

Title: Southern IFCA ‘Marine Protected Area Regulatory Notice’ Byelaw IA No: Southern IFCA 010 Lead department or agency: Southern Inshore Fisheries and Conservation Authority (IFCA) Other departments or agencies: Natural England	Impact Assessment (IA)	
	Date: 16/02/2016	
	Stage: Consultation	
	Source of intervention: Domestic	
	Type of measure: Secondary Legislation	
Contact for enquiries:		
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Summary: Intervention and Options		RPC Opinion: N/A

Cost of Preferred (or more likely) Option					
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as	
N/A	£ N/A	NA	No	NA	

What is the problem under consideration? Why is government intervention necessary?

Under Article 6 of the EU Habitats Directive¹, within European Marine Sites including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), fisheries regulators are required to ensure that fisheries do not damage, disturb or have an adverse effect on the wildlife or habitats for which the site is legally protected. The Conservation of Habitats and Species Regulations 2010² requires that the IFCA exercise its functions, which are relevant to marine conservation, so as to secure compliance with the requirements of the Habitats Directive. Under Section 154 of the Marine and Coastal Access Act, 2009³ the Authority must seek to ensure that the conservation objectives of any Marine Conservation Zone (MCZ) in the District are furthered.

The subject of this IA is the proposed introduction of a Southern IFCA ‘Marine Protected Area Regulatory Notice’ byelaw. The proposed byelaw will enable the Authority to flexibly manage fishing activities in order to meet the conservation needs of the District’s Marine Protected Areas. The proposed byelaw will in part fulfil Southern IFCA’s duties under the Marine and Coastal Access Act, 2009 and as the relevant and competent authority for the purposes of the Habitats Regulations 1994 as amended.

What are the policy objectives and the intended effects?

1. To introduce a single coherent byelaw to manage the exploitation of sea fisheries resources within the District’s Marine Protected Areas.
2. To further the conservation objectives of District’s Marine Protected Areas.
3. To develop a flexible and adaptive approach to the management of fishing activities within Marine Protected Areas, recognising an evolving evidence base and greater community engagement.

What policy options have been considered, including any alternatives to regulation? Please

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31992L0043&from=EN>

² <http://www.legislation.gov.uk/uksi/2010/490/contents/made>

³ <http://www.legislation.gov.uk/ukpga/2009/23/contents>

justify preferred option (further details in Evidence Base)

- 0. Do nothing.
- 1. Create a Southern IFCA 'Marine Protected Area Regulatory Notice' byelaw.
- 2. Create individual Marine Protected Area byelaws.
- 3. Voluntary measures.
- 4. MMO management measure.

The preferred option is OPTION 1. A 'Marine Protected Area Regulatory Notice' byelaw would enable the Authority to introduce regulatory notices for the management of fishing activities within or adjacent to Marine Protected Areas, following a process defined in the byelaw. This is the most effective approach for Southern IFCA to meet their objectives under the Habitats Directive and Birds Directive, the Conservation of Habitats and Species Regulations 2010 and the Marine and Coastal Access Act 2009. This approach will allow Southern IFCA to flexibly manage fishing activities and refine measures as the evidence base improves. Under this approach existing Marine Protected Area byelaws will, in time, be replaced as regulatory notices and any necessary new measures will be introduced, enabling a more coherent approach to the management of Marine Protected Areas within the District. IFCAs are the lead fisheries management authority in inshore waters.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 1st January 2023

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	

I have read the impact assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Chair: _____ Date: _____

Summary: Analysis & Evidence Policy Option

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV) (£m))		
			Low: Optional	High: Optional	Best Estimate: £3,000
N/A	N/A	N/A			

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excluding transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£3,000	Optional	£3,000

Description and scale of key monetised costs by 'main affected groups'

It is estimated that the administrative cost incurred by Southern IFCA in introducing the recommended byelaw will be approximately £3,000. This is discussed further in section 6. It is anticipated that there will be no additional monetised costs as a direct consequence of the proposed byelaw. Any regulatory notices introduced under the proposed byelaw will be accompanied by individual impact assessments.

Other key non-monetised costs by 'main affected groups'

No non-monetised costs are anticipated as a result of introducing the proposed byelaw.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0	£1,500	£7,500

Description and scale of key monetised benefits by 'main affected groups'

It is anticipated that the introduction of management through regulatory notices, rather than stand-alone byelaws, will represent a minimum saving of £1,500 per regulatory notice. No additional monetised benefits are anticipated as a consequence of the proposed byelaw. Any regulatory notices introduced under the proposed byelaw will be accompanied by individual impact assessments.

