

6 AT A MEETING OF THE TECHNICAL, SCIENCE AND BYELAW SUB-COMMITTEE held via video conference on 11th August 2020

PRESENT – MEMBERS

Dr E. Baxter (Chair)	MMO appointee (Marine Environment)
Mr S. Brown	MMO appointee (Recreational)
Mr B. Leigh	MMO appointee (Anglers and Recreation)
Kelsey Thompson	MMO appointee (Commercial)
Councillor P. Williams	Cheshire West and Chester Council
Mr T. Jones (Vice-Chair)	MMO appointee (Commercial/Aquaculture)
Dr Rosie Horner	Natural England

NWIFCA OFFICERS ATTENDING

CEO, Senior Scientist (SS), Scientific Officer, Head of Enforcement (HoE), Senior Operational Support Officer and Digital Communications Officer.

APOLOGIES FOR ABSENCE

Garry Pidduck	MMO appointee (Commercial)
Dr J. W. Andrews	MMO appointee (Marine Environment)
Ron Graham	MMO appointee (Commercial)

7 WELCOME BY THE CEO (Agenda Item 1)

1. Dr Atkins welcomed everyone to the Zoom meeting which was also being streamed live on You Tube. Six Members were present and so the meeting was quorate. Apologies were read out.
2. Dr Atkins read out a statement summarising the Extraordinary meeting of TSB held on 4th August 2020.

8 APPOINTMENT OF CHAIR (Agenda Item 2)

Dr Emily Baxter was the sole nomination and voted in unanimously. Nominated by Kelsey Thompson; seconded by Paul Williams. No objections; no abstentions. The CEO handed business over to the re-appointed Chair, who thanked Members for her re-appointment and outlined her aims for TSB for the coming year.

9 APPOINTMENT OF VICE-CHAIR (Agenda Item 3)

The out-going Vice Chair Trevor Jones is unable to stand again as his appointment to the Authority is coming to an end (10 years). He nominated Dr Jim Andrews for the position. Although Dr Andrews was not present he had indicated to the Chair prior to the meeting he was willing to accept the nomination. Seconded by Paul Williams. No other nominations; no objections; no abstentions. Voted in unanimously.

10 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTEREST IN AGENDA ITEMS (Agenda Item 4)

Members were reminded to declare pecuniary and non-pecuniary interests. As these had not been submitted prior to the meeting Members were asked to declare by agenda item as the meeting progressed. Trevor Jones later declared he had a non-pecuniary interest in items 7, 8, 9, 10, 11 and 12, although he was unsure what non-pecuniary interest meant. Brian Leigh gave the following explanation:

“A pecuniary interest obviously is a direct financial interest where you stand to benefit from a particular course of action so in our context from voting on a byelaw where you have a commercial interest and you would expect to receive a direct benefit from that financially. A non-pecuniary interest might be that you have a relative who has a pecuniary interest, in a particular issue under consideration by the Authority. Non-pecuniary interests can take a number of forms, it’s not a direct financial interest but somebody you might be connected to has that direct financial interest or is a director of a company that has or you own land etc: there are a range and class of interests”.

11 TO RECEIVE MINUTES OF TSB SUB-COMMITTEE 12TH MAY 2020 (Agenda Item 5)

Proposed: Trevor Jones

seconded: Kelsey Thompson

RESOLVED

Minutes of the TSB Sub-Committee meeting held on 12th May 2020 be approved as a correct record.

12 MATTERS ARISING including Chair’s Summary of Actions (Agenda Item 6)

The Chair dealt with the Summary of Actions first:

1. Netting byelaw: progress on meeting with IFCOs - HoE reported no progress made due to amount of other work taking over at present. ACTION: continued to next meeting;
2. Improve communications between Officers and Members - some improvements made. ACTION: to continue going forward;
3. Actions for Dr Baxter to send card with comments from Members to Irene on her retirement, and for Paul Williams to send her some flowers. COMPLETED and graciously accepted by Irene;
4. Byelaw Review meeting to take place. COMPLETED and reported on in this meeting;
5. Paul Williams to seek advice on conducting virtual statutory meetings from a council perspective. COMPLETED and sent to Members by email.
6. CEO to seek legal advice on making byelaws at virtual meetings. There are variations around the country on how local authorities are carrying out business but Parliament is working and legislation is being passed with some Members present physically and some virtually.

The Chair invited any other Matters Arising. Trevor Jones asked whether the post of Clerk had been advertised. Dr Atkins reported that at the present time a job description and further particulars were all prepared and more or less ready to go, but that Managers had not felt able to proceed with recruitments of any of the posts that are vacant because of the difficulty of interviewing virtually and then conducting proper induction procedures virtually. The matter is still under review. A discussion ensued over a timeline for returning to working in the office and the CEO was asked to discuss recruitment at the managers meeting and to advertise the Clerk’s post as soon as possible if there is approval.

