

<p>Title: NWIFCA Cockle and Mussel fishing permit byelaw 2019</p> <p>Lead department or agency: North Western Inshore Fisheries and Conservation Authority (NWIFCA)</p> <p>Other departments or agencies: MMO, Natural England, Defra</p>	Impact Assessment (IA)
	Date: 25/05/2018
	Stage: Development/Options
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Dr SM Atkins, CEO NWIFCA, 1 Preston Street, Carnforth LA5 9BY. s.atkins@nwifca.gov.uk
Summary: Intervention and Options	RPC Opinion: N/A

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2017 prices)	In scope of One-In, Three-Out	Business Impact Target Status
£	£	£	Not in scope	Qualifying provision

What is the problem under consideration?

NWIFCA has a duty to review Byelaw 3 'Permit to fish for cockles and mussels' (confirmed in 2012) after 2015 as stated in the bylaw IA.

Why is government intervention necessary? To: 1. take account of industry changes, 2. make use of recently introduced flexible permit conditions, 3. remove redundant sections and 4. apply 6 years further experience of the effectiveness of the byelaw.

What are the policy objectives and intended effects

1. To increase sustainable use of shellfish stocks.
2. Enhance protection of areas where shellfish are gathered most of which are MPA.
3. Continue and improve a successful permit scheme in the light of six years' experience since the byelaw was last reviewed.
4. Improve clarity of regulation for the Authority and fairness for permit holders.
5. Reduce the administrative burden of operating the permit scheme.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The following policy options have been considered through this IA:

- Option 0.** Do nothing - Retain existing byelaw unchanged
- Option 1.** Switch to voluntary agreement with code of conduct
- Option 2.** Improve byelaw to meet problem and objectives as above.

All options are compared to option 0. Option 2 is preferred. Option 0 retains a byelaw with significant potential for improvement. Option 1 has been dismissed in previous versions of the byelaw because cockles and mussels are in high demand and shellfish gathering is an industry with a history of illegal activity, over exploitation of stocks and exploitation of workers. Option 2 creates an opportunity to take advantage of the latest thinking on byelaw measures including flexible permit conditions which will allow

maximum fishing under maximum regulation. There is the potential to make better use of modern technology to run the permit scheme creating benefits for both permit holders and the regulator.

Will the policy be reviewed? It will be reviewed. **No later than Dec 2024**

Does implementation go beyond minimum EU requirements? No					
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	

I have read the impact assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible:

Date:

Price Base Year	PV Base Year	Time Period 5 Years	Net Benefit (Present Value (PV) (£)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£)	Total Transition (Constant Price) Years	Average Annual (excluding transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		0	0

Description and scale of key monetised costs by ‘main affected groups’
 £200K of management and administration costs of these fisheries are paid from public funds via the NWIFCA budget and £50K by permit fees collected under the current byelaw.

Other key non-monetised costs by ‘main affected groups’
 Estimated that 20% of costs of cockle and mussel fisheries including for example survey, compliance, inspections, penalties, issuing permits, collating returns is recovered through permit fees. 80% costs are paid from public funds through NWIFCA levy on Local Councils.
 Costs of protecting the environment and damage resulting from the fisheries are non-monetised.

BENEFITS (£)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	0	0

Description and scale of key monetised benefits by ‘main affected groups’
 Recovery of estimated £50K costs of the fishery through permit fees. NWIFCA has 22 staff, all contribute to management of all the fisheries in the District.

Other key non-monetised benefits by ‘main affected groups’
 Fair and equitable compliance and regulation, Environmental protection and compliance with environmental legislation

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
The byelaw can be effectively enforced by NWIFCA resources and partner assistance; Fisheries will continue to be available subject to continued growth and replenishment of stocks; Fishers will see their interests to be in purchasing a permit.		

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £:			In scope of OI30?	Score for Business Impact Target (qualifying provisions only) £:
Costs: 0	Benefits: 0	Net: 0	No	N/A

Evidence Base

Background

Cockle and mussel fisheries on the coasts of North Western England are regulated under IFCA byelaws. The need for the current byelaw now in place (Byelaw 3 'Permit to fish for cockles and mussels' confirmed in 2012) was set out in the IA to that byelaw published 2012.

