



**Regulation & Compliance  
Sub-Committee Meeting**

**To be held at:**

**EIFCA Offices, 6 North Lynn Business Village  
Bergen Way, King's Lynn, PE30 2JG**

**25<sup>th</sup> November 2014**

**1030 hours**

Meeting: **Regulatory and Compliance Sub-Committee**

Date: 25 November 2014

Time: 10:30

Venue: Eastern IFCA office, Kings Lynn



*"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."*

- 1 Welcome - *Chair*
- 2 Apologies for absence - *Clerk*
- 3 Declaration of members' interests - *Chair*

**Action Items**

- 4 Minutes of the Regulation & Compliance Sub-Committee meeting on 28<sup>th</sup> November 2013 - *Chair*
- 5 Matters Arising - Clerk
- 6 Byelaw Review / Regulation & Compliance Strategy – DCEO/Project Officer
- 7 Protected Areas byelaw review process & rights in common risk assessment – DCEO / SMEO

**Information Items**

- 8 Potential bass management measures – verbal update CEO
- 9 Potential whelk management measures – verbal update DCEO
- 10 Any other urgent business  
To consider any other items which the Chair is of the opinion are matters of urgency by reason of special circumstances which must be specified

Philip Haslam  
Chief Executive Officer  
10 November 2014

## Regulation & Compliance Sub-Committee



*"EIFCA will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economical benefits to ensure healthy seas, sustainable fisheries and a viable industry".*

A meeting of the Regulation & Compliance Sub-Committee took place at Thoresby College, South Quay, King's Lynn on 28<sup>th</sup> November 2013 at 1030 hours

### Members Present:

Mr Tom Pinborough	Chair	MMO Appointee
Mr Shane Bagley		MMO Appointee
Cllr Hilary Cox		Norfolk County Council
Mr Conor Donnelly		NE Representative
Mr Paul Garnett		MMO Appointee
Mr Roger Handford		EA Representative
Mr Neil Lake		MMO Appointee
Cllr Keith Patience		Suffolk County Council
Mr John Stipetic		MMO Representative
Cllr Tony Turner		Lincolnshire County Council

### Eastern IFCA Officers Present:

Phil Haslam	CEO
Luke Godwin	Environment Officer (Data)
Julian Gregory	Head of Marine Protection
Eden Hannam	Head of Marine Conservation
Judith Stoutt	Marine Environment Officer

### Also Present:

Leanne Stockdale                      MMO Representative – attending in an advisory capacity

### **R&C13/09    Welcome by the Chair**

The Chairman welcomed members to the meeting and thanked them for attending.

### **R&C13/10    Apologies for Absence**

Apologies were received from Messrs Brewster and Morgan (MMO Appointees) and Cllr Baker (Norfolk County Council).

### **R&C13/11    Declarations of Interest**

Other than Declarations of Interest already lodged with the Clerk the only intervention was made by Mr Neil Lake who declared an interest as a registered Rights in Common holder.

### **R&C13/12    Minutes of the Regulation & Compliance Sub-Committee meeting held on 18<sup>th</sup> September 2013**

Mr Lake questioned the recording of his comment regarding Regulatory Notice No 1 in the previous minutes which stated: *Mr Lake questioned whether it was possible to amend the closed area to allow fishing over part*

*of the area which in itself could be used as a means of studying the effect of fishing compared to an area where no fishing is taking place. Whilst it was agreed this could be interesting there was concern that fishing the site could cause unnecessary damage, particularly as there was research work taking place in other parts of the country.*

It was stated that this had been included solely as a matter of record only. As there were no other matters arising the minutes were approved as a true record of proceedings.

Proposed: Cllr Cox      Seconded: Mr Lake

### **R&C13/13 Byelaw for the management of fishing activities in European Marine Sites**

The Heads of Marine Conservation and Protection gave a presentation on the information provided in the papers. Members were reminded that at the previous meeting the resolution was to make the Byelaw, this had subsequently been advertised for 14 days in local and national newspapers followed by a 28 day consultation phase. In addition a wide range of stakeholders had also been written to and the byelaw advertised on the EIFCA website.

As a result of the consultation period 25 submissions had been received which had been diligently considered, members were provided with a summary of the issues raised in the submissions.

Significant comments included:

- Challenging the requirement for a regulation – EIFCA is enacting EU direction through national regulation and as such, with the guidance of Defra, there is a clear legislative requirement and government expectation that EIFCA will act.
- Concern about the economic and social impact on the Wash pink shrimp fishery – the officers believe the byelaw is as flexible as possible with closed areas as small as possible in order to have as little impact as possible on the pink shrimp fishery. It was stressed that when seeking assent from the Minister additional information would be provided explicitly specifying the impact on the fishery. Work would also be done with NE to do Habitats Regulation assessments on the fishery to try and mitigate the damage.
- Concerns over the status and protection of 'rights in common' holders – it was stressed this applies only to those who have a registered right attached to a piece of registered common land. Defra believe EIFCA could fetter the rights under the MaCAA however EIFCA are currently not proposing to do this, consequently there is continuing discussion with Defra.
- Concerns of the size and shape of proposed closed areas – these comments applied to the areas set out in the Regulatory notices to protect the Boulder & Cobble and sabellaria areas. The intention of

the Regulatory Notice is to bring in the possibility to move the closed areas if necessary however, until further information was available officers believed the specified areas were appropriate. Eelgrass in the Humber was an exception and members were provided with two alternative options to consider as further evidence suggested it may be possible to close a smaller area. It was noted that where possible notable natural features had been used to define the boundary rather than relying on GPS coordinates.

- Concerns with regard to the ability to bring in a byelaw and enforcement of it – EIFCA have the ability to bring in a byelaw and enforcement would be through monitoring and if damage was found to be occurring enforcement would be increased in these areas.

In addition there were also concerns expressed about specific wording and gaps in the information process. Some of these gaps had been filled in and it was believed there was enough information to proceed using the precautionary principle. Regulatory Notices would be reviewed as a minimum on a 4 year basis but can be altered at any time if new information becomes available.

The CEO assured members that all submissions had been carefully considered to unearth the actionable objections, there had been a variable feast of responses but all of them had been investigated.

Although the byelaw had been advertised there was continuing correspondence with Defra regarding the wording as they were concerned about the level of sub-delegation. It was noted that sub-delegation could not be granted to avoid or circumvent the byelaw making process. A few minor amendments had been requested to the Byelaw which included:

- Para 2 – changing the wording re trigger for the regulatory notice
- Para 3 – management measures – more clarity was requested on which specific methods of fishing will be affected, as was inclusion of the need to carry out a Habitats Regulation Assessment
- Para 5 – a list of what should be included in the Regulatory Notice to be included

Other requested changes included reducing the maximum review period from 6 year to 4 years maximum, introduction of a schedule listing SACs and SPAs in which EIFCA can regulate. The Explanatory Note was also amended in that the first paragraph was removed and an explanation of the formal process for the review was introduced. Defra also requested that the formal operating procedure should be referred to in the Byelaw and should include that any change or introduction of an RN must be notified to Defra.

Rights of Common is a stumbling block as Defra's legal advice is opposed to the advice from EIFCA legal team. If the reference to Rights in Common was removed altogether this could impact on Risk Management.

Following the presentation members discussed the proposed byelaw. Mr Lake was concerned there were no 'checks and balances' in place to

monitor the socio economic effect of closing parts of the pink shrimp fishery. It was noted however, prior to increasing or decreasing the size of a closed area an Impact Assessment would be carried out for consideration by the Authority. This would include socio economic evidence. The Chair questioned whether there was a certain percentage of the feature which must be protected, to which Mr Donnelly advised each site was different and it depended on the nature of activity impacting on the feature and the recovery rate, however he did assure members it was sabellaria reefs which were to be protected not small areas of worms. The CEO further assured members that the vision of EIFCA does not allow them to carry out one action at the expense of another, there has to be a balance.

When questioned about the next phase of features to be considered Mr Donnelly advised that whilst there had been a need to protect the most sensitive high risk areas quickly with the amber and green sites there should be more time and flexibility to look in detail at areas and the impacts so that more tailored measures could be developed for these activities. It was, however, noted that where there were still evidence gaps it would be necessary to apply the precautionary principle.

Following discussion the Chair asked members of the public if they had understood what was meant by a Right in Common, which they confirmed they had.

**Members Resolved to:**

- **Note that there were 25 submissions following making the byelaw on 18<sup>th</sup> September 2013.**
- **Note the summary of consultation responses provided.**
- **Agree the proposed actions listed below that have been derived from the consultation process and ongoing dialogue with Defra:**

- Update Impact Assessment following formal consultation

**Proposed: Connor Donnelly**

**Seconded: Cllr Hilary Cox**

**All Agreed**

- Revise the working of Byelaw paragraph 10 to include: 'unless otherwise stated in the appropriate regulatory notice' and amend RN1 and 2 accordingly.

**Proposed: John Stipetic**

**Seconded: Roger Handford**

**All Agreed**

- Choose option A for Regulatory Notice 4 enabling better management of the European Marine Site.

**Proposed: John Stipetic.**

**Seconded: Roger Handford**

**All Agreed**

- Revise the fishing activity to be prohibited in Regulation Notice 4.