13 BYELAW REPORT (Agenda Item 7)

- a) Potting Byelaw: the SS gave an update that all the paperwork had been submitted to the MMO and an email received confirming the start of the formal QA process on 20th July. MMO have a 45 working day KPI which means that they expect to return comments by 22nd September so nothing more been done on it at the moment. An

invitation to apply for whelk track record has been posted on the website along with all the appropriate documentation, and emails and letters sent to all known whelk fishermen who to ask them to start sending their applications in. No permits can be issued and no money can be taken until after the byelaw is confirmed by the Secretary of State.

- b) NWIFCA Byelaw 3: the CEO reported that this has been referred to MMO, following account being taken on all the comments received from MMO from the first submission. Now awaiting their response which should come any day now. They will either move it on for confirmation in DEFRA or come back with further comments.
- c) NWIFCA Byelaw 3 - Mr Benson request: the CEO had submitted a written paper in response to Mr Benson's views expressed at the June Authority meeting about temporary mussel permits for seed mussel at Heysham Flat.

Views were expressed by the SS, Brian Leigh and HoE that other fisheries were in effect being neglected by the continual response to cockle and mussel fisheries' demands. Trevor Jones raised a question around paragraph 10 and the term 'management' and whether this could be used for temporary permitting of fishing for seed mussel by non-Byelaw 3 permit holders. Steve Brown said that Byelaw 3 permit holders should be consulted on any potential changes because of their investment in the fishery before considering changing anything.

Brian Leigh reminded Members that from a technical point of view, it was not within the gift of TSB to actually stop the process for Byelaw 3 because it is the Authority's resolve that it should go forward.

The matter was left there and no resolutions made.

- d) MCRS Byelaw: the HoE introduced his paper and recommendations on the byelaw. The Chair took the recommendations in order:
 - 1. Paragraph 7 and the exceptions - the wording of the paragraph was discussed and the reasoning for not including the term 'management' in a byelaw relating to wild fish.

RESOLVED

Approve the draft byelaw including Paragraph 7- Exceptions

Proposed: Steve Brown Seconded: Brian Leigh.

One abstention. Vote carried.

- 2. Paragraph 4 to be maintained - Steve Brown raised a number of points which were answered by the HoE. These centred around what kind of activities - recreational vs. commercial, boat based vs. shore based - were regulated by the previous legislation under EU Reg 850/98, and under the new legislation EU Reg. 2019/1241. The HoE explained that there had been legal advice over 850/98 received by Chief Officers, and that its replacement by 2019/1241 had left a gap in regulation for all recreational fishing, and shore based commercial fishing. The MCRS District-wide byelaw was needed to plug this gap.

Steve Brown did not agree with this interpretation. Brian Leigh commented that as a recreational angling stakeholder he supported the use of minimum sizes and that there were unscrupulous persons who would take undersize fish without a qualm. The CEO stepped in to point out that whether or not Members chose to follow Officers' advice was their prerogative, but that the caution was that this had been examined now by four other IFCA's and they have all included this paragraph. If it is

not included, there is a very big risk that the byelaw simply will not pass through its MMO and DEFRA approval.

RESOLVED

Approve draft byelaw at Annex A including Paragraph 4 as drafted

Proposed: Brian Leigh Seconded Paul Williams.
Two abstentions. One against. Vote carried.

3. Whelk size to be implemented at 55mm - the issue over ensuring consistency between the MCRS byelaw and the Potting Permit Byelaw in terms of whelk MCRS was discussed. All agreed that the need for consistency was important in relation to conservation of the species, and also to avoid confusion for stakeholders. Discussion centred around the mechanism for bringing in incremental increases in MCRS in this byelaw which is covered under the flexible permit conditions in the Potting Permit Byelaw.

RESOLVED

HoE should revise the wording in the MCRS byelaw to bring in the incremental changes and to present this to the Authority meeting.

Proposed: Brian Leigh Seconded: Trevor Jones.
Carried unanimously.

Dr Hartley pointed out that in paragraph 6(b) the common name for *Venus verrucosa* was just 'clam', but MarLIN calls it the Warty venus and perhaps this needed correcting. There are a number of species that need reviewing in the list which was just a transposition from 850/98 and NWSFC Byelaw 19, and that these issues would get corrected at a later date. It was agreed for this one change to be made now.

