

# Guidance to the Marine Management Organisation (MMO)

on the appointment of committee members  
to Inshore Fisheries and Conservation  
Authorities (IFCAs)

1 April 2010

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This document is available on the Defra website:

<http://www.defra.gov.uk/foodfarm/fisheries/marine/fishman/ifca.htm>

Published by the Department for Environment, Food and Rural Affairs

Department for Environment, Food and Rural Affairs  
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17 Smith Square  
London SW1P 3JR  
Telephone 020 7238 6000  
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## Background

The Marine and Coastal Access Act 2009 ('the Act') aims to modernise the management of the entire marine environment, and as part of this on 1 April 2011, Inshore Fisheries and Conservation Authorities (IFCAs) will be established. IFCAs will be responsible for the management of inshore sea fisheries resources out to six nautical miles. The 10 new IFCAs will replace the current Sea Fisheries Committees (SFCs) and they will have a wider range of duties, including:

- Seeking to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way;
- Seeking to balance the social and economic benefits of exploiting sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation;
- Taking any other steps which in the IFCA's opinion are necessary or expedient for the purpose of making a contribution to the achievement of sustainable development;
- Seeking to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district: and
- Seeking to further the conservation objectives of Marine Conservation Zones.

Each IFCA committee will be formed of:

- Elected representatives of the constituent county and unitary local authorities (s.151(1)(a) of the Act);
- Single representatives from the Marine Management Organisation (MMO), the Environment Agency (EA) and Natural England (NE), who will each have a statutory seat (s.151(1)(c) of the Act); and
- Members acquainted with the needs and opinions of the local fishing community, and those with knowledge of, or expertise in, marine environmental matters (s151(1)(b) of the Act). These members will be appointed by the MMO, both for the vesting of IFCAs in April 2011 and in the longer term, as necessary.

The appointment procedure covered by this guidance is solely concerned with the third bullet above.

It will be vital that the members appointed by the MMO are representative of and/or hold knowledge and experience relevant to the economic, social and environmental needs of that IFCA's district and will be selected for the relevant expertise that they will bring to the Committee. Further, there is a need to ensure that there is a balance of all of the relevant interests of persons engaged in the exploitation of sea fisheries resources within the area: for example, from fishing groups (commercial and non-commercial), marine nature conservation groups and other interested parties, such as Port Authorities, estuarine interests and other marine industries.

This guidance aims to help the MMO ensure that the membership on each IFCA reflects the right level of representation, experience and knowledge across all relevant sectors.

Defra Ministers have committed that the MMO will need to apply “Nolan Principles” (see Annex A) in undertaking IFCA committee appointments. IFCAs are not non-departmental public bodies (NDPB) and, therefore, are not strictly required to follow Nolan committee appointment procedures. However, the intention is for the MMO to adhere to the principles of Nolan procedures to ensure that the IFCA committee appointments process is **clear and transparent**. This is common practice with non-NDPB committee appointments.

To emphasise this expectation, and to illustrate Defra’s expectations for achieving the right balance of IFCA committee membership, this guidance is being issued under section 38 of the Act which provides the Secretary of State with a power to provide guidance to the MMO with respect to the exercise of any of its functions. The MMO is expected to have regard to this guidance, and future versions of it, in undertaking its IFCA appointment functions.

## **Scope**

This document gives guidance on the role that Defra’s Secretary of State expects the MMO to fulfil in making appointments to the IFCA committees under s.151(1)(b) of the Act.

It is Defra’s intention that, if necessary and appropriate, this guidance document will be updated following the ‘lessons learned’ from the appointment of members to the IFCAs in 2010-2011, and issued to the MMO for their future use.

## **Nolan Principles**

In an effort to improve public confidence in appointments to public bodies, the Committee on Standards in Public Life recommended a Code of Practice to be followed, which has become the foundation of public appointments procedures (Nolan: First Report, May 1995). There are seven principles that underpin the Code of Practice – the “Nolan Principles” – and by following these, the MMO will ensure that fair, open and transparent procedures are in place for appointments to IFCAs and enhance public confidence in the process. The Nolan Principles are listed at Annex A, but the points below are those which Defra expects the MMO to take specifically into consideration with its appointment of members to IFCAs under s.151(1)(b) of the Act.

### **All appointments must be made on merit**

The MMO must ensure that all appointments are made solely on the basis of merit. Appointment on merit means appointing the best person through a

transparent and competitive process. This can be achieved by ensuring that the criteria for judging and assessing suitability can be related to the qualifications, attributes and skills required to fulfil the duties and responsibilities of the IFCA. It is important that the process should not provide an unjustifiable advantage or disadvantage to any particular applicant or group of applicants. As these are not Ministerial appointments, the MMO should define at the outset the requirements for the appointment and as such all appointments should be made in merit order.

### **Appointment processes should be in line with best practice**

Appointment processes and practices should be efficient, cost effective and in line with best practice. They should also be proportionate, i.e. appropriate given the nature of the appointment and the size and weight of its responsibilities.

### **Appointment processes must be fair and applied consistently**

The appointment process and the manner in which it is applied must be undertaken fairly and with real commitment to equality of opportunity. Selection must be based on relevant criteria applied consistently to all applicants. Selection techniques must be reliable and guard against bias.

