

<b>Title:</b> <b>North Western Inshore Fisheries and Conservation Authority Byelaw 3: Management of cockle and mussel fisheries</b>  <b>Lead department or agency:</b> NWIFCA <b>Other departments or agencies:</b> MMO, Natural England	<b>Impact Assessment (IA)</b>
	<b>IA No:</b>
	<b>Date:</b> 01/06/2012
	<b>Stage:</b> Development/Options
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
<b>Contact for enquiries:</b>	

## Summary: Intervention and Options

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

Cockle and mussel fisheries in North Western England are regulated under IFCA byelaws. These fisheries are unpredictable and may appear at various times and in different areas of the District according to breeding cycles and environmental conditions. Fisheries tend to be overexploited causing damage to environmental features and disturbance to coastal communities. Various controls on fishing effort are required and have been developed in NWSFC, CSFC and EA over decades. This bylaw makes use of the new IFCA powers provided in the Marine Act 2009. It amends, updates and consolidates all the previous regulations presently in force replacing several inherited byelaws.

### What are the policy objectives and the intended effects?

I.) To manage cockle and mussel fisheries in the NW IFCA district; II.) Ensure shellfish poachers and non-permit holders are excluded from the commercial sector of the industry; III.) Reduce the risk of overfishing and promote sustainable exploitation of shellfish stocks; IV.) Promote safe fishing methods in the shellfish industry in the District; V.) Reduce the impact of cockle and mussel fishing on coastal communities in the District. VI.) Implement a single comprehensive regulatory framework for the commercial shellfish industry across the NWIFCA District. VII.) Recover a significant proportion of the management costs of the commercial shellfish sector to improve the fisheries management. VIII.) To make use of the modernised powers granted to IFCA for an effective management system.

### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1: Retain the SFC and EA byelaws. (do nothing) This option fails to meet the Defra objective for IFCA of reviewing all inherited byelaws and fails to make use of the new IFCA powers to manage fisheries. Option 2: Review inherited byelaws one by one. This option would be less efficient and more time consuming and would not meet the Government objective of reducing or simplifying regulations. Option 3: Use voluntary agreements to manage shellfisheries. This option would be unenforceable and therefore not deliver effective regulation in this highly competitive industry. Statutory measures are essential to reduce illegal fishing and create incentives for fishers to operate sustainably. Option 4, recommended option: Introduce a new consolidating and enhancing byelaw to build on present experience and develop a single regulatory system for cockles and mussels including a permitting scheme. This is the only option which would achieve all the IFCA, Defra and industry objectives to properly regulate the industry.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 03/2015

**What is the basis for this review?** Duty to review. **If applicable, set sunset clause date:** 08/2013

**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Yes

### **SELECT SIGNATORY Sign-off** For consultation stage Impact Assessments:

*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 Minister: \_\_\_\_\_

Date: \_\_\_\_\_

# Summary: Analysis and Evidence

# Policy Option 1

Description:

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

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

At present all costs of the fishery are paid for from public funds via the NWIFCA budget. Under this byelaw, NWIFCA will recover management and administration costs of the fishery by charging £500 for permits. Assuming 500 permits this would bring in £250,000 per year which equals 20% of the NWIFCA annual budget. This is a reasonable reflection of the costs of these fisheries to the NWIFCA. Fishers currently obtain the fish and the management of the fishery free of charge.

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

There are no new non-monetised costs to the fishing industry or the NWIFCA.

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			

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

Improved enforcement to better regulate the fisheries with more enforcement staff. Reduction in other agencies and local police forces involvement with a better regulated fishery. To improve the longevity and sustainability of the fishery for gatherers who are fishermen and reliant upon these fisheries as a part of their income.

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

The industry and the NWIFCA benefits from a more structured legally run industry. Prevention of high cost illegal fishing which reflects poorly on the NWIFCA. Consolidated regime across newly incorporated district which spans 3 previous legal districts provides efficiency and makes for a more cohesive IFCA. Improved public relations with coastal communities which are affected by large numbers of gatherers.