**Proposed: Connor Donnelly**

**Seconded: Cllr Keith Patience**

**All Agreed**

• **Direct Officers to:**

- Produce operational procedures for introducing and reviewing Regulatory notices including the types of information needed.

**Proposed: Connor Donnelly**

**Seconded: Roger Handford**

**All Agreed**

- Update the Enforcement risk register to reflect the new byelaw

**Proposed: Cllr Hilary Cox**

**Seconded: Cllr Tony Turner**

**All Agreed**

- Explicitly state in the letter to the Minister the economic impact (on the pink shrimp fishery) of such a spatial closure.

**Proposed: Keith Patience**

**Seconded: Cllr Hilary Cox**

**All Agreed**

- Engage with Natural England and the Industry to complete a full Habitats Regulation Assessment for the Wash Pink Shrimp fishery, which could identify areas to investigate to minimise impact or amend the regulatory notices.

**Proposed: Cllr Tony Turner**

**Seconded: John Stipetic**

**All Agreed**

- **Agree the changes to the Byelaw and Regulatory notices as a consequence of the on-going dialogue with Defra Policy Analysts.**

**Proposed: Connor Donnelly**

**Seconded: John Stipetic**

**All Agreed**

- **Note that the dialogue with Defra is ongoing and there could be minor and technical changes**

- **Agree that any further minor technical changes can be made by officers in consultation with the Chair of the Authority and the Chair of the Regulatory and Compliance Sub-Committee**

**Proposed: Roger Handford**

**Seconded: John Stipetic**

- **Direct that if any significant changes are required, that this matter is laid before the full Authority at the statutory meeting scheduled for January 2014.**

**Proposed: Cllr Hilary Cox**  
**Seconded: Connor Connelly**  
**All Agreed**

Following the resolution Leanne Stockdale questioned the timeline for submission to the MMO. Although they were not aware they package needed to be sent via the MMO it was agreed it would be sent once all the issues with Defra had been resolved.

**R&C13/14 Any Other Urgent Business**

There were no items of urgent business to consider.

The meeting closed at 1153 hours.



## 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



## Regulation and Compliance Sub Committee meeting

## Action Item 6

**25 November 2014**

### **Byelaw Review and Regulation and Compliance Strategy**

Report By: L P Godwin – Project Officer/IFCO, J Gregory DCEO

#### **Purpose of report:**

To propose a revised approach to undertaking the byelaw review that provides a holistic and dynamic approach to regulation and compliance. This represents a change to the approach set out in the High Level Objective.

#### **Recommendations**

Members are recommended to:

- **Approve the revised approach for undertaking the byelaw review;**
- **Approve the Regulation and Compliance Strategy (Annex 1);**
- **Approve the revised Enforcement Policy (Annex 3)**
- **Note the content of the Strategic Assessment;**
- **Agree that fisheries management will be addressed in line with priorities identified in the Strategic Assessment**

#### **Background**

Eastern IFCA committed to begin a byelaw review in autumn 2012<sup>1</sup> and to reach certain point by 2015 as per the High Level Objective<sup>2</sup>. However Defra expectations regarding the byelaw review have changed as a result of the revised approach to fisheries management (November 2012) – European Marine Site work was prioritised above that of the byelaw review.

The intention of the byelaw review is to renew, revoke or amend all the byelaws inherited from Eastern Sea Fisheries Joint Committee and North Eastern Sea Fisheries Committee. In doing so, the effectiveness of byelaws is considered and where necessary byelaws are amended to reflect a contemporary regulatory framework.

#### **Revised Approach**

Rather than simply reviewing inherited byelaws, it is suggested that a more holistic approach to fisheries sustainability and conservation issues within Eastern IFCA's district would be beneficial. This would enable an evidence based approach to introducing and revising management measures on a prioritised basis. It would ensure that resources are

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<sup>1</sup> Regulation and Compliance sub-committee 26<sup>th</sup> September 2012

<sup>2</sup> HLO 2.2

put to the highest priorities and would be forward looking as opposed to reviewing legacy byelaws in isolation, which could lead to emerging issues (for which there is no current regulation) being overlooked. It will also provide a business model that will sustain into the future. The steps included in this approach are outlined below:

**1. Produce a Regulation and Compliance Strategy (Annex 1)**

In order to effectively review existing regulation, it is important to clarify how Eastern IFCA proposes to regulate in the future. The principles set out therein also provide a framework to assess the existing regulatory framework. The strategy also sets out how it will be implemented tactically, which includes an Enforcement Policy (post).

**2. Undertake a Strategic Assessment (Annex 2)**

A comprehensive risk assessment of all fisheries and Marine Protected Areas within the district will be an annual exercise with six month interim reviews if necessary. It will combine fisheries data and other evidence to identify fisheries and MPAs that require management measures or changes in management measures and will list them for action in order of priority.

**3. Develop Management Measures**

Priority issues identified in the Strategic Assessment will be addressed and appropriate management developed to ensure sustainable and environmentally compatible exploitation of fisheries.

**4. Review Legacy Byelaws**

This will be a proportionate exercise to effectively 'tidy up' the current suite of byelaws to provide a more coherent set of interim regulatory measures. This is likely to involve the following steps:

- a. Removing most of inherited North Eastern Sea Fisheries Committee (NESFC) byelaws
- b. Removing defunct ESFJC byelaws
- c. Revising ESJFC byelaws that require amendment to make them relevant and effective
- d. Making ESJFC byelaws IFCA byelaws and extending to cover old (NESFC) territory

Both Defra and MMO colleagues have been consulted on the revised approach and they are supportive. Defra colleagues observed that such a revised approach, endorsed by the Authority is effectively 'localism in action.'

**Enforcement Policy**

Eastern IFCA's current Enforcement Strategy was published in April 2012 and focussed on achieving compliance with existing regulation. This has now been revised to account for good practice from other organisations (e.g. MMO) and to fit with the Regulation and Compliance Strategy, which seeks to establish a more cohesive approach to the development of management measures and subsequent enforcement. A notable change is the removal of a 'Simple Caution' (previously known as a Home Office caution) as an enforcement option. The rationale for this is that it is not commonly used by the IFCAs or the MMO and it does not add significant value to the options available to the Authority. The revised Enforcement Policy can be found at Annex 3.

## Strategic Assessment

### Approach

In order to direct finite resources a risk-based approach is required to developing a revised regulatory framework. Fisheries associated with the highest risk can be identified and prioritised in line with the best available evidence. This assessment is intended to be a live, dynamic document which will be refined and reissued in accordance with the best available evidence and with changing social and political drivers. The first version has been produced and will be further developed and refined before the next review.

### Method

Fisheries were identified within Eastern IFCA's district. An initial assessment was carried out to order these fisheries by priority according four main criteria; landings weight, value of landed catch, ICES advice and availability of evidence. Additional criteria were then considered and a priority of high, medium or low is assigned to each fishery. These priorities are then considered in relation to the wider context of Eastern IFCA's work and political and social drivers within the inshore fishing sector.

### Outputs

Two fisheries were identified as a high priority as a result of the full assessment – the Whelk and bass fisheries. Officers recommend that both of these fisheries can be justified as requiring the development of management measures as a priority – more risk is associated with not acting on these issues than with not reviewing existing byelaws. That said, bass management measures could include the revision of byelaw 13 (Fixed engines; placing and authorisation).

Following this, Crustacean, shrimps and skates and rays are all identified as being of medium priority. These priorities provided a basis on which to prioritise the inherited byelaws. In addition to the high and medium priority fisheries, there were four notable species identified from the low priority fisheries which may warrant a higher priority when considered alone. These were Cod, sole, plaice and herring.

Table 1 (below) summarises the outputs of the assessment. The full report can be found in Annex 2. Members are asked to consider the approach and the priorities identified.

<b>Fisheries</b>	<b>Mean rank</b>	<b>Initial risk assessment rank</b>	<b>Priority after additional criteria applied</b>
Whelks	3	1	<b>High</b>
Bivalve molluscs	4	2	<b>Medium</b>
Shrimps	4.5	3	<b>Medium</b>
Bass	4.5	3	<b>High</b>
Skates/Rays	4.75	4	<b>Medium</b>
Crustaceans	4.75	4	<b>Medium</b>
Flatfish	6.25	5	<b>Low</b>
Other	6.75	6	<b>Low</b>
Demersal round fish	6.75	6	<b>Low</b>
Dogfish/Sharks	7	7	<b>Low</b>
Migratory	7.5	8	<b>Low</b>
Pelagic	7.75	9	<b>Low</b>

**Table 1. Fisheries with assigned priority based on additional criteria**



### Regulation and Compliance Strategy

#### Introduction

Eastern Inshore Fisheries and Conservation Authority (IFCA) is one of ten IFCAs covering the English coastline and the Isles of Scilly. Its district encompasses all tidal waters in the counties of Lincolnshire, Norfolk and Suffolk from Haile Sand Fort in the north to Felixstowe in the south and six nautical miles out to sea. Eastern IFCA's vision is:

*To 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.*

All ten IFCAs have the remit to manage inshore fisheries resources and to protect Marine Protected Areas (Marine Conservation Zones and European Marine Sites) within their district. Because the issues relating to fisheries and MPAs vary from district to district, each IFCA is empowered to provide management measures which are in keeping with local conditions.

