

NWIFCA Technical, Science and Byelaw Sub-Committee

30 November 2012: 10.00.a.m.

**AGENDA
ITEM NO.**

3

BYELAW 3 REVIEW: COCKLE AND MUSSEL MANAGEMENT

Purpose:

To consider and develop options for improving Byelaw 3.

Recommendations

Byelaw 3 is redrafted following the conclusions of the meeting with a view to remaking the byelaw in due course

Background

1. Byelaw 3 was enacted on August 23rd 2012. As of 13 November 2012, there have been 239 full permits issued. Since the Byelaw came into force, cockle fishers have had the opportunity to fish during two fishery openings, one on the Foulnaze bed for 2 weeks during October, and once on the Penfold and South Gut beds accessible from Southport for 4 days per week during November.
2. Mussel fishers have been able to fish for seed mussel at Heysham flat since the end of September.
3. So far the byelaw has been successful in limiting the number of fishermen, improving enforcement and selecting in favour of professional fishermen who have a long term commitment to the industry. Casual fishermen have either not been willing to pay the permit fee or declare their tax status to the NWIFCA. Officers consider that the basic format of Byelaw 3 should be maintained.
4. Nevertheless, some potential amendments to the byelaw have been suggested by members and officers. As proposed at the September NWIFCA Quarterly meeting, a special TSB sub-group meeting has been arranged to discuss shellfish management and potential improvements to the effectiveness of Byelaw 3.
5. It will be difficult to make changes in time for the next permit year starting in September 2013. Officers propose that the NWIFCA aims to have changes in place for September 2014.
6. An additional factor is the possible introduction of the Morecambe Bay Fishery Order (MBFO) in 2013. This order will bring in a targeted shellfish management regime for Morecambe Bay so that NWIFCA Byelaw 3 will no longer apply in full to those shellfisheries in Morecambe Bay. An amended Byelaw 3 should be designed to separate provision for a Morecambe Bay licence under the MBFO and permits for the rest of the District issued under Byelaw 3.

Potential issues/changes to Byelaw 3:

7. **Provision for mechanised fishing.** There should be a clause in the byelaw allowing the NWIFCA to issue permits for dredge fishing for seed mussel and charges to be set. The NWIFCA may wish to create the option to allow other dredging activities in the future.
8. **Provision for amending charges each year.** Fishermen have requested that permit fees should be reduced in years when fishing is poor. However, the NWIFCA aim is to provide a fishery for professional fishermen. Part of being professional and having preferential access to a limited fishery is keeping up a track record of commitment to the fishery in good and bad years. In general taking a view across the District, good years compensate for bad years and there are significant fishing opportunities for cockle and/or mussels in most if not all years. A robust process to ascertain when reductions should be applied would be difficult and controversial to operate, and could create a large administrative burden.
9. **Separate management of mussels on a more flexible basis in terms of size.** The MLS for mussels is restrictive. There are parts of the District where a larger size could be applied and areas where seed should be more available. Officers suggest the Authority might wish to try and make the mussel MLS more flexible in the byelaw so that it is easier to set an appropriate MLS with the agreement of stakeholders and industry to meet each management circumstance.
10. **Removal of seasonal closure for cockles.** Since the cockle seasonal closure was introduced 5 years ago, there have been repeated needs to change it to allow fishing in the closed season for various reasons. Officers suggest that the byelaw should provide for the Authority to use closures more flexibly to meet management requirements.
11. **Procedure for designating commercial areas.** Byelaw 3 is too restrictive in allowing only 2 areas defined in the byelaw with no flexibility to change the areas according to changing requirements. A clear protocol needs to be developed to determine how the NWIFCA will designate commercial areas within which for defined period, all fishermen are deemed to be commercial. Commercial areas are necessary to overcome the enforcement loophole created by the requirement to include in the byelaw a general allowance outside 'commercial areas' of 5kg for personal use.
12. **Set an annual deadline for permit applications –** not just allow applications until the end of the permit year. Allowing applications throughout the year creates too much uncertainty about numbers and prevents new entrants. Officers suggest a deadline each year by which holders must renew their (permit say 30 November) or lose their entitlement. This would favour professional legitimate fishermen, and help to discourage opportunists seizing on new fisheries.

Other issues connected with the Byelaw

13. Permit administration in August and September each year is a major burden on NWIFCA administrative staff. Permit guidance should define how long it takes to get a permit from the time of application; a minimum of say 15 working days. With this NWIFCA could offer a service standard to issue permits for completed application within 20 working days. This would allow all data to be checked, cheques to clear at the bank and permits to be made up.

14. This year Postal Orders were used by applicants to speed up applications. In future years cheques would be required. Cheques provide evidence of the existence of an applicant's bank account and support identification of applicants.
15. In this first year of Byelaw 3 HMRC received a large number of urgent applications for confirmation of fishing income resulting in delays to this evidence and delays to the issue of unique tax reference numbers to new HMRC registrations. This further resulted in delays to the NWIFCA administration of permit application. To overcome this delay, NWIFCA Officers accepted letters from Chartered Accountants stating they act for applicants and submit returns to the HMRC on behalf of the said applicants. In future evidence of actual submission to the HMRC will be required.

The waiting list

16. There are still over 100 applicants on the waiting list for Byelaw 3 permits and the NWIFCA gets regular inquiries about availability of permits. The waiting list has been closed throughout 2012.
17. Approximately 200 of those eligible (because they had a permit last year) this year have not applied to renew their permit. Officers would like to write to all those eligible who have not applied and to set a deadline of end December for them to apply for their permit or be put to the end of the waiting list.
18. The Authority should also consider the total number of permits which should be issued for the NWIFCA District so that this number could also be included in the Byelaw in future. Officers recommend a maximum figure of 300-400 permits would be appropriate for the District. This is based on the NWIFCA capacity to regulate and manage large scale fisheries. In 2012, we demonstrated that up to approximately 300 permit holders could be managed on the Foulnaze fishery. Data indicates that up to approximately 2/3 of the total number of permit holders can turn up to any given fishery.
19. Having set an upper limit, the Authority could then offer permits to those on the waiting list in order, until the maximum agreed number is reached. This approach would overcome the problem that there are some serious professional fishermen in the District who are unable to get permits because others are blocking the list. It would also allow a significant number of new entrants into the industry

**Communications and Science Officer and Chief Executive
November 2012**