Other key non-monetised benefits by 'main affected groups'

It is anticipated that there may be non-monetised environmental benefits as a direct consequence of the proposed byelaw; these are discussed further in section 6.

Key assumptions/sensitivities/risks	Discount rate (%)	
It is assumed that any management introduced under a regulatory notice will help to achieve the conservation objectives of a Marine Protected Area.		

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	N/A

Evidence Base (for summary sheets)

1. Introduction
2. Rationale for intervention
3. Policy objectives and intended effects
4. Background
5. The options
6. Analysis of costs and benefits
 - Costs
 - Analysis of administrative costs
 - Benefits
 - Analysis of environmental benefits
 - Analysis of administrative benefits
 - One In Two Out (OITO)
 - Small firms impact test and competition assessment
7. Conclusion

Evidence base

1. Introduction

- 1.1 The nationally agreed vision of the IFCAs is that they will *“lead, champion and manage a sustainable marine environment and inshore fisheries within their Districts by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry”*.
- 1.2 Section 154 of the Marine and Coastal Access Act, 2009 (MaCAA) requires that for the management of inshore fisheries:-
- (1) The authority for an IFC district must seek to ensure that the conservation objectives of any MCZ in the district are furthered.
 - (2) Nothing in section 153(2) is to affect the performance of the duty imposed by this section.
 - (3) In this section—
 - (a) “MCZ” means a marine conservation zone designated by an order under section 116;
 - (b) the reference to the conservation objectives of an MCZ is a reference to the conservation objectives stated for the MCZ under section 117(2)(b).
- 1.3 Under article 6(2) of the EU Habitats Directive and Birds Directive *“Member States shall take appropriate steps to avoid... the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive”*.
- 1.4 The Conservation of Habitats and Species Regulations 2010 requires that the IFCA exercise its functions, which are relevant to marine conservation so as to secure compliance with the requirements of the Habitats Directive.
- 1.5 Section 153 of the Marine and Coastal Access Act, 2009 (MaCAA) requires that for the management of inshore fisheries:-
- (1) The authority for an IFC district must manage the exploitation of sea fisheries resources in that district.
 - (2) In performing its duty under subsection (1), the authority for an IFC district must:
 - (a) Seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way,
 - (b) 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,
 - (c) Take any other steps which in the authority's opinion are necessary or expedient for the purpose of making a contribution to the achievement of sustainable development, and
 - (d) Seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.

2. Rationale for intervention

- 2.1 Southern IFCA has a duty to ensure that appropriate measures for the management of the exploitation of sea fisheries resources are implemented to further the conservation objectives of Marine Protected Areas (MPAs). Implementing the proposed byelaw and the consequent introduction of regulatory notices will help to ensure that the District's marine environment is suitably protected.

2.2 Fishing activities can potentially cause negative outcomes as a result of 'market failures'. These failures can be described as:

- Public goods and services – A number of goods and services provided by the marine environment such as biological diversity are 'public goods' (no-one can be excluded from benefiting from them, but use of the goods does not diminish the goods being available to others). The characteristics of public goods, being available to all but belonging to no-one, mean that individuals do not necessarily have an incentive to voluntarily ensure the continued existence of these goods which can lead to under-protection/provision.
- Negative externalities – Negative externalities occur when the cost of damage to the marine environment is not fully borne by the users causing the damage. In many cases no monetary value is attached to the goods and services provided by the marine environment and this can lead to more damage occurring than would occur if the users had to pay the price of damage. Even for those marine harvestable goods that are traded (such as wild fish), market prices often do not reflect the full economic cost of the exploitation or of any damage caused to the environment by that exploitation.
- Common goods - A number of goods and services provided by the marine environment such as populations of wild fish are 'common goods' (no-one can be excluded from benefiting from those goods however consumption of the goods *does* diminish that available to others). The characteristics of common goods (being available but belonging to no-one, and of a diminishing quantity), mean that individuals do not necessarily have an individual economic incentive to ensure the long term existence of these goods which can lead, in fisheries terms, to potential overfishing. Furthermore, it is in the interest of each individual to catch as much as possible as quickly as possible so that competitors do not take all the benefits. This can lead to an inefficient amount of effort and unsustainable exploitation.

2.3 IFCA byelaws aim to redress these sources of market failure in the marine environment through the following ways:

- Management measures, introduced through regulatory notices, to meet the conservation objectives of Marine Protected Areas will ensure negative externalities are reduced or suitably mitigated.
- Management measures will support continued existence of public goods in the marine environment, for example conserving the range of biodiversity in of the Southern IFCA District.
- Management measures will also support continued existence of common goods in the marine environment, for example ensuring the long term sustainability of fish stocks in the IFCA District.