#### Objective

Management measures required for inshore fisheries resources and to protect MPAs will vary within the Eastern IFCA district as a consequence of a varied fishing industry and a dynamic marine environment. As a consequence, it is important that the approach applied to management is well understood, consistent and fair. Whilst decisions may differ from one part of the district to another, the principles underpinning them will remain consistent.

This strategy provides the framework within which Eastern IFCA will fulfil its regulatory and compliance remit and it should be read in conjunction with the Strategic Assessment, Compliance Risk Register and Enforcement Policy (post).

#### Principles

Fisheries management can only succeed with an integrated approach encompassing communication, research and enforcement. The following principles underpin Eastern IFCA's approach to regulation and compliance:

- **Education, empowerment and consultation** – Compliance with sustainable fisheries practices are most successfully obtained through a co-management approach. To achieve this fishers accept that management measures will be required to achieve sustainable, environmentally compatible exploitation of fisheries and take an active part in consultation in order to assist with the development of coherent management measures. Eastern IFCA will ensure appropriate engagement with relevant stakeholders when developing or reviewing management measures

- **Bottom-up approach** – A regulate-first approach may lead to other, possibly more appropriate measures not being considered. Eastern IFCA will always consider non-regulatory measures prior to proposing regulation
- **Collaboration and commonality** – Local issues require local solutions, however managing inshore fisheries resources in isolation of partner organisations will lead to complicated regulatory frameworks which will be difficult to understand and to comply with. Eastern IFCA will seek appropriate engagement with partners when developing management measures
- **Evidence based management** – Management measures will be based upon the best available evidence and will be periodically reviewed to ensure that they remain relevant. In the absence of comprehensive evidence a precautionary approach will be taken where it is judged necessary and appropriate
- **Balance and sustainability** – Achieving the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry is explicit in our vision. Without sustainable fisheries there cannot be a viable industry and as such Eastern IFCA will seek to develop and maintain management measures that ensure the sustainability of inshore fisheries
- **Endorsing compliance** – Clarity on regulation together with guidance and advice are essential to ensure compliance. The Eastern IFCA approach is to encourage compliance with regulation but sanctions are also available to deter, punish and remove any benefit from non-compliance in line with the Enforcement Policy
- **Risk-based enforcement** – Eastern IFCA will adopt a targeted approach to enforcement to make best use of its limited resources. Enforcement resources will be targeted at the highest areas of risk and in accordance with the Enforcement Policy

### **Tactical Approach**

This strategy is underpinned by the following elements, which together will ensure a cohesive approach to regulation and compliance.

#### Strategic Assessment

A comprehensive risk assessment of all fisheries and Marine Protected Areas within the district will be undertaken and refreshed annually. It will combine fisheries data and other evidence to identify fisheries and MPAs that require management measures or changes in management measures and will list them for action in order of priority.

#### Compliance Risk Register

A comprehensive risk assessment of all fisheries and regulated Marine Protected Areas within the district will be undertaken annually. It will assess the risks of non-compliance with EU, UK and local fisheries and environmental legislation (byelaws) in order to inform enforcement activity.

#### Tasking and Co-ordination Group (TCG)

The purpose of the TCG is to ensure appropriate tasking of enforcement resources. It achieves this through consideration of risks identified in the Compliance Risk Register, emerging issues and new intelligence. It usually meets weekly during the summer and fortnightly during the winter.

### Enforcement Policy

This policy sets out Eastern IFCA's approach to compliance and enforcement. It provides that an adaptive co-management approach will be taken, where compliance is achieved through engagement, advice and understanding. It also provides the range of sanctions open to the Authority where compliance is not achieved through this approach.

### Strategic Assessment

#### Executive Summary

Fisheries within Eastern IFCA's district were identified and prioritised on a risk based approach using a simple assessment of four main criteria - landed weight, value of landed weight, ICES advice and availability of evidence. This assessment was used to inform a more in depth exploration of each fishery taking into account additional criteria where evidence was available.

Two fisheries were prioritised as high as a result of this assessment – the whelk and bass fisheries, neither of which are associated with specific Eastern IFCA management measures. Crustacean, bivalve mollusc, shrimps and skates and rays are all identified as being of medium priority. In addition to the high and medium priority fisheries, there were four notable species identified from the low priority fisheries which may warrant a higher priority when considered alone. These were Cod, sole, plaice and herring.

The fisheries were then discussed in relation to other Eastern IFCA obligations and political and social drivers to provide an indication of how and when these priorities should be tackled. The outcome of this indicates there is justification that bass and whelk management measures could be prioritised above reviewing existing byelaws however work regarding protection of vulnerable features of Marine Protected Areas remains the highest priority.

Potential limitations and key areas for future work were also identified as i) quantifiable fishing effort data is severely lacking to the extent that it would be difficult to reflect any estimate of maximum sustainable yield in developing the regulatory framework; ii) spawning and nursery areas within the district, a better understanding of the knock-on effects of inshore fishing effort may be required; and iii) detailed gear impact analysis (which is currently being undertaken as part of a separate project) could be incorporated in the next revision of the assessment.

## Version history

<b>Version</b>	<b>Date</b>	<b>Revision summary</b>	<b>Author</b>	<b>Status</b>
1 - (Original)	14/11/2014	n/a	LG	Draft

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## **1.0 Introduction**

### **1.1 Requirement for a Strategic Assessment**

The inshore fishing sector is varied and dynamic with many different fisheries targeting a range of species using a spectrum of fishing gears. The inshore environment is also varied hosting the majority of the UK's Marine Protected Areas and supporting a wide range of industries in addition to the fishing sector. The effectiveness of fisheries regulation requires more than simple stock management but a holistic approach encompassing environmental, social and economic issues.

In order to maintain an effective regulatory framework capable of ensuring sustainable fisheries, healthy seas and a viable industry a Strategic Assessment is conducted to identify fisheries related issues using a risk-based approach. Best available evidence is used to prioritise fisheries and environmental features which may require management measures and regulations which may need further development.

The inshore fishing sector is also relatively data limited – the under ten meter fishing vessels which make up the vast majority of the inshore fleet are exempt from completing log books and carrying vessel monitoring systems. As such, this assessment is intended to be a live, dynamic document which will be refined and reissued in accordance with the best available evidence and with changing social and political drivers.

### **1.2 Approach**

Fisheries are identified within Eastern IFCA's district. An initial assessment was carried out to order these fisheries by priority according four main criteria (section 2.1). Additional criteria were then considered and a priority of high, medium or low is assigned to each fishery (section 2.2). The intended use of this is to provide a backdrop to work priorities, including within the byelaw review. These priorities are then considered in relation to the wider context of Eastern IFCA's work and the inshore fishing sector (section 2.3).

#### **1.2.1 Initial assessment**

Each species was initially assessed against four criteria. Means were taken for the species representing a group/fishery and groups were ranked according to priority (i.e. 1 = most potential risk/highest priority). Criteria were partly chosen on the basis that there was sufficient data to assess all species. Criteria are listed below with an explanation of their use and the limitation associated with using each evidence base.

##### **1. Mean annual landed weight**

Annual landed weight is used as an indicator of social and economic importance and as an indicator for effort. The assumption is that, the greater the annual landings, the more it represents a priority as a larger section of the fishing industry will rely on it and more effort is directed towards it.

**Limitations:** MMO and Eastern IFCA landings data was used initially however MMO data only was used to prioritise fisheries by annual landed weight. MMO landings data has significant limitations in that landings of under 25kg are not

required to be reported. Within the inshore sector (particularly Suffolk) this could represent a significant amount of unreported fishing mortality. However, MMO data is thought to be more consistent and has a much greater coverage (i.e. includes landings of most vessels). Landed weight cannot be used to estimate effort however, in the absence of effort data (as is the case for almost all species) landings is used as a broad indicator. In addition, these figures have not been considered in the context of total landings or stock sizes – i.e. whilst annual landed weight may be low for a certain species; it may still represent a significant proportion of that stock.

## **2. Mean annual value of landings**

Annual value of landings is used as an indicator of social and economic importance. More risk is associated with greater annual value of landings. The rationale for this is that the species associated with greater annual landed values will likely be associated with a greater number of vessels and fishers. Furthermore, there is a greater potential risk to local economies from the inappropriate management of a species that has a greater economic value. When used in conjunction with landed weights, it can also provide an insight into the market worth of species (i.e. where landed weights are low but annual landed value is high).

**Limitations:** Higher economic value may not necessarily translate into more jobs/a greater number of fishers involved in fishing that species if landings are dominated by a few large vessels. The vast majority of vessels active in the Eastern IFCA district are under 15m (most are under 10m) which are unlikely to be able to dominate landings in this way.

## **3. ICES advice**

ICES advice pertinent at least to ecoregion IV was sought for all the species identified as being landed within the Eastern IFCA district. Advice was summarised as either favourable, not available or unfavourable and the associated species was given a score of 1,2 or 3 respectively. The mean score was taken for species within a group and ordered by score (highest mean score to lowest) and given a rank accordingly. The assumption is that, the less favourable the advice, the higher risk a group was.

