

# NWIFCA Quarterly Meeting

## 16<sup>th</sup> September 2016: 11.00 a.m.

**AGENDA  
ITEM NO.  
6**

### REVISION OF STANDING ORDERS

REPORT BY MMO APPOINTEE BRIAN LEIGH

#### Purpose of Report:

- To update members of the Authority on the work underway to revise the standing orders of NWIFCA
- To comment on the suitability of the provisions contained in the Eastern IFCA document; and
- To seek the views of members on specific provisions so as to allow the drafting of revised standing orders to be finalised.

#### Recommendations

1. Members consider the proposals.
2. Mr Leigh be invited to draft a new version of Standing Orders for discussion at a future meeting.

#### Update

1. Members will recall that I was asked to undertake a review of standing orders using the Eastern IFCA Constitution/Standing Orders as a basis for modernisation. I acknowledge that the report is somewhat lengthy, but felt it important to work through and report on the provisions in detail. The North West and Eastern documents have different sequencing in relation to their section contents; it has therefore been a little difficult to avoid a degree of inconsistency in relation to the order which they have been taken in. I will attempt to resolve this inconsistency when it comes to compiling the new draft revised Standing Orders. In the interim, all references in this report concerning the Eastern IFCA document can be identified by the addition of (ED) prior to the section number.
2. By way of background, I have looked at a number of constitutions/standing orders used by the various IFCA's; the Eastern document appears the most modern and the best fit for our needs. Hence the proposal to use it as a basis for updating our existing Standing Orders. However, as members of the Authority will appreciate it does need a number of important modifications in order to better align with our particular needs. Suggested changes to the standing orders are dealt with later in this report, and it is essential that all members of the Authority should be fully involved in this work as a means of promoting ownership and consensus.
3. I have considered relevant provisions from the Marine and Coastal Access Act 2009 and the North Western Fisheries and Conservation Order 2010. Officers have also assisted me by providing previous minutes of the Authority which record the setting up and terms of reference of the various sub-committees or committees as they are more usually referred to. Lastly, officers have also kindly provided me with relevant job description/person specifications. This is essential in order to ensure that provisions within the proposed draft scheme of delegations align with and compliment the contractual obligations of officers.

#### Chapter 1 -Consideration of the Eastern IFCA Standing Orders

4. Included within the agenda papers there is a copy of the Eastern IFCA document. I shall make reference to its contents when commenting on the appropriateness of particular provisions. Members will already

have in their possession a hard copy of the NWIFCA Constitution dated March 2013 for the purposes of comparison.

5. Starting with the Introduction; both are identical apart from the regions and are taken from the 2010 Statutory Order.
6. The table of contents are similar, but in my view the order in the revised NWIFCA document should be changed to reflect the importance of the Code of Conduct. Additionally, provision will need to be made for the inclusion of a Scheme of Delegations. It is good practice to include footnotes referencing the statutory provisions. Consideration of the last four chapters falls outside my terms of reference and in any event the CEO is content that they do not require revision at this time.
7. A revised list of contents might therefore look like:
  - Standing Orders
  - Code of Conduct for Members
  - Marine Management Organisation appointees: Terms and Conditions of appointment
  - Scheme of Delegations
  - Financial Regulations
  - Customer Service Charter and Service Standards
  - Complaints Procedure
  - FOI Scheme
8. Standing Orders for all of the regional IFCA's flow from requirements contained in the 2009 Act and 2010 Statutory Order made thereunder. It seems to me that the Eastern document has a better sequencing for its Standing Orders. It is important for any public Authority to clearly explain its function and remit to as wide an audience as possible. Equally, it is important to explain its democratic basis as a means of facilitating engagement with the public. Accordingly, I would suggest that the revised section list under Standing Orders start with Membership of the NWIFCA.
9. The Eastern document contains additional provisions concerning members' attendance at meetings (ED section 2.1). Members will be aware that the MMO has introduced a performance appraisal system for its appointees. Local Authority members will participate in their own system of member development. It seems to me therefore not to be unreasonable to specify a minimum level of expected attendance. The views of members would however be appreciated on this point. If members are in agreement, is 50% a suitable threshold or should it be higher? Note that any such provision would need to take into account illness.
10. Insofar as provisions concerning the election of the chair and vice-chair are concerned, the provisions in both the NWIFCA and Eastern document are fairly standard (ED Section 3). However, the Eastern document does include provisions which I believe to be flawed. Section 3.2 of the Eastern document reserves the chairmanship to one of the three participating county councils. My view is that such a provision is in conflict with Article 7(1) of the 2010 Statutory Order and should not be followed.
11. There is however one point on which I would appreciate the views of members concerning the term of office for both Chair and Vice- Chair. The Eastern document stipulates a maximum term of office of two years. With all due respect to our own Chair and Vice-Chair, is this kind of provision something we would wish to adopt? Members will of course be aware of the pros and cons of limiting a term of office; I simply wish to flag it up as an area for potential discussion.
12. The Eastern document helpfully defines the role of the Chair (ED section 3.7 to 3.9) and I feel that our revised Standing Orders should also include similar provisions.
13. The section dealing with meetings of the full Authority is fairly standard in both documents. On balance, the provisions in our existing standing orders (section 4.1) seem to me to be acceptable as currently

