

**DEVON & SEVERN
INSHORE FISHERIES AND CONSERVATION AUTHORITY**

Minutes of the Byelaw and Permitting Sub Committee Meeting
held on 7th March 2016 at Larkbeare House, Exeter

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| Present: | David Rowe (Chair) | Jim Portus |
| | Mike Williams | David Morgan |
| | John May | Simon Toms |
| | John Butterwith | David Cuthbert |
| | CLlr Chris Clarence | James Marsden |
| | Richard White | Stephen Gledhill |

Also Present: Mat Mander, Neil Townsend, Laura Bullock

Apologies: Rachel Irish

1. Minutes of the last meeting held on 11th December 2015

The minutes were read through. The new addition of using page numbers on the papers aided this process.

That the minutes be approved as a true and accurate record

Proposed: John Butterwith Seconded: Richard White

All Agreed

2. Business Arising

Councillor Chris Clarence informed the group that he would have to leave the meeting early due to other commitments. IFCO Laura Bullock was welcomed to the meeting. There was nothing else to add to the agenda for this meeting.

3. Responsibilities of the IFCA's to protect Salmon and Sea Trout

Mike Williams provided a verbal report to the group. The presentation focussed on previous advice from Defra and how this advice related to relevant sections the Marine and Coastal Access Act 2009. The group felt that that it was appropriate to gain the best possible understanding of this issue and were made aware of additional meetings being arranged to potentially provide more clarity. Due to the complexity of the subject matter the group felt it was appropriate to discuss the subject again at the next meeting; however the possibility of seeking Counsel's advice was discussed as an additional step and put to the vote.

The Byelaw and Permitting Sub-committee recommend to the full Authority that in principle the IFCA seeks, from a national perspective working alongside AIFCA, Counsel's advice on the matter discussed at this meeting

Proposed: James Marsden

Seconded: Mike Williams

For (All)

4. To consider the Officers' recommendations for netting management

DCO Mander provided a verbal presentation of the recommendations paper along with multiple supporting annexes that had been circulated to members prior to the meeting.

The paper set out five separate management options for members to discuss. The consideration and agreement of management options are needed in order for the development of a new permitting byelaw to continue. The group were advised to consider the proposals in light of two key areas of the IFCA's main duties as specified in section 153 of the Marine and Coastal Access Act 2009; namely sustainable exploitation of sea fisheries resources and also seeking to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district t.

Members discussed these principles, with a view to how much emphasis to be placed on achieving balance as a driving force behind the creation of any new byelaw. Richard White was also able to clarify to the group that the IFCA has explicit responsibilities in relation to Marine Protected Areas such as MCZs.

Jim Portus reminded the group that the IFCA can't impose measures less restrictive than the EU and this could have a bearing on the pursuit of balancing the needs in relation to catches of bass. Group discussions began to focus on bass protection including coastal management, and also estuary boundary issues; however the Chair suggested that these be discussed later, preferring the group to focus on the proposals (in order) as set out in the discussion paper.

Proposal 1 The estuary proposals (netting restriction element) should be introduced

DCO Mander explained the proposal to apply new restrictions to all estuaries within the District. The proposal would be to only issue permits for those wishing to use a seine net for the capture of sand eel. No permits would be issued for the use of fixed and drift nets within the estuaries. The estuary permit would allow for other netting activities to be added in the future in line with the permit condition review process.

DCO Mander reported on the findings from the pre-consultation period in relation to the potential impacts of this proposed management measure. Collection of in depth economic data had not been achieved, but all available data indicated that commercial interests within estuaries were relatively low. Reference was also made to economic data as presented within the separate annexes, in particular landing data (MMO) for catches of bass and grey mullet and the commercial impact that would arise from this measure. It was explained by DCO Mander that whilst catches of bass and grey mullet were considered to be relatively low, this

restrictive management measure would be a route to providing a balance between the different sectors' interests. Notwithstanding the additional protection of salmon and sea trout, this measure would help manage expectations of a large number of stakeholders.

