

10 AT A MEETING OF THE TECHNICAL, SCIENCE AND BYELAWS SUB-COMMITTEE held at the Strathmore Hotel, Morecambe on Tuesday, 21st June 2011

PRESENT – MEMBERS

J. A. Clark	(Chairman)	MMO (Marine Science)
J. Butler		MMO (Shellfish)
B. Crawford		MMO (Anglers and Recreation)
T. R. Glover		Sefton Council
R. F. Langley		MMO Fishing (various)
C. Lumb		Natural England (Officer)
M. R. Owen		MMO Fishing (Various)
C. J. Woods		MMO (Shellfish)

IN ATTENDANCE

T. Jones	MMO (Aquaculture)
B. Shields	Environment Agency

OFFICERS

H. Ake	C. Dobson
I. V. Andrews	D. Dobson
S. M Atkins	R. Houghton
S. Brown	M. Knott

VISITORS

D. Baxter	J. Fisher
T. Baxter	N. Lake
A. Bennett	J. Ray
P. Bennett	J. Watson
G. Campbell	

APOLOGIES

W. Darbyshire	Environment Agency (Officer)
C. Frid	MMO (Scientist)
R. Graham	MMO (Fishing)
N. Robinson	Marine Management Organisation (Officer)
A. C. Ross	Cumbria County Council
A. Thornton	Lancashire County Council

11 CHAIRMAN'S ANNOUNCEMENTS

1. The Chairman announced apologies for absence and welcomed Members.
2. Mr Neil Robinson had replaced Mr Graham Ford-Keyte as the MMO Officer representative.
3. An amended Agenda, amended Report for Agenda Item 5, Review of Byelaws, and a letter from Kershaws Seafoods in relation to Agenda Item 7 had been tabled.

12 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTEREST IN AGENDA ITEMS

Members declared an interest in Agenda items as follows:

Agenda Item 5. Review of Byelaws. J. Butler, T. Jones, M. R. Owen, C. J. Woods.

Agenda Item 6. Sustainable Fisheries Review. T. Jones

Agenda Item 7. Ribble Cockle Fishery. J. Butler, M. R. Owen, C. J. Woods

Agenda Item 8. Wirral Cockle Fishery. J. Butler, M. R. Owen, C. J. Woods

13 MATTERS ARISING FROM THE LAST MEETING

1. NE Briefing on Marine Protected Areas in the NWIFCA District

The Chairman raised concerns about the MCZ process particularly in relation to pMCZ8. The Chief Executive had previously made the point to the ISCZ project team that the area was an important fishing ground. There did not appear to have been any consultation process on the designation of the area and stakeholder group meetings were not formally minuted. Dr Clark suggested that NWIFCA needed to see absolute transparency in the process of designation and members agreed that concerns over transparency of the ISCZ project should be raised with the ISCZ project team.

2. Community of Practice website

The Chairman asked whether progress had been made with the setting up of this website. Mr Houghton reported that no meetings of the Technical Advisory Group had been held since the last meeting of the sub-committee and there was nothing further to report at this time. The Chairman suggested that an update be given to the next meeting of the sub-committee.

3. Guidance on byelaw making procedure

The Chief Executive reported no further progress had been made on the guidance. A report would be provided for the next meeting of the sub-committee.

RESOLVED

1. Officers be directed to write to the ISCZ project team with the NWIFCA's concerns about the transparency of the ISCZ project and how decisions on designations were made.

2. Officers be directed to write to the ISCZ Project Team to request copies of the reports and minutes of the last Stakeholder Group meeting.

3. An update on Community of Practice website be provided to the next meeting of the Technical, Science and Byelaw Sub-Committee.

4. An update on Guidance on Emergency byelaw making procedure be provided to the next meeting of the Technical, Science and Byelaw Sub-Committee.

14 TERMS OF REFERENCE, REMIT

The Chief Executive reminded members it had been agreed that the Terms of Reference should be amended and updated. The April meeting of the sub-committee had agreed that meetings should be open to the public and Paragraph 4 of the Terms of Reference (Accountability and Reporting Arrangements) had been amended accordingly.

Mr Lumb suggested that objective vi in paragraph 2b) should be widened to include other designations.

