



ST HELENA GOVERNMENT

SELECT COMMITTEE 1

REPORT TO LEGISLATIVE COUNCIL ON THE FIRST
MEETING OF SELECT COMMITTEE 1 PUBLISHED ON
12 SEPTEMBER 2023 - FISHERIES: A CROSS-
FUNCTIONAL REVIEW

Legislative Council of St Helena

Select Committee 1

Fisheries: A Cross-Functional Review

First Report of Select Committee 1, together with the formal
minutes relating to the report

Published 12th September 2023

Select Committee 1

Select Committee 1

As per the Select Committees (Establishment) Order 2022, Select Committee 1 is appointed by the Legislative Council to scrutinise sectors of Government activity. Select Committee 1 is responsible for reviewing and scrutinising (i) Health and Social Care (ii) Environment, Natural Resources and Planning and (iii) Education, Skills and Employment.

Current membership

Councillor Robert Midwinter (Chair)
Councillor Rosemary Bargo
Councillor Gillian Brooks
Councillor Ronald Coleman

Powers

The Committee is one of two Select Committees, the powers of which are set out in the Select Committees (Establishment) Order, 2022, and the Standing Orders of the Legislative Council. These are available to view on the St Helena Government <https://www.sainthelena.gov.sh/government/legislative-council/> website.

Staff

The current Secretary of the Committee is Anita Legg.

Contact Information

All correspondence should be addressed to the Secretary of Select Committee 1 at anita.legg@sainthelena.gov.sh.

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Introduction

1. In April 2023, Select Committee 1 launched its first inquiry focusing on "Fisheries – A Cross-Functional Review", namely the application of the St Helena Fish and Fish Products Ordinance, 2010, and the St Helena Fisheries Ordinance, 2021; along with subsidiary policies and processes that relate to these items of legislation. We wanted to look at fisheries as our first topic due to the high level of public interest in this issue amongst our constituents. We invited members of the public and organisations to get in touch with us to tell us their experiences of the fishing industry in St Helena, as well as their views on how applicable the Fish and Fish Products Ordinance and the Fisheries Ordinance are to current practices on the island.
2. We received written evidence from the public and information from St Helena Government (SHG) on the matter. In August 2023 we held an oral evidence session hearing from the Portfolio Directors of both Environment, Natural Resources and Planning (ENRP) and Health and Social Care (HSC) as well as the Senior Environmental Health Officer and the Marine Compliance and Enforcement Officer. We are grateful to everyone for their contribution and cooperation with our inquiry.

Report

3. Fisheries policy is governed by two ordinances, the Fish and Fish Products Ordinance 2010 and the Fisheries Ordinance 2021. The first ordinance regulates the processing, packaging, transportation and storage of fish to ensure quality control of products intended for commercial marketing locally, or for export. The latter regulates fishing with a view to manage and protect St Helena's fisheries resources. We have asked whether these ordinances are working effectively for the fishing industry as well as for local and export markets.
4. The Fish and Fish Products Ordinance 2010 states that no person can sell or export fishery products unless they were "landed at a fish landing site designated by the Authority" (Ruperts Valley and Jamestown Wharf) and "prepared, processed, packed and stored in a regulated unit". However, in July 2021, after the closure of the primary fish processing facility at Ruperts Valley for refurbishment, an interim arrangement with regards to the processes in place for local fish and fish products was announced from the Health Protection Board. The interim arrangement did not specify an end date. It said that "fishermen sell whole fish directly from the boat to the customer" but processed fish, which they defined as "any fish other than a whole fish" must be processed through the two approved fish processing units. In this notice, the Health Protection Board also advised "all customers to purchase fish that has been processed through an approved fish processing unit".
5. The Senior Environmental Health Officer explained to us that the Fish and Fish Products Ordinance was developed whilst St Helena was exporting fish to the European Union (EU) and has been amended and updated since then. In more recent years there has been more flexibility applied in relation to the application of policy to allow fishermen to sell their product locally. It was described to us that St Helena has 'two streams' of fishing: 'the local stream' and 'the export stream'. The local stream involves fishermen selling their catch on island, with or without using the processing units, and the export stream relies more heavily on the processing and storage units.
6. We heard in written evidence that there is a 'black market' for fish in St Helena. We take that to mean that fish, other than whole, are being sold without having been processed through the approved units or landed at a designated site. We heard that this practice puts the public at risk of food poisoning due to unhygienic practices, inhibits the island's ability to utilise fishing quotas and prevents the processing units from ensuring the St Helena community have access to safe, regulated and healthy food.
7. The Senior Environmental Health Officer at SHG told us in oral evidence that what is and isn't black market fish is open to interpretation – but SHG, through the interim arrangement, allowed fishermen to sell whole fish from their boat at the