3. Policy objectives and intended effects

3.1 The policy objective pertinent to this byelaw is to introduce a single coherent byelaw to manage fishing activities within and adjacent to the District's Marine Protected Areas for the purposes of furthering the conservation objectives of Marine Protected Areas and for the coherent management of the sites. The proposed byelaw will provide a mechanism for the introduction of specific measures, through the issue of regulatory notices, in accordance with the procedure set out in the byelaw.

3.2 The Authority currently has three stand-alone byelaws (the 'Bottom towed fishing gear' byelaw⁴, the 'Prohibition of gathering (sea fisheries resources) in seagrass beds' byelaw⁵ and the 'Fishing under

⁴ <http://www.southern-ifca.gov.uk/byelaws#BotTowedFishGear>

⁵ [http://www.southern-ifca.gov.uk/byelaws#Prohibitionofgathering\(seafisheriesresources\)inSeagrassBeds](http://www.southern-ifca.gov.uk/byelaws#Prohibitionofgathering(seafisheriesresources)inSeagrassBeds)

mechanical power – closed area’ byelaw⁶) relating to the management of fishing activities within Marine Protected Areas and it is anticipated that this number could increase as the Authority further considers the impacts of fishing activities upon Marine Protected Area features. It is anticipated that these existing measures will be reviewed and, in time, transferred to regulatory notices under the proposed byelaw, thus clarifying and simplifying management for site users.

- 3.3 Southern IFCA has a duty to manage the exploitation of sea fisheries resources in order to further the conservation objectives of the District’s Marine Protected Areas. The Authority has committed to reviewing the impacts of commercial fishing activities upon European Marine Site (EMS) features by the end of 2016. The Authority has similar plans to review the impacts of recreational fishing within EMSs and all fishing activities within Marine Conservation Zones (MCZs). Where it is determined that fishing activities do not meet Marine Protected Area conservation objectives, additional management will need to be introduced. It is anticipated that any additional management may be introduced through individual regulatory notices under the proposed byelaw.
- 3.4 A regulatory notice may contain management measures including spatial and temporal closures and fishing gear construction and restrictions. When designing management the Authority’s primary objective shall be to further the conservation objectives of a marine protected area. Where this may be achieved through more than one approach, the Authority may regard any scientific and survey data, any feedback from those affected and any socio-economic considerations in order to maximise the sustainable exploitation of the District’s fisheries.
- 3.5 Through having the ability to flexibly manage fishing activities under the proposed byelaw, the Authority will be able to refine regulatory notices and associated management, using the approach described in the byelaw, as new and improved evidence becomes available. This evidence may include the expansion of a habitat such as seagrass beds or the improved knowledge of the location and extent of a feature such as bedrock reef. The Authority and its partners are committed to improving their knowledge of the impacts of various methods of fishing and over time additional evidence may be developed to better inform management. Natural England, the Government’s statutory nature conservation advisors, is in the process of updating the conservation advice packages for some of the District’s Marine Protected Areas. This advice forms the basis of the Authority’s assessments and as new advice becomes available it may be necessary to refine management.
- 3.6 This flexible and adaptive approach would represent a cost and time saving in comparison to the introduction of management through stand-alone byelaws. This cost saving is quantified in section 6 of this impact assessment.

4. Background

- 4.1 Current Marine Protected Area designations within the Southern IFCA District cover a total area of approximately 1,639.92km², representing approximately 60.51% of the inshore waters of Dorset, Hampshire and the Isle of Wight.
- 4.2 Within the Southern IFCA District there are currently three MCZs⁷ designated under the Marine and Coastal Access Act 2009. These sites are: Poole Rocks MCZ, Chesil Beach and Stennis Ledges MCZ and The Needles MCZ. In addition to these sites a further seven sites within the Southern IFCA District will be considered in a third tranche as a recommendation from the regional project steering groups. These sites are South of Portland, Broad Bench to Kimmeridge Bay, Studland Bay, Norris to Ryde, Bembridge, Yarmouth to Cowes and Fareham Creek.