The Chairman moved that the Terms of Reference be approved and following a show of hands it was

RESOLVED

1. The report be received.
2. The Terms of Reference be approved taking into account Members comments.

15 BYELAW 5: PROGRESS

The Chief Executive provided a verbal update on progress with Byelaw 5, Permit to fish for cockles and Mussels. The byelaw had been advertised and the closing date for objections was 30th June. Two objections had been received to date and once those objections had been resolved the byelaw could be submitted to the MMO for confirmation in late July/early August.

RESOLVED

That the report be received.

16 REVIEW OF BYELAWS

The Enforcement Director reported on progress with the review of byelaws. IFCA's had up to five years to review and re-make their byelaws and the NWIFCA was unique in that it was the only IFCA created by merging two SFCs. Mr Dobson and IFCA S. Brown had been working together over the past few months to identify the highest priority byelaws.

Mr Brown informed Members that the NWIFCA was currently working with four sets of byelaws, most of which paralleled each other. Phase 1 of the review covered the making of new IFCA byelaws 1 to 4. Evidence and justification statements for each byelaw were provided in the report and copies of the proposed byelaws were provided in Annex A.

Members discussed each of the proposed byelaws in turn.

Byelaw 1 - Application of Byelaws. This byelaw defined the District and made provision for the Authority to issue authorisations for scientific and management purposes. It replicated the current byelaw within the District and was quite straightforward. Members agreed that Byelaw 1 should be progressed.

Byelaw 2 - Mechanically Propelled Vessels - Maximum Length. This byelaw was designed to restrict the size of vessels that may be used within the District. Three options were provided for Members' consideration. The first was a return to the 1992 limits of 13.7m, which Officers felt would be a retrograde step. The second was to introduce a maximum vessel size of 15m overall length throughout the District with provision for a sunset clause and mussel dredgers. Option 3 proposed the introduction of a two stage byelaw allowing vessels up to 15m overall length to work within the 3-6 mile belt, and to restrict access within the 3 mile limit to under 10m vessels.

In response to a question from Mr Langley as to whether consideration had been given to engine size, Mr Dobson said this had not been considered because of the difficulty in proving horsepower. Modern, highly efficient under 10m overall length vessels had the same catching capacity of vessels 50-60 ft. 20 to 30 years ago. He felt the proposed byelaw would provide more protection than was offered at present.

Mr Woods asked about byelaws regarding vessel size within the Dee Estuary. At present sufficient protection was given to the shrimp fishery in the estuary but changes in the

District could result in high powered vessels having access to limited resources. Mr Brown said that the byelaws inherited from the Environment Agency Wales did not include vessel length size but did include gear size. Officers had looked at gear restrictions off the Cumbria and North West coasts and found them to be widely accepted. Dr Atkins said that any gear restrictions currently in place under byelaw would continue until the byelaw was renewed.

Councillor Glover proposed that Option 3 under Byelaw 2 be adopted, given the fact that the byelaw could be amended in the future. The proposal was seconded by Mr Langley and agreed by Members.

Byelaw 3 - Permit to fish for Cockles and Mussels. Mr Brown pointed out that the NWIFCA needed to consider how to introduce the new management powers it would have for shellfisheries. Any new byelaw would need to identify persons commercially gathering cockles and mussels in order to assist with management of the fishery and to prevent fraud and the exploitation of illegal labour. Three options for consideration were provided in the report. The proposed byelaw was less restrictive than the current Byelaw 5 and was viewed as a starting point. One primary difference proposed to the present NWSFC Byelaw 5 was that the limit allowed for personal use should be reduced from 5kg to 2kg to parallel the River Dee Order.

Mr Woods voiced concerns that there were a significant number of local fishermen in different parts of the District who did not have a Byelaw 5 permit and were therefore barred from fishing at the present time. Fishermen in the Dee had not needed a permit to gather mussels in the estuary in the past but if a permit scheme was introduced that included the Dee the fishermen there would not be able to get permits for the only fishery they had pursued. Mr Langley raised the point that fishermen on the Dee had qualifications from Seafish that was far superior to the safety course. The Chairman said she understood the point being made but the issue under discussion was about how permitting should be applied across the District and not the quality of the training, although that was an item that needed to be addressed.