ICES advice represents a standardised method for providing advice to the European commission on a yearly basis. It represents the most up-to-date indication of the well-being of a stock or species. Where advice was available for a species, a 'favourable' was assigned when the advice was maintain or increase landings/catch. An 'unfavourable' was assigned to any species where a reduction was advised. Where advice was not available a score between favourable and unfavourable was given – the rationale for this is that, if no assessment has been produced, the species is less likely to have that much effort associated with its capture and is at less immediate risk than if an assessment has concluded an unfavourable status. That said, if no assessment has been carried out, there is the potential that the advice would be unfavourable or favourable, thus there is a greater risk than for species/stocks where the advice was favourable. In the case of crustaceans (brown crab and European lobsters) CEFAS advice was used as ICES advice does not exist.

**Limitations:** ICES advice is provided at the resolution of Ecoregion or Stock and as such covers vast areas – for example the southern North Sea (Ecoregion IV) which includes the coast of Scotland, Norway and Denmark. As such, the advice will not be specifically relevant to fisheries within Eastern IFCA’s district. Furthermore ICES advice only reflects predictions for a single year (2014).

#### **4. Available information**

The available information for each species was considered. A subjective score of 1 (high confidence/sufficient data available) to 3 (Low confidence/little to no data available) was assigned to each of the following categories of information: Stock data (e.g. state of stock, size of stock etc.), Landings data and fishing effort. Scores for each data category are combined and a mean is taken for each group. Groups are ordered by combined mean (highest to lowest) and a rank was assigned accordingly.

Where little information exists regarding the fishing activity of a species, it is considered at a greater risk from sustainability issues. Eastern IFCA’s regulatory and compliance strategy places an emphasis on evidence based regulation. Without sufficient and accurate information, management measures cannot effectively improve sustainability nor have a protective effect on the environment. This category is intended to increase the priority of groups where information is lacking to the extent that management measures would likely be less effective.

#### **1.2.2 Additional Criteria**

The initial assessment provides an indication of the risk posed by the fishing activities on a limited number of criteria. To more fully explore the risk, additional criteria are explored.

**Spawning and nursery grounds** – Inshore fisheries tend to be small scale (vessels mostly under 10 meters) and inefficient – making up the majority of the UK fishing fleet with only a fraction of the landings. However, where spawning or nursery grounds occur (as is often the case for inshore areas), even small scale fishing activities can have a disproportionate effect on the wider stock dynamics of a species. The assumption is that there is a greater risk to fisheries sustainability and wider ecosystem impacts where fishing effort overlaps spatially with spawning or nursery grounds.

The primary source of spawning and nursery ground evidence is found within Ellis et al 2010<sup>3</sup>.

**Existing regulation** – Some species and fisheries have extensive amounts of regulation in place already including national and international regulations. Where less regulation or management measures exist for that fishery or species, it is considered more of a priority.

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<sup>3</sup> J.R.Ellis, S.Milligan, L.Readdy, A.South, N.Taylor and M.Brown: 2010. MB5301 Mapping spawning and nursery areas of species to be considered in Marine Protected Areas (Marine Conservation Zones); Report No 1: Final Report on development of derived data layers for 40 mobile species considered to be of conservation importance.

**Fisheries trends** – MMO data has been used to assess whether a trend can be observed from landings data for the period 2010-2013 (four years). A strong positive or negative trend is associated with a higher risk and a greater priority.

**Recreational activity** – Data on recreational activity is limited for most species. The outputs of the Angling 2012 project have been used to judge important recreational species. Recreational landings are not included in MMO landings figures however recreational landings are thought to contribute a significant amount of fishing mortality to certain species.

The primary source of recreational angling evidence is found within Armstrong et al. 2013<sup>4</sup>

**Gear related impacts** – Fishing activity has impacts beyond the effects on the targeted species. By-catch and damage to habitats for example varies from gear to gear with some gears known to have greater 'ecosystem' level impacts than others.

**General biology** – General population dynamics are known for most commercially important species. Aspects of the general biology (for example age at sexual maturity) are also taken into account as an indicator of sustainability.

**Political/social context** – In addition to prioritising fisheries and regulations by risk, there are also political and social drivers for change, for example Defra's revised approach to fisheries management and the Common Fisheries Policy reform. In some cases, the requirement to act through these driver outweighs others perceived risks to fisheries.

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<sup>4</sup> M.Armstrong, A.Brown, J.Hargreaves, K.Hyder, S.Pilgrim-Morrison, M.Munday, S.Proctor, A.Roberts, K.Williamson: 2013. Sea Angling 2012 – a survey of recreational sea angling activity and economic value in England.

## 2.0 Outputs

### 2.1 Initial assessment

A mean rank across all four criteria was used to obtain an initial assessment of relative risk across the fisheries (table 1). The intention is that the priorities as listed below are viewed in the context of additional criteria and wider political and social drivers.

<b>Fisheries</b>	<b>Landings (weight) rank</b>	<b>Landings (Value) rank</b>	<b>ICES advice rank</b>	<b>Available information rank</b>	<b>Mean rank</b>	<b>Initial risk assessment rank</b>
Whelks	1	1	4	6	3	<b>1</b>
Bivalve molluscs	2	3	4	7	4	<b>2</b>
Shrimps	3	2	4	9	4.5	<b>3</b>
Bass	6	5	1	6	4.5	<b>3</b>
Skates/Rays	5	7	2	5	4.75	<b>4</b>
Crustaceans	4	4	3	8	4.75	<b>4</b>
Flatfish	7	6	7	5	6.25	<b>5</b>
Other	11	11	4	1	6.75	<b>6</b>
Demersal round fish	9	8	6	4	6.75	<b>6</b>
Dogfish/Sharks	10	10	5	3	7	<b>7</b>
Pelagic	8	9	4	7	7	<b>7</b>
Migratory	12	12	4	2	7.5	<b>8</b>

**Table 1. Fisheries are ordered by the risk as according to the initial assessment criteria.**

### 2.2 Additional criteria

The risk of sustainability issues have been examined in the context of the additional criteria explained above (section 1.2.2). Two fisheries were identified as a high priority (Table 2) – the Whelk and bass fisheries. Both of these fisheries can be justified as requiring the development of management measures as a priority. Following this, Crustacean, shrimps and skates and rays are all identified as being of medium priority. Fisheries priorities are discussed below.

<b>Fisheries</b>	<b>Mean rank</b>	<b>Initial risk assessment rank</b>	<b>Priority after additional criteria applied</b>
Whelks	3	<b>1</b>	<b>High</b>
Bivalve molluscs	4	<b>2</b>	<b>Medium</b>
Shrimps	4.5	<b>3</b>	<b>Medium</b>
Bass	4.5	<b>3</b>	<b>High</b>
Skates/Rays	4.75	<b>4</b>	<b>Medium</b>
Crustaceans	4.75	<b>4</b>	<b>Medium</b>
Flatfish	6.25	<b>5</b>	<b>Low</b>
Other	6.75	<b>6</b>	<b>Low</b>
Demersal round fish	6.75	<b>6</b>	<b>Low</b>
Dogfish/Sharks	7	<b>7</b>	<b>Low</b>
Migratory	7.5	<b>8</b>	<b>Low</b>
Pelagic	7.75	<b>9</b>	<b>Low</b>

**Table 2. Fisheries with assigned priority based on additional criteria**

### 2.2.1 High Priorities

<b>Group:</b>	<b>Whelk</b>	<b>Relative Risk Rank:</b>	<b>1</b>	<b>Priority:</b>	<b>High</b>
		ICES Advice:			N/A
		Nursery areas within District:			N/A
		Spawning areas within District:			N/A

#### **Main Concerns:**

High weight landed, little known regarding stock size or sustainability, shows a strong positive trend in landings data, limited available effort data.

#### **Current Regulations:**

Byelaw 11 can apply for the purpose of gaining additional information. There is currently a minimum landing size (45mm)

#### **Group biology:**

Little is known regarding the population dynamics of whelks. Anecdotally whelk populations peak every seven years and are exploited in a 'boom-bust' fishery although this may reflect fishing behaviour rather than population dynamics. Minimum landing size (45mm) is potentially below size at sexual maturity (thought to be 50mm) however this is also known to vary greatly between areas. They do not establish 'beds' in the same way as bivalves thus quantifying stock size would require different methods.

#### **Gear:**

Gear targeting whelk is unique to this species. Baited pots are used which are usually modified/recycled cans and containers. The bait used varies greatly but rotting flesh is considered most effective. Anecdotally, edible crab are thought to be effective bait. Whelk pots are not particularly selective however, by-catch (likely to be crabs) can be discarded on hauling with little mortality.

#### **Justification:**

Whelks topped MMO landings figures both in terms of landed weight and value. Landings have shown a strong positive trend between 2010 and 2013 with landings in 2014 thought to continue this trend. Anecdotally IFCOs have reported additional vessels targeting whelk in 2014.

Whelk are thought to reach sexual maturity at an age of between 3-5 years. This relatively slow growth, coupled with the potential for the mls to be below the size of sexual maturity makes the fishery very vulnerable to overfishing. With fishing effort thought to still be increasing there is a high likelihood that, without management, the stock will eventually be overfished. This is backed up by reported fishing behaviours in the past.

Having effective management measures could allow for a productive and economically valuable fishery. Most vessels actively pursuing whelk do so in addition to other species and include fishers from The Wash. Long-term stability of this fishery could therefore reduce pressure and reliance on the cockle and shrimp fisheries within The Wash.