⁶ <http://www.southern-ifca.gov.uk/byelaws#Fishing-Under-Mechanical-Power-Closed-Area>

⁷ <http://www.southern-ifca.gov.uk/marine-conservation-zones>

- 4.3 In addition to these MCZs there are eleven designated EMSs within the Southern IFCA District⁸. The following sites have been designated under the European Habitats Directive: Lyme Bay and Torbay Site of Community Importance (SCI), Studland to Portland SCI, Chesil and the Fleet Special Area of Conservation (SAC), South Wight SAC, Solent Maritime SAC and Solent and Isle of Wight Lagoons SAC. In addition the following sites have been designated under the European Birds Directive: Chesil Beach and the Fleet Special Protection Area (SPA), Poole Harbour SPA, Solent and Southampton Water SPA, Chichester and Langstone Harbours SPA and Portsmouth Harbour SPA. In addition to these sites an additional Solent and Dorset Coast SPA is currently being considered, together with a potential extension to the Poole Harbour SPA.
- 4.4 The Authority will reviewing the impacts of commercial fishing activities within each of these Marine Protected Areas and where it is determined that fishing activities do not meet the sites' conservation objectives, additional management may be introduced.

5. The options

5.1 **Option 0: Do nothing**

- 5.1.1 Under this option no additional management will be introduced for fishing activities within the District's Marine Protected Areas and it is therefore likely that the conservation objectives of the District's Marine Protected Areas would not be met. Should this happen it is likely that Southern IFCA would not meet their duties under the Marine and Coastal Access Act, 2009, the Conservation of Habitats and Species Regulations, 2010, and the European Habitats and Birds Directives.

5.2 **RECOMMENDED OPTION**

Option 1: Create a Southern IFCA 'Marine Protected Area Regulatory Notices' byelaw

- 5.2.1 Under this approach a byelaw will be created that enables the Southern IFC Authority to flexibly introduce regulatory notices for the purposes of furthering the conservation objectives of a marine protected area and for the coherent management of the site. Regulatory notices may contain management measures relating to catch restrictions and reporting, gear types, carriage and stowage of fishing gear, gear construction and restrictions, spatial and temporal restrictions and the use of specified equipment. Any regulatory notice must be reviewed at least once every three years.
- 5.2.2 In order to issue or amend any regulatory notice the Authority will consult with people affected to present available data and discuss options before making a decision with regard to information including to any available scientific and survey data, any statutory advice given by Natural England and an impact assessment.
- 5.2.3 As discussed, this approach will allow Southern IFCA to flexibly manage fishing activities and refine measures as the evidence base improves. Under this approach existing Marine Protected Area byelaws will, in time, be replaced as regulatory notices and any necessary new measures will be introduced, enabling a more coherent approach to the management of Marine Protected Areas within the District. This is approach will enable Southern IFCA to meet their objectives under the Habitats Directive and Birds Directive, the Conservation of Habitats and Species Regulations 2010 and the Marine and Coastal Access Act 2009.

5.3 **Option 2: Create individual Marine Protected Area byelaws**

- 5.3.1 Under this approach the Authority would create individual byelaws to manage fishing activities within Marine Protected Areas. The Authority is following a phased-based, risk-prioritised approach to the assessment of fishing impacts within Marine Protected Areas. Under this approach management will be introduced as and when it is found to be necessary thus ensuring that site conservation objectives are fully met. As discussed, there are currently fourteen Marine Protected Areas within

⁸ <http://www.southern-ifca.gov.uk/european-marine-sites>

the Southern IFCA District, with the potential for further designations. Under this approach it is feasible that a single Marine Protected Area would have multiple byelaws relating to the management of differing fishing activities. An existing example of this is the byelaw for the spatial closure of bottom towed fishing gears over areas of seagrass within Poole Harbour SPA and a separate byelaw for the spatial closure for the gathering of sea fisheries resources over the same seagrass beds within Poole Harbour.

5.3.2 The minimum administrative cost associated with the introduction of a single byelaw is in the region of £3,000. This includes officer time associated with the development of the byelaw, legal costs, advertisement of the byelaw and consultation. The average introductory period for a byelaw, from the initial development to Secretary of State Confirmation, is in the region of 12 to 18 months.

5.3.2 This approach would enable Southern IFCA to meet their conservation responsibilities, however management would be more expensive to develop and take longer to introduce, and thus placing the designated features at an unnecessary risk to damage.

5.4 **Option 3: Voluntary measures**

5.4.1 Due to the total area and environmental value of the District's Marine Protected Areas, it is believed that a voluntary agreement would pose too greater risk to the integrity of the environmental designations.

5.5 **Option 4: MMO management measure – permanent byelaw or fishing licence condition**

5.5.1 IFCA's have been established as the lead regulator for the sustainable management of inshore fisheries. As such, the SIFCA is the most appropriate authority to implement, manage and enforce fisheries management measures within 6 nautical miles.

