

**NWIFCA Technical, Science and Byelaw
Committee**

7th February 2022: 10.00 a.m.

AGENDA ITEM

8

Penfold Fishery

Purpose of report: Update members on the circumstances surrounding the temporary closure of the Penfold cockle fishery in December 2022.

Recommendation: Members approve the report

Background

The Penfold cockle fishery was opened in October 2022. The TSB committee voted to open the fishery subject to HRA at the earliest opportunity. Officers proposed opening the fishery as close to the date that classification would be known, unfortunately due to a delay in receiving classification the opening was delayed for two days finally opening on Wednesday.

The fishery was opened under NWIFCA Byelaw 3 flexible permit conditions.

The fishery initially had a high turn out of permit holders however this dropped down to around 45 permit holders fishing regularly through the autumn and into winter.

There were problems of discarded litter reported by other agencies which NWIFCA swiftly assisted in communicating with permit holders that this could lead to the fishery non-compliant with the HRA. In addition, there was suspected damage to SSSI features reported which officers investigated and found not to be within the delegation of the HRA.

December Cold Weather

In December 2022 the UK experienced a period of prolonged cold weather. Within the HRA for the Penfold Cockle fishery there is a clause stating that action should be taken to prevent damage to the features of the Ribble Special protection Area in the event of cold weather.

The HRA states "NWIFCA will carry out an assessment of risk in conjunction with Natural England during periods of cold weather and may close the fishery if cold weather is predicted to be below zero for more than 12 hours a day for 5 consecutive days and if advice is that fishing poses a risk to SPA features. If there is evidence of high levels of disturbance and a risk of adverse effect identified to the European Site then the NWIFCA Authority will close the fishery."

At the start of the cold period officers communicated on the potential to have to invoke management if the cold period persisted. This was discussed with Natural England who suggested that based on the forecast the fishery should be closed for the equivalent period that the weather was cold. Officers were cautious in this and decided it would be inaccurate to impose a management measure based on a predicted forecast, if the forecast was wrong then fishing would have been wrongly disrupted. This proved to be right as there was temporary milder period in the weather which broke the cycle of the current wording in the HRA.

Officers agreed to use actual data from weather stations above and below the Penfold fishery which the closest weather stations were Crosby and Blackpool Airport, where hourly data was reported on temperatures. This was assisted by the Vice-Chair and communicated to the Chairman of the Authority.

Officers arranged a meeting with NE in January to discuss the drafting of a cold weather protocol to improve on the information listed in the HRA.

NW Advice on Cold Weather

Advice was received from NE that in the event there was a risk to features of the SPA (bird) the fishery activities would need to be suspended. The advice included that the fishery should be closed for the same duration that extreme weather had been recorded, even if this included milder weather. This is to limit disturbance to the wading birds and allow them chance to recover and recondition, essentially feeding undisturbed.

Temporary Closure

Unfortunately, from the 11th of December the weather turned severely cold with temperatures reaching -8 degrees Celsius reported. Officers were acutely aware of the requirement to monitor the temperatures in this week; however, it did seem that the milder temperatures may break the cycle of cold. Unfortunately, on the 16th of December as seen in the data attached in Annex A the periods of cold endured required temporary closure of the cockle fishery, it was only at this point that officers were confident that the extreme weather warranted a suspension to activities.

The measures to invoke management are included in paragraph 6 of the flexible permit conditions, *"The fishery is within a marine Protect Area, as such required a Habitat regulation Assessment (HRA). Should the fishery no longer be within the scope of information used to assess the fishery and there is potential for damage to protected features. The fishery will be suspended until further assessment has been carried out to ensure any fisheries remain HRA compliant."*

Officers acted proportionately in management of the temporary closure by including the weekend days. This then resulting in the fishery being closed for 3 days during the week when tides were permitted (the fishery is only open on weekdays under the flexible conditions).

Officers understand that this was an unfortunate period for the fishery to be closed just before the festive break, however delays to the closure could not be implemented as per the advice from NE.

