

**NWIFCA Technical, Science and Byelaw  
Committee**

**5<sup>th</sup> November 2019: 10:00 a.m.**

**AGENDA  
ITEM NO.**

**6**

**FOR ACTION: BYELAW MAKING PROCESS**

**Purpose:** To enable discussion on the byelaw making process

**Recommendation:** Discuss and propose an approach for streamlining internal byelaw development

**Background**

1. In August 2016, Officers presented a new audit process for byelaw development (Annex A). The aim was to put in place a clear and consistent approach to byelaw making. The audit process incorporated and extended the Defra guidelines.
2. It was recommended that an audit for each byelaw in development would document decisions and progress. Members thought the proposed audit process would be useful and informative and noted that it should significantly increase the efficiency of the byelaw review process.
3. Further to this byelaw audit process, the MMO updated their *Quality Assurance of IFCA byelaws: Review Process* in 2018 (Annex B), which sets out how they will reduce their involvement in the byelaw making process. The MMO will now only review byelaws which have been made by the Authority, compared to their previous approach whereby they provided scrutiny over various drafts of byelaws. As such, the IFCA must now obtain legal advice on wording and byelaw measures before submitting to the MMO.
4. Even with the audit process for byelaw development, the timescale for byelaws development is significant, more often than not, over a year. The time taken for byelaws to go from the initial stages of byelaw development to making by the Authority is due to a number of factors including but not limited to:
  - i. Involvement and agreement of TSB
  - ii. Staff resources: Time and capacity of Officers leading on byelaw development
  - iii. Time taken to receive legal advice on wording
  - iv. Informal consultation: Holding meetings, putting out information, number of comments received and potential for resolving issues
  - v. Formal consultation: As above
  - vi. Comments received from MMO: Potential to resolve issues
  - vii. Time taken for Secretary of State sign off

**Potential options for streamlining byelaw drafting**

5. Whilst many of the factors affecting the byelaw development time are out of the NWIFCA's control, it may be worth considering potential options for streamlining the internal aspects of byelaw drafting given that there are at least 4 new byelaws that will need to be made in the process of the Byelaw Review.
6. One important aspect of streamlining the process will be ensuring the involvement of TSB in the early stages of byelaw development as outlined in Agenda Item 6. The other main aspect that can be considered is the resourcing and who is responsible for drafting byelaws.

7. There are several different approaches taken by different IFCA's:
  - i. Byelaws are drafted by the Officer with the most expertise on the remit of the byelaw
  - ii. A 'Byelaw Officer' is responsible for drafting all byelaws
  - iii. Once a list of regulatory needs are developed by Members and Officer, byelaw drafting is outsourced to someone of suitable legal standing such as a solicitor with fisheries expertise
  
8. All options have their pros and cons in terms of Officer time and financial resources required by the IFCA. However, it is something that the TSB may wish to consider. Members and Officers may have experience and contacts to contribute to a discussion on this matter before a proposal be made to take an agreed approach forwards.

**Chair of TSB**  
**23<sup>rd</sup> October 2019**