14 LEASOWE CLAMS (Agenda Item 8)

- a) The HoE introduced his paper on the situation at Leasowe regarding the Emergency Byelaw to prevent the excessive un-regulated gathering of bivalves.

RESOLVED

The report is received
Proposed - Brian Leigh seconded Paul Williams.

Carried unanimously.

- b) Next the Chair led a discussion on the next steps and the recommendation that Officers work on a permanent byelaw. She asked whether this would be a District-wide byelaw or just apply to Leasowe. The HoE said that Officers were considering whether a District-wide byelaw was the way forward as activity was occurring on other beaches, and being monitored by IFCOs. Steve Brown suggested that daily bag limits, seasonal closures etc. could be used and that the Emergency Byelaw had closed a public fishery outright. The SS appraised Members of the work of the science team in surveying the large beach for clams in order to provide evidence to inform future management. A report would be delivered to Members as soon as possible. Paul Williams stated that he had visited the beach and noticed a number of people still gathering, and the HoE detailed work of the enforcement team to educate people and to take enforcement action when appropriate.

The CEO was mindful of the need for urgency as the byelaw would expire after 12 months and then the situation would revert back to no regulation unless measures had been

implemented. He reminded Members of the number of full Authority meetings prior to the expiry date and how long byelaw-making took. He suggested drafting a pretty simple, maybe short term, byelaw that prohibits shellfish gathering for the months of say, April, May, June, July, something like that, on Leasowe Beach and try to get it through. If reasonable progress is made on a replacement byelaw, DEFRA may extend the Emergency Byelaw for another 6 months. Dr Atkins would prefer to have a draft byelaw to take to the September meeting.

Dr Baxter felt that it may be a bit premature to try and rush something through in the September meeting; although she appreciated that there is the end date of the emergency byelaw she felt that if effort is being put into developing a new byelaw it should be based on evidence relevant to the issues. She also asked about consultation with relevant communities. Steve Brown made the point that much of the activity may have been driven by COVID-19 lockdown and the problem may not be as bad next year. Joe Moulton gave information on this no longer being just a NWIFCA issue, but that this is a national issue and the national priority for not just IFCA's but other agencies as well and finding channels of communication with certain communities across England. This is proving difficult so it is something that he and colleagues are investigating.

RESOLVED

To approve the on-going work of officers.

Proposed: Trevor Jones
Carried unanimously.

Seconded by Brian Leigh.

15 BYELAW REVIEW - REPORT FROM MAY MEETING (Agenda Item 9)

The Chair described the work of the Byelaw Review Group to date with the second meeting held as approved at the last TSB meeting held in May. The Group discussed the remaining items or remaining byelaws that there was no time to look at in the first byelaw review meeting, which included mobile shrimp and prawn and recreational gathering. The first hour of the meeting was largely taken up by the issue around Leasowe. Vessel size was briefly discussed referring back to Steve Brown's paper, as well as iVMS and the EA /Dee legacy byelaws. As time is limited the Chair did not propose to go through the whole report or annex of the report and comments but thought it might be helpful to go through the summary of actions for each of those byelaws and then decide on a way forward and priorities for the development of these byelaws.

Steve Brown commented that there was no need for a lengthy discussion on what needed doing in each byelaw in this meeting as that had been drawn out in the report from the Byelaw Review meeting. The Chair and Brian Leigh put forward the need to look at the prioritisation of the byelaws, and CEO said that the prioritised list was shown in the Annual Plan as agreed at the June Authority meeting. This list could be changed by members putting forward a resolution to be taken to the full Authority meeting, but for this year had been prioritised on what was already underway and the realistic time available to officers to work on byelaws.

The Chair made the point the order of that list was already not being followed because of other issues that had arisen, and asked whether the meeting want to have a discussion about prioritisation. CEO said that there could potentially still be a lot of work coming back from the Byelaw 3 and Potting Permit Byelaw depending on MMO advice. The Chair said that work on other byelaws could be being progressed while a response from the MMO is awaited.

Brian Leigh suggested it was not a case of changing in large the annual plan, but a case of going back to Members and perhaps just changing the prioritisation of the byelaws in such a way that gives Members of the Authority a really informed view of where the work is taking place and what the outputs from that work will be.

Dr Baxter explained her thinking that it was not about ticking boxes but having a strategic plan as to which ones are worked on in the background and will take longer to develop whilst perhaps moving forward more swiftly with those byelaws that might be easier to address. CEO said this was laid out in the Annual Plan; Dr Baxter felt this was more a list than a strategic approach.

Brian Leigh asked that the CEO present a short paper setting out the methodology and reasoning behind the existing prioritisation of the byelaw review that is laid out in the latest Annual Plan so Members are better placed to actually comment on that and make suggestions for any required changes to it. Dr Atkins agreed to do so.