**Key assumptions/sensitivities/risks**

The byelaw can be effectively enforced.  
 Fisheries will continue to be available.  
 Fishers will see their interests to be in purchasing a permit

Discount rate (%)

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	Yes/No	IN/OUT

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?		Other			
From what date will the policy be implemented?		01/07/2012			
Which organisation(s) will enforce the policy?		NWIFCA and partner bodies			
What is the annual change in enforcement cost (£m)?		£0m			
Does enforcement comply with Hampton principles?		Yes			
Does implementation go beyond minimum EU requirements?		No			
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		Traded: 0		Non-traded: 0	
Does the proposal have an impact on competition?		No			
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?		Costs: n/a		Benefits: n/a	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties<sup>1</sup></b> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	No	
Small firms <a href="#">Small Firms Impact Test guidance</a>	No	
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	
Justice system <a href="#">Justice Impact Test guidance</a>	No	
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

# Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

## References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	
2	
3	
4	

+ Add another row

## Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>										
<b>Annual recurring cost</b>										
<b>Total annual costs</b>										
<b>Transition benefits</b>	N/A									
<b>Annual recurring benefits</b>	N/A									
<b>Total annual benefits</b>	N/A									

\* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office  
Excel Worksheet

# Evidence Base (for summary sheets)

## Problem under consideration;

This byelaw addresses a number of objectives of the NWIFCA.

1. The NWIFCA has inherited legacy byelaws from NWSFC, CSFC and EA for cockles and mussels covering fishing methods, minimum landing size (“mls”), seasonal and management closures and permit schemes. These many byelaws need to be amalgamated into one workable byelaw that covers the entire district.

2. Cockle fisheries in the District need more effective regulation and management. The fisheries on the Wirral in 2010-11 and in the Ribble Estuary in 2011 showed that the NWIFCA had neither the resources nor the powers to adequately manage these fisheries. The large number of fishermen without permits attracted by the possible financial gains overwhelmed fishery officers. The provision for a 5kg non-commercial catch created an enforcement loophole by allowing non permit holders onto the beds.

3. In the Ribble in 2011, the use of large numbers (over 100 on some days) of small boats to access the fishery created an unsafe working environment. Many boats were ill equipped and users unqualified. They attempted to work in adverse weather and in darkness, resulting in dangerous use of poorly equipped inflatable and other unsuitable vessels to transport the catch to shore and a number of calls were made to the coastguard. Health and safety of gatherers must be improved and measures must be incorporated into this byelaw.

In NW England the Byelaw review is more urgent and must be more extensive because the NWIFCA has inherited 3 sets of shellfish byelaws from the NWSFC, CSFC and EA. These byelaws are inconsistent and have created an over complex regulatory framework which makes enforcement difficult and costly and requires simplification.

## • Rationale for intervention;

Current management mechanisms for cockle fisheries in the NWIFCA District (NW England) are unsatisfactory. The fisheries cannot be sustainably managed with adequate protection for conservation features or coastal communities. Stronger measures are required and the Marine Act 2009 provides IFCA with powers to enhance management. This byelaw attempts to make use of these powers. In particular, the cockle and mussel fisheries in the NWIFCA District can frequently cause a significant social impact which can have knock on economic and environmental consequences. The irregular and unpredictable nature of cockle and mussel stocks also creates a strong incentive at certain times for overfishing and illegal fishing which exacerbate the social, economic and environmental impacts.

## • Policy objective;

To strengthen byelaw measures to:

- I.) manage cockle and mussel fisheries in the NW IFCA district;
- II.) Exclude shellfish poachers and non-permit holders from the commercial sector of the industry;
- III.) Reduce the risk of overfishing and promote sustainable exploitation of shellfish stocks;
- IV.) Promote safe fishing methods in the shellfish industry in the District;
- V.) Reduce the impact of cockle and mussel fishing on coastal communities in the District.
- VI.) Implement a single comprehensive regulatory framework for the commercial shellfish industry across the NWIFCA District.
- VII.) Recover a significant proportion of the management costs of the commercial shellfish sector to improve the fisheries management.
- VIII.) make use of the modernised powers granted to IFCA for an effective management system

## Description of options considered (including do nothing);

1. Do nothing. Continue with legacy byelaws without change. This option is to simply leave the current byelaws in place and continue to enforce them.

2. Repeal all byelaws and establish voluntary measures. This would involve no longer using mandatory control of cockle and mussel fisheries in the NWIFCA district and instead attempt to gain industry cooperation in adhering to certain voluntary standards.

