

17 AT A MEETING OF THE NORTH WESTERN INSHORE AND CONSERVATION AUTHORITY
HELD AT TRUCKHAVEN, CARNFORTH, 16TH SEPTEMBER 2021

PRESENT – MEMBERS

Councillor P. Williams	Chair	Cheshire West and Chester Council
Dr J. Andrews	Vice Chair	MMO appointee (Marine Environment)
Councillor A. J. Markley		Cumbria County Council
Councillor M. Wilson		Cumbria County Council
Councillor J Parr		Lancashire County Council
Dr E. Baxter		MMO appointee (Marine)
Mr R. Benson		MMO appointee (Commercial)
Mr R. Lomax		MMO appointee (Marine Environment)
Mr S. Brown		MMO appointee (Recreation)
Dr C Mihailovici		MMO appointee (Marine)
Mr. B. Leigh		MMO appointee (Anglers and Recreation)
Mr S. J. Manning		MMO appointee (Commercial)
Mr L. Stainton		MMO appointee (Recreation)
Mr K. Thompson		MMO appointee (Commercial/Aquaculture)
Mr P Capper		MMO appointee (Marine Environment)
Mr R Donnan		MMO appointee (Commercial)
Ms C Salthouse		MMO appointee (Marine)
Mr D Harpley		MMO appointee (Marine)

IN ATTENDANCE

L. Browning	Natural England
M Taylor	MMO
Mr S Ward, Mr T Davies, Mr M Diggle, Mr T Jones, Mr M Rowlings	– Members of Industry

NWIFCA OFFICERS ATTENDING

CEO, Head of Enforcement (HOE), Deputy Senior Scientist, Senior Operational Support Officer Whitehaven (SOSOW), Administrator (Whitehaven), Clerk.

APOLOGIES FOR ABSENCE

Mr N Baxter	MMO appointee (Marine Environment)
Mr G. Pidduck	MMO appointee (Commercial)
Mr W Friend	MMO appointee (Recreational)
Councillor S Clarke	Lancashire County Council
Finance Officer	NWIFCA

18 CHAIRMAN'S ANNOUNCEMENTS (AGENDA ITEM 1)

The Chair welcomed new member Mr Richard Donnan, and the members of industry in attendance.

The Chair advised on Covid protocols for the meeting. He also reminded members to sign the attendance register, and complete the declarations slips provided.

19. DECLARATION OF INTERESTS (AGENDA ITEM 2)

S Manning items 3&4, Mr Benson item 10, report 4, Dr Andrews item 10, Mr Stainton Byelaw 4.

MINUTES OF MEETING 6th JULY 2021 (AGENDA ITEM 3)

The Chair proposed that the minutes were a correct record and should be signed. Mr Leigh advised an amendment was required to page 10 regarding a resolution made at the TSB. The Chair to sign minutes once amendment made.

20. MATTERS ARISING (AGENDA ITEM 4)

No further matters arising.

21. Review of Policies, Procedure and Governance (AGENDA ITEM 5)

The Chair had requested that this item be moved up the usual agenda format.

RESOLUTION: MOVE RPA TO ITEM 5 ON AGENDA

Proposed: Chair, Seconded Councillor Wilson, 18 in Favour, 2 abstentions. Motion carried

The Chair reported that a late paper he had circulated was of a sensitive nature and proposed that members of the industry in attendance should be excluded from this discussion.

A vote was taken with all in favour, however Mr Leigh highlighted that because the draft report itself was not being discussed he doubted the compliance with the legislation that would permit the exclusion of the public. The CEO concurred and the public gallery was permitted to remain, as there was no media in attendance.

The Chair gave a brief overview of the current position. He reported that RPA considered themselves not adequately qualified to deal with some of the allegations made, and recommended that the Authority seek the assistance of a further external body to investigate. The S151 officer at Cheshire West and Chester Council supported this advice. It was stated that funds were available and the cost should be kept to under £10,000 if possible. It was recommended that a new body be appointed to liaise with RPA for a further set of interviews, being mindful that confidentiality remained essential. It is hoped for the process to be completed and the final reports ready by the end of November 2021.

North West Employers (NWE) was considered suitable and both Councillors Markley and Parr endorsed this. It was agreed that the initial approach should be made to NWE but that a short list of alternative consultants should be compiled, and approval sought from S151 officers.

Mr Taylor questioned when, and what content would be published, in response the Chair said it had not yet been decided, but he expected two reports, a final report from RPA together with a secondary report from whichever third party was appointed.

RESOLUTION 1:

THE CHAIR TO APPROACH NORTH WEST EMPLOYERS IN THE FIRST INSTANCE TO AID WITH THE REVIEW.

