

**NWIFCA Technical, Science and Byelaw
Committee**

7th February 2017: 10:00 a.m.

**AGENDA
ITEM NO.
6**

LEVEN AND PILLING COCKLE FISHERIES REPORT

Purpose: To provide an update on the enforcement and compliance at both the Leven and Pilling Cockle fisheries.

Recommendations:

1. **The report is received**

Context

1. The report is intended to update members on the enforcement aspects of the Leven and Pilling cockle fisheries. The report covers from the Aug/Sept surveys to the time of writing.

Pre-Authorisation

Surveys

2. Both beds were subject to a repeat surveys in August and September, following the surveys in February. The survey results are summarised below:

Leven and Flookburgh	Pilling
<ul style="list-style-type: none">• Mean density size cockle was 19 per m²• Mean density undersize cockle was 36 per m²• There were a handful of very large cockles > 40mm- likely to be the large ones predicted to die off back in April• A small proportion of spat was found at 18 sample points• The majority of the cockles were around 18-22mm	<ul style="list-style-type: none">• Mean density size cockles was 21 per m²• Mean density undersize cockles was 84 per m²• The majority of the size cockle was in the 30-35mm size range

Industry Consultation

3. The results were considered by the Bivalve Mollusc Working Group (BWMG) along with survey results from all the cockle beds in Morecambe Bay and further consultation with the wider industry summarised below:

BMWG	Wider Industry
Agreed to ask the following of TSB on the 10 th October: <ul style="list-style-type: none">• Leven and Pilling beds be opened to hand gathering - subject to an HRA• The Flookburgh bed be left to grow on more with a review in the spring	Wider consultation with the industry found: <ul style="list-style-type: none">• A majority view to open the beds• A small number recommending the beds remain closed until more of the cockles had reached size

Multi-agency Approach

4. The approach in respect of each fishery was as follows:

Leven	Pilling
<ul style="list-style-type: none">The existing multi-agency group meeting was informed of the fishery re-opening but no meeting was held	<ul style="list-style-type: none">A multi-agency meeting was held on the 25th OctoberWyre Council, Maritime Coastguard Agency (MCA), Gangmaster Licensing Authority (GLA) and Lancashire Police attended

Opening the Fishery

5. On the 1st November TSB members approved science officers' recommendations and both the Leven and Pilling beds were opened on the 7th November 2016 with the authorisation valid until the 30th April.

Authorisation

6. Authorisations were issued as derogations against a NW & NW SFC Byelaw 13a closure. Authorisations were valid for Byelaw 3 permit holders only. Unlike the Leven authorisation issued in April 2016 the November authorisation did not contain:

- Day/tidal/time restrictions due to the good compliance at the Leven fishery earlier in 2016
- Craam only jumbo size requirements due to spat protection not being as significant an issue

7. Other relevant points to the authorisations are given below:

Within both authorisations	Specific to the Fishery
Specific restrictions in relation to: <ul style="list-style-type: none">Prevention of saltmarsh damageRestriction to access by ATV and tractors onlyRestrictions to ensure safety of livestock, pedestrians or other people using the road, track or beachRestrictions on littering and fuel spillsProvision to close fishery during prolonged periods of cold weather as a bird protection measure	<ul style="list-style-type: none">A defined box with coordinates on the shoreward sideAccess to and from the fishery via Fluke Hall Lane only Leven: <ul style="list-style-type: none">A defined box only enclosing the whole bedAccess to and from the fishery via Moor Lane only

Authorisation Extension

8. Representation was received from industry that shifting stocks had resulted in large cockle being outside the Leven authorised area, this being at the most buoyant time of the year for the market.

9. An extension to the Leven authorised area was rapidly issued on the 8th December.

Compliance and Enforcement Summary

Minimum Size Enforcement

10. A clear enforcement risk was presented by the high densities of under-sized cockles on both beds (36 per m² at Leven and 84 per m² at Pilling).
11. The need for rigorous enforcement of the minimum size and riddling requirements was emphasised at BMWG.
12. Paragraphs 6 (Min size of Cockle) and paragraph 8 of (requirement to riddle) of Byelaw 3 are inherently linked in that compliance with one ensures compliance with the other.
13. Therefore IFCOs were specifically briefed to focus enforcement efforts on inspecting compliance with the size of the cockle being brought off.
14. IFCO coverage at the two fisheries since 7th November has been:
 - 395 MLS inspections at the Leven
 - 65.6% of landings at the Leven have been inspected when IFCOs have been present
 - IFCO (s) have been present for 38% of the days the Leven fishery has been open
 - 9 MLS inspections at Pilling
15. IFCO presence at both fisheries was tasked as follows:

Stage of the fishery	Leven	Pilling
7th November	<ul style="list-style-type: none"> • 3 IFCOs • 1 science officer to assist • Based on activity levels at the Leven fishery in April 	<ul style="list-style-type: none"> • Two IFCOs • 1 science officer present to assist Natural England personnel monitoring bird disturbance • Based on estimated activity • An additional IFCO attended due to enforcement issues
Later dates	For the remainder of both fisheries the following was maintained on a regular basis: <ul style="list-style-type: none"> • Two IFCOs checking MLS compliance as the industry • An individual IFCO checking the industry on with a decision whether to commit to checking conducting MLS inspections later being made dynamically • IFCOs present on the bed with ATVs 	

Compliance

16. Generally compliance with both authorisations was good with the only significant compliance issues, as expected, being breaches of the minimum size. A summary of compliance with specific paragraphs of the authorisation is given in Annex A.
17. Details of the Cockle MLS compliance issues is given below:

Date Location	Details
7 th Nov - Pilling	<ul style="list-style-type: none"> • Two individuals landed 8 bags – on inspection found to be 24% undersized • A Fixed Administrative Penalty (FAP) of £250 was issued to one individual • An official warning letter issued to the other
7 th Nov – Pilling	<ul style="list-style-type: none"> • Two individuals landed 6 bags – on inspection found to be 42% undersized • A FAP of £250 was issued to (shared) to the individuals
7 th Nov – Pilling	<ul style="list-style-type: none"> • Two individuals landed 6 bags – on inspection found to be 39% undersized • Both individuals received official warning letters
14 th Nov - Leven	<ul style="list-style-type: none"> • Two individuals landed 6 bags – on inspection found to be 52.1% undersized • A FAP of £250 was issued to (shared) to two of the individuals • An official warning letter was issued to the third individual

18. All individuals were interviewed under Caution (IuC) at the time or in the case of non-UK nationals with an interpreter on the 14th December, in all cases the individuals admitted the offences.
19. In all cases the individuals relayed the cockle immediately or the next day as arranged. Due to the IFCOs not being obstructed FAPs could be considered as a sanction.
20. All sanctions, including the FAPs alluded to above, were issued in accordance with the IFCA's sanctions policy. FAPs were only issued to individuals who:
 - Had previous Byelaw 3 (Mussels) offences disposed of by either a lower sanction (Official warning letter) or had previous prosecutions on their record
 - Had previous Byelaw 3 offences on their record, i.e. breaches of the Leven authorisation earlier in the year or failure to file Byelaw 3 returns
21. All FAPs have been accepted and paid and the cases disposed of with this sanction.
22. It should be emphasised that compliance with the MLS since the 14th November has been 100% on those landings inspected.
23. A breakdown of all sanctions used in respect of both fisheries is given in Annex B.

Industry Activity Summary

24. Attendance and quantities of cockle removed at both fisheries is summarised in the table below:

	Leven	Pilling
Attendance	<ul style="list-style-type: none"> Attendance on first day was 38 Average attendance 19 per day Attendance increased in December following the closure of the Dee and some Dee licence holders fishing the Leven as well 	<ul style="list-style-type: none"> Attendance on first day was 8 Average attendance 19 per day
Amount of cockle fished	<ul style="list-style-type: none"> November 54,213kg December 32,583kg <p>Total - 86,796kg since 7th Nov</p> <p>Total including 22182kg fished in April – 108,978kg</p>	<p>Amount of cockle fished</p> <ul style="list-style-type: none"> November 4,260kg December 8,275kg <p>Total - 12,535kg</p>

22. Some relevant points summarising the trade elements of the fishery are given below:

- Most gatherers moved from the Pilling bed to the Leven bed following the minimum size compliance issues on the 14th November
- Generally activity at the Leven dropped mid-week and picked up over weekends and Thursday/Friday due to logistics of getting the product to the continent
- The industry at Leven were grading legal size cockle into a “large” and “small” grade sizes ashore and returning unmarketable cockle to the bed – see comments below
- The larger buyers who were moving product to the continent stopped sending on the 18th December and re started on the 6th January
- Buyers fulfilling small orders took advantage of the buoyant Christmas market and the extension to the authorised box at the Leven and continued fishing across the festive period
- At the Leven the industry moved around the authorised box and it looked for the marketable large cockles

23. With reference to the point above alluding to relaying of unmarketable cockle back on the bed to grow on. Responsible gatherers were returning the stock to the bed properly.

24. Unfortunately some elements of the industry were merely dumping unmarketable cockle high up on the beach – in some cases along with the discarded sacks, specifically during the week commencing the 23rd January. For clarification:

Dumping unmarketable cockle	Discarding sacks
<p>Officers condemn this practice and point out it is wasteful of a resource and does not reflect well on the industry as whole</p> <ul style="list-style-type: none"> • This practice is not an offence and not covered by any enforceable regulation • The “<i>spread them thinly and evenly through the fishery</i>” provisions only applies when the cockle has been gathered in breach of the Byelaw 	<p>This is breach of paragraph i of the authorisations for both fisheries</p>

Bird Flu Outbreak

25. On the 24th January DEFRA notified of an out-break of Avian Flu (H5N8) at a Pheasant hatchery at Pilling in very close proximity to Fluke Hall access to the Pilling fishery. A second outbreak in Wyre was notified on the 28th January.
26. As a response there is currently:
 - A 3km protection zone and 10km surveillance zone around the site
 - Relevant to the IFCA is the requirement to cleanse/disinfect vehicles
 - <https://www.gov.uk/guidance/avian-influenza-bird-flu>
27. The IFCA immediately suspended all but essential activity in the area and the sample run in late February will be considered closer to the date.
28. The issue may have wider ramifications for the IFCA's operations across the district and the risk of cross contamination. The senior scientist is leading on the issue.

Andrew Deary
Head of Enforcement
30th January 2017

Annex A

Element of the Authorisation	Compliance
Permit holders only	No unpermitted gathering was detected or suspected of having occurred <ul style="list-style-type: none">• 6 individuals were refused access to the Leven fishery for not being in possession of a permit
Box area	On minor instance of non-compliance on the 14 th December
Access points	No compliance issues
Protection of saltmarsh	No compliance issues
Access via ATV/tractor only	No compliance issues

Annex B

Sanctions	Details
Verbal warnings	Two issued: <ul style="list-style-type: none">• Both for breach of authorisation box at the Leven on the 14th December
Official warning letters	Four issued: <ul style="list-style-type: none">• 3 for MLS offences at Pilling on the 7th November• 1 for MLS offences at the Leven on the 14th November
Fixed Administrative Penalties	3 issued: <ul style="list-style-type: none">• To one individual for MLS breach at Pilling on the 7th November• To two individuals for MLS breaches at Pilling on the 7th November• To two individuals for MLS for MLS breaches at the Leven on the 14th November