

**NWIFCA Technical, Science and Byelaw
Committee**

6th November 2018: 10:00 a.m.

**AGENDA
ITEM NO.
6**

NWIFCA POTTING PERMIT BYELAW 2018

Purpose: i) to provide an update on work carried out since August TSB on the proposed flexible permitting byelaw for potting.

Recommendation: i) that Members approve the report;
ii) that Members approve the work of Officers.

Background:

1. At August TSB approval was given to circulate a draft version of the proposed Potting Permit Byelaw by email for discussion at November meeting.

Progress since August:

2. The draft Potting Permit byelaw was sent to TSB members via email on 20th September, along with a draft Guidance document to the byelaw and a set of questions for Members input.
3. Members were also asked to approve starting informal consultation with fishers.
4. Three responses were received, from Mr Leigh, Mr Brown and Mr Bedworth. Messrs. Leigh and Brown raised points to which the Senior Scientist directly responded. These are provided in table format at Annex A.
5. A Drop In day for fishers was organised at the Fish Hall in Whitehaven on 3rd October.
6. Information on the Drop In day was published on the website, notices put up in Cumbria area, emails and letters sent to all those commercial and recreational potters contact details were available for. Details were also sent to NFFO (National Federation of Fishermen's Organisations).
7. The draft byelaw, Guidance document and questionnaire were all posted on the website, inviting online response or download and sending in.
8. The day was well attended with Officers from Whitehaven providing valuable assistance along with TSB member Mr Brown. Over twenty people attended.
9. Science Officers took the opportunity to meet with whelk potters to run through specific questions to gain a better understanding of whelk fishing – details in separate Whelk Fisheries report to TSB.

Current Position:

10. To date, sixteen questionnaire responses have been received. All are being logged and issues brought up are being investigated further. The most significant concerns remain over management of the whelk fishery detailed in the separate report.

11. In order to ensure stakeholders from across the District have the same opportunity to participate in the informal consultation, a further Drop In day has been organised with help from EA colleagues at Lutra House, Preston for Monday 12th November.
12. This second day is being publicised in the same way as Day One.
13. The Byelaw informal consultation documents are still available on the website with the aim of obtaining further responses and input.
14. Officers have been discussing internally the implications of administration of the permit and the gear tags. Information has been provided by other IFCA's on the kind of tags they use for pots and any problems experienced with them.
15. Officers have begun a costing exercise in order to provide a realistic cost-recovery fee structure to the next TSB.

Next Stages:

16. On the whole there are no current concerns over the amount of effort or activities in the commercial and recreational crab and lobster fisheries. It is not anticipated that measures such as restricted permits numbers, pot limitation, closed seasons, gear restrictions etc will be required at the present time for these fisheries. The Flexible Permit conditions will enable the NWIFCA to introduce these should evidence show they are required at some point in the future, which 'future proofs' the byelaw to a certain extent.
17. In relation to crab and lobster fisheries the new byelaw will consolidate good management measures across the District amalgamating existing good practice. It will also strengthen enforcement.
18. Some of the issues raised to date by fishers will be straight forward to amend and these are provided below at Annex B. The Preston meeting may also bring more to light and so this list is not exhaustive.
19. Discussions with fishers and a meeting with NFFO West Coast Committee raised other issues that need to be addressed by the Authority and these are outlined in Annex C below. Additional issues may be added as the byelaw progresses.

Mandy Knott
Senior Scientist
18th October 2018

ANNEX A - NWIFCA Potting Permit Byelaw – TSB Comments – Sept 2018

Name	Comment	Response
Brian Leigh	Do you have any means of facilitating engagement with recreational potters?	Both CSFC and NWSFC have hobby permit byelaws for potting so we have contact details of those involved in the fisheries and will send out to them
	Can you explain to me the reasoning for the prohibition on taking a lobster with a missing claw – my understanding is that they can frequently loose a claw when in contact with other lobsters?	I have checked all other IFCAs’ byelaws and they do not have this in. This came from Officers who felt it was ‘fair play’ not to take a lobster with one claw. This might need further thought and taking back to justify it
	Recreational potting, entitlement to use up to 5 pots per license holder. Recreational catch limit for lobsters one per day. Does individual leave any additional lobsters in remaining pots(for successive 24 hour periods) or must they return them having reached the catch entitlement for the day?	Para 6 – “6. Subject to paragraph 11, no person shall use any keep pot, container or other device to store specified species in the sea or in an estuary and any specified species removed from the fishery must be landed within 24 hours of capture” – para 11 being Commercial permit. Therefore Recreational Potters must land animals within 24 hours of capture. In their five pots they can land one lobster and five edible crabs but have to return anything more to the sea. If they catch more than this amount they can of course chose which of them they want to take and which to put back. There is not a great deal of change from existing hobby byelaws for these measures – NWSFC B30 – five pots and 2 lobsters, 5 crabs. CSFC B26 – five pots and one lobster, 5 crabs. Both byelaws say must be landed on same calendar day and not use a keep pot.
Steve Brown	I can find no definition for a creel in Para 1.	There are no gear definitions in Para 1. They are all in Flexible Permitting Conditions so that we have the chance to change them in future if needed – ie. if scientific evidence shows MLS should increase etc.
	I see no reason to include shrimp in this Byelaw. To make shrimp potting even viable for domestic purposes you would need a vast number of pots to. Just not realistic.	Shrimps are in to ‘future proof’ the byelaw in the eventuality that shrimping with pots ever became viable. No harm in keeping it in.
	I am concerned at how	It is likely this will get changed before it goes to