In response to a query that paragraph 2C of the proposed byelaw did not specify a time period, Dr Atkins said that a time period could be included. Members also noted that the byelaw did not specify an expiry date and asked whether the permit would be an annual one or for lifetime. It was suggested that it should be for a five year period.

Mrs Owen said she was disappointed in the proposals which she felt would be a retrograde step. She voiced concerns that the proposed byelaw could result in illegal fishing taking place and the local industry being wiped out.

Dr Atkins said that the aim of the proposed byelaw was to revert back to a situation of a public fishery without the limiting of numbers. Mr Brown pointed out that the byelaw was not aimed at being restrictive but would merely create a working register so that current data could be obtained and used for management purposes. Mrs Owen reminded members that the existing Byelaw 5 had been brought in following the Chinese tragedy to enable the safety of the non-fishing community and help with limiting the number of permit holders.

Mr Lumb said although he recognised that this would not be a restrictive scheme he had some concerns about the timing of the byelaw. He suggested that with the work currently being done on the Morecambe Bay Fishery Order and concerns over Leasowe and the Ribble, that to remove whatever protection given by the existing permit scheme without having appropriate restrictive mechanisms in place was not within the aims of IFCA in terms of sustainable fisheries and conservation. Mr Brown stressed that the object of the byelaw was to obtain information to bring about more modern management measures. The IFCA would have to use the existing byelaws until they could be replaced.

The Chairman said the proposed byelaws presented in Annex C were a starting point to enable Officers to get a framework in place for future conservation and measures to control the fisheries. There were three questions to consider, firstly whether a 5 year permit was too long, secondly whether the number of permits should be limited and thirdly the standard and effectiveness of the training courses. She asked for members' comments on what the next steps should be.

Mr Woods said he could not support any proposal that prevented local fishermen in the Dee from working that fishery on the grounds put forward.

Dr Atkins said that a restrictive scheme had been tried and although the existing scheme had its problems it also had some advantages. He suggested that a new permit scheme should be annual and renewable. With regard to the training course he felt the Authority should specify some basic qualifications that fishermen needed in order to get a permit. Any fisherman without those basic qualifications would need to take the Foreshore Gatherer's Safety Course. That course needed to be improved and Dr Atkins suggested that Officers should liaise with Seafish to find ways of improving the course.

The Chairman proposed that the draft Byelaw 3 be reviewed and re-drafted in the light of today's discussion with a new draft presented to the next meeting of the sub-committee. The proposal was unanimously agreed.

Byelaw 4 - Minimum Removal Size for Mussels. The purpose of this byelaw was to establish a unified minimum landing size (MLS) for mussels throughout the District. Following a discussion Members approved the development of Byelaw 4.

RESOLVED

1. The report be received.
2. The proposed new byelaws 1, 2 and 4 be submitted to the September meeting of the NWIFCA.
3. The proposed new Byelaw 3 be reviewed based on members' comments today and a new draft be submitted to the next meeting of the TSB sub-committee for further discussion.

17 SUSTAINABLE FISHERIES REVIEW

The Scientific Officer provided a verbal report appraising Members of the working level objectives related to IFCA Success Criteria 6. A reasonable amount of information was available on some fisheries as to how they were prosecuted, their nature and state of the stocks but there were some fisheries within the District where that information was not readily available. Officers would firstly need to conduct a scoping exercise to identify all fisheries within the District and to look at the levels of information available on those fisheries with regard to methods, how the fisheries were prosecuted and stocks, and then decide on a methodology for establishing what was sustainable. It was hoped to complete the scoping exercise this year and then to move on to look at other work. The final deadline for the review would be the first IFCA review in four years' time.

The Chairman suggested that the IFCA needed to understand a little better how MMO, EA and NE approached this issue, their evidence, priorities and what measures they may recommend on a longer term view. It might be useful to ask those organisations to provide the IFCA with their interpretation of a sustainable fishery. Mr Woods pointed out that a sustainable fishery would never be possible as long as there was a floating contingency of hundreds of people. No fishery would sustain that type of pressure and he felt that regulated fisheries were the only way to achieve sustainability.