landing site but whether Jamestown landing site reaches up into town needs clarifying. From the evidence presented it is unclear whether the current practice of fishermen selling fish from beyond the landing sites i.e. from their vehicles across the island is actually legal. She agreed this policy needed “some tidying up”. The Director of Health and Social Care said that it is not clear to anyone what the rules are to sell fish and fish products and the current legislation is “ambiguous”, “difficult to define” and that the Chief Medical Officer has urged for the legislation to be updated.

8. The interim arrangement for the processing of fish has left the fishing industry and the public in doubt over the legality or otherwise of selling fish that has not been processed through an approved unit now that the refurbishment works are complete.
9. *There must be clarity over whether there should be separate arrangements for local and international sales of fish products. We recommend that the interim arrangement is formally brought to an end and replaced by two policies – one for selling fish and fish products in the local market and another for the export market. Ministers should consult the public and the fish and fish processing industries throughout to form these policies, to ensure they are fit for purpose both now and in the future, thus taking account of known developments that are in progress, namely the development of a fish canning facility. The policies should be in place by September 2024.*
10. *Once the policies are in place, we recommend that the Fish and Fish Products Ordinance 2010, together with the regulations, are updated to take the new policies into account. This should be included in the government’s legislative programme for this session.*
11. The Health and Social Care (HSC) and the Environment, Natural Resources and Planning (ENRP) Portfolios both receive complaints related to the catching, processing and selling of fish. For example, ENRP reported to the Committee that they had just 7 complaints or concerns raised with them over the last two years – a summary of which can be seen in Annex 1. The Director of Health and Social Care also confirmed that every complaint raised through the portfolio, the Minister, the Police or the Health Protection Board is formally addressed and some of which are investigated. The directors of both portfolios emphasised it is difficult to address complaints in regards to the sale of fish and its legality as its challenging to establish evidence and the legislation is ambiguous as discussed above.
12. *Ministers should ensure that the Environment, Natural Resources and Planning and Health and Social Care portfolios run a public awareness campaign, so everyone is confident of what practices are compliant with the local and export policies when developed. We also recommend that the complaints policy is reviewed alongside this so the public know how to raise concerns over a non-compliance issue.*

