

13 AT A MEETING OF THE TECHNICAL, SCIENCE AND BYELAW SUB-COMMITTEE on 2nd NOVEMBER 2021 AT COUNTY HOTEL CARNFORTH, CARNFORTH 10.00 AM.

PRESENT – MEMBERS

Dr. E. Baxter	Chair	MMO Appointee
Dr J. Andrews	Vice Chair	MMO Appointee
Mr S. Brown		MMO Appointee
Mr R. Benson		MMO Appointee
Mr S. Manning		MMO Appointee
Mr B. Leigh		MMO Appointee
Mr G. Pidduck		MMO Appointee
Mr K. Thompson		MMO Appointee
Mr L. Browning		Natural England
Mr M. Taylor		MMO
Ms E. Wyatt		MMO

NWIFCA OFFICERS ATTENDING

S Atkins CEO, A Plumeridge SS, J Moulton HoE, A Nicholson Clerk

There were 3 members of industry in attendance, Mr S Ward, Mr T Davies, Mr M Rowlings

APOLOGIES FOR ABSENCE

Cllr P Williams, Mr J Haines

14 CHAIR'S ANNOUNCEMENTS (Agenda Item 1)

The Chair, welcomed members to the meeting and reminded the committee about Covid protocols. She also gave apologies for absence, advised the sub-committee that the CEO was expected to arrive late and welcomed Annabel Plumeridge who has taken up the post of Senior Scientist, and members of industry also attending.

15 DECLARATIONS OF INTEREST (Agenda Item 2)

Declaration slips were submitted by S Manning for agenda items 5,6,7,8,9, Mr Benson agenda items 5a, b,c,d,e, item 6,7,8. Dr Andrews items 5, 6a 7. Mr Leigh item 5b

16 MINUTES OF THE TSB HELD 17TH AUGUST 2021 (Agenda Item 3)

Mr Brown voiced concerns regarding the content of the minutes, and felt comments made by the CEO had been deliberately omitted. The clerk informed members that draft minutes were circulated to the Chair prior to wider distribution, and that the general tone of the meeting had been included throughout the minutes.

Dr Andrews stated that minutes were not meant to be a verbatim account, and was happy to accept the diplomatic account of events. The Chair concurred and said that was why she had approved the distribution of the minutes.

Proposal: THE MINUTES ARE AN ACCURATE RECORD OF THE MEETING HELD ON 17TH AUGUST

Proposed: Mr Leigh. Seconded: Dr Andrews, 7 in favour, 1 against, 3 abstentions, motion carried

17 MATTERS ARISING (Agenda Item 4)

Dr Andrews reported that the Chair of the Authority apologised for the delay in responding to the complaint sent to him on the 14th September from this sub-committee, and assured that this would be dealt with at a meeting of the Finance and Personnel sub-committee at

the earliest opportunity, and a formal response will be sent via the Chair of TSB as soon as is possible. The Chair welcomed this and was keen for the complaint to be addressed as soon as possible.

18 BYELAW REVIEW UPDATE. (Agenda item 5a)

HoE reported firstly on the MCRS byelaw 1. A number of significant comments had been received from the MMO byelaw team, which have impacted on the structure and content of the byelaw. The comments made mostly centre on the duplication of legislation, which DEFRA and MMO will no longer tolerate, despite in our opinion it is legally acceptable to have that, unfortunately if they are not satisfied then the Secretary of State will not sign it off. This has also impacted other IFCAs across the country. He reported in some detail the 2 new schedules and referred members to the annex attached. It was added that the legislation for velvet and spider crab had been removed due to historically these species have not been evident in our district. In general terms we must not duplicate something in national legislation in a local byelaw. He commented that this had been a huge piece of work and the byelaw team at MMO had been most helpful and hoped the science team would now assist with the redrafting.

Mr Leigh raised the issue of bluefin tuna provision and understood the UK does not currently have a quota for this. HoE responded it had been included due to this species migrating north and has been increasingly seen. It was pointed out that this already existed in NW SFC Byelaw 19 and it was about future proofing.

Mr Taylor reported that there had recently been a licence condition change, so a licenced fishing vessel may land a single tuna as bycatch under certain circumstances, currently it only applies to the south west but this could change if any there were to be any kind of bycatch fishery this far north.

Mr Leigh also queried whelk sizes and asked if this was based on science work done in terms of sexual maturity. HoE reported that this was currently in two byelaws and this was not permissible discussions were continuing in the byelaw review group.

Mr Brown offered his praise for the work already done and requested that what a 'relevant fishing vessel is' be added to the explanatory notes.

