



## BYELAW EXEMPTIONS: GUIDANCE FOR APPLICANTS

Version 1.0

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## Revision history

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# **1. Overview**

This document sets out Eastern Inshore Fisheries and Conservation Authority's (Eastern IFCA) process for granting an exemption from our byelaws. This document is intended to provide applicants with guidance for submitting applications to the Authority.

This is neither a legal nor binding document.

## **2. Guidance**

### **2.1 What is an exemption and when is it appropriate?**

Eastern IFCA has a set of byelaws which must be complied with by all those using the district. Failure to comply with these byelaws will lead to prosecution. However, there may be occasions when an organisation is not in a position to comply with a particular bye-law or that the requirements placed upon it by a bye-law may result in an inefficient outcome. In these circumstances, they may submit a request to Eastern IFCA for an exemption.

This document sets out information Eastern IFCA requires in order to assess a request for an exemption and factors that Eastern IFCA takes into account in its assessment.

### **2.2 Information required and Eastern IFCA's assessment**

An exemption request should be submitted through the Exemption Form which is available online or from the Authority's office. It should include sufficient information to enable the Authority to make a decision.

Each exemption request is assessed by Eastern IFCA in terms of the likely effects. In its assessment the Authority, having regard to its statutory duties will consider, amongst other things, the impacts set out in the application.

If Eastern IFCA is satisfied that the information received meets the minimum requirements and considers that the exemption request is justified, then it will issue an exemption.

### **2.3 Additional information**

The applicant is required to justify the exemption request in terms of the specific circumstances and the expected duration. Applicants are advised to give as much notice as possible when making exemption requests since an exemption will not be granted unless the Authority is satisfied that the request is justified.

All technical terms should be fully explained, the request should be presented in a clear manner and supporting documents must be present so as to avoid unnecessary delays in Eastern IFCA's assessment.

A request cannot be made for a retrospective exemption; however, if non-compliance has occurred, detail of any remedial action taken by the applicant will be taken into consideration for enforcement purposes.

Eastern IFCA considers that an exemption request is justified if:

i) The applicant demonstrates that there is NO:

- Significant risks associated with the non-compliance;
- Avoidable adverse impacts (immediately or in the longer term);
- Additional measures that could be taken to further mitigate the impact have been taken;
- Outstanding objections from other parties who are materially affected by the non-compliance;
- Competitive advantages to the applicant arising from the exemption; and
- Other reasonable options to address the non-compliance that have not been considered.

ii) The applicant has presented a realistic and comprehensive implementation plan that defines, at the very least:

- The works required to restore compliance;
- The timetable for those works that show a deadline that is reasonable and is achievable (subject to highlighting any factors that may be outside the applicant's control, for example, third party consents); and
- Any measures to mitigate the risks to other parties that will be (or have been) taken until the non-compliance is restored.

iii) The applicant has produced any other supporting information that is relevant to a specific request.

Where an applicant is unable to satisfy criteria i to iii (above), Eastern IFCA will assess how far the applicant's ability to satisfy the criteria is sufficient to justify granting an exemption. It is noted that a justified exemption request would not necessarily need to meet all of the listed criteria. Eastern IFCA would use its judgement and would advise any applicant of additional information requirements that were not included in the original request.

If Eastern IFCA considers that the exemption request is justified, then the Authority will issue an exemption from the relevant obligations for a time period specified in the direction.

Eastern IFCA may reserve the right to revoke an exemption and may grant an exemption which is subject to certain conditions being satisfied, either by the applicant to which the exemption applies, or in respect of the wider system.

If Eastern IFCA considers that the exemption request has not been sufficiently justified, then the Authority may:

- Grant an exemption for a short duration to allow the applicant time for further investigation of solutions to the non-compliance; or
- Refuse the exemption request.

Where the Authority refuses an exemption request where there is non-compliance with byelaws, the Authority will consider the extent to which the situation warrants enforcement action. This is in respect of the nature of the breach, its consequences and any remedial actions taken.

The Authority will maintain a record of exemptions that have been granted.