6. **Analysis of costs and benefits**

6.1 **Costs for the recommended option**

6.1.1 The introduction of the proposed 'Marine Protected Area Regulatory Notice' byelaw to enable the Southern IFC Authority to flexibly introduce regulatory notices for the purposes of furthering the conservation objectives of a marine protected area and for the coherent management of the site may result in the following cost:

- An administrative cost associated with the introduction of the byelaw.

6.1.2 It is anticipated that the introduction of the proposed byelaw will have no direct effect on the local community. Any management measures introduced by Authority under a regulatory notice will be accompanied by a separate impact assessment.

6.2 **Analysis of administrative costs**

6.2.1 At this juncture only a rough estimate the administrative costs of this process can be made. It is estimated that the administrative cost of introducing the proposed byelaw, including officers' time associated with developing the byelaw and the costs associated with advertising the new byelaw will be approximately £3,000.

6.3 **Benefits for the recommended option**

6.3.1 The introduction of the proposed 'Marine Protected Area Regulatory Notice' byelaw to enable the Southern IFC Authority to flexibly introduce regulatory notices for the purposes of furthering the conservation objectives of a marine protected area and for the coherent management of the site may result in the following benefits:

- A potential increase in the sustainability of the marine environment
- A potential reduction in the costs associated with the introduction of management measures
- A greater use of data and knowledge through flexible management of the District's fisheries

6.3.2 Potential benefits to the sustainability of the marine environment and a greater use of data and knowledge are difficult to value and are therefore described here as non-monetised costs.

6.4 **Analysis of environmental benefits**

6.4.1 It is anticipated that the ability to flexibly manage fishing activities within Marine Protected Areas will enable the Authority to make a greater use of data and knowledge to design and refine management measures, increasing their ability to be effective. It is believed that the process outlined in the proposed byelaw for the issue or amendment of regulatory notices will reduce the average time and cost associated with the development and introduction of management measures, whilst ensuring the correct level of public consultation and use of data. This will enable the Authority to reduce any damage caused by fishing activities to protected features.

6.5 **Analysis of administrative benefits**

6.5.1 The minimum cost associated with the introduction of a single byelaw is £3,000. This cost can be significantly higher, in the region of £25,000 if the management measures introduced and the area managed are complex. It is anticipated that introduction of management measures through regulatory notices under the proposed byelaw, rather than through individual byelaws, will represent a minimum saving of approximately £1,500 per regulatory notice. It is estimated that in the first five years following the introduction of the proposed byelaw there will be in the region of five new issues or amendments to regulatory notices, saving a minimum of £7,500.

6.6 **One In Two Out (OITO)**

6.6.1 OITO is not applicable for byelaws implemented for Marine Protected Area management as they are local government byelaws introducing local regulation and therefore not subject to central government processes.

6.7 **Small firms impact test and competition assessment**

6.7.1 No firms are exempt from this byelaw as it applies to all firms who use the area, it does not have a disproportionate impact on small firms. It also has no impact on competition as it applies equally to all businesses that utilise the area.

7. **Conclusion**

7.1 A total of three Marine Conservation Zones and eleven European Marine Sites exist in the Southern IFCA District. There is the potential for additional sites to be designated. Southern IFCA has a duty to manage the exploitation of sea fisheries resources in order to further the conservation objectives of the District's Marine Protected Areas. Southern IFCA is committed to a process of reviewing the impacts of fishing activities within the District's Marine Protected Areas. In some cases additional management may be necessary to further the conservation objectives of a Marine Protected Area.

7.2 The proposed byelaw will enable the Southern IFC Authority to flexibly introduce regulatory notices for the purposes of furthering the conservation objectives of a marine protected area and for the coherent management of the site. Regulatory notices may contain a range of management measures and must be reviewed at least once every three years. Following a procedure outlined in the byelaw, the Authority will consult with affected users and make use of available evidence when issuing or amending a regulatory notice. Individual regulatory notices will be accompanied by a separate impact assessment.

- 7.3 It is anticipated that under the proposed byelaw Marine Protected Area byelaws will, in time, be replaced as regulatory notices and any necessary new measures will be introduced, enabling a more coherent approach to the management of Marine Protected Areas within the District.
- 7.4 It is anticipated that, besides administrative costs, there will be no monetised or non-monetised costs to the local community. There is the potential for non-monetised environmental benefits as a result of the proposed byelaw and it is anticipated that it will lead to a monetised saving in the region of £7,500 over five years.

Recommended option: *Creation of a Southern IFCA 'Marine Protected Area Regulatory Notices' byelaw*