13. We questioned the Marine Enforcement Officer on ENRP's enforcement practices if an offence is committed against the ordinances. Firstly, we heard that the current fisheries legislation allows the portfolio to perform their enforcement duties. In response to a breach, the portfolio is likely to have an informal discussion or correspondence with the fisherman; if repeated it would become a formal warning, then a penalty, prosecution and lastly the revoking of their licence. We heard that the Portfolio have not had to use the enforcement provisions in the ordinances as of yet. They are working on implementing the way in which a penalty would be collected via the Criminal Justice (Fixed Penalties) Ordinance 2020. The Director of ENRP confirmed that work is ongoing to implement fixed penalty notices for marine offences and they plan to roll this out alongside a communications campaign to provide information to fisherman and the public.
14. *We recommend that the implementation of fixed penalty notices for marine offences is introduced as planned, along with the public information campaign by the end of 2023.*
15. We questioned ENRP and HSC staff on the regularity in which boats and processing units are inspected. We learned from ENRP that Marine Enforcement will check fish at the landing sites to ensure they are allowable under the ordinance, for example, that they are not undersized, but the boats themselves need to be checked by officials from HSC if they are selling fish straight from the boat rather than into one of the processing units. The Environmental Health Officer will check the boats annually to ensure they also have a licence with health protection. In terms of the regularity of checks of premises that handle fish products, the Senior Environmental Health Officer estimated that it's between every six months to a year as well ad hoc visits if there are complaints.
16. We heard from the Senior Environmental Health Officer that there are, at the time of writing, fifteen vessels licensed to catch fish and keep it on board. The boats are inspected whenever a licence is applied for and then monitoring and further inspections are carried out annually or if anything is flagged in the portfolio sampling programme, however, the Officer noted that they "probably need to do more". The Director of ENRP highlighted that some fishermen are not aware of the powers of the Marine Enforcement Officers under the ordinances, in particular, that they are able to check fish in vehicles (for example) and not just on the vessel.
17. *We recommend that vessels licenced to sell fish commercially, and fish processing units are inspected with the same regularity in the interest of fairness and public health. We also recommend that fishing licenses include wording to alert fishermen that their boats can be inspected periodically and without notice.*
18. Throughout the oral evidence session, we observed that both portfolios struggled with resourcing, preventing the development of work within the portfolios and

- their ability to uphold their responsibilities as directed through the ordinances. For example, we heard from the Director of ENRP that although they have developed a new exploratory fishing licence, they are not able to use this offshore as effectively as they might otherwise be able to, as they don't have observer coverage services or a local vessel for exploratory purposes. This is hindering the portfolio in establishing total allowable catch limits for tuna species which in turn impacts on the island's economy.
19. The Director for HSC told us that there is only one Authorising Officer working in Environmental Health. The Authorising Officer has powers under Section 9 of the Fish and Fish Products Ordinance to examine fishery products to ensure it meets the requirements of the ordinance or otherwise dispose of it. The Director of HSC noted that they currently have a single point of failure for this role and are keen to train more staff but are conscious of their budget.
 20. Additionally, the Fisheries Ordinance 2021 specifies that there should be a statutory Chief Fisheries Officer and that they should establish and chair the Fisheries Advisory Board. At the time of writing, nearly two years after the ordinance came into force, the Director for ENRP is standing in as the statutory Chief Fisheries Officer as he told us that they haven't been able to recruit anyone into that post, preventing the establishment of the Board.
 21. Throughout our inquiry we have heard that there is a lack of resourcing in both Environment, Natural Resources and Planning as well as Health and Social Care which hinders effective monitoring and enforcement of the current ordinances.
 22. *We recommend that the Ministers for Environment, Natural Resources and Planning and Health and Social Care instruct their portfolios to investigate and identify where they are unable to deliver on their responsibilities under the Fish and Fish Products and the Fisheries Ordinances. We ask that the Ministers write to the Select Committee with their plan of action of how they will address the gaps in their portfolios ahead of the next budget cycle. We wish to note that the lack of an individual post should not be allowed to impact on the establishment of a statutory advisory board.*
 23. The Recreational Yacht Licence requires that a licensed vessel must remain 100 meters from any other vessel conducting fishing operations. We discussed this matter with the Marine Enforcement Officer as the yacht moorings in Jamestown are less than 100 meters apart. The Officer confirmed that they are not enforcing that aspect of the licence requirements and are reviewing whether to change the distance to reflect the space between the moorings.
 24. *We recommend that the licence condition for yacht moorings is changed to reflect the reality that the moorings are less than 100m apart, prior to commencement of this year's yachting season.*

25. We discussed fishing practices in closed seasons with the Director of ENRP. The closed season for spearfishing is currently between January and March each year in order to allow for certain species of ground fish to breed. We questioned the Director on whether ENRP could take a different approach as we understand spear fishing to be selective and environmentally sustainable. We heard that the portfolio is considering requests to remove pelagic species from the closed season for spear fishing.
26. *We recommend that the Minister for Environment, Natural Resources and Planning explore the ways in which pelagic species can be removed from the closed season for spear fishing. We recommend this is completed ahead of the next closed season – January 2024. This could boost tourism on the island and in turn help to grow our economy.*

Conclusions and Recommendations

The interim arrangement for the processing of fish has left the fishing industry and the public in doubt over the legality or otherwise of selling fish that has not been processed through an approved unit now that the refurbishment works are complete.