## **2.4 Application submissions**

Please send applications marked 'EXEMPTION' to: [mail@eastern-ifca.gov.uk](mailto:mail@eastern-ifca.gov.uk)

Or by post to:

Eastern IFCA

6 North Lynn Business Village

Bergen Way

Kings Lynn

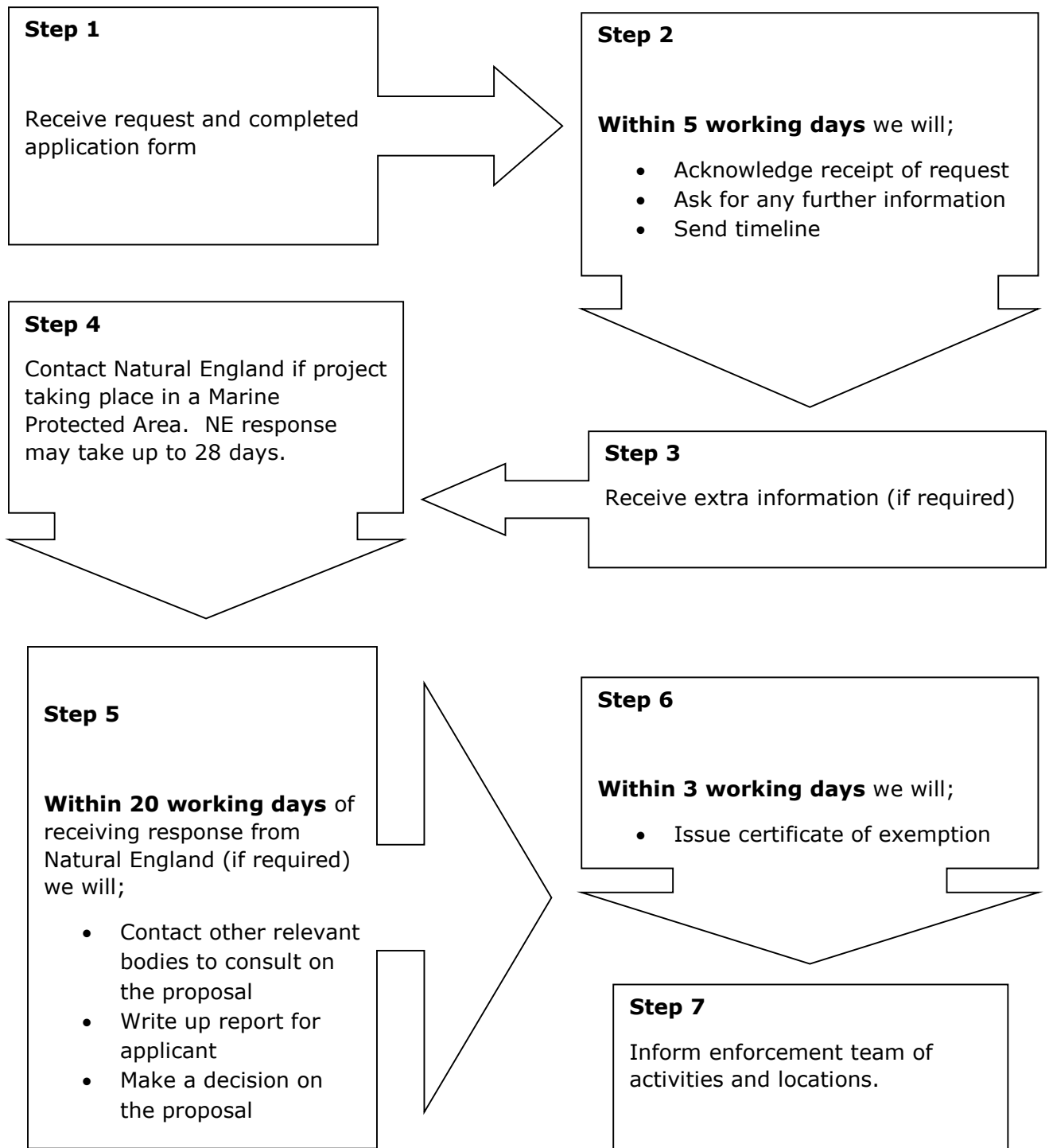
PE30 2JG

Please contact the office on 01553 775321 if you have any questions.