Proposal: TO APPROVE THE REPORT AND CONTINUE WITH THE BYELAW PROCESS

Proposed: Dr Andrews, Seconded: Mr Thompson, All in favour, 1 abstention, motion carried

Proposal: TO IMPLEMENT THE WHELK MCRS SIZES IN THE MCRS BYELAW AND NOT THE POTTING PERMIT BYELAW

Proposed: Dr Andrews, Seconded Mr Leigh, 9 in favour, 1 against, 1 abstention motion carried.

HoE expressed his thanks to Dr Andrews and Mr Brown for their continuing support throughout this process.

Mr Thompson enquired as to why Mr Pidduck had voted against the whelk minimum sizes, he responded he felt they were unsuitable for this district for inshore fishery. HoE stated that evidence had previously been presented to support the proposed sizes in the three-year plan and this had been supported by industry via consultation.

Mr Brown asked if this should be revisited as science changes and there is a need to put in some provision should a problem occur.

It was widely agreed to return this item to the next TSB meeting for further discussion.

Proposal: TO ADD A REVIEW DATE TO THE BYELAW

Proposed: Mr Thompson, Seconded: Mr Pidduck, 12 in favour, 1 abstention, motion carried.

19 **NORTH WIRRAL FORESHORE BYELAW 2 (Agenda item 5b)**

HoE reported that this was still in progress and he was currently working through comments from the MMO. He advised the sub-committee that there was still some work to do on the Regulatory Impact Assessment and on completion it would be returned to the TSB. He added there had been no major comments made against the byelaw.

The CEO joined the meeting.

20 **BYELAW 3 COCKLE AND MUSSEL PERMITS (Agenda item 5c)**

CEO reported that this byelaw was now with Defra and there was no indication of timescale for it to be signed off.

Mr Manning, yet again, raised his concerns regarding the inclusion of non-UK nationals on the permit waiting list. He was reminded that if an applicant submitted the correct documentation including a right to work in the UK, they will remain entitled to apply for a permit. Mr Manning's concerns refer to the erosion of inshore fishing communities, where families have fished for generations, he feels most strongly there should be a mechanism for young people to obtain a permit more easily. Mr Davies and Mr Rowlings from industry supported Mr Manning's comments.

HoE reported that the new Cockle and Mussel Permit Byelaw states that applicants must be aged 12 or older to be added to the waiting list, which is a significant improvement to what is in the current byelaw, however, if they are under 16 the application must be jointly signed by a parent or guardian. A further improvement is that applicants under the age of 16 will remain at the top of the waiting list until after their 16th birthday when they obtain a legal right to work.

Mr Manning voiced his intention to put his concerns in writing together with a proposal for a young person's permit and present it at the next meeting of this sub-committee.

21 **BYELAW 4 POTTING (Agenda item 5d)**

HoE presented this report on behalf of the Deputy Senior Scientist, and said he would take any questions back to the science team after the meeting. He highlighted that applications for a whelk track record were received by the February deadline. The next stage is to process these applications, and contact any, where the applications are incomplete. An appeals panel will be set up of eligible members of the Authority to make decisions on the track record and prepare for the permit scheme.

Mr Pidduck raised the question regarding the appeals process for the number of pots, this will be referred back to Mr Haines for clarification.

Mr Brown enquired as to the duplications within the byelaw regarding gear marking regulations. He suggested that this be taken out of this byelaw and be treated separately. HoE referred to discussions held by the Byelaw Strategy Working Group.

Dr Andrews commented that currently these requirements are scattered amongst several byelaws in one form or another, the issues surrounding this will continue to be discussed at the working group and reported back to a future meeting, alongside the feasibility of a flexible permit condition being introduced.

Mr Taylor considered it unlikely that such duplication on internal byelaws would be picked up, provided there was no duplication with national legislation.

There were no further comments.

Proposal: TO RECEIVE THE REPORT

Proposed: Mr Leigh, Seconded: Mr Taylor, 10 in favour 3 abstentions, motion carried

22 NETTING BYELAW (Agenda item 5e)

HoE reported that some progress had been made following consultation with officers and referred members to the annex provided. The new byelaw is being structured in a similar format to the potting byelaw with flexible permit conditions and separate categories for those fishing from a commercially licenced vessel and those not, it also includes provisions for the marking of gear. Measures for any type of gear would be spatial restrictions and these should be in the face of the byelaw.

The Chair suggested this item be worthy of a more detailed discussion outside the sub-committee.

Mr Brown thanked HoE for work done so far and commented he felt there would be no possibility of any new byelaw which is less restrictive than the current ones, being approved by the Rivers Authority. He suggested the possibility of a third type of permit for an intertidal commercial fishery.

Mr Browning raised concerns over spatial restrictions being in the face of the byelaw, and considered they be better placed in the flexible permit conditions so they can be changed in the event any Marine Protected Areas or bycatch events in the future. HoE felt that some spatial areas will need to be in the face of the byelaw as they are currently in byelaws 10, 26 and 27, however, flexible permit conditions would be retained.

