

**NWIFCA Technical, Science and Byelaw
Sub-Committee**

2nd February 2016: 10:00 a.m.

**AGENDA
ITEM NO.**

6

COCKLE AND MUSSEL BYELAW REVIEW

Purpose of Report: To present first draft byelaw for technical discussion.

Recommendations

- 1. Comment on draft byelaw and approve general principles;**
- 2. Approve consultation proposals;**
- 3. Approve further development of the byelaw taking account of comments from stakeholders, partners and MMO;**
- 4. Approve make the byelaw by the Authority at March meeting subject to completion of consultations.**

Update

1. An outline proposal for this byelaw was approved for further development at the December 2015 meeting. The main suggested changes to Byelaw 3 are:
 1. To extend the provision for commercial areas to reduce the enforcement loophole that 5kg of cockles or mussels can be collected for personal use without a permit;
 2. Introduction of a regulation and permit scheme for shellfish buyers in the District to provide increased traceability, monitoring the exploitation of TACs and giving a level of more efficient and retrospective enforcement of unpermitted gathering of cockle and mussels. ;
 3. Removal of vessel safety requirements from the byelaw.
2. The draft byelaw at Annex A has sent to MMO and Officers for consultation.
3. Marine and Coastguard Agency has been consulted on dropping vessel regulations from a NWIFCA byelaw because this Authority does not have explicit powers to enforce vessel safety regulations.
4. MMO have given an initial positive and constructive response in paragraph 5. Further comments from legal specialists are awaited. The only concern so far is that the charging regime for buyer permits may be queried.
5. Comments from Nick Greenwood (MMO IFCA Byelaw advisor)... *we can provide a view on the overall scope as well as more mundane drafting comments if that would be helpful at this stage? The providing drafting comments probably wouldn't take much more time, as I will need to check with our lawyers about the scope anyway. A very initial view on the scope is that it is ambitious, and regulation of sellers is a novel approach, as we have already discussed. However the scope appears to be in line with IFCA powers. The major issue I would raise initially is the charging structure for the trading permits, which currently look more like a system of taxation. Permit fees can only be levied to recover the costs of administering and enforcing a permit scheme, so evidence for the fee levels will be need to be provided in the IA.*

Next stages

6. Comments from TSB are invited and amendments will be made as required after the meeting.
7. An informal consultation with industry and stakeholders will be undertaken
8. Subject to comments received and a positive response from MMO byelaw legal advisors, the byelaw will be made by NWIFCA at the March meeting.
9. If the above timescale is met, a formal consultation will be run after the March meeting so that the byelaw can be in force in time for the possibility of opening cockle fisheries in the District in September 2016.

CEO and HEO
25th January 2016