drafted with one addition. I do think we need to include express provision concerning the delegation of functions – see section 5.5 in the Eastern document.

14. Mention has been made at previous meetings of the Authority as to the need to modify the quorum to a lower number. Whilst I understand that the motivation for suggesting such a change drew upon a desire to ensure continuity of business, it is in fact not possible to change the quorum for Authority meetings. Article 13 of the 2010 Order makes express provision concerning the quorum and these are replicated in section 5 of our existing Standing Orders. No change is therefore possible.
15. The 2010 Statutory Order also makes provision within Article 13 (a, b and c) which require a measure of proportionality as between local authority, MMO and other appointees for NWIFCA meetings. This requirement is replicated in section 5(1) (a) of our existing Standing Orders as they relate to meetings of the full Authority and the requirement to be quorate. I surmise that the government of the day was motivated by a desire to see a spread of interests and expertise when making the provisions within Article 13 concerning representation at meetings. Whilst I have not considered the practical implications of working such a requirement through the committee structure of NWIFCA, members may wish to give it some consideration as a means of exemplifying best practice. In essence, would it be practical to ensure that the sub-committee structure of NWIFCA replicates the approach to representation as detailed in Article 13? Note that the NWIFCA Finance Committee is composed entirely of Local Authority members; in my view this is entirely reasonable given that we are wholly funded by the Local Authorities subject to the precept.
16. Notice of Meetings is covered in section 6 of our existing Standing Orders and section 7 of the Eastern document. I am aware that efforts have been made to get draft minutes out to members as quickly as possible. I simply need to have clear instructions from the Authority as to the relevant timescales and can draft provisions accordingly. Note that it is prudent to adopt the measure of ‘clear’ days as a means of avoiding misunderstanding. It is really a question of members having realistic expectations as to what is achievable given the resource capacity of officers.
17. The Eastern document deals with late agenda items, background documents and the form in which agendas and papers will be made available (ED section 7.4-7.11). I think these provisions are helpful and we need to agree if such provisions can be easily replicated for NWIFCA.
18. The Eastern document also includes provisions in section 8 concerning access to minutes and records of decisions. I am aware that we have discussed such issues at previous meetings and believe that it would be sensible to include similar provision. Again, I simply need to know if the provisions as drafted in the Eastern document are acceptable and achievable in our own context.
19. I have spent quite a bit of time comparing section 7 of our existing Standing Orders and section 9 of the Eastern document. Both sets of provisions concern the rules of procedure and debate at full authority or sub-committee meetings. My own view is that the provisions in the Eastern document represent a more modern and easy to follow set of procedures. The rules of procedure in the Eastern document (9.1-9.6) are straightforward and easier to follow than our existing provisions. Similarly, the rules of debate in the Eastern document (9.17-9.34) are clear, free from complex language and easy to follow. Note that the provisions in the Eastern document afford the Chair discretion to allow less formal debate in order to promote participation – this is the norm for meetings of NWIFCA. However, should the need arise, the Chair may require the rules for formal debate to be followed (ED section 9.28-9.34). I strongly suggest we adopt the Eastern approach and form of words. I cannot see any provision in the Eastern document concerning the content and length of speeches – I simply suggest that we make some provision for this to aid in the time management of agenda items.
20. The Eastern document appears to lack provisions concerning disorderly conduct by members or a more general disturbance. Whilst I cannot recall anything of this nature occurring during our own Authority