#### **Suggested action:**

No information is available on stock size of the fishery and as such quotas and TACs cannot be set. Fishing effort is not known and as such, estimates cannot be made based on CPUE. Little is known about spawning behaviour and the spatial distribution of adults and juveniles as such, spatial restrictions cannot be applied.

Limiting effort in terms of the number of pots could be an effective method if coupled with reference points relating to CPUE. In the first instance further information is required regarding effort. This could be achieved through using byelaw 11 or by introducing new measures – such as a permitting byelaw.

<b>Group:</b>	<b>Bass</b>	<b>Relative Risk Rank:</b>	<b>3</b>	<b>Priority:</b>	<b>High</b>
		ICES Advice:		Unfavourable	
		Nursery areas within District:		Yes (not designated)	
		Spawning areas within District:		Unknown	

**Main concerns:**

Positive landings trend in contrast to ICES recommendations to reduce catches, landings trend only evident in IFCA landings figures, poor understanding of effort, landings and stock, high importance as a recreational species (compounding lack of reliable landings figures), associated with highly effective gear (fixed nets), inshore fishing activity can have disproportionate effect on wider bass stocks.

**Current Regulations:**

No IFCA byelaws specifically related to bass management, Fixed engine byelaw, minimum landings size (36mm)

**Group Biology:**

Known to migrate annually in relation to water temperatures (to deeper water with more consistent temperatures to prepare for breeding). Spawning is thought to occur on the return journey from deeper waters towards the inshore. Juveniles are thought to spend the first 3-4 years of their life within productive estuaries (including up to brackish water) where they are often targeted.

**Gear:**

Bass are targeted through a variety of gears including static nets, drift nets, rod and line and demersal trawls. Fishing practices are known to include targeting 'running' bass as they leave estuaries (usually school bass) by static nets which have the potential to remove a large number of individuals at once, many of which will have yet to have spawned for the first time. However, there is no designated bass spawning area within the Eastern IFCA district.

**Justification:**

Bass ranked 13<sup>th</sup> out of 82 species in terms of landed weight within Eastern IFCA district (with mean annual landings of around 10 tonnes) – which is likely a gross underestimate of landed weight – partly due to the recreational sector landing around as much unrecorded each year, and in part due to catch not being reported to the MMO (Eastern IFCA landings for bass in 2013 were circa 25 tonnes in comparison to 11.5 tonnes according to MMO data).

ICES advice for 2013 was to reduce catch by 36%; despite this landings have increased significantly in that year 2013 (according to Eastern IFCA data).

Very little is known regarding bass fishing effort and, given the high efficiency of some fishing gear (most notably static nets) there is a potential that inshore fishers are taking large numbers of bass which have yet to spawn for the first time having disproportionate impacts on the wider bass stock. In addition, anecdotally there is thought to be a high amount of unreported fishing effort, particularly the use of fixed nets within estuaries.

**Suggested actions:**

Immediate action is likely required. Amending the Fixed engine byelaw (byelaw 13) to better reflect netting practices would provide robust regulation. An increase in the minimum landing size above that of schooling bass would effectively make netting in estuaries and rivers illegal (as primarily young bass occupy this area). In addition, temporary closures of bass fishing or the introduction of nursery areas could also prevent the targeting of schooling bass. Preventing the taking of bass within rivers and estuaries has the greatest potential to have a positive effect on the wider bass population.

## 2.2.2 Medium priority fisheries

<b>Group:</b>	<b>Bivalve molluscs</b>	<b>Relative Risk Rank:</b>	<b>2</b>	<b>Priority:</b>	<b>Medium</b>
		ICES Advice:			N/A
		Nursery areas within District:			N/A
		Spawning areas within District:			N/A

### **Main concerns:**

High weight and value

### **Current Regulations:**

All species are regulated within The Wash via the Wash Fishery Order (1992). Minimum landings sizes apply for mussels, oysters and scallops. Eastern IFCA byelaws include byelaws 3,4,7,8,9,11,15.

### **Group Biology:**

Bivalve molluscs are generally well studied and understood. Individuals settle interstitially and live sedentary lives, dispersing through spawning into the plankton – allowing juveniles to settle onto new areas or already established beds.

### **Gear:**

Gear includes dredges (suction dredges for cockle) which is known to cause significant damage to habitats associated with shellfish beds. Scallops are targeted using scallop dredges (beam trawls) which are similarly damaging to the associated habitats. Intertidal beds of shellfish can be fished by hand gathering (and using rakes) which is generally considered low impact. However, some methods include 'prop washing' which, when conducted at high intensities or inappropriately can result in significant damage to habitats.

### **Justification:**

Despite scoring highly for annual landings and value and the association with highly damaging gears, shellfish are not considered a high priority. Shellfish fisheries within the district fall almost exclusively within The Wash, which is covered by the Wash Fishery Order (1992). Shellfish landed outside of the Wash may sometimes include sublittoral mussel. Scallops are very rare within the District and the last fishery occurred outside of the 6nm limit (Silver pit). In addition, Eastern IFCA has several byelaws which already cover shellfish fisheries which can be used to close beds, limit landings and regulate gear and vessel size.

However, the current suite of byelaws does have significant gaps – most notably Eastern IFCA does not have the ability to limit the number of vessels engaging in a bivalve fishery outside of The Wash. Damage to habitats associated with the gear types used in these fisheries is thought to be related to intensity and as such, measures which can limit fishing intensity would be required to have a protective effect on associated habitats.

### **Suggested actions:**

Byelaws associated with bivalves require updating – the suite of associated byelaws should be consolidated into one (or at least fewer) byelaws.



<b>Group:</b>	<b>Shrimps</b>	<b>Relative Risk Rank:</b>	<b>3</b>	<b>Priority:</b>	<b>Medium</b>
		ICES Advice:			N/A
		Nursery areas within District:			N/A
		Spawning areas within District:			N/A

**Main concerns:**

Landings (high weight and value)

**Current Regulations:**

None specifically related to shrimp – except excluded area for purpose of protecting EMS feature i.e. not related to stock sustainability. Vessel size restrictions (which thusly restrict gear size).

**Group Biology:**

Little is known about population dynamics of shrimp species except that they can withstand high levels of fishing effort. They are sexually mature after a year and have high fecundity.

**Gear:**

Shrimp trawls (beam trawls) are unique to shrimp fisheries. They have small mesh sizes which makes them very unselective and can have high levels of by-catch including juvenile fish species. Impacts on associated habitats (particularly soft sediments) are thought to occur primarily as a result of beam 'shoes' penetrating the surface of sediments.

**Justification:**

Despite scoring highly in terms of landed weight and value, landings and effort is relatively well understood (although effort cannot be quantified) and although the stock dynamics are poorly understood, a productive fishery has been accomplished for many years. There is no strong trend in landings over the last four years however, the landings are highly variable; brown shrimp landings declined by almost 500 tonnes over the period 2010-2011 however, it is unknown whether this reflects reduced biomass or effort.

Because of its economic importance and the lack of information available it should not be classified as low risk, however its relative stability as a fishery over the last decade suggest that fishery is not in need of immediate management.

**Suggested actions:**

Look to implement measures to ascertain better understanding of effort in the future with a view to develop CPUE based reference points.

<b>Group:</b>	<b>Crustaceans</b>	<b>Relative Rank:</b>	<b>Risk</b>	<b>4</b>	<b>Priority:</b>	<b>Medium</b>
		ICES Advice:			Unfavourable	
		Nursery areas	within		Unknown	
		District:				
		Spawning areas	within		Unknown	
		District:				

**Main concerns:**

High weight and value, declines in landed weights for brown crab and European lobster over the period 2010-2013.

**Current Regulations:**

There are currently a suite of byelaws relating to Crustacean fisheries however nothing to limit fishing effort. Vessels over 15m effort is limited by the MMO (Kw days).

**Group Biology:**

Population dynamics are not well understood. Understanding of the Southern North Sea stock is limited.

**Gear:**

Pots are generally used except in the case of *Nephrops* where benthic trawls are also used. Pots are generally considered as having a low impact in terms of by-catch and habitat damage.

**Justification:**

Recent analysis of brown crab and European lobster landings from the North Norfolk Coast (the primary fishery within Eastern IFCA’s district) indicate that the fishery is currently operating at or just below MSY<sup>5</sup> with regards to vessels under 10m, however this is in contrast to Cefas advice for these fisheries which is unfavourable. Potting is also known to occur off the Lincolnshire Coast and within The Wash – levels of effort cannot be distinguished between these fisheries because of the lack of spatial resolution in some of the returns data.

The North Norfolk Coast is also subject to an MCZ designation recommendation. The impact of potting on the designated feature (chalk reef) is currently under investigation with management measures required (if necessary) to be in place by 2016.

Due to the commercial importance of this group (particularly brown crab, European lobster and velvet swimming crab) and the lack of information regarding effort for fisheries specifically relating to the North Norfolk Coast, Lincolnshire or The Wash, it is recommended that action will need to be taken in the medium term however not immediately. A greater understanding of effort would also aid the development of regulation to protect habitats.

**Suggested actions:**

Consolidate existing suite of Crustacean byelaws reflecting the need to provide clear and well-structured regulation. Potentially reflect a requirement to collate more accurate effort information (particularly spatially), and a mechanism for reducing effort if fisheries indicators (reference points) indicate the fishery is operating above maximum sustainable yield.

