

# NWIFCA Technical, Science and Byelaw Committee

24<sup>th</sup> of May 2024: 10:00 a.m.

## Agenda Item

7

### NWIFCA Netting Permit Byelaw

#### Purpose:

- I. To present a finalised draft of the byelaw;
- II. To provide detailed guidance explaining the byelaw;
- III. To provide a summary of responses from stakeholders to the informal consultation;
- IV. To present draft flexible permit conditions including proposed spatial areas;
- V. To describe consequential revocations to the existing byelaw suite.

#### Recommendations:

#### That the TSB agrees:

- a) Proposed spatial closure areas;
- b) Proposed permit fees;
- c) Agree to include or not the Environment Agency byelaw as a part of rationalisation;
- d) Amendment to National River Authority Byelaw 5;
- e) The Byelaw is approved for making at the June Authority meeting.

#### 1. Background

Several years ago, officers were delegated the task of reviewing netting regulations in the NWIFCA District and drafting a district wide byelaw which would rationalise and update regulations as per the byelaw review strategy. The resulting product is the byelaw (Annex 1) and flexible permit conditions (Annex 2) attached to this report.

#### 2. Update

Since the netting byelaw was last brought before the subcommittee, Head of Enforcement and assisting officers have continued with the byelaw making process in drafting a district wide netting permit scheme. During this period the netting byelaw/byelaw strategy working group met to discuss aspects of the byelaw which has aided in putting before members a draft byelaw and an initial set of flexible permit conditions.

Also, during this period officers have held a period of informal stakeholder consultation. Although not a set part of the byelaw making process having an informal consultation phase with stakeholders has previously assisted in writing draft byelaws and progressing through the QA process and formal consultation period later.

A draft of the byelaw and flexible permit conditions has been submitted to legal for advice on the draft as stipulated in the DEFRA byelaw making guidance for IFCAs.

### **3. Netting Byelaw Working Group**

The netting Byelaw working group met in January with members of the group presented with draft regulations and potential seasonal closure areas amended from current regulations. The group was presented with idea that a resolution to the issue of the National bass S.I. could be the issuing of an entitlement to commercial intertidal fishers.

The group agreed resolutions for some key areas of drafting which was to incorporate the permanently closed areas upstream in rivers for netting and to take out the provision for whitebait nets.

### **4. Informal Consultation**

A period of informal consultation was commenced in March & April for four weeks. Stakeholders were invited to attend meetings, complete a survey or phone and email views into the Head of Enforcement. The survey was produced using Microsoft forms and uploaded to the NWIFCA website news section and advertised through social media, the form was available to complete for a period of four weeks. The stakeholder meetings were booked across the district at four locations where netting activity is present to stimulate good attendance. Attendees were requested to book places as individuals or in groups up to five to allow people to speak freely where they may feel uncomfortable in a large group and also remove any bias from views within certain sectors of stakeholders.

### **5. Stakeholder meetings**

Meetings were held across the district in venues at Leasowe, St Annes, Rampside and Whitehaven. The locations selected were spread across the area as well as resources allowed and aimed to give a broad overview of the potentially different views along the 850km coastline. Attendees were asked to book on to appointment times and come in groups of no more than five. This was to allow groups to speak more freely than perhaps they would in a larger group meeting. They provided an opportunity for stakeholders to provide their views on current regulations in the NWIFCA District regarding netting and what these could look like in the future. Stakeholders were encouraged to speak about any issues they had now or could see in the future.

In total 16 stakeholders attended the 4 meetings, only one of the stakeholders was from the recreational netting sector whilst the other 15 were commercial fishers with licenced vessels. Stakeholders were keen to hear what a future regulation could look like and how they could be impacted by any new regulation.

One theme which ran through all the meetings was that some form of entitlement for the retaining of bass as a bycatch through commercial intertidal nets would be very positive for fishing in the NW allowing stakeholders a secondary income stream as well as an activity which can take place when the weather is poor.

Another theme which officers took away from the meetings was that having different categories of permit would support the professionalisation and recognition of the commercial sector. Another desire from the commercial fishers was to see different conditions applied to the categories of permit. Fishers thought that recreational fishers should be limited to 100m of net which is enough to retain a catch for hobby fishing. Several mentioned how they struggled having quotas for species such as Cod limited to 25kg but had seen recreational fishers with much more than this.

Although not issues which could be rectified within the remit and statutory function of NWIFCA was that stakeholders had issues with seals damaging gear/catches and in the wish to see a return to drift netting.