- meetings, it would seem prudent to make such provision which the Chair can then rely upon in appropriate cases. Section 7.9 of our existing Standing Orders makes ample provision for such a situation.
21. Section 9.41 in the Eastern document concerns the suspension of Standing Orders. Similar provision is made in section 1.2 of our existing Standing Orders. Both sets of provisions require a majority vote as a prerequisite to a suspension of Standing Orders. The threshold in voting terms is higher in our existing document. Are members content to stick with the existing formula or is a simple majority of those present preferred?
  22. Voting is covered in section 9.37 of the Eastern document and section 7.11 of our existing Standing Orders. Both are fine, but I do feel that the drafting in the Eastern document is clearer. Additionally, it contains a useful reminder to members that they may not vote on an item for which they have declared a prejudicial interest in the Register.
  23. The provisions concerning rescission of earlier resolutions differ in both documents. The six month rule presumably exists to allow time for the effect of a policy or course of action to bed in and be evaluated. The Eastern document provides that the CEO may request that an earlier decision made by that Authority be reconsidered within six months subject to certain conditions being met. By contrast, our existing rules require a resolution supported by a third of all members (per section 7.10). I would suggest that our existing provision sets a higher threshold which is important given that the matter will concern a potential change in policy. Which approach is preferred by members?
  24. Insofar as provisions concerning voting are concerned, I would suggest that the provisions contained in the Eastern document (section 9.37-9.40) are preferable with one limited caveat. I think it is a function of the full Authority to approve the annual budget notwithstanding the provisions contained in section 180 (4) of MCAA 2009.
  25. Our existing Standing Orders make no provision as far as I can see for the recording of Authority meetings. Section 10 in the Eastern document covers this situation. Openness, engagement and participation are features of everyday life. Are members content to adopt the wording in Section 10 as a means of promoting engagement with the public and other stakeholders?
  26. Sub-Committees are dealt with in section 10 of the Eastern document and section 8 of the current NWIFCA document respectively. Analysis of both sets of provisions leads me to the conclusion that we would be better served by retaining our existing provisions, albeit with a number of changes and alterations. The CEO has indicated he would prefer not to have officers on the Chairman's Committee (section 8.3(c). It is also in my view inappropriate for the CEO and Head of Enforcement to be participating members. Put simply, members are responsible for policy and officers are responsible for implementing it. I do think however that the CEO and other officers as appropriate have a key role in advising this Sub-Committee. Additionally, I would suggest that consideration be given to renaming this Sub-Committee. Something like General Purposes Sub-Committee seems to me to be more appropriate.
  27. Section 8.3(d) of our existing Standing Orders seems to me a little confusing in part. We elect the members of TSB Sub-Committee by ballot at the General meeting each year. It seems strange therefore that another member of the Authority may attend and vote at the Sub-Committee subject to the notice requirements. I can perfectly understand that a member may wish to attend and speak on an issue which they have particular expertise and knowledge of. However, to actually be able to vote seems to me to negate the reason for holding elections in the first place. Members of course may see this entirely differently.
  28. I suggest that it would be useful to add certain provisions from the Eastern document concerning the operation and remit of the Sub-Committees. First, it would in my view be a useful step to include some descriptive narrative about the role of the Sub-Committee Chair (see section 11.19 in the Eastern document). Second, the Eastern document makes provision for substitution at Sub-Committee meetings (see 11.22-23). Is this something that we might wish to consider for adoption? Lastly, I suggest that we

need to include some more specific provision for the formation of working groups. It is covered at section 8.1 of our existing Standing Orders, but in my view section 12 in the Eastern document is clearer.

29. Section 9 of our existing Standing Orders and 13 in the Eastern document relate to public participation. Both are similar, but our existing provisions are more 'permissive' and cover all contingencies. I would suggest that we stick with the existing provision but add a clause as per section 13.6 in the Eastern document.
30. Provisions concerning extraordinary meetings differ in the two documents in several key respects. Note that the 2010 Statutory Order does not appear to offer guidance as to the procedure to be adopted. I am happy to draft suitable provision and would suggest that it should include:
  - (a) A requirement that the reason for the request for the extraordinary meeting relates to a matter for which NWIFCA is the competent Authority;
  - (b) that the number of members signing a requisition to hold the meeting be increased to 8 (more than 25% of the membership); and
  - (c) that the agenda for an extraordinary meeting to be modelled on that in the Eastern document at section 14.3 but without including 'Any other urgent business'.
31. Exempt information is dealt with in section 7.8 of our existing Standing Orders and section 15 of the Eastern document. Both are fine but on balance the form of words used in the latter are less complex. The Eastern formulation also acknowledges the effect of the FOI Act 2000.