3. Gradually update existing byelaws one by one. This would mean going through the current byelaws relating to cockle and mussel regulation and updating them into a new regime one at a time and then adding further new byelaws to reflect any enforcement needs which they do not address.

### Recommended Option

4. Develop a comprehensive byelaw covering all previous elements of the legacy shellfish byelaws and introduce a comprehensive regime of new regulatory measures to address the current and foreseeable enforcement needs of the cockle and mussel fisheries in the NWIFCA district. Some now inappropriate measures would be removed. Minimum landing sizes would be standardised across the district. The byelaw will allow for the creation of new “commercial” fishery areas in which only commercial fishing is allowed to operate. Designated commercial areas in which all fishers are deemed to be part of the commercial sector and where all fishers would therefore require a permit, would overcome the serious loophole of the current permit scheme which allows anyone claiming to be fishing non-commercially to gather up to 5kg of shellfish for their own use. Thus these areas would facilitate effective and clear regulation and enforcement of the commercial sector which is the major challenge facing the NWIFCA.

The new byelaw will provide clear guidance on permitted fishing equipment in order to increase the sustainable exploitation of the fishery. Minimum safety standards on the use of small boats to transport fishers and or shellfish will be imposed, in response to safety challenges in cockle and mussel fisheries identified in the Ribble Fishery in 2011. The new permit scheme will create a distinction between fishermen and support workers. This element is required to address the challenge of new business practices where the shellfish merchants want to establish a collection and transport infrastructure on the beach. The byelaw will provide for a fee to be levied for the issue of permits to cover shellfish management costs of the NWIFCA and fund more effective enforcement of the byelaws in the district. The byelaw should further limit the number of new permits available which is a key policy objective of the NWIFCA. It will require holders to demonstrate that fishing income is declared in their accounts as a means of showing they are professional fishers. This last element is a particular demand of the shellfish industry which considers that it has been too easy for inexperienced and non-professionals to get permits and contribute to the social and environmental problems caused by the industry over the last decade in many areas within and beyond the NWIFCA District.

#### **Costs and benefits of each option (including administrative burden);**

The evidence base for the cost benefit analysis of each of these options comes from the wide experience and scientific study of the NWIFCA officers and data collected by the NWIFCA. Significant consultation with local stakeholder interests has occurred and the expertise of the NWIFCA members has been used to identify potential benefits and costs of the proposals. Empirical data includes the following permit and catch data for the last 5 years:

#### **Permits Issued for Cockle and Mussel fishing under NWSFC byelaw 5**

<b>Year</b>	<b>Number of Permits</b>
2007/08	518
2008/09	467
2009/10	412
2010/11	421
2011/12	451

#### **Cockle Landings and value**

<b>Year</b>	<b>Morecambe Bay (tns)</b>	<b>Wirral (tns)</b>	<b>Ribble (tns)</b>	<b>Total Value (£600 per tn)</b>
2007	2000	N/A	N/A	£1200000
2008	200	N/A	N/A	£120000
2009	Closed	N/A	N/A	£0
2010	Closed	2000	N/A	£1200000
2011	Closed	1000	6000	£4200000

#### 1. Do Nothing

The benefit to doing nothing is the certainty and stability it provides. In this case however, to do nothing

would be in breach of the high level objectives set by DEFRA for IFCA, which includes the review and updating of all legacy byelaws over a 5-year period. This is particularly necessary in the case of the NWIFCA as the legacy byelaws relate to 3 different previous Authorities: the North Western Sea Fisheries Committee, the Cumbrian Sea Fisheries and part of the Dee Estuary which was under the direct control of the Environment agency. There is a significant efficiency cost in maintaining all of these various byelaws, which have effect in different regions of the NWIFCA. This cost is hard to quantify. This is true both for the fishing industry, which must keep aware of all of these separate rules, and for administration and enforcement, which must put in place specialist systems for each regulatory regime. In the case of cockles and mussels the present regulatory regime is also unsatisfactory in terms of its effectiveness. The powers available by maintaining byelaws have been shown from the wide experience of fishery officers in the District, to be ineffective as a deterrent to illegal activity. The irregular but large and valuable blooms in the stocks of cockles and mussels had a tendency to attract large numbers of casual or unskilled fishermen who were less likely to obey the byelaws and to keep catches to a sustainable level. This would also have a negative impact and consequential cost for coastal communities due to a large influx of itinerant workers, often using heavy farm machinery and quad bikes to transport catches. A further problem with maintaining the current regime is created by recent safety concerns which have emerged due to the use of small and unsuitable boats to access cockle fisheries. In a 2 month period in 2011 the coastguard had to be called 25 times, creating a high social and administrative cost. Therefore, maintaining the current regulatory regime would have substantial likely costs in enforcement difficulties, unsustainable fishing and other social impacts.