A specific issue was raised from the North Wirral meeting where a seasonal closure zone was discussed. There is not currently a seasonal spatial closure in the Mersey estuary however stakeholders appreciated the rationale behind protection of migratory species and standardisation with other rivers and estuaries in the district. What was concluded from discussions was that the Mersey is an important area for the commercial fishers in the South of the District providing 100% of their fishing grounds during bad weather. A sensible resolution was suggested in having a seasonal closure at the narrow bottleneck of the Mersey entrance followed by another further up the estuary. This would then protect estuarine species and allow stakeholders access to resource in area where there is less conflict with migratory species.

One unique issue raised at the Rampside meeting was the part of CSFC Byelaw 10 which stipulates a net must have 3 metres of water above the headline. Fishers agreed this was difficult to apply correctly and officer agreed it was difficult to enforce. It has therefore not been included as a technical measure in the draft flexible permit conditions.

## 6. Survey Results

A survey was implemented to assist with seeking stakeholder's views on netting activities across the North Western District. The survey consisted of eight questions seeking respondents' views on current regulations and then what they might like to see in the future. This is very important to informing how a netting byelaw is drafted to minimise and mitigate any impacts upon stakeholders.

There were 46 responses to the online survey produced using Microsoft forms. The survey was published on the NWIFCA website and on social media.

The first survey question shown in figure 1 asked respondents if they know about netting byelaws covering the district. 50% of respondents did with 41% knowing a little and 4% knew nothing about netting in the NWIFCA District, this indicates in the majority most respondents had some knowledge of the current scheme of regulations in place across the NWIFCA district.

1. Do you know about netting byelaws covering the NWIFCA District?



**Figure 1. Knowledge of NWIFCA regulations.**

The following question asking respondents if they had ever had a permit for fishing, 54% said they had while 46% had not. As shown most respondents have held some form of permit, although in hindsight this could have been expanded towards which type of fishing activity or area as it was a very open question.

2. Have you ever held a permit for fishing?



**Figure 2. Respondents who have held a fishing permit.**

In comparison to the stakeholder meetings there were more recreational respondents to the online survey with 19 recreational shore fishers and 7 recreational boat fishers whereas there were 19 commercial fishers who responded made up of 15 licenced boat fishers and 4 commercial shore fishers.

3. Which sector do you fall into?



**Figure 3. The differing sectors of respondents.**

There was split opinion on “Do you agree with the regulating of fishing with nets?”. 35% said yes, 48% thought no while 17% were unsure, responding maybe.

The final 4 questions were qualitative, inviting respondents to write answers to the questions. When asked what they thought about the current regulations on netting 9% of responses included reference to Bass while 11% referred to drift nets highlighting some common themes. The wordle below is a way of picking out key themes from answers, the larger the word in the image the more times it was mentioned in the text of answers. 27 of the responses could be analysed as being negative towards the current regulations. Several mentioned they found the current byelaws confusing, comments were made thinking they should be reviewed, should be more flexible and need improving. The rationale around wanting to improve access to certain fishery’s, improve catches and reduce bycatch.

5 respondents (11%) answered **drift nets** for this question.



**Figure 4. Wordle demonstrating key words in responses to the Question “What do you think of current regulations on netting”.**

When asked if there should be a rationalisation of the netting byelaws many respondents thought that there should be with, many simply answering yes whilst some said, “All netting should be licenced making it easier to police and “The laws should be clear and enforced”. One respondent was clear they had no issue with rationalising but did not want to see new restrictions sneak in. In comparison to 23 answers classed as positive, 10 respondents had negative views on this most just stating no. 8 answers were agnostic or indifferent to the question. 4 respondents answers could not be quantified or were vexatious.

Respondents were asked if they could see any challenges to implementing a new netting byelaw. Many answers described that there would be challenges, however there were not sufficient expansion on answers to visualise any patterns. Some thought that policing a new byelaw could be a challenge, others seemed to relate to conflict with other fishers such as anglers perhaps through feeling this was a drive behind any change. Other answers either thought there would be no challenges or that they wanted to know more about any forthcoming byelaw.

The final question asked on the survey requested those partaking consider “what impacts do you think a new netting byelaw could have on coastal communities?”. This proved to be a polarising question, answers focused on either feeling it would benefit fish stocks and the environment or that it would decimate fishing and have a negative impact upon fishing communities. In hindsight without more information this was a difficult question without sight of what a future regulation could look like. The commercial fishers who attended the stakeholder meetings had very different views on this during discussions as they felt a new regulation may open new access to resources and allow flexible management to their benefit.

