

Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



AOB Item 1

17th Eastern Inshore Fisheries and Conservation Authority meeting

28 January 2015

Seasearch East diving operations

Report by: P J Haslam, CEO

Purpose of report

The purpose of this report is to apprise members of the intention to host Seasearch East recreational divers in Authority vessels at sea and seek approval of a Memorandum of Understanding (MoU) to formally capture the division of individual responsibilities and liabilities

Recommendations

It is recommended that members:

- **Note the intent to provide vessel support services to Seasearch East diving operations.**
- **Approve the Memorandum of Understanding.**

Background

Eastern IFCA has a requirement to gather the best available evidence to support marine fisheries and conservation management throughout the district. Seasearch East is a recreational diving organisation populated by volunteers that seek to establish a continuing survey of the UK's marine wildlife to identify important habitats, vulnerable species, monitor change and better understand the effects of human and natural influences. Natural England fully supports this initiative and is providing funding to enable operations.

The evidence produced from these surveys could provide a powerful tool to inform stakeholders of the condition of the local marine environment. Examples of Seasearch East activities and results can be found at <http://www.seasearcheast.org.uk/>

Memorandum of Understanding

The MoU at Appendix 1 is designed to formally establish the individual responsibilities and liabilities incorporated in conducting the diving operations. The key principals underpinning the operations are:

- Eastern IFCA is providing vessel support services comprising passage to and from the chosen dive site. When embarked, the divers will assume "guest" status.

- All diving operations are conducted on a recreational and voluntary basis and do not constitute any form of contracted operation.
- Responsibility for the safe operation and conduct of vessels at sea resides with Eastern IFCA.
- Responsibility for the safe operation and conduct of diving operations resides with Seasearch East.
- Appropriate insurance to cover the operation will be sourced by both parties.
- Emergency support in the event of a diving accident or incident will be provided by Seasearch personnel. Eastern IFCA will provide such support as requested and appropriate.
- Eastern IFCA boat crews will receive training in the operation of emergency oxygen supply as a contingency in the event that a diver is not available to operate the equipment.
- The Health and Safety Executive will be consulted to confirm that diving is conducted under recreational guidelines.

Conclusion

There is a requirement for the Authority to gather the best available evidence to support the management of marine fisheries and conservation. Joint working with Seasearch East and NE provides a unique opportunity to gather photographic and video imagery to assist with the assessment of the condition and health of the local marine environment and to inform stakeholders. It has the potential to provide a powerful tool in support of the MaCAA duties to *'seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation'* and to *'seek to ensure that the conservation objectives of any MCZ in the district are furthered'*.

Appendix:

1. Eastern IFCA/SeaSearch East Memorandum of Understanding.

Memorandum of Understanding (MoU)

THIS MEMORANDUM OF UNDERSTANDING is made on:

Day:

Month:

Year:

BETWEEN

- (1) Eastern Inshore Fisheries and Conservation Authority (EIFCA); and
- (2) Seasearch East (SE)

BACKGROUND

- (A) This Memorandum of Understanding concerns the operation and conduct of diving activities by SE from EIFCA sea going vessels.
- (B) This Memorandum of Understanding sets out the principles which shall govern the relationship between EIFCA and SE including their respective obligations, responsibilities and liabilities

IT IS AGREED as follows:

Definitions and Interpretation:

In this Memorandum, unless the context otherwise requires, a reference to:

“**Memorandum**” means this document, including all schedules hereto;

A “**Party**” means any Party to this Memorandum individually and “**Parties**” refers to all of the Parties to this Memorandum collectively. A Party shall include all permitted assigns of the Party in question;

The “**Schedule**” is an integral part of this Memorandum and shall be interpreted accordingly;

The “**Project**” means the delivery of this Memorandum.

1) Project Outline and Principles of the Relationship

This Memorandum shall be effective from the date of its execution and shall continue until termination in accordance with paragraph 2.

It is intended that the parties shall work closely together to execute discretionary, non-contractual, diving operations by volunteer divers to provide diving opportunities in EIFCA district waters. Dive survey data collected will be put into the public domain as a matter of course and shared openly with the EIFCA. Video and/or photographic footage of the marine environment may be offered to the EIFCA for scientific research and to contribute to their database of evidence. By entering this agreement, the parties seek to

- better understand the inshore marine environment of areas of the EIFCA district;
- acknowledge and understand individual responsibilities and liabilities;
- discharge their obligations;
- maximise the efficiency of resources.

The parties agree to adopt the following principles when carrying out the Projects:

- Communicate, collaborate and co-operate - Develop, establish and adhere to procedures to assure the safe conduct of diving operations as set out in this MoU.
- Be accountable – accept responsibilities and liabilities and take appropriate and proportionate action to mitigate risks in accordance with this MoU;
- Be open - communicate openly about major issues relating to the Project;
- Learn, develop and seek to maximise potential within available resource limitations. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, minimise duplication of effort, mitigate risk and reduce cost;
- Adhere to statutory requirements and best practice and comply with applicable laws and standards.
- Act in a timely manner.
- Deploy appropriate resources where available. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this MoU.
- act in good faith to support achievement of the Project and compliance with these Principles

2) Termination

Either party may terminate the Memorandum by notice in writing giving one month's notice at no liability to the other Party.