## 2. Repeal All Byelaws and Establish Voluntary Measures

The benefit of this could be a substantial saving in administration and enforcement costs if the voluntary schemes were successful. In addition there is theoretically a potential for substantial intangible benefit in stakeholder involvement in self-regulation. There are potential efficiency benefits for the fishing business in being able to set their own minimum standards. However, there is strong reason to suggest that a voluntary scheme would not be successful in cockle and mussel fisheries. The problem of casual, irregular and itinerant shellfish fishermen has already been identified. The NWIFCA considers that attempts to include them in a voluntary regime would have doubtful chances of success. There is also a potential administrative cost in identifying and involving all the relevant parties. There is a very substantial risk of high costs associated with non-compliance with a voluntary regime. It is likely that this option would lead to a high level of dissatisfaction in the industry with the NWIFCA and accusations of failure to properly manage the industry. There are possible economic costs created by potential damage or even exhaustion of the fisheries, which would also have an enormous but unquantifiable cost in terms of the environment and diversity. In addition, such an outcome would be inconsistent with the NWIFCA's statutory duty to manage the fishery. Additional intangible costs would be created by the health and safety and social damage caused by non-compliance with a voluntary regime.

Industry views on a voluntary approach have been clearly expressed by members at NWIFCA meetings. The industry wants a strong legal regulatory and enforcement regime to create equality of opportunity and risk for all fishers.

## 3. Update Existing Byelaws One by One

In the long run this option would yield no obvious benefits but would lead to greater costs and risks. The same or likely larger administrative effort would need to be expended in order to complete a comprehensive review and consolidation. Piecemeal updating creates a greater risk of contradiction and error and will create ongoing regulatory uncertainty. Individual updating creates a greater burden on business in view of lesser certainty and difficulty in keeping updated on the regulation. This option also does not ensure that the byelaws which need updating to respond to new regulatory challenges are updated in a timely fashion and so increases the risk of regulatory failure and non-compliance.

## **Recommended Option**

### 4. Consolidate Existing Regulation into Comprehensive Byelaw

This option requires a certain administrative cost in drafting and preparation but it is not expected to impose any greater administrative cost in enforcement than is already expended enforcing the current byelaws. This work is now largely completed. In addition, the new statutory power to charge a fee will

raise in the region of £200,000 per year (proposed £500 fee x approximately 400 permits issued) which would cover between 50% and 80% of enforcement costs for the cockle and mussel fisheries. None of the other proposed changes will have any effect on administrative costs as any new checks of equipment or vessels and the administration of the changes to the permit scheme can be incorporated into the ordinary routine of the NWIFCA officers. A single regulatory system will also be easier and clearer for enforcement and therefore reduce the administrative costs.

The fishing industry will see any direct costs created by the creation of a fee easily offset and exceeded by the benefits of the consolidated byelaw. The £200,000 in fees would have accounted for less than 5% of the value of cockle landings alone in 2011, not to mention the hundreds of thousands of pounds generated by seed mussel fishing. The discretion of the NWIFCA to reduce the fee where the commercial fishery is low yield or closed entirely ensures the fee will not become a burden in less profitable years. The standardisation of mussel minimum landing sizes to the existing standard of 45mm now in force throughout the UK except in the Dee Estuary will make available a quantity of mussel in the Dee Estuary which it was not previously legal to fish. No negative environmental effect of this fishery is anticipated. The imposition of a fee, creation of commercial fishery areas and changes to the permit scheme will all promote certainty in enforcement, with corresponding reduction of administrative burden on industry. In addition the creation of commercial areas and support worker permits directly close legal loopholes which were widely exploited by the industry and effectively encouraged illegal fishing. Such fishing will be more easily prevented resulting in potential significant financial benefits for the legal fishing industry. The minimum safety standards for fishing vessels do not go beyond, and are in fact less onerous, than generally required by law for fishing vessels and so will not impose any extra direct cost on operators of genuine fishing vessels. The safety impact of the byelaw will be substantial in preventing the casual use of unsuitable craft by inexperienced pilots. New measures mandating more sustainable fishing methods and equipment such as the use of a rigid riddle and the prohibition of all but a specified list of hand tools will help ensure that undersize cockles and mussels are not illegally fished promoting the good future management of the fisheries. This along with the reduction in numbers of new permits will increase the sustainability of the cockle and mussel stocks which can fluctuate wildly from year to year, partially due to overfishing. This new, more responsible, management regime will create benefits to industry in stabilising stocks to ensure continuity of yield and financial certainty.