There must be clarity over whether there should be separate arrangements for local and international sales of fish products. We recommend that the interim arrangement is formally brought to an end and replaced by two policies – one for selling fish and fish products in the local market and another for the export market. Ministers should consult the public and the fish and fish processing industries throughout to form these policies to ensure they are fit for purpose both now and in the future, thus taking account of known developments that are in progress, namely the development of a fish canning facility. The policies should be in place by September 2024.

Once the policies are in place, we recommend that the Fish and Fish Products Ordinance 2010, together with the regulations, are updated to take the new policies into account. This should be included in the government's legislative programme for this session.

Ministers should ensure that the Environment, Natural Resources and Planning and Health and Social Care portfolios run a public awareness campaign, so everyone is confident of what practices are compliant with the local and export policies when developed. We also recommend that the complaints policy is reviewed alongside this so the public know how to raise concerns over a non-compliance issue.

We recommend that the implementation of fixed penalty notices for marine offences is introduced as planned, along with the public information campaign by the end of 2023.

We recommend that vessels licenced to sell fish commercially, and fish processing units are inspected with the same regularity in the interest of fairness and public health. We also recommend that fishing licenses include wording to alert fishermen that their boats can be inspected periodically and without notice.

Throughout our inquiry we have heard that there is a lack of resourcing in both Environment, Natural Resources and Planning as well as Health and Social Care which hinders effective monitoring and enforcement of the current ordinances.

We recommend that the Ministers for Environment, Natural Resources and Planning and Health and Social Care instruct their portfolios to investigate and identify where they are unable to deliver on their responsibilities under the Fish and Fish Products and the Fisheries Ordinances. We ask that the Ministers write to the Select Committee with their plan of action of how they will address the gaps in their portfolios ahead of the

next budget cycle. We wish to note that the lack of an individual post should not be allowed to impact on the establishment of a statutory advisory board.

We recommend that the licence condition for yacht moorings is changed to reflect the reality that the moorings are less than 100m apart, prior to commencement of this year's yachting season.

We recommend that the Minister for Environment, Natural Resources and Planning explore the ways in which pelagic species can be removed from the closed season for spear fishing. We recommend this is completed ahead of the next closed season – January 2024. This could boost tourism on the island and in turn help to grow our economy.

Formal Minutes

Tuesday, 12th September 2023 at the Legislative Council Office, The Castle, Jamestown

Members present:

Councillor Robert Midwinter (Chair)

Councillor Rosemary Bargo

Councillor Gillian Brooks

Councillor Ronald Coleman

Paragraphs 1 to 26 read and agreed to.

Annex 1 agreed to.

Resolved, that the Report be the First Report of Select Committee 1 to the Legislative Council.

Ordered, that the Chair make the Report to the Council.

Adjourned to a day and time to be fixed by the Chair.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the St Helena Government website.

Wednesday 9 August 2023

Mr Darren Duncan, Portfolio Director, Environment, Natural Resources and Planning

Miss Kelly Jones, Marine Compliance and Enforcement Officer, Environment, Natural Resources and Planning Portfolio

Mrs Tracy Poole-Nandy, Portfolio Director, Health and Social Care

Mrs Georgina Young, Senior Environmental Health Officer, Health and Social Care Portfolio

Annex 1: Summary of the written evidence

We received evidence from the Environment, Natural Resources and Planning (ENRP) portfolio and the Health and Social Care (HSC) portfolio after writing to them in advance of our evidence session. We also received information from members of the fish and fish processing industries.

