and to foster the protection of Underwater Cultural Heritage (UCH). This response has been drafted by HFF's Steering Committee on UCH, which provides advice to HFF and helps to shape its policy.

The Government's vision in the 25 Year Environment Plan encompasses cultural as well as natural heritage in its approach to sustainable development: 'enhanced heritage' is one of the Government's 25-year goals. The Government should maintain this comprehensive approach in its actions towards the marine environment, reflecting the rich interplay of human and natural processes in how we live with the sea. As Michael Gove acknowledges in the Foreword to this White Paper, 'Our seas and oceans are an integral part of our history'. Fishing is quintessential in representing the long history of people's relationship with the sea, so the Government's plans for a sustainable future should properly address fishing and heritage. Engaging with people as well as nature is essential if we are really going to leave the marine environment in a better state than we found it.

Although based in the UK, HFF has a particular focus on the eastern Mediterranean, especially Lebanon, Syria and Cyprus. In response to Q4 of the White Paper we think it essential that the UK sets a principled and practical example to other countries of how fisheries can be managed in a way that is sustainable towards the historic environment. A sound approach to the relationship between fishing and heritage in the UK will have positive consequences for maritime archaeology in the eastern Mediterranean and elsewhere, adding to the UK's international lead in this field. Set out below are the actions that we believe Government should take to deliver a principled and practical approach to fishing and heritage.

#### **1. The historic environment must be included expressly within the scope of the marine environment.**

- 1.1. There is an ambiguity in how the UK approaches the marine environment that needs to be resolved. The UK Marine Policy Statement makes comprehensive provision for the historic environment, notably in section 2.6.6. Equally, the obligations of IFCA's towards the marine environment specifically include features of archaeological or historic interest (s. 186(1) Marine and Coastal Access Act (MCAA) 2009). However, the section of the White Paper on protecting the marine environment places emphasis on the UK Marine Strategy, which is driven by the definition of Good Environmental Status (GES) set out in the EU Marine Strategy Framework Directive.

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- 1.2. The EU definition of GES is insufficient – and inconsistent with the UK Marine Policy Statement – because it takes no account of the historic environment. It is essential, in anticipating the UK’s engagement with the marine environment over the next 25 years and beyond, that the comprehensive approach of the UK’s own conception of the marine environment should prevail in law, policy and administration.
  - 1.3. In taking forward its legislative programme for fisheries, government should ensure that the historic environment is explicitly encompassed within the definition of the marine environment. The UK’s definition of GES should be brought into line with the UK MPS by including descriptors, characteristics and targets for the marine historic environment. The UK Marine Strategy should be amended to address the marine historic environment accordingly.
- 2. The existing contribution of fishing heritage to coastal communities must be acknowledged and enhanced**
- 2.1. The history of fishing underpins many coastal communities, framing the distinctive character and identity of so many of our historic ports and harbours. It is hard to envision the future of the UK’s fishing sector – or of any UK marine sector – without conjuring up images of this vital past.
  - 2.2. The heritage of fishing is very broad, including preserved fishing vessels; vernacular boats still in use; historic fish quays, waterfronts and buildings<sup>1</sup>; museums, heritage centres and trails<sup>2</sup>; collections of art, photographs, objects and documents on display and in archives; and wrecks of fishing vessels and other fishing-related heritage on the seabed<sup>3</sup>.
  - 2.3. This heritage already makes a major contribution to sense of place and economic life. Maritime heritage sites attract thousands of visitors and contribute millions of pounds to coastal economies. History also pervades many people’s day-to-day enjoyment of the coast, where heritage provides an important tangible setting within which wellbeing and other social benefits accrue<sup>4</sup>.
  - 2.4. The major contribution that maritime heritage, both at the coast and under the sea, already makes to the UK could be enhanced as we head into the next phase of our country’s history. For all that has been achieved, the potential gains are far greater.
  - 2.5. Government should expressly recognise fishing heritage as an integral component of the overall contribution that fishing makes to coastal communities and the UK as a whole. The implications of fisheries management decisions for heritage should be anticipated, to avoid

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1 See, for example, Greater Grimsby Heritage Action Zone (HAZ) – <https://www.nelincs.gov.uk/grimsby-awarded-heritage-action-zone-status-revive-historic-docks-town-centre/>

2 See, for example, Bridlington Maritime Trail by Holderness Coast Fisheries Local Action Group (FLAG) – <http://www.bridlingtonheritage.com/maritime>.