The consolidated byelaw will have significant environmental benefits in promoting more sustainable exploitation of the fisheries and minimising the environmental impact of the fishing methods used and by limiting the number of fishermen operating within a small area. The social effect of the fisheries on local communities will also be reduced as the numbers of fishermen are brought down to more manageable levels and the enforcement of legal obligations and safety standards improves. The enforcement and administrative efficiencies of the new consolidated byelaw will also make available greater resources for scientific study to promote more efficient fishing and better understanding of stock management. This will contribute to better and more cost effective regulation in the future.

None of the measures which are simply transposed from existing byelaws such as the minimum landing sizes and closed season for cockles are expected to have any new impacts which require discussion in this paper.

## • **Risks and Assumptions**

It is assumed that there will continue to be viable cockle and mussel fisheries within the NWIFCA district from time to time. In the past stocks have fluctuated widely in known shellfish beds throughout the NWIFCA District. The population dynamics of cockles and mussels and the controlling factors in the environment of the Eastern Irish Sea are not well understood. The NWIFCA is continuing to collect scientific data and undertake research to resolve this gap in knowledge. In future developments in scientific knowledge and understanding of the behaviour and ecology of these shellfish may show that the terms of the byelaws may have to be changed.

It is assumed the number of individuals wishing to fish in this lucrative industry will remain higher than the sustainable level although the impact on applicants of introducing the new byelaw including the provision for charging is difficult to predict. In the past with no charge for permits by the NWSFC and a requirement to maintain track record, a high number of permits were issued even in years when there has been little or no available fishery. If the situation changes it may be that a more inclusive approach may be needed as regards fisherman numbers and fishing methods in the future if the fishery stock ever begins to exceed gathering capability. There is a risk that in attempting to create

clearer and consolidated enforcement that more non-compliance will be identified and the administrative burden will increase in the short term, however, better regulation should provide a stronger deterrent effect for the future. The evolving and variable nature of the fisheries do from time to time create new safety or enforcement risks and there may be difficulties in responding rapidly to new challenges in the byelaw regime. Emergency measures may have to be taken from time to time while changes are made.

- **Wider Impacts**

The changes proposed in this consolidated byelaw should create benefits for local council management coast guard services and other regulatory authorities. The safety issues addressed should result in a reduced burden on search and rescue and the reduced number of fishermen should lead to less social impact that must be tackled by local authorities.

- **Summary and Preferred Option including implementation**

#### Preferred Option

*For the regulation of the mussel and cockle fisheries across the NWIFCA to be managed under a permit scheme, which will allow a clear differentiation between those gathering, for personal consumption and those who are gathering commercially. There is a further subdivision between those who are actively gathering cockles commercially and those who are there in a supportive role as drivers or loaders.*

*The scheme for 'support worker permits' is an innovation of the NWIFCA to respond to a particular quirk of the cockling industry. It has become the practice of large shellfish buyers in the region to beach large fishing vessels on cockle beds in order to weigh and buy the catches of the fishermen on the bed as they fish. This often includes sending workers round on quad bikes to collect the sacks of cockles prepared by the fishermen for sale. The way the NWIFCA has framed this byelaw, all of these activities would ordinarily require a cockle fishing permit. Clearly this would be too restrictive given the limited number of fishing permits available to new workers. These permits DO NOT AND CANNOT grant the right to engage in the primary fishing activities. Any action to gather, sort or containerise cockles or mussels prior to them being placed in a sack or container ready for sale by a fisherman will be an offence if the individual holds only a support work license. Although designed to accommodate the specific practices of the large buyers of cockles the regime is open to mussel fisheries should any similar practice be adopted, and to any organisation trading in cockles or mussels of any size, so as not to inhibit market access to smaller businesses. A maximum of 6 support worker permits will be issued to any single organisation. It is a legal requirement that any individual engaging in any of the activities detailed above holds a support worker or fishing permit.*