#### Chapter 2- Code of Conduct for Non- elected Members

1. Chapter 2 of the Eastern document deals with the code of conduct for non-elected members. It appears at Chapter 3 in our existing document and as I said earlier in this report it should be afforded greater prominence. I prefer the approach adopted in the Eastern document; it is written in the first person and emphasises the need for personal accountability. I recommend that we adopt the wording in Chapter 2 of the Eastern document, sections 1-11. Note that section 10, Chapter 2 of the Eastern document deals with members acting alone under delegated authority. I am unaware that we have such provisions and it may therefore require alteration (see also scheme of delegations).

#### Chapter 3 - MMO appointees: Terms and Conditions of Appointment

1. The form of words used in both sets of documents is identical so I cannot see any need for change. There is however one matter which I wish to raise with members concerning MMO appointees. We have been appointed by the MMO and have signed up to the Code of Conduct and specific terms and conditions of appointment. Accordingly, we serve as members of NWIFCA. However, when questions of misconduct are considered it is really only the MMO that has power to terminate the appointment. It is perfectly logical that the appointing body should have the power to terminate the appointment, but I cannot help feeling that NWIFCA should be taking the lead and able to determine such matters without recourse to the MMO. The views of members would be appreciated on this point.

#### Chapter 4 - Scheme of Delegations

1. We currently lack a scheme of delegations and there is consensus that the inclusion of such a scheme in our Standing Orders would assist the Authority in the efficient discharge of its functions. The Eastern document helpfully sets out where responsibility lies for policy and operational matters (sections 1-3). I think it might be useful to take this approach in developing our own Scheme of Delegations. I mentioned earlier in the report that I have had sight of relevant job description information for the CEO of NWIFCA. The Head of Enforcement will deputise for the CEO in his absence; it will be necessary therefore to include suitable provisions in the Scheme of Delegations to cover this situation. The CEO is best placed to advise if any other officer will require specific delegations.

2. The Eastern document lists 17 areas of policy which the Authority reserves to itself. The vast majority of the areas listed probably map across to our own situation without the requirement for change. I do think that we might be better served at section 4 if the wording was changed to –‘Adopting and reviewing annually’.
3. At section 8 it might be preferable to change the wording to ‘Agreeing and Reviewing the Authority’s strategic policy framework’.
4. More generally, officers and members will need to advise if the contents of sections 9 to 17 accords and aligns with our particular requirements.
5. The Eastern approach is to have a sub-committee which deals with both finance and personnel matters. We have two sub-committees in the form of the Chairman’s and Finance Sub- Committees. It will be a simple matter to divide the delegations as appropriate; I just need to know that the list of delegations is adequate for our needs.
6. I assume that the Marine Protected Areas Sub-Committee is not a requirement for NWIFCA.
7. Similarly, the Planning and Communications Sub- Committee.
8. I assume that the Regulatory and Compliance Sub-Committee embraces part of the functions of our own TSB. Does TSB require any additional delegations in order to work efficiently?
9. The Eastern approach is for a Sub-Committee to have discretion to afford an individual member or CEO delegations to carry out the functions of that Sub-Committee. Is this approach something we wish to replicate?
10. Turning to delegations afforded the CEO in the Eastern document; I mentioned earlier that I have had sight of the job description for the CEO. I have used this as a basis for comparison and can report that there are no real differences or gaps. Section 6 concerns Protection and Conservation and I think some change in the wording is required in order for it to accord with our current procedures for the making of emergency byelaws.
11. Section 20 concerns powers of delegation afforded the CEO. I suggest that a change of wording here could cover the requirement for the Head of Enforcement to deputise for the CEO in his absence. Any other specific delegations to other officers could also be covered in this section.
12. Section 24 deals with provision for emergencies outside the scope of existing delegations afforded the CEO. The provisions seem sensible but I suggest that we need to work through them in order to ensure they fit our particular needs.
13. Lastly, please note the delegation afforded the Chair and Vice-Chair of the Authority to sign orders jointly with the CEO. It seems that this provision relates to the payment of monies in connection with the Local Authority precept. Is this kind of provision necessary for NWIFCA?

Brian Leigh  
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NWIFCA