RESOLUTION 2:

FOLLOWING APPROVAL FROM THE REVIEW GROUP THE CHAIR TO DRAFT TERMS OF REFERENCE FOR THE APPOINTED CONTRACTOR.

RESOLUTION 3:

A MEETING OF FINANCE & HR SUB-COMMITTEE TO HOLD A MEETING AS SOON AS IS FEASIBLE TO OVERSEE THE LETTING OF THE CONTRACT AND PROGRES OF THE WORK.

Proposed: Dr Andrews, Seconded: Mr R Benson. All in Favour, 2 abstentions. Motion carried.

22. TSB SUMMARY OF MEETING 17TH AUGUST 2021 (AGENDA ITEM 6)

Dr Baxter gave a verbal overview from the above meeting. She reported that the annual appointments for Chair and Vice-Chair had been made and Dr Baxter and Dr Andrews had been re-elected respectively. Byelaw updates and review were discussed. CEO presented a report, updating members on the latest developments on Byelaw 1, MCRS, North Wirral Foreshore, Byelaws 3 and 4. For all of the aforementioned byelaws, comments had been received from MMO and these were being addressed. HOE reported on work done so far in reviewing netting byelaws. The Byelaw Strategy Paper written by Drs Baxter and Andrews was briefly discussed and it was agreed to set up a Byelaw Strategy Working Group to continue with the review and report to the November meeting.

There was a lengthy discussion around the cockle and mussel survey inspection report and an update was given regarding a potential mussel fishery in the Duddon Estuary. HOE was tasked with approaching Environmental Health regarding classification. It was also reported that a dredge fishery had opened at Perch Scar. However, Black Scar remained closed. Heysham Flat seed mussel fishery had also opened. The permitted seed mussel dredge fishery on South America had been fished for several days under authorisations and officers would return to check on the status of the beds.

A lengthy and contentious discussion ensued regarding the continued closure of the cockle fisheries in Morecambe Bay. It had come to light following questions from members that the CEO had requested the cockle HRA be escalated within Natural England, without any prior consultation with the committee, thus causing a lengthy delay in the opening of the fishery. Strong opinions were voiced from both members and industry regarding this action.

CEO responded that he had concerns about the high-risk nature of the fishery and the reputation of the IFCA, however members felt that if the CEO had attended the meeting those concerns should have been raised at that point. It was considered this course of action had undermined the remit of the TSB and its delegated duties, resulting in a breakdown of trust.

The Deputy Senior Scientist presented his report for information. HOE confirmed that an appointment had been made for the position of Senior Scientist.

RESOLUTION: TO ACCEPT VERBAL REPORT OF THE TSB 17TH AUGUST 2021

Proposed: S Brown, Seconded: P Capper. All in favour, 1 abstention. Motion carried.

23. FINANCE REPORT (AGENDA ITEM 7)

In the absence of the Finance Officer, the CEO presented the report for information: he requested any question be submitted by email to the FO. Dr Andrews asked if there was a contingency plan in place to undertake daily finance duties in the absence of the FO, in response the CEO stated that options into outsourcing this function were being investigated. The Chair suggested that accountants be approached as many offer a payroll service.

Mrs Dobson (SOSOW) was asked about the extra expense being incurred for repairs to NW Protector. She reported that the vessel was having some issues with the engine, but as much work as possible was being done in-house to keep costs down.

Councillor Markley reported that the vessel had been purchased second hand and had served its purpose but considered the vessel is still functional. It currently has 5000 hours clocked up and will need a major refurbishment at between 6000-7000 hours.

It was reported by CEO that there had been overspending on corporate and the Authority was still waiting for some prosecution costs to be paid back. HOE stated that Knowsley Magistrates Court had received payment in relation to one case but had not passed these on yet.

Dr Andrews asked if all the financial records were still being kept at the FO's residence, in response the CEO stated that these were held on the computer system, therefore, accessible anywhere, and government guidelines remained to work at home if able.

RESOLUTION: THAT THE REPORT BE ACCEPTED

Proposed: B Leigh. Seconded: Councillor Markley. Vote: All in favour, 1 abstention, Motion carried.

24 CHIEF OFFICERS REPORT (AGENDA ITEM 8)

The CEO reported that there are some Covid related issues concerning the crew and currently NW Protector is not going to sea. There had been some level of returning to normal working practices, however organising meetings continues to be problematic. Mr Leigh enquired as to the crew and Covid and CEO confirmed that an officer remained absent due to having contracted the virus.