## **7. Implementing the views of stakeholders**

Where views on management align with officers these have been implemented into the byelaw draft which is annexed to this report. Amending the area of the Mersey estuary so it supports the protection of migratory species and continues to allow fishers to operate in sheltered waters, this was suggestion from a stakeholder meeting. The removal of a specification for three metres of water above a headline was another point where previous legislation is not seen to be effective by officers and stakeholders and has therefore been removed from the current draft.

## **8. Permit Fees**

As with other district wide permit schemes which the Authority regulates there are permit fees drafted in the attached byelaw in the table at paragraph 26. The provision to include fees for permits comes from section 156 (para 4) of the Marine and Coastal Access Act under which the byelaw is made. Guidance from DEFRA is that IFCA's should seek at least some cost recover from permit schemes.

**Table 1. Proposed permit fees based on limited cost recovery.**

Type of Permit	Annual fee per permit	Includes (if required) under permit or flexible permit conditions
Category 1	£1000	One set of gear tags, replacement of one lost or damaged set and a permit sticker.
Category 2	£250	One set of gear tags.
Category 3	£50	One set of gear tags, replacement of one lost or damaged set and a permit sticker

Earlier in the year officers met to discuss the incorporation of permit fees into the proposed netting permit byelaw. During which the cost of implementing a netting regulation was formulated from enforcement and associated administrative costs. Officers calculated the cost of the byelaw would be £75,000. This was then divided across how many permits were anticipated across the three categories.

Costs were broken down across the three categories of permit, category one, two and three, the difference being between the two commercial permits and the recreational permit. As drafted in the annexed Byelaw version Cat one permits at £1000, Cat two at £250 and cat three at £50 as shown in Table 1. The costs for fees will include the issuing of tags for gear marking. This is based on full cost recovery for the byelaw.

#### **9. Category two permit: entitlement for retention of Bass bycatch**

Officers and members of the authority have for several years grappled with the issue of the national Bass SI introduced in 2020 stipulating the allowance of 26 intertidal (set not from a boat) nets across the NWIFCA district which could retain bass as a bycatch. For several years the authority has had no framework or regulatory mechanism which could allow this. However, the drafting of this byelaw creates an opportunity to facilitate this.

In the attached byelaw and flexible conditions officers have drafted that a category two, intertidal commercial permit could be issued with the authorisation/entitlement to retain European Seabass from intertidal nets subject to track record.

To issue these in a fair manner it is suggested that a track record system is implemented for prospective fishers with points allocated from various attributes such as holding a previous permit, evidence of retaining bass for commercial sale, ownership of a licenced vessel. All could form part of the process.

The nets would then be subject to flexible conditions as others are but with a limit of one permit fishing for bass at any time. The reason being that NWIFCA has a total cap of 26 nets and the only way we can guarantee this limit is not reached is through a total number of permits. There is no need to issue up to this limit if there is not adequate evidence provided for 26 entitlements, this is just a number that NWIFCA cannot go over.

## **10. Revocations & Amendments to existing legislation**

The implementation of the regulation being discussed sees the incorporation, modernisation of existing legislation and thus the old byelaws can be revoked. As drafted, there are nine byelaws proposed to be revoked and one amended.

These include a variety of old North Western Sea Fisheries Committee, Cumbria Sea Fisheries Committee, Environment Agency, and National River Authority byelaws which were absorbed into the suite of enforceable legislation by NWIFCA.

The revoked legislation all related to gear technology and permit schemes across the North West. The amended legislation relates to a National Rivers Authority Byelaw in the Dee estuary both in Welsh and English waters, it also covers fishing activities other than netting and therefore would be amended to remove wording relating to netting only in the NWIFCA district. Therefore, leaving the regulation in place outside the NWIFCA district.

## **11. Permit Duration**

From discussions with the NWIFCA Administration Team it is seen preferable to have the permit system run following the financial year, which removes the renewal period from conflicting with other NWIFCA permit schemes.