We heard concerns about 'black market' fishing and the impact of this on the island including:

- Risk to public health due to fish kept in unclean conditions
- Uncontrolled fish waste
- Tax evasion
- Uncontrolled fishing quotas
- Under-utilization of SHG's investment in the fish processing units
- Species landed with no recorded weights

We received information from both ENRP and HSC including their internal working documents, fishing licences, enforcement processes, guidance issued from both portfolios as well as complaints they have received. Some complaints received by ENRP included:

- Fishermen using tangle nets to catch lobsters
- People fishing without a licence
- Commercial fishermen encroaching on the protected zone of spear fishing
- Excessive inspection of fishing business by ENRP
- Over-fishing

We also reviewed the Fisheries Ordinance, the Fish and Fish Products Ordinance and the public notice of the so called "interim arrangement".

All written evidence will be archived.

Legislative Council of St Helena
Select Committee 1

Through:
Anita Legg
Secretary SC 1
Central Support Service

Formal response to Select Committee 1: Cross-Functional Review in respect of Fisheries.

Dear All

The Health and Social Care directorate would like to firstly thank the committee for their detailed response and subsequence recommendations in respect of the topic reviewed.

Please see the below response and subsequence actions to the recommendations within:

1. *There must be clarity over whether there should be separate arrangements for local and international sales of fish products. We recommend that the interim arrangement is formally brought to an end and replaced by two policies – one for selling fish and fish products in the local market and another for the export market. Ministers should consult the public and the fish and fish processing industries throughout to form these policies to ensure they are fit for purpose both now and in the future, thus taking account of known developments that are in progress, namely the development of a fish canning facility. The policies should be in place by September 2024.*

The Portfolio agrees with this recommendation and the timeframe given, however recognises that any such policies must ensure the safety of the product for human consumption as its primary role.

2. Once the policies are in place, we recommend that the Fish and Fish Products Ordinance 2010, together with the regulations, are updated to take the new policies into account. This should be included in the government's legislative programme for this session.

The Portfolio agrees with this recommendation and the timeframe given, however would like to make the committee aware of external constraints which exist that are outside of its capacity (Attorney General's office) that could hinder the suggested timeline.

3. We recommend that the Ministers for Environment, Natural Resources and Planning and Health and Social Care instruct their portfolios to investigate and identify where they are unable to deliver on their responsibilities under the Fish and Fish Products and the Fisheries Ordinances. We ask that the Ministers write to the Select Committee with their plan of action of how they will address the gaps in their portfolios ahead of the

next budget cycle. We wish to note that the lack of an individual post should not be allowed to impact on the establishment of a statutory advisory board.

The Portfolio provided evidence to the committee during the live hearing that there have been business cases presented in respect of the TC program to bolster environmental health from a qualified and experienced perspective to help the senior environmental officer to up skill and train the existing cohort. This business case was not approved at the last budget allocation 2023/24.

The business case will again be submitted in conjunction with the need, which will help to underpin the findings and recommendations of the select committee.

Yours Sincerely

Martin Henry

Minster of Health and Social Care



Date: 22 September 2023

Miss Anita Legg
Secretary
Select Committee 1
The Castle
Jamestown

Dear Miss Legg

Fisheries: A Cross-Functional Review

Thank you for sharing the Cross-Functional Review report in respect of Fisheries.

It appears that in particular areas, the commentary is misleading but appreciate this may have resulted in the way that responses to questions have been interpreted. I would like to take this opportunity to respond to this report as follows:-

Point 11."The directors of both portfolios emphasised it is difficult to address complaints in regards to the sale of fish"

This is not correct as both Portfolios are not responsible for the 'sale of fish', only Health and Social Care. ENRP's challenge is responding to complaints with respect to 'fishing' as some complainants do not provide the names of fishermen that they are making a complaint about, so in such instances the complaint cannot be investigated.

Point 12."Ministers should ensure that the Environment, Natural Resources and Planning and Health and Social Care portfolios run a public awareness campaign, so everyone is confident of what practices are compliant with the local and export policies when developed....."