Councillor Chris Clarence felt that the proposal (as suggested in the pre-consultation) was slightly confusing as it was not mentioned that licenced nets for the capture of salmon would remain in use in some of the estuaries. DCO Mander confirmed that salmon licences were regulated by the Environment Agency and beyond the control of the IFCA; however officers accepted the need to provide a fuller explanation of the "allowable" forms of netting within estuaries in the future as this process develops.

Stephen Gledhill reminded the group of some guiding principles within the process, one being the objective to reduce illegal activity and simplify regulation. David Cuthbert stated that this measure would help identify illegal netting activity and subsequently reduce it. DCO Mander explained that officers recognised the enforcement benefits of this measure however he believed that illegal activity would be unlikely to cease completely.

David Rowe stated that he felt that the group had already agreed to the principle of this proposal in the previous meetings in 2015 and unless there was significant information to affect this, then this proposal should go to a vote.

That the proposal to ban fixed and drift netting within estuaries be adopted for byelaw development

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| <i>Proposed:</i> | <i>Mike Williams</i> | <i>Seconded:</i> | <i>Richard White</i> |
| <i>For</i> | <i>(10 members)</i> | | |
| <i>Abstain</i> | <i>(1 member)</i> | | |

Proposal 2 The estuary boundary changes (bar Plymouth Sound) should be introduced

DCO Mander explained that the boundary lines had been displayed within the pre-consultation period as agreed in the last meeting of the byelaw sub-committee, and where possible, existing Bass Nursery Area closing lines had been used. DCO Mander suggested that both the Taw Torridge and also Plymouth Sound be discussed in detail.

Plymouth Sound

DCO Mander explained the background to the initial proposal to extend the boundary line in Plymouth sound which to some degree had been established to harmonise with CIFCA who had initially suggested similar spatial control but has subsequently amended their approach. In addition to this, the likely economic impact of the potential loss of access to ray netting and a drift net herring fishery was explained to members.

The merits of not extending this boundary line were discussed by the group, with some expressing an element of concern. The lack of economic data relating to both the ray nets and the herring drift net fishery was discussed.

Simon Toms brought it to the attention of members that Plymouth Sound is designated as a Special Area of Conservation (SAC). As such it was his belief that Allis Shad were listed as a “feature” of the Plymouth Sound SAC and salmon were a feature for the River Tavy (part of the Dartmoor SAC) and the impact of netting on these species would therefore be required via a Habitat Regulation Assessment. This assessment could possibly have a bearing on management adopted and the suitability of the boundary line.

Other concerns relating to this area extended to the difficulties of implementing suitable control measures in this area as it forms the boundary between two IFC Authorities. DCO Mander reassured the members that the permitting byelaw model adopted by the D&S IFCA offered great flexibility for future management and reminded the group that section 167 of the Marine and Coastal Access Act offers opportunity for the D&SIFCA to gain greater management control in this specific area. Mike Williams suggested that discussions are arranged with CIFCA regarding this section 167 provision.

The members encouraged the collection of additional information relating to the existing netting activities within Plymouth Sound and, dependent on better establishing the economic importance of these activities, agreed with not extending this boundary. A vote was taken:

That (subject to additional evidence collection) the proposal to not extend the boundary for Plymouth Sound is adopted

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| <i>Proposed:</i> | <i>David Cuthbert</i> | <i>Seconded:</i> | <i>David Morgan</i> |
| <i>For</i> | <i>(8 members)</i> | | |
| <i>Against</i> | <i>(2 members)</i> | | |

Taw/Torridge

DCO Mander explained the background to the initial proposal which was to extend the boundary line for the Taw Torridge. In addition, DCO Mander referred to the collected information in the pre-consultation period relating to this estuary and stated that officers believed that there were six full time fishermen operating nets within this estuary with landings of bass accounting for approximately £13,000. The members asked questions on how economic data had been sourced, its content and level of accuracy. DCO Mander explained that some data had been collected from some completed questionnaires, with remaining figures extracted from MMO landing data. DCO Mander reported that whilst the MMO data offered no guarantee that the fish recorded were caught within the confines of the estuary it does show a relatively low level of activity which would be impacted by a restriction of netting in the estuary. DCO Mander added that the responses received via the questionnaires did not highlight anything to suggest that the MMO landing data were too inaccurate to provide a reasonable estimate of effort and economic value. It was reported to the group that Bideford landing data in 2015 indicated that 14 vessels accounted for £12,400 of bass and £3,800 of mullet. John May asked what process is followed by fishermen to record the landings to the IFCA. It was explained that the landing data is not supplied direct to the IFCA, but sourced from the MMO.

