



# **Poole Harbour Dredge Permit Byelaw**

## **Access Policy**

**2019**

## **1. Poole Harbour Dredge Permit Access Policy**

- 1.1 The following policy for the administration of permit entitlements for the Poole Harbour Dredge Permit Byelaw ("the Byelaw") replaces the Poole Harbour Dredge Permit Access Policy that was adopted by the Authority at their meeting on 9<sup>th</sup> June 2016.
- 1.2 This policy was adopted by the Authority at their meeting on 21<sup>st</sup> March 2019.
- 1.3 The purpose of this policy is to enable the Authority to fulfil its obligations under s. 153(2) of the Marine and Coastal Access Act 2009 to:
- i. Seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way
  - ii. Seek to balance the social and economic benefits of exploiting the 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.
  - iii. Seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.

The Authority believes that it will fulfil those obligations by:

- i. Granting the maximum number of permits, consistent with its periodic review under paragraph 11 of the Poole Harbour Dredge Permit byelaw, to applicants who meet the criteria for holding a permit set out in this policy
- ii. Stating with clarity its procedure and criteria for the annual consideration of applicants for permits
- iii. Setting out its procedure for changing this policy in future years

## **2. Access criteria for permit entitlements where the applicant has held a permit during the previous season**

- 2.1 Permit entitlements will be offered to those who satisfy the criteria set out in section 2.2 up to the maximum number of entitlements for that season, determined by the Authority in consideration of an annual Habitats Regulations Assessment and outcomes of the annual stock survey. If the total number offered is less than the maximum number determined, permit entitlements will be offered to applicants under section 3, so that the number offered to both categories of applicants in total is the same as the maximum number determined.
- 2.2 To be eligible for consideration for a permit entitlement, as an applicant who has held a permit during the previous season, the applicant must demonstrate to the satisfaction of the Authority that:
- i. They were the holder of a dredge permit under the byelaw for the preceding season to that for which the application is made; *and*

- ii. They had paid for the dredge permit for the preceding season to that for which the application is made by the 31<sup>st</sup> March; *and*
- iii. They had used the dredge permit during the preceding season for which the application is made. 'Use' shall be defined by the submission of the 'Poole Harbour Dredge Permit Monthly Catch Return Form' during the preceding season for which the application is made, as required under section 2 of the Poole Harbour Dredge Permit, indicating that fishing activity had been carried out for a minimum of 3 months by the applicant on the vessel for which the application is made. Submitted catch returns indicating 'nil' for a month will not contribute to this definition of use.

2.3 Lack of use of a permit due to exceptional circumstances may be considered by the Authority whose decision will be final. Exceptional circumstances might include but are not limited to:

- i. Medical condition of permit holder; *or*
- ii. Total loss of vessel

### **3. Access criteria for new entrants**

3.1 For a particular season, should the number of permit entitlements offered to applicants who have held a permit during the previous season be less than the maximum number of permit entitlements available, as determined by the Authority, then permit entitlements will be offered to new entrant applicants according to the criteria and process outlined as follows.

3.2 A 'new entrant' is defined as an applicant who is not able to meet the access criteria for permit entitlements under section 2 of this Policy.

3.3 To be eligible for consideration for a permit entitlement as a new entrant, the applicant must establish, to the satisfaction of the Authority, that:

- i. They have a history of fishing for shellfish within the Southern IFCA district (as defined in Articles 2 and 3 of the Southern Inshore Fisheries and Conservation Order 2010 (SI 2010 No 2198)) or within the former Sea Fisheries district (as defined in The Sea Fisheries Regulation Act 1966) where the shellfish was landed into the port of Poole.

The applicant must be able to establish this, to the satisfaction of the Authority, by providing documentation which can include, but is not limited to:

- a. An official landings document;
- b. A certified letter from the master of the vessel on which the applicant acted as crew verifying the applicant's status as crew, accompanied by official landings documents for the period where the applicant acted as crew;
- c. Shellfish movement document;

*and:*

- ii. They hold all relevant certifications in line with the requirements under the Maritime and Coastguard Agency Marine Guidance Note 411, sections 2.1.2 and 2.1.3, these certifications are:
  - 1 day Basic Sea Survival
  - 1 day Basic Fire Fighting and Prevention
  - 1 day Basic First Aid; *and*
  - 1 day Basic Health and Safety

3.4 For the purposes of this Policy, the term 'Shellfish' refers to shellfish species as defined in the Marine and Coastal Access Act 2009 as 'crustaceans and molluscs of any kind'.