Presence, absence, scale, value of these fisheries are unpredictable from year to year, cockles more so. The controlling factors are assumed to be environmental (e.g. weather, temperature, food availability) but their relative importance are largely unknown. Breeding cycles are variable and may be extended according to similar factors. Mussels are present at fishable economic levels in some parts of the District in most years. Cockles may be absent from the District at commercial levels for extended periods of 5-10 years. Both cockles and mussels can reach extremely high densities for limited periods. At such times the fisheries can be extremely lucrative. In the past these fisheries have been associated with a variety of illegal and violent activity which has been largely eliminated by measures such as this byelaw and action by other agencies.

Uncontrolled fishing may have an impact on bird populations through disturbance or removal of a critical food source. Impacts are not well understood or quantified. Fisheries are subject to a Habitats Regulation assessment (HRA) before opening to ensure regulators are content they will not cause unacceptable impacts.

Fishing can cause wider damage to coastal conservation features through vehicle movements, trampling, digging raking etc. Coastal communities are subject to disturbance from fishing activities noise and vehicle movements sometimes taking place night and day. Fisheries may attract large numbers of fishers. Conservation concerns are addressed through the HRA as above. Wider concerns are addressed through multi-agency committees convened as required before each fishery to consider management of the fishery to reduce wider impacts to acceptable levels.

When open, cockle and mussel stocks tend to be overexploited. Illegal fishing (e.g. without permits, in closed areas or using prohibited equipment) is a constant concern of the NWIFCA. Fisheries require a high level of enforcement and there are currently no options for remote monitoring of fishing activity. Enforcement must be based on evidence gathered by IFCOs on site.

Protection of stock and controls on fishing effort are essential to avoid over exploitation and maintain a harvesting regime which is fair to all wanting to fish. The NWIFCA 2012 byelaw 3 (Permit to fish for cockles and mussels) makes use of new powers provided in MCAA (Marine and Coastal Access Act 2009) and was developed from this Authority's extensive experience of these fisheries.

The current byelaw has achieved the objective of establishing firm control of fishing effort linked to stock levels determined by regular survey. Over exploitation has been virtually eliminated under a permit scheme including a charge of £500 per permit per year. This permit scheme together with a requirement to provide catch return data has reduced numbers of fishers from over 500 to a manageable level of approximately 100 (Table 1). Illegal financial activity and exploitation of labour has been minimised by working in collaboration with other regulators. The NWIFCA 2012 byelaw 3 updated and consolidated previous byelaws inherited from Cumbria and North Western Sea Fisheries Committees.

The scale and variability of these fisheries in the NWIFC District is shown in table 1. This illustrates the decline in the numbers of permits over time since the byelaw was first introduced in 2007. It was a policy objective of the original byelaw that numbers of fishers should be reduced to achieve a more sustainable industry. Also records of shellfish landed are shown from landing returns to illustrate the variability of the industry over the same period in the main shellfish beds of NW England.

Problem under consideration and Rationale for intervention and Policy objectives

NWIFCA has a duty to review Byelaw 3 'Permit to fish for cockles and mussels' (confirmed in 2012) as stated in the bylaw IA. The review aims to:

1. Take account of industry changes,
2. Make use of recently introduced provisions to include flexible permit conditions in IFCA byelaws,
3. Remove redundant sections of the bylaw including provisions for safe use of boats which are not within the duties of NWIFCA and
4. Reduce administration of the permit scheme by setting tighter time limits for applications.
5. Apply six years further experience of the fisheries in amendments to the bylaw measures.
6. Increase fairness and diversity compliance with provision for children to be placed on the permit waiting list from age twelve.
7. Make four new commercial areas where gathering a small quantity without a permit is prohibited: North Morecambe Bay, South Morecambe Bay, Ribble and Wirral. These areas would incorporate and enlarge the 2 commercial areas (Morecambe Bay and Ribble Estuary) in the current bylaw.

Description of options considered (including status-quo)

Option 0: Retain existing bylaw unchanged;

Option 1: Switch to voluntary agreement with code of conduct;

Option 2: Improve bylaw to meet objectives as above. Preferred.