John Butterwith highlighted to members that there is a strong possibility that not all landings for the area would have been recorded properly. This was recognised by the members who then voted on this proposal.

That the proposal to extend the boundary for the Taw/Torridge is adopted for byelaw development

Proposed: Mike Williams Seconded: James Marsden
For (All members)

Proposal 3 The current coastal headline restrictions be retained

DCO Mander presented the officers' recommendation beginning with referencing annex report 6 (North Coast Netting) and the potential risk to some traditional netting activity in this specific area if the current byelaws were to be extended. Members began to discuss the suitability and importance of "heritage" in regards to this process. Although an effort had been made to report on areas of the Severn Estuary by production of a specific annex, the members felt that some additional reporting could be attempted by officers to evaluate activities in the area once again.

Discussions moved on to the headline element of this proposal with DCO Mander explaining the reasoning behind the officers' recommendation to retain the 3 metre restriction and why this was felt to be a precautionary and proportionate measure in light of the existing evidence.

Both John Butterwith and David Cuthbert stated they were in favour of maintaining the current management, both indicating from their knowledge that any increase in headline restriction would have a major impact on coastal commercial netters. The natural restriction of not being able to work nets in stronger spring tides was stated. The issue of lost access (lost fishing ground) was explained further by David Cuthbert who was able to explain how the current 3 metre headline restriction and the "at any state of the tide" element of this restriction does provide significant current protection to salmon and sea trout. A minimum headline clearance of 3 metres is achieved. However when also taking into account the significant rise and fall of tide on both coasts, the headline to surface clearance will already be in excess of 3 metres for the majority of the time. Any increase in the headline restriction would be, in his view, excessive.

Simon Toms raised his concerns over the current restrictions; with a strong view taken that a minimum clearance of 5 metres is needed for additional salmon and sea trout protection. He explained to the group that he was not in agreement with many aspects of the annex 5 report in the members' papers he had received. This IFCA report had set out areas of contention relating to facts presented in a previously submitted Environmental Agency Salmon paper. Simon Toms felt he was able to dispute findings in the IFCA paper and explained some of these disputed facts to other members. Due to the complexity of the issue and the resulting mixed opinions available to the sub-committee, members discussed how best to proceed.

DCO Mander reminded the members that a proportionate approach in relation to salmon protection was needed. It was explained that the current byelaw 17 which contains the 3 metre headline restriction had been in place for over 25 years. In addition to this, an IFCA commissioned PHD on bass will include a study element relating to salmon and sea trout.

Members of the group recognised the differences of opinion relating to the required protection for salmon and sea trout. Steven Gledhill stated that the apparent information deficit may not be able to be resolved sufficiently as to produce an eventual unanimous decision by the group.

Members at first suggested the creation of a separate working group to discuss the issues further, however suggestions were soon made for a joint salmon paper summary to be created (IFCA and Environment Agency) containing as much agreed (bullet pointed) factual information as possible in a maximum of a four page document. It was suggested that a meeting be arranged as soon as possible between the senior IFCA Environmental Officer Dr E. Ross and EA representatives to begin this process. This thinking by members was put to the vote by David Rowe.

That the members consider that the current information is sufficient and a well formed judgement can be made in relation to the headline restriction.

Agree (3 members)

Disagree (7 members)

In light of the vote the matter was deferred back to officers to make the necessary arrangements to create a new summary report. Within this report, at the same time as headline depth fact finding, the report should also take into account potential issues relating to the mesh size of surface nets currently derogated to be used under Byelaw 17.