*Individuals wishing to gather for personal consumption can gather less than 5kg of cockles and 5kg of mussels per day can do so without a permit. They must still comply with minimum size and hand fishing requirements. They are also not permitted to fish in any cockle or mussel bed which is closed to fishing.*

*To commercially gather cockles or mussels or a quantity greater than that for personal consumption a 'Full Gathering Permit' will be required, issued under this byelaw and following the application procedures. Written permission may be applied for and authorised by the NWIFCA to fish without a permit for scientific, management stocking or breeding purposes. To be able to use a boat as part of the gathering of cockles or mussels full gathering permit holders will have to gain an endorsement to do so by production of evidence of certain training courses.*

*The Byelaw clearly defines the terms 'fishery' and 'gathering' to help reduce the risk that an individual is able to claim that an activity they are caught performing without permission, which although necessary to gather shellfish, does not constitute fishing. It will also be an offence under this byelaw if a person does not have a permit and is found with fishing equipment used or designed to fish for cockles and mussels, in a situation where it is clear they are intending to fish even before you have actually done so. Equally where they are returning from a fishing trip and are found to have a catch of cockles and mussels but no permit they would be prosecuted under this byelaw.*

*There is a set minimum size for cockles and mussels across the district which is - a cockle which will pass through a gauge having a square opening of 20mm measured across each side of the square or any mussel less than 45mm in length. The method of fishing must be by hand using only the specified equipment. This is to help reduce damage to the stock and its habitat. No mechanical gear can be used*

*to fish for cockles or mussels, the hand gathering process is traditional, effective and more sustainable, having less environmental impact. Byelaw states the use of a RIGID RIDDLE. Some fishermen have in the past used nets to wash and sort but the NWIFCA has found these are far less effective in sorting sized from undersized and consequently has found it necessary to introduce a rigid riddle requirement.*

*NWIFCA will designate certain areas of its District as areas primarily devoted to commercial fishing. It will be a prosecutable offence to engage in any fishing or related activities in one of these areas without a permit and the 5kg exception will not apply.*

*There will be a regularly seasonal closure of cockle fisheries from 1st May to 31<sup>st</sup> August every year during which time it will be illegal to fish for cockles.*

*All full gathering permit holders will be required to report on fishing effort and catches on a monthly basis to allow for monitoring of stock and allowing for a more effective management. Failure to do so, full gathering permit holders may have their permits suspended.*

## **Permit Scheme Administration**

### **Initial Year**

*The expectation is for the Byelaw to come into force in September 2012 and has the following transitional arrangements in place to replace the existing permit scheme. To gain a Full Gathering Permit which authorises a person to gather cockles and mussels and carry out all related activities, such as moving them and transporting them, Holders of byelaw 5 will automatically be entitled for renewal of that permit under this byelaw 3 for the year 2012/2013. In transitioning from the old permit scheme to this new one, the NWIFCA recognises it is incorporating the geographical regions of 2 previous authorities, and that it is limiting numbers of new permits further than before.*

*The intention is that in the first year: 2012/2013, the 40 new permits will be issued as they would have been under the old permit byelaw. Fishermen who have historically fished in Cumbria or Dee Estuary but currently do not hold a NWIFCA Byelaw 5 and wish to continue to fish in their respective areas may apply to the NWIFCA for written permission from the Authority under byelaw 3. Evidence of their previous fishing activity will be required to support their application. This permission will still be subject to all the other provisions of byelaw 3 such as fisheries closures, fishing method, minimum sizing and any other fisheries management restrictions as the NWIFCA has in force at any time. These permits will not entitle Dee or Cumbria fishers to fish in the rest of the NWIFCA District. If they wish to expand their activities across the District they must obtain a Byelaw 3 permit in line with all other applicants.*