Mr Houghton pointed out that the review would not only include shellfish but also wet fish. Current scientific function was shellfish orientated and little was known about wet fish and the Science team would appreciate help with that aspect. Mr Crawford asked if the review would include migratory fish and suggested that activities such as recreational angling should also be considered in the review.

The Chairman reminded members that one of IFCA's objectives was to take socio-economic aspects into account. The NWIFCA needed to know what was proposed in terms of vision and without that vision it did not have a starting point for debate or evidence that would be needed in the future. She suggested that it might be useful to organise a workshop to discuss the implications of the review for the NWIFCA with representatives of the MMO, NE and EA invited to bring their expertise to that workshop. It was suggested that Officers should liaise with those organisations on the setting up of that workshop. Dr Clark said it was important for the IFCA to understand how the three statutory bodies interacted and how their work was integrated and it was fundamental to the work of IFCA's to consider not just individual fisheries but the wider coastal environment. Mr Woods asked for an assurance that members of the workshop would recognise that any points made relating to issues in the northern part of the district would not necessarily relate to the southern part.

Following further discussion it was

RESOLVED

1. A workshop be established to discuss implications for the NWIFCA of the sustainable fisheries review.
2. That the workshop be comprised of NWIFCA Officers, MMO, EA and NE representatives, the Chairman of Technical, Science and Byelaws Sub-Committee and Prof. C. Frid.

18 UPDATE ON SOUTHPORT COCKLE FISHERY

The Scientific/IFCA Officer provided an update on the current situation with the cockle beds at Southport. Officers had carried out surveys of the beds in April and May to determine the densities and position of beds and to assess growth rate and size of stocks. The results of those surveys were shown at Figure 1 in the report. Members were informed that several wet dredging trials had been authorised and conducted between 2001 and 2004 and Officers had produced an overview of wet dredging for those members unfamiliar with that method of fishing in order to provide a basis for discussion of the potential management options. Information on conservation features of the area and designated boundaries had also been provided. The Ribble Estuary was heavily designated including the access point and Officers had had discussions with Natural England regarding the management of the area. With regard to the access point Councillor Glover informed Members that access to the Ribble had been established as a fisherman's right of way nearly 100 years ago. Ms Ake said any measures to licence or regulate fishing activity should make the access route clear to avoid damage to other areas outside that right of way.

With regard to the issue of wet dredging Members were advised that the NWNWSFC had agreed a dredge specification for the previous trials and the same specification could be used if the IFCA agreed to authorise the use of wet dredges at this time. Two management options were provided for consideration, the first was for the use of wet dredges to be permitted in localised areas under defined conditions and with a defined dredge specification, the second was to open the beds on 1st September, with the beds monitored and areas closed once the density had declined to 20/m². No wet dredging

would be permitted under the second option. Members were reminded of the tabled letter from Kershaws Seafoods which promoted the use of wet dredging.

Mrs Owen said it had previously been agreed that wet dredges should be used only in areas inaccessible to hand gatherers and felt that hand gathering should be given first and foremost priority. Mr Woods suggested that an area be made available to wet dredgers and the activity monitored and managed in a scientific way. Mr Langley said he was in favour of mechanical dredging but only when IFCA had the powers to regulate the activity. To bring in wet dredging at this time would be wrong and would discriminate against full-time cockle and mussel fishermen.

Mr Lumb suggested that the sustainability of cockle fisheries throughout the district should be taken forward through the workshop proposed earlier.

Mrs Owen suggested that more pressure should be brought to bear on the buyers to discourage them from buying undersize cockles. She felt that if IFCA had powers to fine the buyers, confiscate the cockles and put them back on the beach it would prove a deterrent to the buyers. Mr Lumb said that Mrs Owen's comments were helpful in highlighting the various means available to the IFCA to manage the fishery as sustainably as possible. Undersized cockles were managed by the use of riddles, by enforcement and by requiring buyers to comply with the legislation. The Chief Executive said that Officers would be working with other agencies and enforcement bodies to put management measures in place in time for the opening of the beds when large numbers of fishermen were expected.