### 3. Exemption Processing

#### 3.1 EIFCA's process

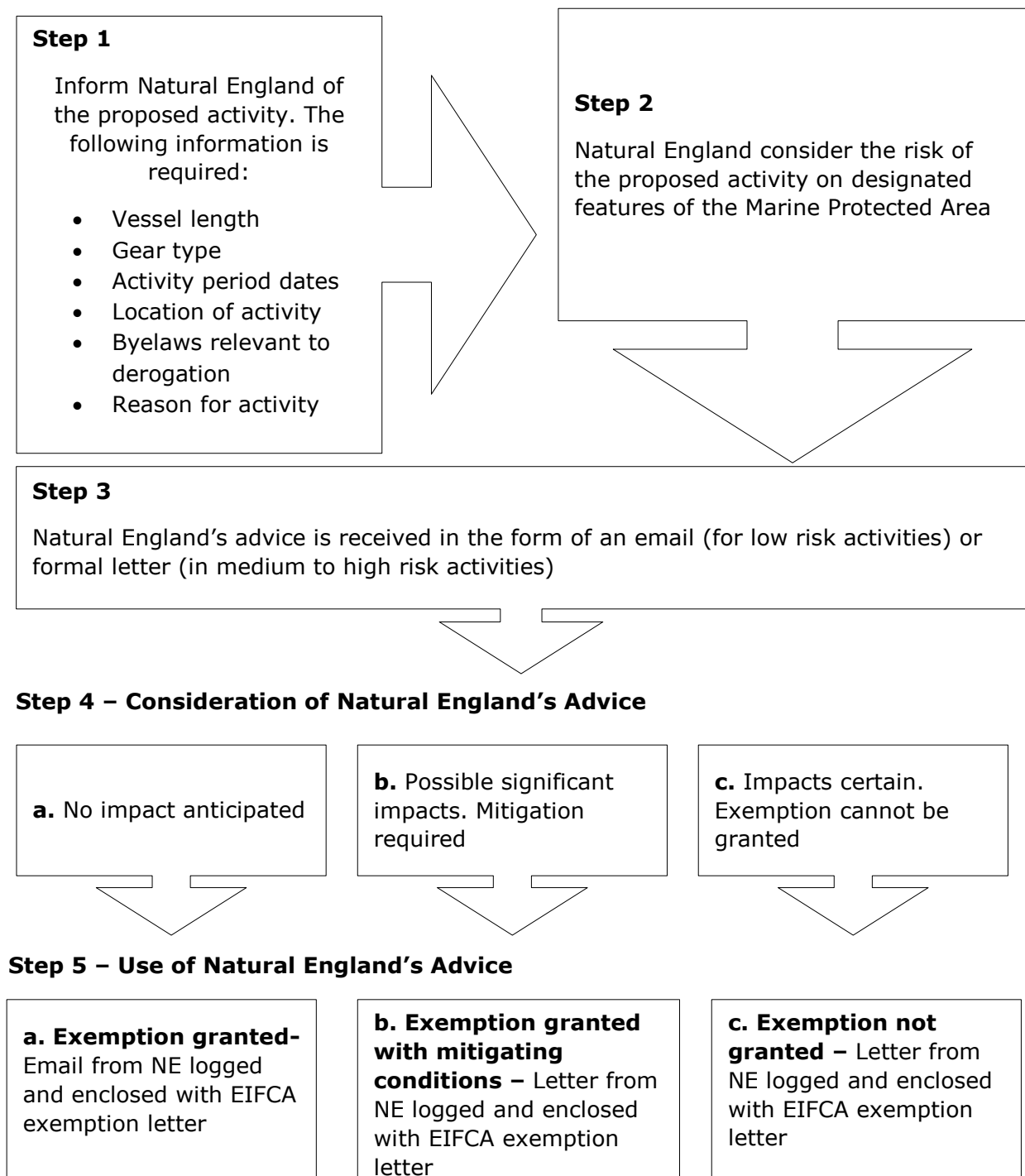
The following chart sets out the steps involved in granting an exemption



Eastern IFCA endeavours to process all applications within 28 working days excluding time taken to receive information from applicant and Natural England. This may take longer if a Habitat Regulation Assessment is required.

### 3.2. Seeking advice from Natural England on activities within Marine Protected Areas

Where an activity being considered for exemption takes place within a Marine Protected Area<sup>1</sup>, Natural England will be consulted as per the chart below. EIFCA will seek advice from Natural England as to whether any significant impacts are anticipated on any conservation features within the Marine Protected Area. It can take up to 28 working days to receive a response from NE.



<sup>1</sup> Marine Protected Area includes Marine Conservation Zones, Sites of Special Scientific Interest, RAMSAR sites, Special Areas of Conservation and Special Protection Areas.