Proposal 4 New control measures for recreational netters

DCO Mander presented this element of the officers' recommendation report. Several members took the view that netting should only be a commercial activity and a 100 metre allowance for recreational netting was excessive. DCO Mander was able to remind members how the IFCA has previously used permitting byelaws to separate different users and then apply different control measures specific to these different groups in an effort to seek to balance the needs of different fishers. Members asked for an insight into this activity and its popularity in areas other than those listed in the paper such as Uphill.

Members of the group referred to the officers' recommendations report and discussed specific issues such as length of nets, catch limits, mesh size and the illegal sale of fish. The fact that netting offers little control on what is caught was mentioned by David Morgan, who also explained how a recreational netting catch limit would be pointless due to discarding. Other concerns raised by the group included the view that lengths of shorter nets may be combined by multiple users. Members asked the DCO for some clarity on how the permit mechanism could be used to control the activity and DCO Mander explained how specific control

measures such as tags and a prohibition of selling any of the catch can be used. Discussions resulted in the following proposal which could be developed via additional consultation:

That recreational netting at sea should initially be restricted to a single net of 25 metres in length which must also be tagged.

Proposed: Mike Williams Seconded: James Marsden

For (All remaining members)

Proposal 5 A bycatch for crab claws caught in nets should be introduced

Several of the members of the Sub-committee asked for background into this recommendation by the Officers. DCO Mander explained the feedback obtained within the pre-consultation showed a majority in favour of the proposal, but was far from receiving total support for the introduction of this measure. Members were made aware that CIFCA currently have a bycatch provision for crab claws of 30kg. Both David Cuthbert and David Morgan were able to explain the process of claw shedding and the fact that many crabs will survive if claws are naturally shed when being removed from nets. David Morgan was interested to know if information was available that would indicate the whole live “claw on” weight that 15kg of crab claws would amount to. DCO Mander explained that this information was not currently available; however the permit mechanism could potentially incorporate a number of claws per Kg provision to avoid crab claws becoming a target species with immature crab being damaged deliberately.

Members could see the merit in providing a bycatch so a valuable resource was not wasted, however further discussions developed around the suggested 15kg quantity. Some members could see the benefit of harmonising with CIFCA and introduce a level of 30Kg. DCO Mander explained that suggested levels obtained in the supportive questionnaires had ranged between 30kg – 60kg with others suggesting no upper limit. Steven Gledhill commented that 30kg amounts to a weight in excess of a large full suitcase and would in his opinion be too generous in the initial phase. David Rowe asked the members to vote:

That a bycatch for crab claws of 30kg per calendar day be incorporated as a flexible permit into a new netting byelaw.

Proposed: John Butterwith Seconded: David Morgan

For (All remaining members)

5. **To review the terms of reference and the process to deal with changes to agreed actions**

Members agreed that it was important to review the terms of reference of the sub-committee in light of the experiences of operating the group for the last four years and the current netting review process.

Members recognised that it was important that the decision making process of the sub-committee should be as accessible and open as possible to help build confidence in the Authority's management of inshore fisheries and conservation. However it was acknowledged that the sub-committee regularly discussed personal and commercially sensitive information and benefits from members being able to express their opinions freely.

It was evident that there was concern among the members regarding a previous agreed action from the previous meeting of the sub-committee. On reflection members felt that once specific proposals had been set out it was not appropriate to invite individuals to address the sub-committee.

Members agreed that the terms of reference for the sub-committee should reflect these points by setting out that;

- The sub-committee should be a closed meeting (similar to the Finance and General Purposes Sub-committee).
- Members of the public should only be invited to address the sub-committee on general matters and not during periods of consultation on specific proposals.
- An agreed action should only be reviewed and possibly overturned at the next available meeting of the Sub-committee.
- Minutes of the sub-committee should be made available to the public but Members' names should not be recorded alongside actions that are voted upon.

6. **To consider the initial findings from the consultation with mobile gear permit**

Members were provided with a summary report prior to the meeting. DCO Mander highlighted the main findings from the recent consultation that involved contacting all of the mobile fishing gear permit holders. 142 permit holders were contacted and were asked to engage with two separate proposals relating to the use of demersal fishing gear within the district. The consultation focussed on potentially reducing the total number of scallop dredge to eight and also the potential prohibition of using multi-rig trawling gear in the district.