Mr Pidduck raised the issue of monthly returns and the burden of extra paperwork. He asked if the information can be taken from EEC log sheets which details, dates, times, gear and catch. HoE pointed out that our reporting requirements are different to those of the MMO.

Mr Taylor suggested further discussion with MMO to ascertain what information can be shared within GDPR regulations to ease the burden on fishermen, this would only apply to licenced vessels, so would not include anything outside MMO regulatory regimes.

Mr Leigh commented that reporting should not be made overly complicated and over burden the fishermen and enquired as to how much can be done electronically.

Mr Manning raised the issue regarding professional and non-professional fishermen, suggesting that anyone setting a net should be classed as professional as they do not know what they are going to catch. Mr Taylor sought to clarify the position stating that any unlicensed vessel going to sea then selling its catch is illegal. It was broadly agreed that the statistics required are important as Defra and MMO are not necessarily fully aware of issues faced by local fisheries.

Proposal: A WORKING GROUP MEETING OF VOLUNTEERS FROM THIS SUB-COMMITTEE MEET WITH OFFICERS FOR THE SOLE PURPOSE OF DISCUSSING THE NETTING BYELAW AND ITS RELATED ISSUES, WITH A VIEW TO BRINGING A REVISED PROPOSAL BACK TO THE NEXT MEETING OF THE TSB

Proposed: Dr Andrews, Seconded: Mr Thompson, all in favour, motion carried.

23 BYELAW STRATEGY WORKING GROUP (Agenda Item 5f)

HoE presented a short report on the BSWG.

Dr Andrews reported that there had been a constructive meeting of the above working group. The draft plan as circulated had been discussed, which summarises the issues from having numerous byelaws from various previous authorities.

The aim would be to attain a single suite of byelaws within a 5-year timescale, the priorities should be determined by officers. The process is yet to be determined, so there was a question around whether the simplest byelaw should be amended first as a test. The Chair commented that there was a flowchart already in place (as drafted by Belinda Vause when in the Science Team) setting out the byelaw making process that could be modified and utilised.

Proposal: TO APPROVE THE PAPER AND THE DEVELOPMENT OF AN OPERATIONAL PLAN TO ASSIST IN THE PROCESS

Proposed: Mr Brown, Seconded: Mr Benson, all in favour, motion carried.

Mr Manning commented that after attending the meeting he had come to realise the amount of work involved, and had decided to leave the group. He also suggested the appointment of a byelaw officer rather than impact on the work already needed by the science and enforcement teams. HoE responded that ideally we would be able to do that but funding constraints meant it would be highly unlikely, but could possibly be looked at within the current staff structure. CEO concurred, funding would be highly unlikely. It was also suggested the possibility of all the IFCA's coming together to create a single post for someone with legal skills, who would be based within the MMO. Mr Taylor made the point that there are fully trained lawyers within Defra and MMO and this is a technical skill drafting legislation, and could this be outsourced to a consultant.

Mr Thompson felt there was sufficient experience within the committee to undertake some of this work, and as most members were self-employed, could some form of remuneration be made and kept in-house. HoE pointed out that this would cause an issue relating to pecuniary interests, therefore that approach was not possible.

Mr Brown commented on the amount of work involved in writing the Regulatory Impact Assessments, and agreed that collaboration with other IFCA's was a good idea. CEO reported that we do already receive help with these from the MMO byelaw team.

The CEO agreed to look into whether other IFCA's might consider coming together to invest in a byelaw officer.

24 **SURVEY AND INSPECTION REPORT (Agenda Item 6)**

CEO presented the report on behalf of the science team, any questions would be taken back after the meeting. HoE confirmed that sampling has continued of the Duddon mussel fishery for classification of that bed. Mr Pidduck remarked that the levels were going to be 'off the scale' but HoE stated that this a process we are obliged to partake in as contractors to the Environmental Health Dept. Mr Pidduck also raised concerns over access to the fishery. He explained that working from Black Hut at Lowsy Point was not really feasible especially in the winter.

HoE stated he had attended the site with Natural England and also Officer Dixon, and it was felt it was a better access route than from Sandscale Haws and Roan Head. Mr Pidduck remarked it would not be possible with a 20t wagon and mussels. HoE reported there was an issue using Roan Head due to the presence of Natterjack Toads which is a highly protected species, and the Authority has a responsibility towards that.

Mr Browning went into further detail stating how the area had changed in recent times, and although it is a by-way there is the risk of large vehicles driving through the ponds during breeding season, which would cause disturbance and damage, killing a European protected species. If that proved to be the case IFCA would have little alternative other than to close the fishery. Mr Pidduck enquired as to when the fishery would be opened. It was reported that would most likely be in the New Year as soon as it has been classified.