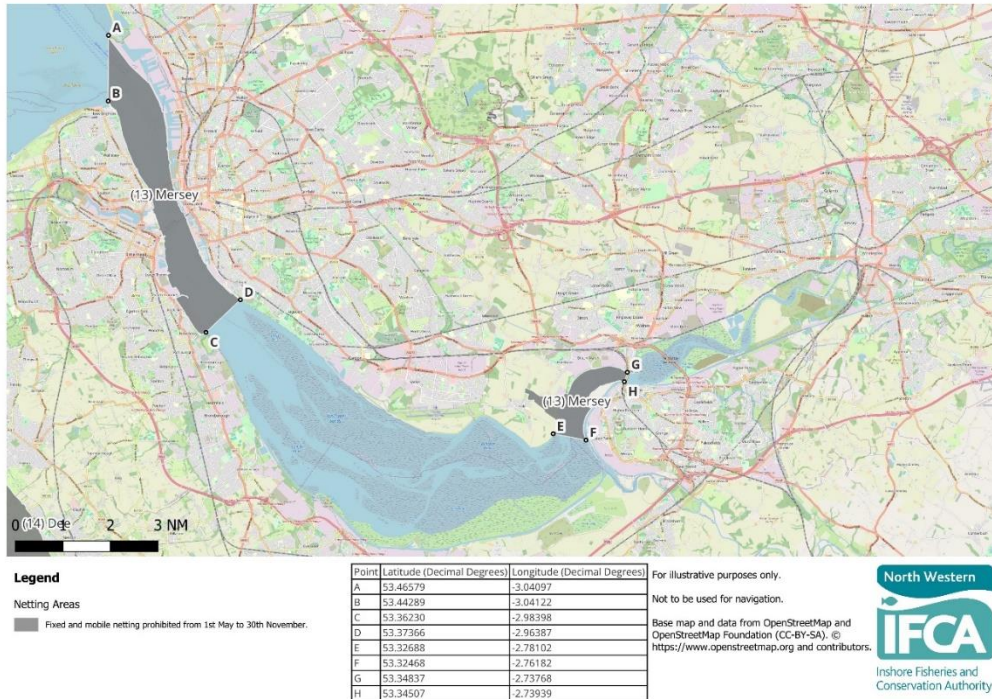
## **12. Flexible conditions**

A draft set of flexible permit conditions are Annexed to this report as Annex 2. Flexible permit conditions are a preferable way of managing fisheries as they allow adaptive management. For this reason, technical measures for example currently in place under byelaws have been transferred into flexible permit conditions. This means under the process set out in the byelaw document measures such as closed areas, seasons, gear configuration can be amended.

## **13. Spatial areas**

A key part of draft the current byelaw has been transforming existing spatial areas in both NWSFC Byelaws 26/27 and CSFC Byelaw 10 into the drafted byelaw has been standardising the areas into closed areas around or in rivers and estuaries. This can be seen in some examples below and involved creating straight line boxed areas in the old Cumbrian area and modernising the spatial areas in the Southern half of the district using latitude and longitude.

The areas relating to the river Mersey are a new introduction but have been produced in consultation with Stakeholders in the area. From the consultation process officers were quick to realise the higher risk areas for interaction of nets and migratory species was the narrower areas of the river, where the river is at its widest is an important area for fishers targeting species such as sole, but a lower risk for migratory species being caught as bycatch. The river Dee spatial area has been included and an amendment to the existing national River Authority Byelaw 5 so that wording relating to nets in Byelaw 5 does not apply to the NWIFCA District.



**Figure 5. Proposed seasonal closure areas in river Mersey.**

Netting is prohibited in areas upstream of these areas under the Environment Agency Byelaw, which prohibits all activities of fishing except by rod/hook & line by lure or a baited hook. One decision which is requested of the committee is whether this should be included as a part of the rationalisation in this byelaw as a permanent prohibition. It is drafted so this applies to upstream on any river bordering a spatial area or any other river upstream of the mean high water spring line.

#### 14. Impact Assessment

On approval of the byelaw and potential making at the June full authority meeting drafting of an impact assessment for the byelaw will begin. Much of the evidence provided within this report from the informal consultation will form the basis of the impact assessment.

#### 15. Recommendations

- Agree the method for implementing seasonal closures in rivers and estuaries.
- Agree the proposed permit fees as set out.
- Agree to the proposed direction with revoking the EA byelaw and including prohibitions for fishing above spatial areas other than with rod/line.
- Agree to the amendments for the NRA byelaw 5 excluding the NWIFCA areas from paragraphs relating to netting.
- Members approve the byelaw for making at the June Authority meeting.

**Joseph Moulton**

**Head of Enforcement**

**14 May 2024**