#### **4. Issuing of a Permit**

4.1 Prior to the issue of a permit entitlement under sections 2 or 3 of this policy, the applicant must demonstrate, to the satisfaction of the Authority, that:

- i. They hold the majority of shares in the named relevant fishing vessel (as defined in the byelaw) for which the application is made as recorded on the vessel's certificate of registry; *or*
- ii. That they have been nominated in writing for that purpose by the shareholder(s), as recorded on the vessel's certificate of registry, who holds a majority of shares in the named relevant fishing vessel and that they themselves are a shareholder, as recorded on the vessel's certificate of registry.

#### **5. Procedure for application for a permit entitlement under section 2 of this Policy**

5.1 The procedure for application for a permit entitlement outlined in this section applies to those applicants who have held a permit during the previous season to that for which the application is made.

5.2 Applications for a permit entitlement should be made using the Poole Harbour Dredge Permit Application Form.

5.3 Completed application forms should be sent to the office of the Southern IFCA at Unit 3, Holes Bay Park, Sterte Avenue West, Poole, Dorset, BH15 2AA.

5.4 Completed application forms should be received no later than 14 days after the final day of the preceding season (31<sup>st</sup> March). Application forms received after this date will not be considered.

- 5.5 If the appropriate criteria for a permit entitlement under sections 2.2 and 4.1 are met through applications and any associated evidence submitted then the Authority may choose to award a permit entitlement without the need for an interview.
- 5.6 It shall be at the discretion of the Authority if an applicant requires an interview based on an assessment of the application submitted.
- 5.7 In the event that an interview is required, the interview will be carried out by the Permit Interview Sub-Committee who will meet as necessary to interview an applicant(s) prior to the award of a permit entitlement(s), in order to decide whether the applicant(s) meets the criteria for the grant of a permit entitlement.
- 5.8 The Permit Interview Sub-Committee will make recommendations to the Southern IFCA Technical Advisory Committee as to whether an applicant(s) who has been interviewed meets the criteria for the grant of a permit entitlement.
- 5.9 The Permit Interview Sub-Committee will consider any applications made to the Authority for an entitlement to use a vessel different to that named on their permit based on the procedure and criteria outlined in section 7.

**6. Procedure for application for a permit entitlement under section 3 of this policy**

- 6.1 The procedure for application for a permit entitlement outlined in this section applies to those applicants who are new entrants to the fishery.
- 6.2 Applicants wishing to apply as a new entrant must submit their application using the Poole Harbour Dredge Permit Application Form.
- 6.3 Completed application forms should be sent to the office of the Southern IFCA at Unit 3, Holes Bay Park, Sterte Avenue West, Poole, Dorset, BH15 2AA.
- 6.4 There will be a two-week period for application during the months of April or May 2019. The period for application will be duly advertised on the Southern IFCA website and by way of a notice placed at an appropriate site in the vicinity of Poole Quay.
- 6.5 Any applications received during the application period, as defined in section 6.4, where the applicant is able to demonstrate, to the satisfaction of the Authority, that they meet the criteria for new entrants set out under section 3 and the criteria for the issuing of a permit under section 4 of this Policy will be entered into a ballot.