The Chairman proposed not to allow the use of any mechanical dredging. Dr Clark asked for a show of hands which resulted in a vote of 5 in favour and 4 abstentions and the proposal was carried. The Chairman said although a resolution had been passed not to allow wet dredging this year the IFCA needed to carry out a thorough and comprehensive review of the way the fishery should be managed in the future including the methods to be used, methods that would not be considered and a suite of measure to protect livelihoods as well as ensuring conservation of stocks.

Ms Knott said she understood the reasons behind the decision that had been made but thought that one of the considerations for proposing wet dredging was the human safety aspect. Mr Woods informed members that a person on an ATV or on foot was less likely to get into trouble in soft sediment. If a wet dredge was able to work in an area, a hand gatherer could also work in that area as long as they had an ATV.

The Chairman asked the visitors if they had any comments or questions. Mr John Watson of the Solway Shellfisherman's Association suggested that with regard to potential health and safety issues, the safest method was suction dredging by boat and most fishermen visitors agreed with that point.

Mr Campbell suggested that hand rakers were the biggest culprits taking undersize cockles. He said he was a full-time fisherman and by not permitting the use of suction dredges the IFCA would be taking away his livelihood. In response to a comment from Mr Woods that suction dredgers did not always work within their designated fishing areas, Mr Ray, Chairman of the Solway Shellfishermen's Association said that modern technology used on vessels ensured that vessels did not work over the designated lines and into prohibited areas.

Dr Atkins pointed out that suction dredging could be permitted under Byelaw 12 and suggested that option could be provisionally retained for areas inaccessible to hand gatherers. Mr Lumb suggested that in considering the possibility of allowing suction dredging it would be sensible for the IFCA to look at the measures put in place to manage that activity and to look further into this before any decision was made. With regard to

stock levels on the Ribble, it was suggested, and agreed, that the area should be closed if stock levels declined to a level of 20/m².

RESOLVED

1. The report be received.
2. Members agree adoption of Option 2: Beds would open after seasonal closure on 1st September. Beds would be monitored and closed by the NWIFCA when density levels declined to 20/m². No mechanical dredging to be permitted.

19 UPDATE ON LEASOWE COCKLE FISHERY

The Scientific and IFCO reported that the cockle bed at Leasowe had been found to be more extensive than appeared from last year's fishing. Consequently the hygiene classification was in the process of being extended. Surveys had been conducted in April and May, with the May survey showing densities at a much lower level to those seen in 2010. At present densities were about 28/m² and the SFCs policy in the past had been to close a fishery on stock management grounds and to protect environment interests if stocks were close to 20/m² or under. Cockle stocks in 2011 had the potential to provide a relatively short term low level fishery and a further survey of the area would be carried out in August to re-assess the situation.

The Chief Executive informed Members that Wirral Council had been concerned about the activity taking place at Leasowe in 2010/11 and it was hoped that a comprehensive multi agency plan would be in place for 1st September. The Council may request the IFCA to close the fishery or suggest how they would want it managed.

Mr Woods said that local opinion was for the area to be closed. Local fishermen felt that to open the cockle bed would encourage a large number of people into an area that was not viable.

Following a lengthy discussion Members agreed that fishing should be allowed to take place from 1st September subject to the results of the survey in August.

RESOLVED

1. That the report be received.
2. That the cockle fishery at Leasowe be opened on 1st September subject to further survey work and report.

20 DRAFT ENFORCEMENT FRAMEWORK AND RISK REGISTER

The Chief Executive updated Members on progress with the draft Enforcement Framework and Risk Register which had been produced based on guidance from Defra. The aim of the framework was to develop a common approach to enforcement work across IFCA Districts and each of the regulatory bodies would need to publish its own document. A draft code of conduct for inspections was provided at Annex A to the report, with the draft Enforcement Framework and Risk Register at Annex B. The document would be developed further in consultation with other IFCA and a re-drafted model would be submitted to a future meeting of the sub-committee for approval. The Code of Conduct provided guidance on inspections both on the shore and at sea and outlined the powers IFCO would have to enable them to carry out their duties. The draft framework comprised four parts, two policy statements and two strategy documents.