DCO Mander reported that 12 responses were received relating to the dredge consultation and 15 permit holders commented on the multi-rig consultation. DCO Mander explained that

in the officers' view, the lack of response would indicate that either the topics were seen as of little importance by permit holders or that permit holders failed to respond as they considered that no changes would be implemented by the IFCA even if responses were submitted.

DCO Mander set out the common themes that officers were able to establish from the limited detail provided in the responses. In regards to scallop fishing, an extension of the closed season was a more popular response rather than a reduction in the total number of dredges. In regards to the multi-rig questions, the operators of relatively smaller vessels responded by expressing concerns about weather hampering their fishing vessels and also indicating that they were suffering a negative economic impact as they are unable to compete with the more efficient gear (multi-rig vessels) fishing the same ground.

Stephen Gledhill explained that although the total numbers of responses was low, this needn't be critical to the review process, with quality of response a more important element. This observation was echoed by several members. David Cuthbert explained that many commercial fishermen do not favour written forms of consultation. Jim Portus suggested that the IFCA consider planning a meeting, or series of meetings to bring interested permit holders together and then act as a mediator in any subsequent discussions. It was suggested that these meetings may focus on the potential for implementation of a gentleman's agreement which have been used in the past in relation to this issue.

Simon Toms expressed concern that this consultation was limited to mobile permit holders only. DCO Mander was able to explain that whilst his concern was recognised, the subject matter of this consultation was such that "other" stakeholders would have limited input that could have been of benefit to the process and sub-committee discussions. Mike Williams suggested that if meetings were to be planned, then officers should prepare a response to the mobile gear permit holders to explain the purpose of the meeting and why this step is needed.

David Rowe suggested that members take a vote.

That the D&S IFCA take steps to arrange a meeting(s) between mobile gear permit holders with the potential outcome being the implementation of a voluntary code of conduct for the use of multi-rig trawls within the district.

Proposed: Mike Williams Seconded: Jim Portus

For (All remaining members)

7. Any Other Business

John May wished to discuss bass protection in more detail and the role of D&S IFCA in relation to supporting the recovery of the stock. DCO Mander commented that the recent increase in the MCRS of bass to 42cm will impact on all sectors within the D&S IFCA district; however landing data suggests that the monthly catch restriction of 1300kg per vessel would have very little if any impact on commercial fishing in the District. Analysis of the MMO landing data would suggest that most of the bass caught in the district came as a bycatch in mixed fisheries

rather than directed fisheries. The directed fisheries were accessed by rod and line and some gill netting activity. The implementation of a new IFCA netting byelaw with a closure to netting for bass within estuaries will help to protect stocks when in the earlier phase of their life cycle.

John May expressed his concerns that the current ban on the landing of bass from recreational fisheries until July 1st and thereafter a maximum of one bass per person per day for the rest of the year is not in balance with the commercial bass landings that are permissible in 2016. DCO Mander explained that the D&SIFCA could not implement measures less restrictive than EU measures, but would have some scope to implement additional restrictions on commercial users which may address this scenario and therefore better balance the needs of users.

David Cuthbert explained to the members that although the current restrictions on bass are different for different users, the needs of these different groups are different and recreational anglers have the opportunity to target different species other than bass or practice catch and release. Mike Williams expressed interest in the future introduction of a D&S IFCA angling byelaw which would support the protection of bass stocks and help balance the needs of different users.

On a different subject, Mike Williams made the members aware that he has been approached by English Heritage in relation to netting, trawling and potting on wrecks. He explained that this organisation is interested in special protection for specific wrecks and the IFCA permitting mechanism would allow for some flexible spatial control if this was appropriate. Mike Williams has advised this organisation to contact the D&S IFCA directly to continue discussions on the matter.

8. Date of the next meeting

It was agreed that officers would suggest dates for the next sub-committee via email when the further netting reports were available for consideration by the members