The science team had worked very hard to complete a full survey programme across the district. He confirmed there was a limited cockle fishery at Pilling Sands, which had just reopened. Conversely, mussel stocks were better than in recent years.

There had been no changes to MMO or council appointees in this quarter, and the post of Senior Scientist had now been filled. There had been no H&S issues and no outstanding complaints. Dr Baxter commented that there was one outstanding complaint, which she had recently delivered to the Chair. The Chair replied this would be dealt with outside the meeting.

CEO reported that the database and website were up to date but would welcome more input for the website and social media news feeds.

Mr Brown queried the item relating to the MCRS byelaw and sought assurance that the substance would not be changed following the lengthy process to get it to its current status. HOE confirmed there was no change to substance, it was a formatting issue, and needed a major rework to conform to MMO and DEFRA principles. He reported that MMO and DEFRA required two differing schedules of sizes, one for commercial fishermen and one for recreational fishers. He confirmed that any changes in substance would have to come back to the committee for approval. HOE confirmed he would forward a copy of the NEIFCA byelaw to Mr Brown for reference.

Mr Manning queried the comments relating to mussel stocks and stated that they were not as good as indicated, he also highlighted that some items in the Chief Officer's report and the Science Report were contradictory.

Mr Stainton declared an interest in the item relating to Byelaw 4 and asked if and at what point members could see MMO comments, CEO replied that these were usually minor drafting comments and normally addressed internally.

CEO confirmed that AIFCA had held a meeting in June, which he had previously reported on, the most recent meeting, was held last week and no papers were available yet. He confirmed that the Chair was responsible for the Association's accounting, and offered his thanks for the time and effort put into that role.

Mr Leigh sought clarification if AIFCA meetings remained virtual, the Chair confirmed this was the case and logistically it is extremely difficult to hold face-to-face meetings at present. He thought there was an intention to have one in person meeting per year but the cost implications of that may prove unfeasible. The Chair also commented that the Association had a new Chief Officer, Mr Rob Clark, who is doing a brilliant job; the CEO concurred.

Dr Andrews asked about annual plans. CEO replied that DEFRA have asked IFCA's to look at our annual plans and explain their content and how they are constructed; this has come from the DEFRA liaison committee MAFCO and details will come out in the minutes of the meeting in due course. No decisions were made, just an awareness that the plans ought to be refreshed.

CEO referred to paragraph 16 of the report and the government spending review, as NWIFCA had been asked earlier in the summer to submit proposals for the funding of IFCA's. A number of IFCA's voiced concerns about the erosion of their New Burdens funding. A brief overview of the funding was given, which results in a third of our funding coming from DEFRA indirectly; it comes via local authority levies. Inflation has since eroded the funding in recent years and we have been asked to look at what funding is required. Essentially, we bid for DEFRA priorities. DEFRA are looking at introducing Highly Protected Marine Areas (HPMA) around the country and funding has been requested for two extra officers per HPMA, to help deliver fisheries management plans> To date no decision on the sites for these areas has been taken and the issue is still ongoing. There has been a lot of discussion regarding these plans and it is quite difficult to do this at IFCA level. As a result, little progress has been made.

Dr Baxter referred to the statement that it appeared unlikely any HPMA's will be proposed for the NWIFCA district. She remarked that this was an unknown factor as the process had only just begun. It was confirmed by both Dr Baxter and Mr Browning that the deadline for submissions had passed on August 31st. Mr Browning stated that JNCC and Natural England had not yet received the list of sites to consider. The Chair sought clarification of the process, and after a brief explanation was directed to the JNCC website for further information.

The Chair asked Dr Baxter if the Authority should have submitted any sites for consideration. Dr Baxter replied that Cumbria Wildlife Trust had done so, but this was outwith her IFCA role. Mr Taylor sought to offer further clarification by adding that Core DEFRA was responsible for publication of the list, however, the DEFRA family consisting of Natural England, JNCC, MMO and CEFAS are all contributing as technical experts, and recommendations from third parties are also considered.

Councillor Parr commented that NWIFCA had not therefore submitted any sites for consideration, but other organisations could propose a site in this area for which the Authority would eventually be funded and for which it would be responsible. This was an interesting concept and was there a time lag between being informed the Authority is responsible for an area and the funding being available. Dr Baxter pointed out that it would be within the remit of the Authority, so not necessarily something we should not expect to be doing.

Ms Salthouse indicated that there would be consultation process due to the impact HPMAs can have on commercial and recreational fishermen.

CEO reiterated his concerns over HPMAs and their impact on both members and stakeholders.

Mr Capper referred to section 9 of the report H&S, and commented on the introduction of E10 fuel, which is ten per cent ethanol and which has a detrimental effect on fuel lines giving rise to a potential to breakdown at sea. He asked, if any plans were in place to minimise the risk of this happening.

