

Technical and Policy Commentary on the Draft Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2026

1. Purpose and status of this note

This note is submitted to assist the Rural Affairs and Islands Committee in its scrutiny of the draft *Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2026*. It provides comment and advice relating to the Cabinet Secretary's letter of 4 February 2026, with a focus on scientific coherence, evidential standards, and policy effectiveness. This note does not introduce new evidence, but interrogates the internal consistency of the justification presented.

2. Misalignment between evidence and management objective

The letter explicitly acknowledges that:

- cod productivity in the Clyde has remained relatively high;
- spawning limitation is unlikely to be the primary constraint on recovery; and
- fishing mortality has historically been excessive.

Despite this, the proposed SSI continues to be framed primarily around *protecting spawning cod* through a seasonal closure. This represents a fundamental misalignment between the diagnosed cause of stock depletion and the management response. Where mortality, rather than productivity, is the limiting factor, measures aimed at reducing spawning disturbance cannot reasonably be expected to deliver recovery.

3. Precaution and evidential standards

The justification for extending the closure relies heavily on precaution, despite repeated acknowledgements that:

- there is no direct evidence from the Clyde that fishing activity, particularly by creels, disrupts cod spawning;
- the magnitude of any fishing related disturbance relative to other natural and anthropogenic disturbances (e.g. shipping) have not been assessed;
- the hypothesis underpinning spawning-area protection has been weakened by observations of spawning cod outside the closure.

While precaution is a legitimate component of fisheries management, its application must remain proportionate and evidence-informed. In this case, precaution is invoked to sustain an existing measure whose effectiveness has not been demonstrated, rather than to target the principal, evidence-backed source of mortality. This reverses the normal logic of evidence-based policy-making.

4. Effectiveness and displacement of fishing effort

The letter suggests that retaining the closure may reduce localised fishing mortality. However, no credible mechanism is presented by which overall fishing mortality on Clyde cod would be reduced. In particular:

- Nephrops trawling effort is not removed, but displaced spatially;
- displacement risks concentrating effort elsewhere rather than alleviating pressure; and
- no stock-level reduction in mortality is demonstrated.

A demonstrable reduction in aggregate fishing mortality is absent, so claims that the SSI will help prevent further decline are not substantiated.

5. Internal inconsistency on bycatch priorities

The Strathclyde assessment, drawing on data from 1985–2019 (with gaps in some aspects of the data prior to 2002), identifies Nephrops trawl bycatch as the dominant source of fishing mortality since 2005. Nevertheless, the letter argues that management responses are contingent on improving understanding of creel bycatch, which is acknowledged to be unquantified and, at present, largely anecdotal.

This creates a material inconsistency: robust evidence identifying a primary pressure is effectively deprioritised, while uncertainty around a secondary pressure is used to delay targeted management action. Such an approach risks undermining both proportionality and the use of credible scientific evidence.

6. Data gaps and observer coverage

The letter highlights shortcomings in the evidence base, including pre-2002 gaps in discard and bycatch data, and post-2019 data required to update the assessment, yet does not adequately explain why these gaps persisted for several years. In particular:

- why data prior to 2002 remain on paper records despite requests for their recovery;
- there was no discard sampling from the Nephrops fleet between 2020 and 2023;
- sampling since 2024 has been extremely limited; and
- claims that observers cannot be deployed on creel vessels are contradicted by published evidence of observer deployment on small-scale vessels elsewhere in Scotland.

Statements that the TSP will resolve these issues are not accompanied by clear commitments on scale, coverage, or implementation.

7. Role and limits of the Targeted Science Programme

The TSP is presented as justification for extending the closure, yet the programme's stated priorities do not include a direct evaluation of the effectiveness of the closure itself. This creates a circular logic in which a measure is retained to facilitate research, while the research does not explicitly test whether the measure is warranted.

More broadly, repeated references to future consultation and forthcoming work risk substituting process for action, particularly where the best available evidence already points clearly to the main source of mortality.

8. Concluding observation

Taken as a whole, the rationale for extending the Clyde closure rests on precautionary arguments that are weakly connected to the acknowledged evidence base. The continued emphasis on spawning protection sits uneasily alongside admissions that spawning is unlikely to be the binding constraint on recovery, and that bycatch-driven mortality remains the principal issue.

In this context, the proposed SSI risks perpetuating an ineffective management approach while imposing continuing socio-economic costs on affected fishing communities. A more coherent and proportionate response would align management measures directly with the dominant, evidence-based drivers of cod mortality in the Clyde.