*Commercial shellfish buyers may obtain support worker permits by application to the NWIFCA on behalf of SPECIFIC, NAMED members of staff to carry out such ancillary activities to the purchasing of cockles must be made to the NWIFCA. These permits are not transferable between members of staff and are subject to a number of evidential requirements including the names, contact details, national insurance numbers and proof of right to work of the members of staff; proof from the annual account or annual report of the organisation's trade in cockles or mussels; evidence that the organisation holds a Gangmaster Licensing Authority licence for shellfish operations; statement of the duties the members of staff will perform in the shellfish fishery. A permit fee of £500 must be paid.*

### **Renewal and New Applicants in subsequent years**

*As for byelaw 5, permits are renewable for all those who held one the previous year but must be renewed every year without a gap. Permits will be renewed from the 1<sup>st</sup> September each year and can be renewed up to one year following the expiration date of the last permit. Failure to apply within the 1 year time period for a renewal will require the gatherer to go back on the waiting list and reapply following the procedure for new applicants.*

*In 2013 and subsequent years applicants for renewal will be required to prove that they have engaged in commercial fishing activities (not necessarily fishing for cockles or mussels) which have provided a substantial part of their declared income in the past 3 years. Providing evidence will generally require a personal statement and information from HMRC to demonstrate the applicant's fishing income and tax paid. However, the NWIFCA retains the discretion to decide whether or not the applicant has derived a substantial part of their income from commercial fishing on a case by case basis and require such evidence as it thinks fit.*

*No new permits will be provided under byelaw 3 for 2012/2013 as the allowance of 40 new permits from byelaw 5 will apply. Each subsequent year 10 full gathering permits will be issued under byelaw 3 to new applicants who have not held a permit in the previous year, on production of defined evidence in support of their application. This includes identity national insurance number, valid foreshore Gatherers Safety Training certificate or equivalent. Therefore the procedure for obtaining a new permit will involve first registering an interest by writing to the NWIFCA to be placed on a waiting list. The waiting list from byelaw 5 will be transferred to byelaw 3. Unlike byelaw 5, the Safety Training Course will not be required for the applicant to be placed on the waiting list.*

*A fee of £500 will be charged each year by the NWIFCA for Byelaw 3 permits.*

*Questions regarding the procedure for applying for permits should be sent in writing to the Clerk of the NWIFCA at the offices at 1 Preston Street, Carnforth. or by email to office@nw-ifca.gov.uk.*

## **Summary**

The purpose of Byelaw 3 is to control the exploitation of shellfish fisheries of cockles and mussels to ensure catches remain at a sustainable level and are obtained by sustainable fishing methods. As cockle and mussel fishing can be highly lucrative depending on price variations the NWIFCA has concluded a permit scheme is necessary to limit the number of fishermen and consequently the number of cockles gathered, along with the methods they use. The resulting byelaw is one which on the face of it appears rather complex, however this is regrettably necessary to regulate a very varied fishery. A wide range of different people wish to exploit shellfish resources in the NWIFCA district and in different ways. This varies from local people, who wish to occasionally gather a single meal, to large scale shellfish buyers, who wish to buy thousands of tons of shellfish in a season. The NWIFCA remains committed to supporting the traditional hand shellfish fisheries that have existed in the region for hundreds of years and to promoting the sustainable development of the marine environment of the region. The NWIFCA firmly believes the detailed requirements set out in the byelaw are necessary to balancing these sometimes competing considerations.

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];</p> <p>The effectiveness of the byelaw in achieving its objectives will be kept under continuous review to study how it is working and identify any changes which may be required. The NWIFCA will require reports and data on this review process and Defra will review the performance of all IFCA in 2015.</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The review will cover both of the areas mentioned.</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>The review will evaluate the effectiveness of all elements of the byelaw.</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The baseline position is the number of permits in 2012 and the enforcement difficulties experienced in the 2010 and 2011 cockle fisheries in the NWIFCA District.</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>Compliance with and endorsement of the measure by the Fishing industry, Recovery of management costs by the NWIFCA, Satisfactory enforcement of the byelaw by Fishery Officers and partners, Cockle and mussel fishing moving towards sustainable exploitation Fewer concerns from partner bodies about the impact of shellfisheries on local communities and the environment.</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p>
<p><b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here]</p>

Add annexes here.