HOE remarked that in his opinion the Authority should not use E10 fuel. There is not a cut-off date for the supply of current fuel and there is a need to make officers aware of the petrol stations they should be using. Mr Capper suggested that in the meantime the Authority continues to use premium grade fuel and although the cost is a little higher, it is tax free to the Authority.

RESOLUTION: TO ACCEPT CHIEF OFFICERS REPORT

Proposed: Councillor Wilson, Seconded: Councillor Markley. 16 in favour, 4 abstentions. Motion carried.

25 PATROL AND ENFORCEMENT REPORT (AGENDA ITEM 9)

HOE presented his report and invited questions from the floor.

The ongoing issue of gathering of bivalve molluscs at Leasowe was raised by Mr Leigh, resulting in a lengthy debate.

HOE reported that activity at Leasowe was regularly monitored and low-level offences had been reported. These were mainly families from outside the area, day tripping, as part of their culture. There had only been a minor increase in activity compared to last year.

Mr Leigh remarked on the cumulative effect this was having with over 200 offences reported. HOE confirmed that 200 offences were not just for this reporting period. He confirmed that officers regularly engaged with people cockling and that cockles were subsequently returned to the bed. He again stated that these were family groups with buckets and spades and sanctions had to be proportionate to any offence. He also reported that much of the intelligence received was exaggerated with regard to numbers of people on the beach. He also confirmed that there had been no repeat offenders.

In response, Mr Leigh stated that he had seen video evidence of people running away from and avoiding officers and these people are fully aware that they are contravening the local byelaw. He considered that whilst not wishing to delve into operational matters, prosecution is a major deterrent and should be actively considered.

HOE remarked that if he presented a prosecutor with a case involving a man, woman and their family for having a bucket of cockles, the case would not proceed. He confirmed that both verbal and written warnings were issued. HOE also reported that there had been instances of vigilantes and Sea Shepherd operating in the area and they have received warnings.

The Chair raised the question of larger signage translated into applicable languages being sited, but this was considered inappropriate.

Mr Manning alongside other members questioned the lack of prosecutions, and HOE continued to defend the operational stance taken.

Mr Benson commented that once cockles are in a container, they are considered fished, and the easiest solution would be to open the fishery. It would only be fished down to a level that was no longer viable and that would be the end of the problem. HOE responded that based on surveys, there was insufficient stock to open a fishery.

The Chair enquired as to the use of Red Snapper and was informed the cost was similar to that of an IFCO.

Mr Brown was reminded of previous experience and was in agreement with other members that the only way forward was to open it as a commercial fishery, which would result in better use of our resources.

Dr Andrews remarked that the situation is potentially damaging the reputation of the Authority and prosecution was the best form of deterrent.

Mr Stainton asked if on the spot fines were an option, but the Authority did not have the powers to issue these. A FAP (financial administrative penalty) can be issued under the Sea Fish Penalties Notice Order, only if the penalty is unpaid is the Authority legally bound to take it to prosecution.

The Chair raised the procurement of the new vessel, and Mr Capper sought assurances that the engine would be compatible with E10 fuel. The Authority has not yet invited any tenders.

RESOLUTION TO ACCEPT THE PATROL AND ENFORCEMENT REPORT

Proposed: Dr Andrews, Seconded: Councillor Wilson. All in favour. Motion carried.

Break for Lunch 12.25pm – 13.00PM

26 SCIENCE REPORT (AGENDA ITEM 10)

The Deputy Senior Scientist gave an overview of recent activities and invited questions from the floor.

He reported that the rolling plan of review of HRAs for all activities continues and the majority of the workload has been completing an extensive survey schedule.

The St Bees Voluntary Netting Closure ended on 25th July and there were no detected breaches of the Voluntary Code of Practice.

NWIFCA Biosecurity plan has been produced but progress has been halted until the new Senior Scientist is in post.

Referring to the cockle and mussel fisheries survey data, which was presented to the August TSB meeting, it was noted that all survey reports are available on Authority website.

Newbiggin and Pilling Sands. Pilling reopened on 13th September following further advice from Natural England whilst Newbiggin remains closed.

Ribble Estuary: there is evidence of a settlement on both sides of the Ribble. The cockle spat varies in density and the beds will be inspected in early 2022 to assess if the spat survived the winter.

Mr Manning asked if the Kent estuary and Walney Channel had been surveyed, as there is bird feed available in these areas.

Mr Ward, member of industry, remarked that three months was unacceptable to produce an HRA, resulting in loss of value approximately £1.00 per kg.