Officers considered how long in advance of the potential for a closure that permit holders should be communicated with. There were potential hurdles in any direction on the implementation of management. If permit holders were alerted too early then a significant number may have not travelled or returned, then upon weather improving may have lost out on fishing. Officers communicated with fishermen by text message and the website news page after they had concluded fishing on Friday 16th, hoping that the two-day buffer over the weekend would allow accommodation and travel plans to be changed.

After the closure officers received communications from four permit holders and two members of the committee. Three who made formal requests for information surrounding the implementation of management, these were responded to within 20 working days after much officer consideration.

On the 20th after the implementation of the management measure to temporarily suspend fishing of cockles at the Penfold fishery Acting CEO communicated the decision to the TSB-Committee

requesting vote to support the officer's decision. This was made to regularise the situation around the implementation. The committee voted in support of the decision.

A timeline of discussion and actions has been included with the report as Annex B.

Moving Forwards

Officers are continuing to draft a cold weather protocol for future use. This will sit alongside HRA's and guide officers with when to take certain decisions, implement firmer guidance on hours of cold weather in a set period and lay out guidelines for communicating with stakeholders.

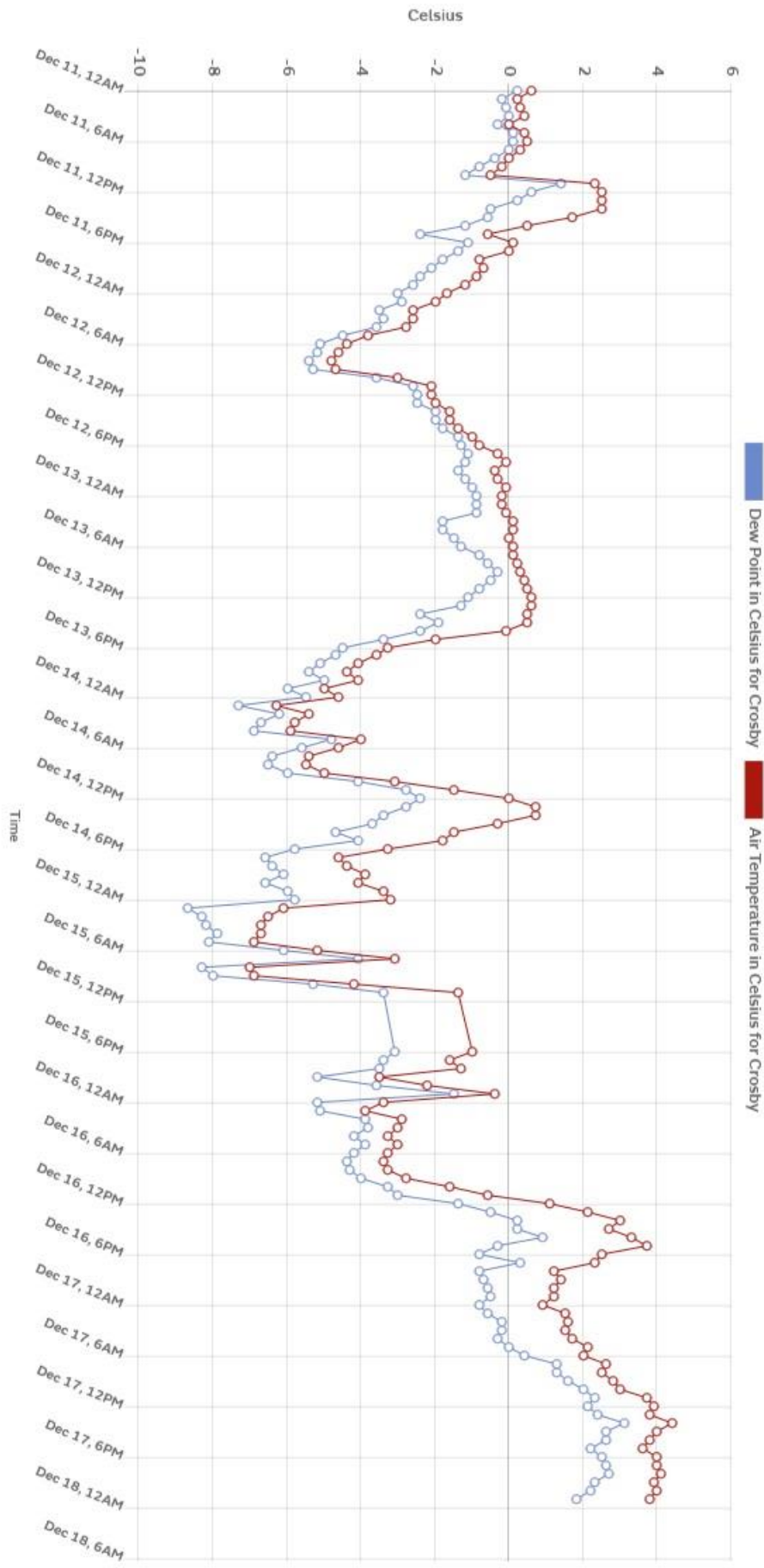
Conclusions

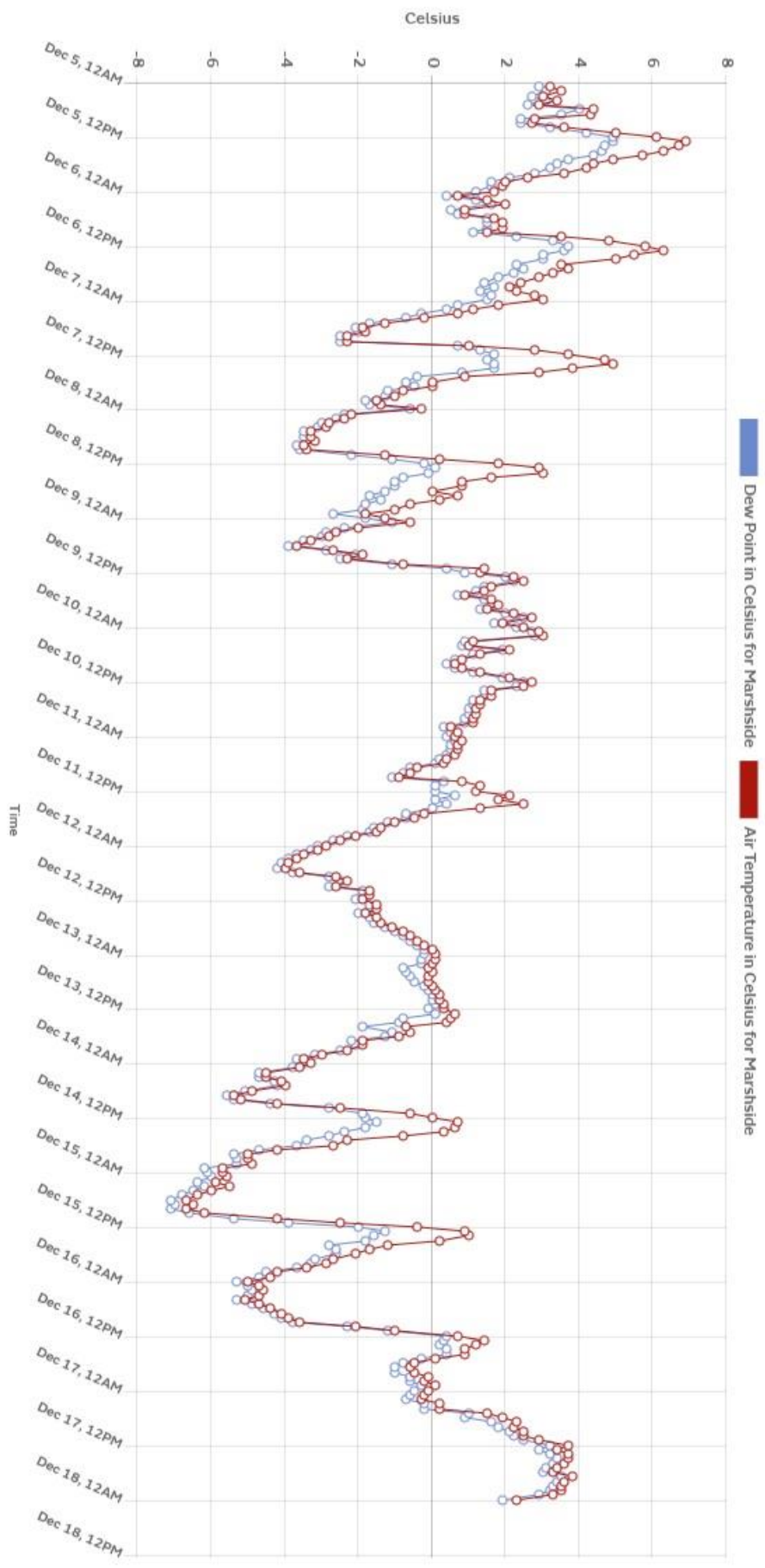
Officers accept that this was a challenging management measure placed upon industry, however recognised it was necessary to ensure compliance with the Conservation Objectives of the MPA, as identified in the HRA. A failure to carry out management upon advice from Natural England would have left the Authority open to challenge by NE and by other non-governmental bodies. The statutory function of the Authority is to manage fisheries without detriment to the environment and this temporary measure fell under this delegation. However, it is recognised that compliance is best achieved with co-operation of stakeholders and as such, the development of clear procedures and communication moving forward will serve to negate some of the frustration experienced by stakeholders operating within this fishery.