<sup>5</sup> Eastern IFCA research report 2013; [www.eastern-ifca.gov.uk](http://www.eastern-ifca.gov.uk)

<b>Group:</b>	<b>Skates and rays</b>	<b>Relative Risk Rank:</b>	<b>4</b>	<b>Priority:</b>	<b>Medium</b>
		ICES Advice:			Unfavourable overall
		Nursery areas within District:			Unknown (yes for thornback rays)
		Spawning areas within District:			Unknown

**Main concerns:**

**Current Regulations:**

No IFCA byelaws specifically related to skates and rays. No minimum landing sizes in place, quotas set by MMO, landings of individual species required since 2008 (as opposed to recording landings as 'skates and rays').

**Group Biology:**

Skates and rays are generally long-lived species, reaching sexual maturity after 5-10 years and are less fecund than most fish species – characteristics making this group particularly vulnerable to overfishing especially given the lack of a minimum landings size. Skates and rays do however show high survivability as a by-catch species.

**Gear:**

Skates and rays are often targeted by recreational anglers using rod and line and commercial fishers using demersal trawls although, longlines and nets; they are often a by-catch species of the commercial demersal fisheries.

**Justification:**

Skates and rays were ranked joint fourth (with Crustaceans) through the initial assessment primarily due to unfavourable ICES advice. Landings for thornback rays were relatively high (ranked ninth out of the 81 species landed within Eastern IFCA's district) highlighting the relative importance of this species to the fishing industry and there is relatively little regulation for this group. Whilst quotas are imposed on catches there is no minimum landing size for any of the species within this group, this coupled with the general breeding strategy of the group makes it vulnerable to overfishing (i.e. individuals can be catch prior to spawning for the first time).

Skates and rays landings figures by species suffer from poor identification of the species by fishermen and as such, ICES have indicated that individual species may be at risk of over fishing. There is a ban on landing certain species already (for example common skate) but other species are also considered at risk from fishing pressure by conservation groups. Whilst generally considered a by-catch species of demersal fisheries (otter trawls), there is thought to be a fishery which targets skates and rays off the coast of Norfolk. In addition, there is evidence that thornback ray spawning grounds exist within Eastern IFCA's district.

**Suggested actions:**

Implementing minimum landing sizes may have a beneficial effect and would bring this group in line with most other commercial species. More evidence would be required to justify a minimum landings size at a species level. Any implementation would also require restrictions on the minimum size of detached wings.

### 2.2.3 Low priority fisheries

**Flatfish and demersal round fish** – There is currently a significant amount of regulation relevant to demersal round fish and flatfish species at a national and European level. Management measures currently in place include catch quotas and restrictions of fishing gears (e.g. mesh sizes and catch composition). In addition, Eastern IFCA byelaw 12 currently limits the size of vessels engaged in demersal fishing. As groups, mean annual landings are relatively low however the mean annual value of landings is increased relative to landings primarily due to the high value of sole (flatfish) and cod (demersal round fish).

The main sustainability issue with regards to both groups is the presence of important cod, plaice and sole spawning and/or nursery grounds within the inshore region – with inshore fishing potentially having a disproportionate impact on the wider stocks of these species.

In addition, for both groups, landings under 25kg are not required to be reported. Anecdotally it is thought that (particularly in Suffolk) this could represent significant amounts of landed fish which is not reflected within MMO landings data – uncertainty with regards to landings data is of concern for both groups. However, ICES stock assessments are generally favourable for both groups and inshore trawling restriction (Eastern IFCA byelaws) currently restrict the size of vessels engaged in demersal trawling.

Cod, plaice and sole are notable species which when considered in isolation could be regarded as a higher priority than is reflected by their associated group. Of the low priority fisheries, these are the most likely to require management measures in the near future.

**Dogfish and sharks** – Dogfish and sharks have come to the attention of conservation groups only as recently as the nineties. They generally represent the apex predators of the marine environment (for example tope) and as such exert top-down control on their prey contributing an important ecosystem function.

With the exception of the lesser spotted dogfish (which had favourable advice), ICES advice is not available for any of the other species in this group landed within Eastern IFCA's district. This group is thought to be particularly important to the recreational angling sector. Both the lesser spotted dogfish and the smoothhound have mean annual landings of more than seven tonnes. Landings of the lesser spotted dogfish also indicated a strong positive trend in landings over the period 2010-2013. Mean annual landings for all other species in this group were less than 250kg.

There is currently little regulation in place to regulate the fishing of dogfish although this is mostly a reflection of little targeted fishing effort which is also indicated in the landings data. In contrast, many shark species are now protected in UK waters through various legislation (for example there is a zero TAC on porbeagles and a prohibition on catching angelsharks).

Given the low levels of fishing effort on these species (as reflected in the landings data) and the various restrictions on catching sharks (including Eastern IFCA byelaw 13), this

group is currently considered as a low priority. Fishing pressure on some dogfish species may however require further investigation in the future.

**Pelagic, migratory and other** – These groups are considered least at risk from fishery activity within the Eastern IFCA district. Landings of 'other' are very small and mostly constitute one off landing events over the last four years. Similarly, migratory species (which currently only includes sea trout) is represented by mean annual landings of only 81kg. Whilst there is the potential for unregulated fisheries to be taking sea trout there is currently no evidence to suggest this is the case and official landings figures are negligible amounts.

Mackerel has mean annual landings in excess of 1 tonnes, unfavourable ICES advice and is known to have important spawning grounds within the district. However, mackerel is also subject to quota controls which currently is set at zero within the district. Mackerel are known to be targeted by recreational anglers which may represent a risk.

In general, all three of these groups are considered low risk because of minimal annual landings and existing regulation.

### **Herring**

A notable exception however is herring and roes (which is likely derived from gravid herring). Roes in particular are of interest given that herring caught for their roe (gravid females) are not generally sold as fish because of their poor quality when egg bearing – as such, the MMO landings data for herring may not include those landed for roe. Also, the weight of roe proportional to a live herring is likely to be small and as such, herring landings may be much higher than is reflected in the landings figures. There is also a known herring nursery ground within Eastern IFCA's district.

However, herring is subject to a quota in the southern North Sea and currently has favourable ICES advice. In addition, gear used to target herring (pelagic trawls and nets) is generally considered to have lower ecosystem level impacts given its high selectivity and lack of interaction with benthic habitats. Herring fisheries potentially warrant a higher priority than the rest of the pelagics however, the risks associated with the fishery are still unlikely to be high.

### **2.3 Fisheries priorities in the context of other drivers**

This assessment is intended to be viewed in the context of wider priorities; below is a horizon scan with comments on how fisheries priorities interact with other Eastern IFCA obligations. In achieving an ecosystem approach to fisheries management, there must be a synergy in the overall regulation and with the other driver for change within the wider sector.

#### *Eastern IFCA's Byelaw review*

The following assessment is intended to be used as a guide for reviewing legacy byelaws. Byelaws can be reviewed in line with the priorities highlighted in the current assessment. In addition, this assessment is intended to identify issues which may require new regulation.

This assessment indicates that implementing bass and whelk management measures may justify taking priority over reviewing existing byelaws. The intension of the byelaw

review is to develop a cohesive regulatory framework pursuant of Eastern IFCA's vision. Developing additional management measures as required is an integral part of this process.

#### Revised approach to fisheries management within European Marine Sites

Eastern IFCA has an obligation to have a protective effect on features within European Marine Sites. This is reflected in the current 'Amber and Green' project where conservation features have been prioritised in terms of risk. There will likely be crossover between work conducted through the byelaw review and the Amber and Greens project where conservation features are at risk from fishing activities. Encompassing environmental protection within our regulatory framework is fundamental to an ecosystem approach.

The risk to the integrity of European Marine Sites as a result of fishing activity has already been assessed as high and the requirement to have a protective effect has been made the top priority with regards to the development of management measures with a deadline of 2016.

#### Designation of additional Marine Protected Areas

Public consultation for the designation the Cromer shoal Marine Conservation Zone will take place in January 2015. There is the potential for the Crustacean fishery (off the North Norfolk Coast) to interact with the main designated feature (the chalk reef) and management measures will need to be considered. Further MCZs have been proposed to be considered as part of the third tranche of designations. In addition to MCZs, there is the potential for additional, or extensions to existing, Special Protection Areas within Eastern IFCA's district.

#### Common Fisheries Policy Reform

The Common Fisheries Policy reform has the potential to markedly change the fisheries sector in Europe. The details of how inshore fisheries will be effected are yet to be fully understood but of particular relevance are the discard ban, the changes to the way quotas are allocated to vessels under 10m and the UK's commitment to a maximum sustainable yield approach to fisheries regulations.

There is the potential for the reforms to require Eastern IFCA to address resultant regulatory issues. Development of new and the revision of existing management measures will require the incorporation of an MSY approach, including a requirement to ascertain such evidence and data as is necessary to develop this approach. As a minimum, a greater understanding of effort and catch will be required to undertake the most simple of MSY models.

#### Eastern Inshore Marine Plan

The Eastern Marine Plan has been active since March 2014 and Eastern IFCA is required to take the plan into account when undertaking its duties.