Recommendation should be applicable to Minister of Health and Social Care as this falls under this Portfolio only.

Point 14.*"We recommend that the implementation of fixed penalty notices for marine offences is introduced as planned, along with the public information campaign by the end of 2023"*

We are already progressing to enable this function to be in place by the 1st January 2024.

Point 17...*"We recommend that vessels licenced to sell fish commercially, and fish processing units are inspected with the same regularity in the interest of fairness and public health. We also recommend that fishing licenses include wording to alert fishermen that their boats can be inspected periodically and without notice"*.

This requirement is not appropriate to be included in a fishing licence as this is a 'fish sales' issue and not a 'fishing' issue. This recommendation should be reworded to state 'fishing vessel licences from Public Health' instead of 'fishing licenses'.

Point 18.... *"This is hindering the portfolio in establishing total allowable catch limits for tuna species which in turn impacts on the island's economy"*

Suggests to be reworded as follows to make it more concise:-

"This is hindering the Portfolio in establishing new or additional science to inform further decision-making on future total allowable catch limits for tuna species which in turn impacts on fisheries development to support the island's economy".

Point 22...*"We ask that the Ministers write to the Select Committee with their plan of action of how they will address the gaps in their portfolios ahead of the next budget cycle"*

For ENRP a lack of resources is not about budget, it is being able to secure people to post or attract private sector fisheries observer services under a contract arrangement, as has been recently advertised.

Point 24.*"We recommend that the licence condition for yacht moorings is changed to reflect the reality that the moorings are less than 100m apart, prior to commencement of this year's yachting season"*.

This has been completed with the relevant license changed and ready to be implemented when the next license for a visiting yacht is required to be issued.

Point 26.*"We recommend that the Minister for Environment, Natural Resources and Planning explore the ways in which pelagic species can be removed from the closed*

season for spear fishing. We recommend this is completed ahead of the next closed season – January 2024".

Work towards this change had been undertaken already prior to this recommendation being made and spearfishing of pelagic species will be permissible under the closed season for spearfishing; to be implemented for the new closed season from January 2024.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Christine Scipio', written over a faint dotted line.

Christine Scipio

Minister for Environment, Natural Resources and Planning



The Castle
Jamestown
St Helena Island
SAO
STHL 1ZZ
Tel: 22470

E-mail: anita.legg@sainthelena.gov.sh

Date: 9 October 2023

Minister Martin Henry
Health and Social Care Portfolio

Minister Christine Scipio
Environment, Natural Resources and Planning Portfolio

Dear Ministers,

Select Committee 1 has met in order to review your responses to the report presented in respect of the recent Cross-Functional Review of Fisheries related Ordinances, Policies and Procedures.

The Committee thanks you for your respective responses and wishes to confirm these will be laid in the House alongside the Committee's report.

The Committee is pleased to note confirmation within responses received that many of the recommendations noted during the hearing are in the process of being addressed and they therefore look forward to seeing progress in this respect.

The Committee acknowledges that within responses provided, there were areas of ambiguity and also there is a lack of clarity amongst the public in general, regarding which portfolio is responsible for the management and control of what aspects of fisheries related matters, including the powers that officials have when undertaking their respective duties, such as the ability of officers to board vessels and undertake inspections.

As such, in order to ensure that greater clarity is provided to the public, the Committee stands by recommendations made in relation to licenses, both those issued by the Environment, Natural Resources and Planning (ENRP) and Health and Social Care (HSC) Portfolios, along with collective promotional activity regarding what practices are compliant and to whom the public should be addressing concerns where appropriate.

If you require any further information or clarification please do not hesitate to contact myself as Secretary.

Yours sincerely

A R Legg

Anita Legg
Secretary
Select Committee 1

CC: Chief Minister
Chief Secretary



FAIRNESS



INTEGRITY



TRANSPARENCY

St Helena Government, St Helena Island, South Atlantic Ocean, ST HL 1ZZ

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