Option 0 would retain a bylaw which the Authority and Industry are aware has significant potential for improvement and is therefore inadequate.

Option 1 has been dismissed in previous versions of the bylaw because cockles and mussels are in high demand. Industrial shellfish gathering has a history of illegal activity, over exploitation of stocks and exploitation of workers. Legal measures to regulate the industry are essential and preferred by the majority of fishers as they are clear and defined with adequate sanctions to generate compliance. Legal sanctions are essential to enforce the permit requirement and conditions of the fishery. There would be little or no compliance in the absence of proper sanctions, shellfish beds would be stripped of all stock without reference to a minimum landing size, remaining brood stock, food for birds or permit conditions.

Option 2 creates an opportunity to take advantage of the latest thinking on bylaw measures including flexible permit conditions which will allow maximum fishing under maximum regulation. There is the potential to make better use of modern technology to run the permit scheme creating benefits for both permit holders and the regulator and reducing administration costs.

The main changes from the previous 2012 version of the bylaw are:

- i. Conversion to a flexible permit scheme bylaw with provision for the Authority to set permit conditions with safeguards (S. 21-24) thereby increasing the flexibility and effectiveness of regulations;
- ii. Amendment of the prohibition S.6 on possession of illegal shellfish following MMO comment;
- iii. Requirement to label containers containing cockle or mussel with the name of the owner (S7-8);

- iv. A change to the timing limit for permit renewal to streamline permit renewal process by limiting the period for renewal;
- v. Three new and two amended commercial cockle fishing areas where gathering small amounts for personal consumption is not permitted. The purpose of commercial areas is to increase compliance and safety.
- vi. Setting a lower limit of age twelve for applicants to be added to the waiting list to allow young people to prepare for work in commercial fishing as soon as they receive a National Insurance Number (NINO);
- vii. Removal of provision for shellfish merchants to have permits for 'support workers'. Support worker permits have only been available since 2012 but have led to complaints from existing full permit holders and compliance difficulties over accusations that support workers are assisting fishing or actually fishing without qualifying for a fishing permit through the waiting list procedure.
- viii. Simplifying transitional arrangements. The current byelaw provides for fishers in the Dee or Cumbria areas to get local permits at no cost.
- ix. Ending boat user endorsement of permits and provision for safety regulation of the use of boats for hand fishing cockles and mussels (S.28-29 current byelaw) as this is outside the remit of the Authority and falls within the duties of the Maritime and Coastguard Agency.
- x. Revocation of byelaws now not needed.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Option 0

Monetised Costs: Administration of the byelaw will be higher than option 2 as some administration costs of the byelaw will be removed under this review. Permit income for NWIFCA will be unchanged. Benefits none.

Non-Monetised Costs: The current byelaw is considered less effective and efficient than option 2 as a management and regulatory tool. A benefit is that the Authority would avoid the work of introducing the revised byelaw.

Option 1

Monetised Costs the option would remove income to the Authority as no permit fee would be chargeable under a voluntary scheme. **Benefits:** Ton industry who would not have to pay for permits.

Non-monetised Costs: Fisheries would effectively become unregulated and would be expected to become a free for all. This option would be rejected by all regulators and many fishers would support clear and fair enforcement of fishing rules. **Benefits:** none

Option 2

Monetised. Costs and benefits are neutral. No increase in costs as planned for permit fee planned to remain unchanged.

Non-monetised Costs are reduced as elements of the administration of the byelaw will be reduced. **Benefits** include a more efficiently run byelaw with flexibility on permit conditions to meet fishery needs so that sustainable exploitation can move towards a maximum.

Consultation

Stakeholders have been consulted on all the changes during the course of development of the new byelaw.

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)

This is a review of an existing byelaw, the key elements of which are working well and do not need to be changed.

Risks and assumptions

These are as in the first part of this IA

1. The byelaw can be effectively enforced by NWIFCA resources and partner assistance..
 2. Fisheries will continue to be available subject to continued growth and replenishment of stocks
 3. Fishers will see their interests to be in purchasing a permit
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- **Direct costs and benefits to business calculations (following BIT methodology):**
 - No direct costs and benefits to business will arise from this review of the byelaw or can be calculated.