### **3.0 Conclusions**

#### **3.1 Other considerations and future work**

Although this assessment has identified priorities in terms of fisheries, priority work streams have also been identified in a wider sense. Limiting factors have been identified which, if addressed would constitute significant progress in Eastern IFCA achieving its vision.

##### **Best available evidence**

Data available to inshore fisheries managers is limited. This is partly due to the artisanal nature of the vast majority of the inshore fishing fleet and the limited application of useful data sets to them. For example MMO landings and effort data does not accurately reflect the activity of vessels under 10 meters.

In order to develop a regulatory framework which reflects maximum sustainable yield, more data is required. The limiting factor in currently available data is fishing effort. Basic models of maximum sustainable yield can be produced using catch per unit effort however with the exception of brown crab, lobster and cockles and mussels, no quantifiable data is available for effort for any other species.

Inherent in the development of future management measures should be the ability to collect effort and catch data from fisheries where Eastern IFCA is responsible for attaining MSY.

##### **Spawning and nursery grounds**

Whilst inshore fisheries are not responsible for a large proportion of the total UK landings, even low levels of fishing mortality can have a disproportionately large effect on wider stock dynamics if pre-spawning adults are taken from the fishery. The inshore (six nautical miles out to sea) and estuarine areas of the UK are known to represent important spawning and nursery grounds for several commercial and recreational fish species. Adult fish of a size and age capable of reproduction can still be taken prior to spawning if targeted within or on route to spawning or nursery areas.

There is currently no designated bass spawning or nursery areas within Eastern IFCA's district despite the likelihood that areas do actually occur.

Further investigation into the location and importance of spawning and nursery grounds and the impact inshore fisheries have on these would be beneficial to ensuring that Eastern IFCA's regulatory framework has an ecosystem level approach.

##### **Gear impacts**

A detailed analysis of the impacts of fishing gears/activities on protected habitats is currently being undertaken as part of the revised approach to fisheries management of fisheries in European Marine Sites. Incorporating the analysis of fishing gear impacts into the Strategic Assessment would benefit the initial analysis by ensuring that identified priorities reflect ecosystem level impacts.

### **3.2 Summary**

Fisheries within Eastern IFCA's district were identified and prioritised on a risk based approach using a simple assessment of four main criteria - landed weight, value of landed weight, ICES advice and availability of evidence. This assessment was used to inform a more in depth exploration of each fishery taking into account additional criteria where information was available.

Two fisheries were prioritised as high as a result of this assessment – the whelk and bass fisheries, neither of which are associated with specific Eastern IFCA management measures. The assessment indicates that immediate action may be required for these fisheries.

Crustaceans, bivalve molluscs, shrimps and skates and rays were given medium priorities reflecting the requirement to consider these further in the near future. There is also the potential for the priority of these groups to increase with changing evidence and social and political drivers.

In addition to the high and medium priority fisheries, there were four notable species identified from the low priority fisheries which may warrant a higher priority when considered alone. These were Cod, sole, plaice and herring.

The fisheries were then discussed in relation to other Eastern IFCA obligations and political and social drivers to provide an indication of how and when these priorities should be tackled. The outcome of this indicates there is justification that bass and whelk management measures could be prioritised above reviewing existing byelaws however work regarding protection of vulnerable features of Marine Protected Areas remains the highest priority.

Potential limitations and key areas for future work were also identified as i) quantifiable fishing effort data is severely lacking to the extent that it would be difficult to reflect any estimate of maximum sustainable yield in developing the regulatory framework; ii) spawning and nursery areas within the district, a better understanding of the knock-on effects of inshore fishing effort may be required; and iii) detailed gear impact analysis (which is currently being undertaken as part of a separate project) could be incorporated in the next revision of the assessment.



## Annex 3 – Enforcement Policy



### Enforcement Policy

#### Introduction

On the 1<sup>st</sup> April 2011 Eastern Inshore Fisheries and Conservation Authority (the Authority) was fully vested under the Marine and Coastal Access Act 2009 (MaCAA). Sections 153 and 154 of MaCCA set out the Authority's fisheries and conservation management responsibilities throughout its district, which covers all tidal waters (out to six nautical miles from the 1983 baseline<sup>6</sup>) in Lincolnshire, Norfolk and Suffolk from Haille Sand fort in the north to Felixstowe in the south.

This document sets out the Authority's approach to achieving compliance and it provides the general principles that will be followed.

#### Compliance and Enforcement

In undertaking its regulatory responsibilities the Authority starts from the position that the majority of the people, organisations and industries engaged in the inshore fisheries, whether recreationally or commercially, are compliant with the regulations and controls that affect them. The Authority will work with all parties to ensure that they understand what rules apply to their particular activity and the rationale that makes regulation necessary. Where people are not aware of the rules that apply to them or they require further guidance to ensure that they are compliant, the Authority will assist by providing guidance and/or assistance and will raise awareness, where possible, as a first step to achieving compliance.

Where consensus with the management approach is not achieved or where the potential gain is significant, the risk of illegal activity increases. The risk is even greater where an effective enforcement deterrent is not in place. The deterrent is only effective where the risk of enforcement action is high (whether perceived or in reality) and the consequences are serious. In recognition of the need to have an effective deterrent, fines applicable to byelaw offences increased under MaCCA from a maximum of £5,000 to £50,000.

The Authority uses various compliance measures to ensure, where possible, that no person(s) illegally engaged in fishing related activity removes fishing opportunities for others or gains an unfair market advantage by breaking the rules and that law abiding person(s) are not disadvantaged by being compliant. It will also seek to use appropriate compliance and enforcement measures, where it considers it to be necessary, to ensure that the marine environment is not adversely affected by fishing activities.

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<sup>6</sup> The baselines as they existed at 25th January 1983 in accordance with the Territorial Waters Order in Council 1964 (1965 III p.6452A, as amended by the Territorial Waters (Amendment) Order in Council (1979 II p.2866).

## Better Regulation

Where the Authority undertakes compliance activity, it will work in accordance with the Hampton Principles of Better Regulation as set out in the Regulators' Compliance Code<sup>7</sup> and the Legislative and Regulatory Reform Act 2006 (as amended<sup>8</sup>). In carrying out its functions, the Authority will ensure that:

- I. Any action taken, including compliance related or investigative, is **proportionate** to specific, identified, risk or need for intervention;
- II. It is **accountable** for its regulatory activity – to its stakeholders, its partner organisations, Ministers, local taxpayers, the general public and the Courts;
- III. Its actions are **consistent**, in that it should make similar (but not necessarily the same) decisions about activity in similar circumstances, in accordance with its delegated responsibilities, statutory objective and guidance;
- IV. Its regulatory actions are **transparent**, by publishing information to its regulated stakeholders indicating what enforcement action it can take and may take in appropriate circumstances;
- V. All its activities and, in particular those that would place a "burden" on a regulated person (such as monitoring, inspection, investigation and compliance actions), are targeted using a **risk based** approach<sup>9</sup>, ensuring such action is for a specific identifiable need, for example, limiting random inspections to specific identified compliance requirements;
- VI. Inshore Fisheries and Conservation Officers (IFCOs) appointed by the Authority are highly trained, competent and adhere to the inspection code of practice<sup>10</sup>; and
- VII. It works closely with partner organisations to make best use of available resources and share information.

## Enforcement Action

The Authority will endeavour to use an adaptive co-management approach, where compliance is achieved through engagement, understanding and advice. Where compliance is not achieved by this approach, the Authority has a range of enforcement actions available to it:

### **Verbal Warning**

A verbal warning is issued when a minor infringement in legislation is detected. This approach is used to remind person(s) of relevant legislation and it is recorded. If the person(s) subsequently commits a similar offence, the individual involved may face a higher level of enforcement action.

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<sup>7</sup> <http://webarchive.nationalarchives.gov.uk/+/http://www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/implementing-principles-of-better-regulation/the-regulators-compliance-code>

<sup>8</sup> <http://www.legislation.gov.uk/ukpga/2006/51/contents>

<sup>9</sup> The Compliance Risk Register and Tactical Co-ordinating Group are the means by which this is achieved, in accordance with the Regulation and Compliance Strategy

<sup>10</sup> Eastern IFCA Code of Practice for Inspections

### **Advisory Letter**

Where it is believed that breaches of the law may have been committed and it is appropriate to do so, an advisory letter may be sent reminding the person(s) of the need to obey the law. This may be sent without prejudice to other purely civil remedies<sup>11</sup>.

### **Official Written Warning**

Where there is evidence that an offence has been committed but it is not appropriate to implement formal prosecution proceedings, an official written warning letter may be sent to the regulated person(s), outlining the alleged offending, when it occurred and what regulation(s) were breached. It will also set out that it is a matter which could be subject to prosecution should the same behaviour occur in the future. This may be sent without prejudice to other purely civil remedies.

### **Financial Administrative Penalty**

The Authority may issue a Financial Administrative Penalty (FAP), the level of which may be up to £10,000<sup>12</sup>, as an alternative to criminal prosecution in certain circumstances. A FAP may only be issued where there is evidence of offences committed and may be issued to the owner, skipper and/or charterer of an English or Welsh vessel wherever it operates. Payment of the penalty will discharge the possibility of the Authority prosecuting the offence. However, if a FAP is not paid within the required timescale (28 days), the matter will proceed to court (note that non-payment of the FAP is not an offence). Guidance<sup>13</sup> details information on the categories of penalty according to the regulation breached and the severity of the offence. In some circumstances the Authority may decide a FAP is an inappropriate sanction and instigate a prosecution. FAPs are not issued for offences concerning the obstruction of officers in the course of conducting their work.

