



**North Western
Inshore Fisheries and Conservation Authority
Meeting 2
8 February 2011, Bootle Town Hall, 10.30 a.m.**

Agenda Item: 10

IFCA BYELAW GUIDANCE AND REVIEW

Recommendations:

1. **That Members respond to the Defra consultation on the new procedure for making byelaws**
2. **That progress with the NWIFCA byelaw review is noted**
3. **That renewal of Byelaw 5 is referred to the Technical and Byelaw Sub Committee**

New IFCA byelaw powers

1. The Marine and Coastal Access Act gave new byelaw powers to the IFCA and made changes to the functions and purpose of byelaws. Under the guise of modernization, the Act also extended and further complicated the procedure for making byelaws.
2. Defra have issued guidance on the new byelaw powers and procedure for consultation by 4 March. The consultation paper is attached. Members are invited to respond to Defra directly or return comments to the IFCA office for a combined IFCA response.

IFCA byelaw review

3. IFCA have a high level objective to review all byelaws transferred from SFC (so called 'legacy byelaws') as soon as possible.
4. The NWIFCA faces a unique problem compared with other IFCA. The District is an amalgamation of three previous enforcement authority districts each with its own set of byelaws. These are the Cumbria SFC, the NWSFC and the Environment Agency byelaws which apply to the River Dee.
5. Officers have started the review process by undertaking a comparison of the Cumbria and SFC byelaws as in table 1 (Annex A).
6. On 1 April 2011, all existing byelaws from Cumbria SFC, NWSFC and the EA for the River Dee, will transfer to and become legally enforceable without change by the NWIFCA,
7. This complexity must be resolved as rapidly as possible by means of a full review of all the byelaws in the IFCA District. Mr Dobson and Mr Brown are working on a new set of

byelaws tailored to meet the needs of the fisheries within the IFCA district. They will identify the priorities for new byelaws and which will simply need 'refreshing' so they apply across the District with minimal change. Some of this analysis has been done and is presented in Annex A.

Byelaw 5: The most urgent byelaw priority

8. There is an urgent priority to address Byelaw 5 (copy attached at Annex B) which expires on 31 August 2011. This byelaw to manage cockle and mussel fishing in the NWNWSFC District is relatively new. It was first made in 2007 and renewed in 2009. Because this type of byelaw has not been used by SFC previously, Defra would only allow it to be made with a 2 year expiry date. The byelaw is innovative because it accesses little used SFC powers to make a byelaw which managed fisheries by limiting effort. This byelaw also required completion of a safety training course to provide entitlement to a cockle and mussel permit.
9. The byelaw has to a large extent been successful in its aims of reducing fishing effort on cockle and mussel fisheries and ensuring that all fishers have had some basic training in appropriate field craft before they commence fishing. The byelaw allows previous permit holders to renew their permits but limits the number of new permits given each year to inexperienced fishers to 40. This prevents large numbers of inexperienced fishers travelling from all over Europe and beyond from acquiring permits with no controls as was the case prior to 2006.
10. The NWIFCA now must decide if Byelaw 5 should be renewed this year. Defra are aware of the need for the byelaw and will assist renewal as soon as the NWIFCA acquires byelaw making powers on 1 April. Preparatory work of redrafting the byelaw could be undertaken prior to 1 April.
11. However, the byelaw does bring significant enforcement problems. Some UK residents who would expect to be able to get a permit for a public fishery in England are unable to do so because of this byelaw. In the past if the SFC was provided with correct identification details a permit would be issued and fishing could commence. Under this byelaw, permits are not generally available, the incentive to fish without a permit is significantly increased and there are greater numbers of fishers on the beach without permits. The IFCA does not have sufficient Fishery Officers to fully enforce this byelaw by checking that all fishers have valid permits. The recent Wirral fishery has focused attention on this problem.
12. A further difficulty is the bylaw provision for hobby fishing without a permit. Because cockle fisheries are public, Defra required that a non-commercial level of fishing should be permitted under the byelaw without a permit. Therefore the byelaw permits 5kg to be taken per day and Fishery Officers are faced with having to judge if each individual is fishing commercially. This is a major enforcement loophole which limits the opportunities to bring prosecutions under this byelaw.
13. The byelaw is a major administrative burden to operate. The SFC now holds the individual records including photographs of all the many thousands of permit holders who have participated in cockle and mussel fisheries in the NWNWSFC District every year since permits were introduced in 2003. Although numbers have reduced from a peak of close to 2000 permits in 2006-7, there are still between 400 and 500 permit holders who must

reapply each year and whose details must be checked, logged onto the database and to whom new permits must be issued.

14. Officers now consider the time may be right to reassess the need for this byelaw. The cockle and mussel fisheries in Morecambe Bay are very different from those in 2002-07 and there does not appear to be any prospect of large stocks returning in the foreseeable future. The fishery could be managed in 2011-12 by means of unrestricted permits under Bylaw 13A as was the case prior to 2007.
15. On balance, Officers recommend that the byelaw should be renewed this year to provide time for the NWIFCA Technical and Byelaws Sub-Committee to properly review the options for cockle management in the District

**Chief Executive
North Western Sea Fisheries Committee
26 January 2011**