Annex A

Table 1. Weather data for Blackpool Airport and Crosby between 11th and 16th of December 2022.

Blackpool Airport Weather Station		
	Date	
	11/12/2022	17:00:00
	13/12/2022	06:00
Period Below Zero		37 hours
	13/12/2022	17:20
	14/12/2022	10:20
Period Below Zero		17 Hours
	14/12/2022	16:20
	15/12/2022	11:35
Period Below Zero		19 hours
	15/12/2022	15:56
	16/12/2022	10:50
Period Below Zero		19 Hours
Crosby Weather station		
	Date	
	11/12/2022	19:00
	13/12/2022	02:30
Period Below Zero		33.5 hours
	13/12/2022	15:24
	14/12/2022	12:00
Period Below Zero		21 hours
	14/12/2022	14:42
	16/12/2022	11:21
Period Below Zero		45 hours





Annex B

Timeline of Events

5th of December

Officers were alerted to cold weather and were aware of cold weather clause in HRA. Officers began to monitor weather and contacted Natural England.

7th December

Natural England agreed to discuss procedures and how to measure cold weather days.

8th December

Officers spoke to NE and discussed the duration of freezing temperatures required to trigger a closure, the recommended action should freezing continue beyond this timeframe, where to take temperature readings from, and how to ensure we adhere to the HRA requirements. Forecast data was seen to be too uncertain to draw decisions from.

12th December

Vice Chair and officers discussed weather station data to avoid using forecast weather.

14th December

Natural England and NWIFCA continued to communicate regarding the severe weather experienced. It was determined that the threshold had not been met, but there were still concerns over the ability of birds to maintain condition under the circumstances – the reason being that although temperatures had exceeded 0 degrees within the given period, it was likely not to have resulted in a thaw - and that principles for action needed to be agreed to ensure it was appropriate and proportionate.

The forecasts suggested weather would improve. Officers continued to monitor the temperatures.

NWIFCA officers agreed to meet with Natural England in the New Year to discuss and clarify cold weather protocols.

15th December

Weather was colder than predicted and the threshold was reached, officers discussed that unless a drastic change in the weather occurred within 12 hours then a closure would be necessary to be consistent with HRA.

There was also concern among officers that where weather had gone above zero it had not been sufficient to cause a thaw, presenting greater risk to SPA features.

16th December

Officers agreed there had been sufficient freezing weather to warrant a risk to the protected features of the SPA and thus a 5 day closure was necessary as agreed with NE.

Officers believed that to be proportionate to the fishers the closure should be inclusive of weekend days when the fishery was already closed.

Closure was implemented via text messaging service and website communications with permit holders.

20th December

Officers requested a vote from TSB to regularise the situation with regards to the decision.