- 6.6 Should the number of permits for the 2019-20 season offered to applicants who have held a permit during the previous season be less than the total number of permits available then the Technical Advisory Committee will draw an applicant(s) from those entered into the ballot at their meeting on 2<sup>nd</sup> May 2019 up to the total number of permits available.
- 6.7 Following the issue of any permit(s) for the 2019-20 season under section 6.6, applicants will be drawn from the ballot up to a maximum of 10. These applicants will be entered onto the Poole Harbour Dredge Permit Waiting List in the order in which they are drawn from the ballot.
- 6.8 For each year after the 2019-20 season, if the number of permit entitlements offered to applicants who have held a permit during the previous season is less than the total number available then a permit entitlement will be offered to an applicant(s) in the order that they appear on the Poole Harbour Dredge Permit Waiting List up to the maximum number of permit entitlements available that year.
- 6.9 The maximum number of permit entitlements available for a given year will be agreed by the Authority, having regard to the outcomes of an annual Habitats Regulations Assessment and an annual stock assessment.
- 6.10 At the point at which an applicant on the Poole Harbour Dredge Permit Waiting List is offered a permit entitlement the applicant must be able to demonstrate, to the satisfaction of the Authority, that they are able to meet the criteria outlined in sections 3 and 4 of this Policy.
- 6.11 At the point an applicant on the Poole Harbour Dredge Permit Waiting List is offered a permit entitlement, if that applicant is unable, for any reason, to take up the offer they may request to remain at the top of the Waiting List until a second offer of a permit entitlement is made. If, on the second offer of a permit entitlement, the applicant either refuses the offer, or is unable to meet the criteria outlined in sections 3 and 4 of this Policy, the applicant will be removed from the Waiting List.
- 6.12 At the point at which there are no applicants remaining on the Poole Harbour Dredge Permit Waiting List consideration will be given to reviewing the Poole Harbour Dredge Permit Access Policy.
- 6.13 It shall be at the discretion of the Authority if an applicant under section 3 of this Policy requires an interview, based on an assessment of the application submitted.
- 6.14 In the event that an interview is required, the interview will be carried out by the Permit Interview Sub-Committee who will meet as necessary to interview an applicant(s) prior to the award of a permit entitlement(s), in order to decide whether the applicant(s) meets the criteria for the grant of a permit entitlement.
- 6.15 The Permit Interview Sub-Committee will make recommendations to the Southern IFCA Technical Advisory Committee as to whether an applicant(s)

who has been interviewed meets the criteria for the grant of a permit entitlement.

## **7. Change of vessel**

7.1 A permit is not transferable from the permit holder to another person or from the named vessel to another vessel.

7.2 A permit entitlement holder may apply to the Authority for an entitlement to use a vessel different to that named on their permit, provided that:

- i. the engine power of the new vessel in kw is equal to or less than the vessel that is being replaced; or
- ii. there are exceptional circumstances.

7.3 The Authority reserves the right not to award a new permit for an application made under section 7.2 having regards to the duties of the Authority.

7.4 Should the Authority approve the use of a different vessel by a permit entitlement holder, the existing permit will be cancelled a new permit will awarded for the named vessel upon application and payment of a fee of £50.

## **8. Appeals Procedure**

8.1 Any person who is dissatisfied with any decision made by the Authority with respect to the issuing of a permit is to have the following right of appeal:

8.2 In writing or in person either alone or accompanied by a legal adviser or friend to an Appeals and Scrutiny Sub-Committee. The Appeals and Scrutiny Sub-Committee will consist of 3 Members of the Authority who:

- i. are not Members of the Permit Interview Sub-Committee;
- ii. do not have any direct interest in the relevant fishery; and
- iii. did not take part in any discussion or vote on any relevant recommendations of the Permit Interview Sub-Committee.

8.3 An appeal will only be heard if a request is received, in writing, within 28 days of written confirmation of an Authority decision.

8.4 For any appeal the Authority and the appellant will each be responsible for their own costs.

## **9. Review of the Access Policy**

- 9.1 At any time the Authority may decide to review the suitability of the Access Policy.
- 9.2 In reviewing the Access Policy and deciding on any changes to be made, the Authority will have regard to:
- i. The Authority's duties and obligations under sections 153 and 154 of the Marine and Coastal Access Act 2009
  - ii. Any available legal advice
- 9.3 Stakeholders will be notified of any outcomes of the review.

### **Explanatory Note (not part of Policy)**

*The purpose of this policy is to enable the Authority to fulfil its obligations under s. 153(2) of the Marine and Coastal Access Act 2009 and to further the purpose of the Poole Harbour Dredge Permit byelaw in supporting the development of sustainable shellfish fisheries in Poole Harbour.*

*The process and criteria outlined in this Policy have been developed to maintain the socio-economic link between the fishery and those participating in it. The ability to meet the criteria for new entrants, to the satisfaction of the Authority, allows for a balance between the socio-economic benefits offered by the fishery and the applicant's ability to actively engage with the fishery. The requirement for an applicant to provide official documentation of historic fishing activity therefore ensures that the economic link between the applicant and the fishery can be verified.*

*The ability to limit the number of applicants on the Poole Harbour Dredge Permit Waiting List allows applicants to have a reasonable expectation of being offered a permit entitlement within a foreseeable period of time.*