<sup>3</sup> See, for example, the wreck of trawler-turned-minesweeper HMS *Arfon*, which has been designated as a historic shipwreck under the Protection of Wrecks Act 1973 – <https://historicengland.org.uk/whats-new/news/Arfon-Wreck-Protected>

4 See HFF’s report *The Social and Economic Benefits of Marine and Maritime Heritage* (September 2015) – [http://honorfrostfoundation.org/wp/wp-content/uploads/2015/09/HFF\\_Report\\_2015\\_web-4.pdf](http://honorfrostfoundation.org/wp/wp-content/uploads/2015/09/HFF_Report_2015_web-4.pdf).

inadvertent damage to valuable heritage assets like historic harbours, buildings, vessels and shipwrecks

- 2.6. Government should carry out quantitative research – as it does in other sectors – to understand the contribution that fishing heritage already makes to coastal communities, and how that might be extended and enhanced.
- 2.7. Historic and artisan fisheries in particular may benefit from fishing heritage in underlining their sustainability and unique appeal in the marketplace. Government should seek to establish the value of fishing heritage in the whole supply chain as a basis for using historical associations in marketing.

### **3. Institutional arrangements for fisheries management must include express duties and capabilities with respect to the historic environment**

- 3.1. Responsibility and expertise in respect of fishing heritage must be built in to the institutional arrangements through which sustainable fishing is delivered. These already exist to a degree and there have been some very positive instances of collaboration between authorities responsible for fisheries and heritage. However, in the Government's programme for fisheries it is essential that provision is comprehensive and adequately resourced.
- 3.2. As noted above, IFCA duties with respect to the marine environment already encompass features of archaeological or historic interest by virtue of s. 186(1) of MCAA 2009. Provision is also made in IFC authorities for people with knowledge or expertise in features of archaeological or historic interest through s. 151 (8) of MCAA 2009. Equivalent statutory duties – and provision for expertise – should apply to all UK delivery bodies as we leave the EU, including the Marine Management Organisation (MMO).
- 3.3. The MMO already draws on the expertise of Historic England in respect of marine planning and licensing. Whilst the MMO should also be expected to call upon such advice when it gains its new responsibilities for fisheries management, Government must ensure that both the MMO and Historic England are able to dedicate sufficient resources to these activities. Provision should also be made for fisheries science to support decision-making with respect to the marine historic environment, through Cefas and fisheries-related survey, monitoring and research programmes.
- 3.4. The relationship between IFCA's and local authority archaeological and heritage services should be strengthened, especially in respect of initiatives relating to coastal communities, planning and place-making.

### **4. More attention should be directed to the history of fishing in fisheries science and decision-making**

- 4.1. Fishing is perhaps the oldest of all human activities at sea. Today's fishing and its prospects for the future lie on a continuum of development that stretch back millennia. The history of the relationship between people and fisheries is fundamental to ensuring a sector that is sustainable in both economic and ecological terms. Nonetheless, fishing decisions are too often taken on the basis of 'stability' a few decades ago.

4.2. In promoting sustainable fishing and protecting the marine environment, Government should seek insights from historical and archaeological investigations of past fishing activity. To support sustainability based on a greater appreciation of the time-depth of fishing, research into the history of fishing should be expanded.

**5. Partnership working with fishing communities should encourage greater use of their knowledge of past fishing activity, and prompt reporting of artefacts and sites discovered whilst fishing**

5.1. HFF welcomes the Government's support for partnership working, including with fishing organisations. Fishing communities and their organisations often have a very strong sense of their history and heritage. It is important that new arrangements for partnership working take into account fishing heritage and the role of organisations with expertise in this area.

5.2. Fishing communities are an important source of information about the history of fishing activity, and about heritage assets discovered in the course of fishing. Initiatives that seek to gain a fuller understanding of past activity by collaborating with fishing communities should be encouraged, in order to learn about fishing heritage and to inform discussions about sustainability.

5.3. Many of the UK's most significant historic shipwrecks and other artefacts have been discovered by fishermen. Some very productive, voluntary initiatives have demonstrated the potential of collaborating with fishermen to encourage their reporting of discoveries<sup>5</sup>. However, further steps should be taken to extend and embed good practice in regular fishing activities, and to remove legal impediments to comprehensive reporting of archaeological material. Specifically:

- The legal scope of obligatory reporting under the Merchant Shipping Act 1995 should be extended to encompass the entire range of historic artefacts, not just 'wreck'.
- Public authorities should be obliged to pass on information about discoveries to the relevant heritage agency.
- Better provision should be made for people who 'find' archaeological material (and leave it in place) compared with the current emphasis on 'taking possession'.

**6. Heritage data from national and local records should be readily available to fishing authorities**

6.1. Good decision-making is dependent on the availability of good data. Although there are extensive records of heritage assets in coastal areas in the UK, provision for marine records is less satisfactory. National and local fishing authorities should have direct access to data about the historic environment covering the full geographic extent of their responsibilities.