### **Appointments must be made in an open, accountable and transparent manner**

Applicants must be given equal and reasonable access to adequate information about the appointment and its requirements. Appointment process guidelines must be clear and understandable. Open and active communication in relation to the appointment process and the basis for selection should be adopted and there should be real commitment to offering meaningful feedback to applicants who seek it.

### **Probity and standards**

The very highest standards of conduct and behaviour are expected of those appointed to IFCA's. The appointment process must ensure that applicants demonstrate their commitment to the principles and values of public life. Any private or business interests that could give rise to a conflict of interest, real or perceived, must be fully explored before any appointments are made.

## **Balance of Membership**

There was consensus during the Parliamentary processes of the Act that IFCA's should have a more balanced membership than currently exists in Sea Fisheries Committees to ensure they could fulfil the additional duties given to them through the Act, that no one sector is able to dominate the committee and that decisions taken by the IFCA's are subsequently balanced and that the desired 'culture change' from Sea Fisheries Committees to IFCA's is achieved.

Defra also want the membership of the IFCA's to represent the right balance for each individual district's economic, social and environmental needs. The needs of the individual regions will vary across the different IFCA districts, and may also vary over time, so Defra do not consider it appropriate to prescribe detailed membership proportions in this guidance note. Those decisions need to remain flexible to respond to local circumstances, and should be taken by the MMO in consultation with the IFCA itself, and with key partners in the regions.

Over time, Defra would expect the MMO to build up a complete picture of the communities in each district and tailor the committees to reflect that picture. The MMO should be active in looking at how the committee is operating and consider whether the right balance is present. The MMO can then reflect any necessary changes through future appointment rounds.

However, in broad terms, Defra would like to see a balance of membership on each IFCA committee that covers the general categories laid out in the table below, and a balance that ensures that sectoral majorities do not exist. The exact representation within each general category will vary on a district by district basis depending on the local circumstances.

Although Defra are clear that there needs to be broad representation, if there are insufficient representatives from any particular group, or applicants from groups not mentioned who demonstrate suitability, then appropriate action should be taken to ensure a situation is not created where vacancies exist on the committees.

The MMO is guided to seek to achieve the broad principles laid out above, but must remain flexible as these principles may need adjusting depending on the applications received through the appointment process. Any adjustments should be made to ensure that the principles laid out above are met as far as is possible.

<b>General Category</b>	<b>Example sectors that could be included within category (but not limited to)</b>
Commercial fishing interests	<ul style="list-style-type: none"> <li>• mobile gear finfish (e.g. trawling, netting);</li> <li>• mobile gear shellfish (e.g. dredging);</li> <li>• static gear finfish (e.g. lines and nets);</li> <li>• static gear shellfish (e.g. traps and pots);</li> <li>• other (e.g. aquaculture, bait diggers)</li> </ul>
Recreational fishing interest	<ul style="list-style-type: none"> <li>• recreational sea fish angling;</li> <li>• charter industry;</li> <li>• holders of limited permits;</li> <li>• other (e.g. bait diggers)</li> </ul>
Marine Environmental Interests	<ul style="list-style-type: none"> <li>• Interests in designated conservation sites (e.g. MCZs, SACs, SPAs, SSSIs)</li> <li>• Special wildlife interests (e.g. bird or sea mammal groups);</li> <li>• underwater archaeological and historic environment interests;</li> </ul>
Other	<ul style="list-style-type: none"> <li>• coastal process (e.g. flood and coastal erosion risk);</li> <li>• independent local marine science (e.g. conservation, fisheries, social science)</li> <li>• access to the coast;</li> <li>• estuarine interests;</li> <li>• maritime related organisations (e.g. Harbour Masters, RNLI, Maritime and Coastguard Agency);</li> <li>• leisure and yachting interests;</li> <li>• subaqua or commercial diving interests;</li> <li>• other marine industries (e.g. offshore renewable, marine aggregates; tourism).</li> </ul>



## **Annex A - THE CODE OF PRACTICE FOR PUBLIC APPOINTMENTS**

### **(“NOLAN PRINCIPLES”)**

The Code of Practice covers all ministerial appointments to the boards of executive and advisory non-departmental public bodies, public corporations and nationalised industries. The MMO rather than the Defra Ministers is responsible for appointments to IFCA, so technically are not covered by the code, but will do so following the Principles of the Code.

#### **The Principles**

These are the seven principles that underpin the Code of Practice. They come directly from recommendations by the Committee on Standards in Public Life (Nolan: First Report, May 1995) and are the foundations of the public appointments process and are designed to ensure appointment on merit and a quality outcome.

#### **Ministerial Responsibility**

The ultimate responsibility for appointment is with Ministers.

#### **Merit**

All public appointments should be governed by the overriding principle of selection based on merit, by the well-informed choice of individuals who through their abilities, experience and qualities match the need of the public body in question.

#### **Independent scrutiny**

No appointment will take place without first being scrutinised by an independent panel or by a group including membership independent of the department filling the post.

#### **Equal opportunities**

Departments should sustain programmes to deliver equal opportunities principles.

#### **Probity**

Board members of public bodies must be committed to the principles and values of public service and perform their duties with integrity.

#### **Openness and transparency**

The principles of open government must be applied to the appointments process, its working must be transparent and information provided about the appointments made.

#### **Proportionality**

The appointments procedures need to be subject to the principle of proportionality, that is they should be appropriate for the nature of the post and the size and weight of its responsibilities.