3) Variation

This agreement may be only varied through an amended and tracked version of this agreement, which shall be signed by, or on behalf of, each of the parties.

4) Successors and Assigns

The agreements reached between the parties pursuant to this Memorandum shall continue for the benefit of the Party's successors and assigns.

A party cannot assign, sub-contract or in any other way dispose of the Memorandum or any part of it to any person, firm or company without the prior written consent of the other party.

In circumstances where the role undertaken by the parties is assigned or succeeded by statute, this agreement shall automatically continue for the benefit of the assigned or successor. In any other circumstances assignment, sub-contracting or any other disposal of this agreement can only be undertaken with the prior written consent of the other party.

5) Notices

Any notice or other communication required to be given under this Memorandum, shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier, to each Party required to receive the notice or communication as set out below:

Eastern Inshore Fisheries and Seasearch East	Regional Coordinator
Conservation Authority	1 Town Houses, Yoxford Road
6 North Lynn Business Village	Sibton
Bergen Way	Saxmundham
King's Lynn	Suffolk
Norfolk	IP17 2LX
PE30 2JG	

or as otherwise specified by the relevant Party by notice in writing to each other Party.

6) Reconciliation of Disagreement

It is hoped that any disagreements will normally be resolved amicably at working level. In the event of failure to reach consensus between the Parties then such failure shall be handled in the following manner:

The dispute shall in the first instance be referred to the designated Point of Contact for each party. A meeting shall then be arranged as soon as practicable after the failure to reach consensus arises, but in any event within ten business days to endeavour to resolve the disagreement.

If the dispute has not been resolved following a referral in accordance with the method described above the Parties shall settle the dispute by mediation.

7) Charges and Liabilities

Except as otherwise provided, the parties shall each bear their own costs and expenses incurred in complying with their obligations under this MoU.

Both parties shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this MoU.

8) Status

This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this MoU. The parties enter into the MoU intending to honour all their obligations.

Nothing in this MoU is intended to, or shall be deemed to constitute either party as the agent of the other party, nor authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

9) Governing Law

This Memorandum and all disputes or claims arising out of or in connection with it shall be governed by and construed in accordance with the law of England.

Each Party hereby confirms its agreement to the terms contained in this Memorandum.

Signed on behalf of

Eastern Inshore Fisheries and Conservation
Authority

Signed on behalf of

Seasearch East

Print Name: Cllr Hilary Cox

Job Title: Chairman

Date:

Print Name: Mr Rob Spray

Job Title: Seasearch Coordinator

Date:

Schedule To:

Memorandum of Understanding

Pursuant to the safe conduct of discretionary diving operations to be conducted by volunteer divers the parties listed below shall deliver the following:

EIFCA		SE	
Action	Responsibility/Liability	Action	Responsibility/Liability
Provision of seaworthy vessels to accommodate agreed number of volunteer divers for each diving operation	Vessel shall be MCA certified and appropriately insured to carry volunteers as guests onboard to and from the proposed dive site.	Provision of suitably qualified and equipped volunteer divers	Volunteer divers shall be physically and mentally fit to conduct diving operations. Volunteer divers shall be appropriately qualified in accordance with recognised national diving standards and practices. Diving equipment shall be compliant with national safety standards, fully serviceable and maintained to the requisite standard to support the safe conduct of diving operations.

			<p>Proof of qualifications will be confirmed by the dive marshal.</p> <p>Divers will be assessed during dive planning and only divers fit and suitably equipped to dive shall take part in survey activities.</p>
Provision of sufficient qualified and experienced crew.	EIFCA manpower resources shall be appropriately trained, exercised and qualified to offer vessel support services as agreed between both parties.	Provision of portable safety equipment to support diving operations	Portable safety equipment to support the safe conduct of diving operations shall be provided and maintained to the requisite standards.
Provision and maintenance of such equipment as necessary to support the safe conduct of vessel operations	Vessel based safety and support equipment shall be maintained and certified in accordance with mandated procedures	Provision of training to EIFCA manpower to aid support of diving operations.	Training will be made available where possible and appropriate to aid competent and confident delivery of vessel duties to support safe diving operations
Appropriate insurance to accommodate agreed periods of diving operations	Insurance cover shall be sourced to provide for EIFCA manpower and Seasearch volunteers to accommodate all operations up to the point of commencement of diving operations as defined and agreed by both parties.	Appropriate insurance cover for diving operations	Proof of insurance will be confirmed by the dive marshal.

<p>Compliance with HSE law regarding volunteer based diving operations</p>	<p>The Health and Safety Executive shall be consulted to ensure adherence to appropriate practice for non- contractual, volunteer based discretionary diving operations</p>	<p>Compliance with HSE law regarding diving operations</p>	<p>The Health and Safety Executive shall be consulted to confirm that diving is conducted under recreational guidelines.</p>
		<p>Diving operations to be conducted under national recreational diving guidelines.</p>	<p>Diving operations will be conducted under Seasearch diving guidelines – developed with recreational bodies and demonstrated to the HSE.</p>