6.2. IFCA access to historic environment data should be facilitated through the Historic Environment Records (HERs) of their respective local authorities. Support should be provided to extend HERs to the six nautical mile boundary of IFCAs where this is not already the case.

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<sup>5</sup> See, for example, Fishing Industry Protocol for Archaeological Discoveries (FIPAD) – <https://fipad.org/>.

6.3. It is notable that the MMO currently has no provision for historic environment data commensurate with its obligations under MCAA 2009 s.54(4). The MMO relies on Historic England for data relating to the historic environment. However, Historic England does not yet hold comprehensive data for the offshore region of the UK Marine Area. The availability – and resourcing – of historic environment data for the full extent of the MMO’s responsibilities needs to be addressed as a matter of urgency.

## **7. Steps should be taken to reduce impacts on heritage from fishing activity**

- 7.1. Heritage assets on the seabed such as shipwrecks often attract fish (including shellfish) and, consequently, may be targeted by various forms of fishing activity. Generally, care is taken by fishing communities to avoid impacts on wrecks from fishing gear because of the risk of damage to the gear. However, fishing in proximity to wrecks can give rise to inadvertent impacts that can damage or destabilise them. Such impacts may have consequences for other interests in shipwrecks, including their importance for commemoration, recreation, nature conservation, or the risk that might arise from pollution triggered by impacts<sup>6</sup>. Research is required to better understand the value of wrecks to fishing, including sea angling, alongside these different interests.
- 7.2. Measures should be introduced to reduce impacts from fishing activity on wrecks, including making available better information about the position, extent and form of wrecks together with suitable buffers to avoid impacts that could damage gear and/or the wreck. Fishing methods that are less likely to result in impacts should be identified and encouraged.
- 7.3. In the case of significant and sensitive wreck sites, including wrecks that are designated under heritage legislation, better legal protection should be introduced to deal with incidental as well as intentional damage from fishing.
- 7.4. Legal protection should also be made to protect specific submerged prehistoric features, sites and artefacts from impacts from fishing and other activities.
- 7.5. Greater priority should be given to identifying and protecting sites and features relating to fishing heritage, including the wrecks of fishing vessels (especially wartime wrecks).
- 7.6. Wrecks and other seabed archaeological features are often snagged by Abandoned, Lost or Discarded Fishing Gear (ALDFG). ALDFG may cause problems attributable to ghost fishing, by rendering access (by divers) more hazardous, and by adding to the environmental stresses on structural material. However, the removal of ALDFG might also cause instability and prompt damage or collapse. Steps should be taken to ensure that proposals to remove ALDFG take into account the benefits and possible impacts of such removal for the historic environment.
- 7.7. Provision should be made in fisheries decision-making to ensure that investment in infrastructure and support for new technologies does not have adverse impacts on fishing heritage, including to historic buildings and waterfronts, and to vernacular vessels. Previous

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6 See HFF’s report *Managing Shipwrecks* (April 2018) for a full account of the different sectors – including commercial fishing – whose interests overlap on wreck sites – <http://honorfrostfoundation.org/wp/wp-content/uploads/2018/07/Managing-Shipwrecks-April-2018-web.pdf>

financial mechanisms caused the destruction, for example, of fishing vessels of historic interest. If actions that might adversely impact the historic environment are unavoidable, then provision should be made for mitigating or offsetting damage to heritage assets.

- 7.8. Greater integration of enforcement capabilities in the marine environment should be pursued with respect to heritage protection. There is an important opportunity to ensure that the systems introduced for dealing with illegal, unreported and unregulated fishing (IUU) through the Joint Maritime Operations Co-ordination Centre (JMOCC) are also made capable of controlling UK waters against heritage crime.

## **8. Research, technical and financial measures should apply to the marine historic environment**

- 8.1. The scope of research, technical and financial measures to protect the marine environment must also encompass the historic environment. There have been a number of projects where EU funding for the fishing sector has resulted in positive outcomes through support for fishing heritage. The UK Government should build upon this by also supporting projects that address fishing heritage.
- 8.2. Attention should be directed to the role that fishing communities can play as stewards of marine historic environment, including incentivising fishermen for provision of environmental goods relating to heritage.
- 8.3. As noted above, research is required to better understand the value of marine heritage assets such as shipwrecks to the fishing sector, including sea angling. The contribution that wreck fishing makes to the sector is likely to be considerable, but data is lacking.

In conclusion, greater appreciation of the history and heritage of fishing would make a major contribution to the character and vitality of coastal communities, to the sustainability of fisheries rooted in an understanding of past fishing practices, and to the protection of the historic dimension of the marine environment. The long history of fishing is one of the sector's great strengths, which Government should take on board in developing a future for fishing that is truly sustainable.

HFF, September 2018

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