Mr Browning confirmed that this was outside Natural England's usual service standard. He referred back to previous comments regarding the request to escalate the HRA. He confirmed that NE works in collaboration with NWIFCA as a statutory advisory body and subsequent actions were taken at the request of CEO. Mr Ward sought assurance that this length of delay could not happen again.

Mr Brown raised the point that the TSB was charged with making decisions, and giving advice. CEO had acted independently and without consent, causing damage to the industry and reputation of the Authority. He requested that a vote of no confidence in the CEO be taken.

Councillor Markley voiced strong disapproval at this proposal and Councillor Parr, voiced her concerns, commenting that these actions are very stressful and emotive.

Mr Benson commented that a decision was overruled without consultation, when a simple communication would have avoided such ill will. Mr Manning remarked that there did not appear to be any consequences for actions and ineptitude of officers. In response Councillor Markley stated that management of staff was an operational matter and not within remit of the committee.

Mr T Davies, member of industry, voiced frustration that IFCA's and MMO etc. had power over livelihoods, and trust had been diminished.

Mr Taylor queried if in fact any constitutional matters had been broken, or was it just a case of poor communication. Councillor Markley concurred.

Dr Andrews stated that a letter approved by the TSB expressing concerns had been sent to the Chair.

The CEO defended his actions and explained the reason behind them. He considered that due to the sensitivity around cockling in Morecambe Bay, together with the scientific advice, low stocks, and historic events when the fishery almost died out, he felt it prudent to take further advice. At no point was any malice intended, nor was any extra delay intended, the HRA process took longer than anticipated.

Mr Davies requested frequent communication with industry giving regular updates, the Chair agreed this was a good idea and should be carried forward.

RESOLUTION; VOTE OF NO CONFIDENCE IN CEO

Proposed: S Brown, Seconded: R Benson. 5 in favour, 2 against, 10 abstentions. Motion Carried.

Chair And Vice Chair to discuss the most appropriate sub-committee to deal with this matter. Mr Capper raised the question of an independent advisor being on the Standards and General Purposes committee. The Chair replied there was not, and Mr Leigh stated he had previously commented on the benefits of such an appointment.

RESOLUTION: THERE SHOULD BE AN ASSESSMENT BY SENIOR MEMBERS OF THE AUTHORITY TO DETERMINE A MECHANISM FOR EXAMINING THE EVENTS

FOLLOWING THE TSB RESOLUTION ON 30TH JUNE WITH AN OPTION TO CONSULT AN INDEPENDENT ADVISOR.

Proposed: Dr Andrews, Seconded: Dr Baxter. All in favour, 1 abstention. Motion carried.

Returning to the original discussion regarding cockle fisheries, Mr Browning gave some background on HRAs and stock husbandry, detailing three main areas of evidence needs. These related to bird food resources, cockle population dynamics, questions surrounding brood stock, and lastly and very concerning, the decrease in bird abundance. There is an amount of work to be done. The Chair asked if the BTO survey results on wintering populations in Morecambe Bay and had been received by NE as they are available on their website. The Chair suggested that a member of BTO be invited to speak at a future meeting.

RESOLUTION: TO ACCEPT THE SCIENCE REPORT

Proposed: Dr Andrews, Seconded: Councillor Parr. Unanimous. Motion carried.

27 ANNUAL PLAN 21-22 Q1 MONITORING (AGENDA ITEM 11)

CEO presented the report, stating that the Annual plan Working Group had recently met, and were likely to make recommendations at a future meeting.

Dr Andrews raised a question relating to the review of risk management and the impact Covid had on that review and what plans are in place going into winter.

CEO confirmed auditors carried this out, and to date this had not been arranged, as they are unwilling to come into the office. The Chair could see no justification for this and suggested that a statistical sample of invoices etc., could be sent via email in general, audits are being conducted, and Covid should no longer be an excuse. He requested the CEO contact them and make arrangements.

Dr Andrews raised further points relating to the reporting dates, which were taken on board.

RESOLUTION: TO ACCEPT THE ANNUAL PLAN REPORT

Proposed: Dr Andrews, Seconded: Chair. All in favour, 2 abstentions. Motion carried.

28 ANY OTHER BUSINESS (AGENDA ITEM 12)

Mr Manning raised concerns over the back road at Flookburgh and its poor condition due to tractors, and triple axle trailers bringing off thousands of tonnes of cockles over the years. He enquired if the Association were willing to contribute to cost of repairs. The Chair asked that he obtain quotes and submit a request to the Finance officer.

The Chair thanked members for their attendance and closed the meeting at 14.45pm,