	rapidly the fee's for a permit could increase if para 26c was misused.	MMO. They seem to prefer a table in the byelaw specifying exactly what increases there will be over say a 4-5 years period. I can't change this to a table yet until I know what people think is a reasonable fee to start with. I'll do it then.
	The stipulation of using any colour of flag but Black is practically a hazard to navigation. I would suggest that we look at this paragraph again and simply specify that pot/traps/creels are clearly marked in some way that we can enforce.	Information for this came from IFCOs in Whitehaven. Will take to TSB with Whitehaven officers present.
	I cannot emphasize enough the need to remove any reference to vessel size from this Byelaw if included it will cause serious problems in the future.	Needs discussion at TSB. Having it in flexible conditions was a proposal to be able to manage it. I put this in to get conversation going.
	There is no reference to pots/traps/creels set from the shore which does happen in some parts of the District.	This is covered in Para 3 under Prohibitions and Restrictions 'No person shall take or land from any fishery within the District more than the specified amount of the species listed' – which is included before any of the Potting provisions. It's also covered in the Guidance doc under para 2 – 'It applies to both commercial pot fishing, and recreational (hobby) potting and fishing from the shore for certain specified species.'

ANNEX B – NWIFCA Potting Permit Byelaw – Proposed Changes to Next Version – TSB Nov. 2018

Paragraph	Measure	Change	Justification for Change
2 (c)	Prohibition on removing cripples and nones (no claws) lobsters	Remove this measure	The inclusion of this measure has no conservation benefit. Lobsters are territorial and fight on the ground and in pots causing limb loss, or get damaged as the pots are hauled.
18 (c) and 26 (c)	Increase in fees by percentage	Change this measure once costing exercise and fees decided. MMO advice needed	50% increase per annum could lead to very high and unjustified fee costs in a short space of time. Current wording causing anxiety amongst stakeholders.
32	Size of buoy on gear	Change to minimum of A1 size instead of A2	Stakeholders report that A2 buoys are too large in certain areas and cause the gear to get moved in rough weather and by tides and current. A1 is more suitable. Larger buoys can be used if preferred.
32	Wording of marking gear to correct that colours refer to buoys, and flags should be black	Simple wording change	Black flags above the water can be seen easier when from land and on the water. The coloured buoys make gear easier to see from afar. This is for other fishing vessels to steer clear as well as for enforcement purposes.
32	Height of flag above water	Include wording from existing byelaw	Height of flag above water important to make gear most visible.
Flexible Permit Condition 2(c)	Requirement for escape holes in whelk pots	Remove and implement compulsory use of a riddle – bar spacing to be decided dependent on MLS agreed	Stakeholders unanimously state that escape holes are ineffective and get blocked. All use riddles to remove undersize whelks from catch.

ANNEX C – NWIFCA PTTING Permit Byelaw – Issues to be Addressed – TSB November 2018

Discussions with stakeholders around the permit fees has highlighted a need to decide whether or not there is open access to permits, and whether or not a track record has to be kept in order to be eligible for a subsequent permit. The Senior Scientist does not envisage that this is necessary and had been working on the basis that permits were available to those who applied on payment of the fee.

Should the Authority decide it necessary to restrict permit numbers a means of deciding who should have a permit and who should not would need to be devised.

- a) There are various opinions on the permit fees from both commercial and recreational fishers. Some stakeholders do not see a problem with them, while some commercial fishers think they should be more.
- b) A view of a number of recreational potters questions why they should have to pay for the right to fish in a public fishery.
- c) Some commercial potters question:
 - i. why they should have to pay for the right to fish when they pay thousands for fishing licences and shellfish entitlement;
 - ii. that if permit numbers are limited, track record becomes important. If a fisher wishes to change their vessel and there is a waiting time during which they cannot fish, they have to pay a permit fee or lose their track record;
 - iii. that artisanal fishers work on what is available or what is seasonal so will not necessarily use their permit each year, but would still have to pay for it;
 - iv. Defra are looking to remove latent capacity in the shellfish fisheries and are capping licences. If NWIFCA require potters to pay for a permit what happens if Defra remove that entitlement?
 - v. There are implications on the value of Shellfish Entitlement in IFCA's running permit schemes.
- d) NFFO's position on the governance of Flexible Permitting Byelaws raises questions about how changes to the flexible conditions are made, as they do not need signing off by Minister as they would under a byelaw. This gives the decision-making and byelaw powers to IFCA's. There is a clear need for fully open and transparent accountability and a documented process when undergoing a review of flexible permit conditions.
- e) A view shared by a number of commercial fishers is that vessel power influences what a vessel can fish more than length. However there are enforcement issues in relation to engine capacity limitations; whereas vessel length restrictions are more enforceable.