The Chairman said it was good to see guidance on enforcement and its attendant risks to ensure that enforcement was transparent to all interests but felt the wording was confusing. She asked if Officers and staff should take the time to read the document and identify any areas they had difficulty with. Mr Dobson said that Officers had considered the document at a staff meeting held the previous day. The type of risks mentioned in the document should only refer to enforcement and regulatory risks, not to other risks to the organisation such as health and safety or financial.

The Chairman reminded Members of the recommendation in the report asking Members to approve the content and format but she felt that she could not approve it in its current form.

In response to a question from Mr Jones as to whether it was essential that the IFCA should have the framework, Dr; Atkins said that the IFCA could be open to legal challenge if there was no framework in place. The Chairman suggested the document needed to be simplified and it was agreed that the Chief Executive should liaise with Mr Jones on this with a re-drafted document presented to the next meeting of the sub-committee.

RESOLVED

1. The report be received.
2. The Draft Enforcement Framework be amended taking into account members' comments, and the report be re-submitted to the next meeting of the sub-committee.

21 CONTINUATION OF SHORE SURVEYS IN CUMBRIA

The Enforcement Director reported that at the last meeting of the Cumbria SFC it had been agreed that the NWIFCA should be asked to continue the annual shore surveys of the Cumbrian coast which had been ongoing since 1992. The survey was not related to any fisheries management issues but had proved useful on a number of occasions. Members agreed that the report was very interesting and informative and that it should be continued and extended to cover the Lancashire area also.

Mr Lumb informed Members that information obtained in the North East had been captured into a handbook and Dr Lancaster had suggested progressing the surveys in the same way as had been done in the North East.

Mr Crawford said the proposals for the new nuclear build at Sellafield would impact on the work of this Authority and on the flora and fauna of the shoreline. He felt that the surveys should continue in order that a full record of the area could be kept.

Mr Lumb said that other work was being undertaken on the coastline and shallow waters around the district at present. He was working with the Environment Agency on the Water Framework Directive and more information was needed in terms of sustainable fisheries management and evidence obtained to underpin that management. He felt that the NWIFCA should ensure that the work is not duplicated and that any further work was done as a partnership.

The Chairman proposed that the sub-committee should recommend to the September meeting of the NWIFCA that the survey be continued for at least 12 months in its present form. Dr Clark felt it would be irresponsible of the IFCA not to continue with the collection of the important data that had been obtained over the past 18 years without a plan for monitoring being put in place for the whole of the district. It was suggested, and agreed that a further report should be presented to the December meeting of the NWIFCA.

RESOLVED

1. The ecological survey of the Cumbrian coast be continued for a further 12 months in its current form and the area of the survey be extended to include Lancashire.
2. Discussions be held with the marine environmental consultant, Dr Jane Lancaster, on progressing the survey in the same way as that done for the North East.
3. A report to be submitted to the December meeting of the NWIFCA.

22 DATE OF NEXT MEETING

The Chairman reminded members that the April meeting of the TSB had suggested a meeting in August one month prior to the main NWIFCA meeting. The Chief Executive suggested that Officers be given delegated powers to convene a meeting in August only if felt necessary, with the next meeting being left until after the next NWIFCA meeting, and this was agreed.

The Chief Executive proposed a change of date for the September and December meetings of the NWIFCA. All members would be informed of the proposed change of dates for those meetings.

Following a discussion it was

RESOLVED

1. The next meeting of the Technical, Science and Byelaw Sub-Committee be held on Tuesday, 18th October 2011
2. The dates of NWIFCA meetings for the remainder of 2011 be changed to Friday, 30th September and Tuesday, 6th December.

23 ANY OTHER BUSINESS

1. Sea Angling Project

Ms Ake informed Members of a Defra funded project to be run by Cefas and MMO which was aimed at obtaining better information on recreational sea angling. The project would run for a 12 month period and funding would be available for a surveyor to work two days a week to record numbers of anglers within the survey area, times and length of fishing activity and catches. Information collected would be fed back to Cefas who would analyse the information. Cefas would be holding workshops in the survey areas and a steering group would also be set up.

The Chairman said that more data collection was needed on sea angling activity and the project was a start in collecting that information. It was felt that the resources allocated might prove restricting and IFCA would need to monitor the project to make sure it delivered everything that was required.

There being no further business the Chairman thanked Members for attending and closed the meeting at 1530 hours.