Mr Manning raised the issue of South America and said he had received complaints regarding large areas of cobble and sabellaria which had been dredged over. The NWIFCA gave authority for this operation which he considered to be illegal. He reported that one fisherman had submitted video and photographic evidence to Natural England, to which he had received a reply but was going to escalate it further.

HoE stated that the Deputy Senior Scientist had given an exemplary explanation of the situation at the last TSB meeting, and he strongly refuted any accusations of withholding evidence or criticism of officers. A vote was taken at the TSB to open the fishery, therefore making it legal.

Dr Andrews requested that if there is evidence available it should be presented to the Authority and would be investigated through due process, he also commented that Natural England would have a strong interest if this were the case.

25 LEASOWE AND NEWBIGGIN COCKLE FISHERIES (Agenda Item 6a)

Mr Benson had requested this item be placed on the agenda for discussion. He stated that a resolution had been made to open Newbiggin subject to HRA and requested an update, he also raised the question of classification commenting that the area is not dissimilar to the areas accessible from Flookburgh that has a seasonal classification of A. He felt due to the low numbers of people at Pilling there was little justification in Newbiggin remaining closed. Mr Browning explained the best way forward for Newbiggin to be considered for opening would be a new proposal, which would require a new HRA be submitted. Pilling can remain open as already assessed as being HRA compliant.

Mr Benson stated that there was a substantial amount of cockles in the area and that birds do not feed on large cockle. Mr Browning explained that oystercatcher do feed on large cockle. Further points were raised relating to the number of people actually fishing, which is currently low, however anybody with a permit can potentially turn up, and these factors have to be considered.

Proposal: A REVISED HRA BE SUBMITTED FOR A PRESUMED LIMITED FISHERY, WITH A PROVISIO THAT SHOULD IT DEVELOP INTO A LARGE SCALE FISHERY IT WOULD THEN BE CLOSED.

Proposed: Mr Brown, Seconded: Mr Thompson, 7 in favour, 4 abstentions, motion carried.

The discussion continued with regard to the numbers of fishers likely in the area, and what mechanism there was for determining at what level the fishery should be closed under NW SFC Byelaw 13a.

Mr Benson raised concerns regarding interference in the process, which had caused lengthy delays at Pilling, and this process must not be allowed to drag on to the season closure in April. He also raised the question of Natural England as to why there are such stringent rules around cockle beds but not so for mussel fisheries. He also commented on the surveys, stating that cockles is widespread throughout Morecambe Bay, but only the same areas are surveyed. Mr Browning remarked that the Science Team were doing a good job and was confident in the assessments they submit.

Mr Benson raised the question regarding the opening of Leasowe, and felt it only fair that permit holders be allowed to fish when non permit holders are seen regularly on the beach.

Mr Davies also reported having spoken with non-permit holders in the area who admitted to being there often. HoE thanked Mr Davies for the information and said it would be investigated. He sought to reassure members that the enforcement team were active in that area, but it was impossible to stop people from going on, and enforcement action had to be Proportionate to the offence.

A vote had previously been taken not to open Leasowe. Mr Brown suggested that IFCOs have a further look at the area to ascertain if a full survey was worthwhile.

Proposal: TO HAVE A SURVEY UNDERTAKEN OF LEASOWE COCKLE BED

Proposed: Mr Brown, Seconded: Mr Leigh, 4 in favour, 1 against, 3 abstentions, motion carried

26 **SCIENCE REPORT (Agenda Item 7)**

The science report was presented for information only, and any questions would be taken back to the team after the meeting.

Proposal: TO RECEIVE THE REPORT

Proposed: Dr Andrews, Seconded: Mr Leigh, all in favour, motion carried.

27 **FOULNAZE COCKLE FISHERY (Agenda Item 8)**

Mr Brown presented his paper which related to a major cockle incident on the Ribble some years previously. He referred to photographs circulating some time ago of the amount of cockles on Foulnaze and Penfold Channel, and wished to see the authority in a better placed position to deal with a possible repeat. He asked that the Authority gave its consent to a 'thinning operation' should this be required. He also pointed out that because Foulnaze is a boat fishery, there could easily be a parallel fishery in the Penfold Channel, and to run two fisheries, one open and one closed proved to be an enforcement nightmare. Mr Brown requested that the Bill Cook report on cockle harvesting be made available, particularly to Natural England, in the event such methods are needed again.

HoE thanked Mr Brown for his report, but stated being fully aware of the history, and cockle beds on the Ribble would be surveyed at the earliest opportunity. He sought to reassure the sub-committee that there had been several very large scale fisheries in the last six years, and the Authority was fully ingrained in charring multi-agency group meetings etc. He considered the Authority to be far better placed to deal with any such reoccurrence. He added that yes there had been issues in the past around Foulnaze etc. but lessons had been learnt.

There were no items for any other business and the meeting closed at 15.30pm