16 SURVEY AND INSPECTION REPORTS (Agenda Item 10)

The SS introduced this item by giving a verbal report on the cockle survey carried out at Leasowe the previous week. There is an overall estimated biomass of 607 tonnes of size cockle and 20 tonnes of undersize cockle. When it is considered that in 2019 a TAC was set at 400 tonnes to leave 800 tonnes for oystercatcher bird feeding, the current biomass is already below that level. The survey report will be written up and sent to members by email with a recommendation to close Leasowe fishery under NWSFC Byelaw 13a at the end of the closed season.

a) Cockles - recommendation for 1st September

The written report made recommendations on the various cockle beds in the District and these were taken for vote in order. All openings subject to HRA

RESOLVED

1. open Pilling Sands, Leven Sands, Flookburgh, Newbiggin on 1st September

Proposed: Steve Brown Seconded: Brian Leigh.
Carried unanimously.

2. open Aldingham when classification established

Proposed: Brian Leigh Seconded: Steve Brown.
Carried unanimously.

3. decision on Leasowe to be taken by email as soon as possible

Proposed: Brian Leigh Seconded: Paul Williams.
Carried unanimously.

4. implement NWSFC Byelaw 13a and CSFC Byelaw 18 closures on all other cockle beds in the District.

Proposed: Paul Williams Seconded: Brian Leigh.
One abstention. Vote carried.

b) Mussels

A report was tabled on the Extraordinary meeting of TSB held on 4th August and the decision taken on the Morecambe Bay seed mussels. Dr Baxter expressed her concern the same issues may come up again in the future and wondered how it was proposed to deal with them and if measures could be taken such as bringing the mussel management plan back

to TSB for approval and implementation because it has been sitting on the shelf now for a while. A discussion about how the fisheries are managed overall was also suggested.

The SS agreed to bring the Mussel Management Plan to the next TSB after discussing with Natural England. The reason it had been shelved previously was due to work around the bird feeding requirements and the bird food model. A more immediate concern would be reviewing the fishery after a month. Brian Leigh had asked where the decision for actions to be approved by email had been made. On investigation it was revealed this had been approved for non-contentious issues. Therefore it might not be possible to carry out a review of this fishery in this way if it remained contentious. Dr Baxter suggested to deal with this when the situation is known, but in the meantime a management plan and policy would help to reduce the need for as many meetings and discussions in future years.

The SS stated that she did not feel it was as simple as having a set policy. These disagreements between sectors had been occurring for decades, at least from the 1970s if not longer. What might work one year may not be appropriate the following year as the environment within the Bay is constantly changing and not static. It may also not be possible to infer anything from what is observed post fishing - there are so many variables at play.

The Chair asked about the future of BMWG which had not worked well this year. Both the Chair and SS expressed their views that they did not find the meetings productive and question their future. It was agreed that for now the best course of action was to resurrect the Management Plan and have the discussion with Natural England.

17 SCIENCE REPORT (Agenda Item 11)

The SS presented the report which was for information only. She highlighted the detailed information she had given on the Highly Protected Marine Areas Review (HPMA) and tried to clarify the situation with Morecambe Bay having appeared in a list of potential sites for HPMA consideration. The Chair also iterated that the Wildlife Trusts had also expressed their concerns about how the list had been presented to the public, which was basically a list of sites suggested by stakeholders and had no scientific evidence or justifications behind them.

Brian Leigh expressed an interest in this issue and stated that he was aware that the Angling Trust had met with one of the departmental ministers to voice concerns in terms of lack of representation on the original panel. There was a feeling that the Government itself is a little unhappy with some of the recommendations and they will be responding in due course in appropriate terms.

On a separate subject, Paul Williams asked if there had been any observation of Chinese Mitten Crab (re. Morecambe Bay). The SS stated that officers had not been able to survey since March this year because of other work, but that surveys were being scheduled in. Officers had been out on those areas in question for other survey work and kept a close eye out for the INNS whilst surveying. There had not been any further reports.

18 ANY OTHER BUSINESS (Agenda Item 12)

Dr Baxter in her role as Senior Marine Conservation Officer at the North West Wildlife Trusts reported that MMO had approved their application for funding from the Maritime and Fisheries Fund to conduct a larger scale project on the creel fishery trial that was carried out in the West of Walney MCZ last year. She will meet with the Science Team about it and might be able to bring more information to the next meeting. The project is to work with small scale inshore fishermen and investigate the feasibility of this fishery at more of a commercial scale.

MEETING ENDED 13:10