### **Prosecution**

The ability to take criminal prosecutions is essential in discouraging serious non-compliance; the purpose is to secure conviction and ensure that the offender can be punished by a Court at an appropriate level, thus acting as a deterrent to any future wrong doing to both the offender and others who may engage in similar criminal behaviour.

A prosecution may be commenced where it is felt that the matter is too serious or not suitable for another form of disposal such as a warning or financial administrative penalty.

In order to prosecute, the Authority<sup>14</sup> has to be satisfied that there is:

- 1) Sufficient evidence of the alleged offending and;
- 2) That there is a clear public interest in taking criminal proceedings.

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<sup>11</sup> Civil remedies are procedures and sanctions, used to prevent or reduce criminal activity as an alternative to using formal court proceedings

<sup>12</sup> The Sea Fishing (Penalty Notices) (England) Order 2011

<sup>13</sup> Guidance on the application of Financial Administrative Penalties is available from Eastern IFCA

<sup>14</sup> Consideration to prosecute is undertaken by the Chief Executive Officer, Chair or Vice Chair of the Authority under its Standing Orders

### Sufficiency of Evidence Test

The Authority will only commence a prosecution if it is satisfied that there is a realistic prospect of conviction against each suspect on each charge on the available evidence. If a case does not pass this test, it will not go ahead regardless of how important or serious it may be.

If a case passes the sufficiency of evidence test, the Authority will consider whether it is appropriate to prosecute, or whether it is appropriate to exercise one of the enforcement options available to it as set out above. In determining the correct response in any individual case, the Authority will always take into account the public interest in prosecuting.

### Public Interest Test

Where there is sufficient evidence to justify a prosecution, or offer any form of out-of-court disposal, the Authority must go on to consider whether a prosecution is required in the public interest.

The following lists of public interest factors in favour and against prosecution are not exhaustive and each case must be considered on its own facts and on its own merits:

- Whether the implications of the offending for the enforcement of the regulatory regime undermines the management approach taken;
- The impact of the offending on the environment, including wildlife, and also, where applicable, having regard to the objectives of Marine Protected Areas;
- With regard to offences affecting sea fisheries resources, whether recovery species are involved and any issues as to quota status;
- The financial benefit of the offending or other financial aspects of the offence, including the impact on other legitimate operators;
- Whether the offence was committed deliberately or officials were obstructed during the course of the offending / investigation;
- The previous enforcement record of the offender;
- The attitude of the offender including any action that has been taken to rectify or prevent recurrence of the matter(s);
- Where offences are prevalent or difficult to detect and the deterrent effect on others by making an example of the offender.

A prosecution is less likely to be required if:

- The court is likely to impose a nominal penalty;
- The seriousness and the consequences of the offending can be appropriately dealt with by an out-of-court disposal which the person(s) accepts;
- The offence was committed as a result of a genuine mistake or misunderstanding;
- The financial gain or disturbance to sensitive marine habitat can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- There has been a long delay between the offence taking place and the date of the trial, unless there are key mitigating circumstances that caused the delay;
- The person(s) played a minor role in the commission of the offence; the suspect is, or was at the time of the offence, suffering from significant mental or physical ill health.

### Companies and Company Office Holders

Criminal proceedings may be commenced against all those persons suspected of the offence(s). Where there is sufficient evidence and it is in the public interest, proportionate and appropriate to do so, the Authority may commence proceedings against companies or other bodies liable for offending and company directors or other statutory office holders, where we believe there is evidence of personal liability

### **Conduct of Investigations**

The Authority has a range of powers available to it in order to assist in the prevention and investigation of offending. Some of the more common powers are:

- The power to enter and search business premises and, in exceptional circumstances, dwellings;
- The power to require production of and to inspect documentation;
- The power to seize items, including computers, where necessary;
- The power to board and inspect fishing vessels or marine installations;
- The power to enter and inspect vehicles;
- The power of forfeiture in respect of fish and fishing gear suspected to be unlawful;
- The power to detain vessels or marine installations.

This is not an exhaustive list of powers available to the Authority, but an example of some of the more commonly-used powers. The Authority will exercise its powers appropriately and exercise due restraint to ensure use is proportionate to the particular circumstances. The majority of the Authority's powers derive from the Marine and Coastal Access Act 2009, the Sea Fishing (Enforcement of Community Conservation Measures) Order 2000 and the Sea Fisheries (Conservation) Act 1967. Investigations will be carried out by IFC Officers in accordance with the Criminal Procedure and Investigations Act 1996 and the Codes of Conduct issued under the Police and Criminal Evidence Act 1984.

Information and evidence gained by an IFC Officer may be used in furtherance of one of the Enforcement Options set out above. In some circumstances, information or evidence obtained by our officers in the exercise of their duties may be shared with other Government bodies or agencies.

#### 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



## Regulation and Compliance Sub Committee meeting

Action Item 7

25 November 2014

### **Protected Areas Byelaw: procedure for Review of Regulatory Notices and Review of Rights in Common Activities**

Report By: J C Stoutt – Senior Marine Environment Officer & J Gregory – Deputy Chief Executive Officer

#### **Purpose of report**

To present a procedure for the issue, variation or revocation of regulatory notices under the Protected Areas Byelaw and an approach to undertaking the review of common rights activities for consideration by the Sub-Committee.

#### **Recommendations**

Members are recommended to:

- **Approve the procedure outlined in Annex 1 of the paper for issuing, varying or revoking a regulatory notice issued by the Authority in accordance with the Protected Areas Byelaw;**
- **Agree to undertake the review of rights in common activities as described in this paper.**

#### **Background**

The Eastern IFCA Protected Areas Byelaw came into effect on 16<sup>th</sup> May 2014. Defra listed two conditions to be fulfilled by the Authority in relation to this byelaw being passed, although no deadlines were specified. The conditions were:

- (i) Eastern IFCA will produce an operational procedure to illustrate the process that will be followed for issuing, varying or revoking a regulatory notice in accordance with the Protected Areas Byelaw;
- (ii) Eastern IFCA will undertake an assessment of the risk to the integrity of European Marine Sites from rights in common activities.

Authority officers have developed a procedure document to meet the first condition; this is presented as Annex 1 to this paper. An initial assessment of rights in common activity has been made to support condition two, and it is proposed that a more thorough assessment is undertaken as a bespoke Environment project during 2015/16 to fulfil this requirement.

## **Procedure to issue, vary or revoke a regulatory notice**

The procedure document is designed to provide complete transparency in relation to the process and demonstrate that the mechanism for applying the Protected Areas byelaw is duly robust, consultative and evidence-based. It will also serve to demonstrate that the Protected Areas Byelaw does not constitute an inappropriate sub-delegation of power to the Authority, which had been a concern expressed by Defra during the development of the byelaw.

The procedure document reflects the wording in paragraphs 7-10 of the Protected Areas Byelaw:

<p><b><u>Procedure</u></b></p> <p>7. The procedure for issuing, varying or revoking a Regulatory Notice shall include the Authority taking the following steps:</p> <ul style="list-style-type: none"><li>a) Acquisition of relevant available evidence including:<ul style="list-style-type: none"><li>i. Scientific and survey data, and scientific advice provided by the Authority, the Centre for Environment, Fisheries and Aquaculture Sciences or such other persons as the Authority thinks fit;</li><li>ii. Advice given by Natural England or other external authorities, organisations, persons or bodies as the Authority thinks fit; and</li><li>iii. Information from any other relevant source.</li></ul></li><li>b) Consultation by such methods as the Authority considers appropriate, with such stakeholders, organisations and persons as appear to the Authority to be representative of the interests likely to be substantially affected by any restriction or prohibition;</li><li>c) Undertaking an impact assessment on the introduction of a Regulatory Notice;</li><li>d) Consideration by the Authority of all information arising from subparagraphs (a) to (c) above;</li><li>e) Where the Authority decides to issue, vary or revoke a Regulatory Notice, the detail shall be published in relevant local media.</li></ul> <p>8. The Authority shall review a Regulatory Notice as specified in the Regulatory Notice or sooner and in any case no less frequently than every four years from the date the Regulatory Notice takes effect.</p> <p>9. The review of a Regulatory Notice will be in accordance with a formal operational procedure agreed by the Authority and shall include:</p> <ul style="list-style-type: none"><li>a) The steps set out at sub-paragraphs 7 (a) and (b) above and where a variation of the Regulatory Notice is being considered the steps set out at sub-paragraph 7 (c);</li><li>b) Consideration by the Authority of all the information arising from sub-paragraph (a) above.</li></ul> <p>10. The decision of the Authority to maintain, vary or revoke a Regulatory Notice will be published in relevant local media.</p>
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The procedure is presented in Annex 1 for consideration by the Sub-Committee.

### **Review of rights in common activities**

The second condition relates to the exclusion of rights in common activities from the Protected Areas Byelaw, expressed at paragraph 12:

12. This byelaw shall not apply to any person performing an act which would otherwise constitute an offence against this byelaw, if that act was carried out in exercise of any right of common held by that person.

The Authority pressed for this exclusion under guidance from legal advisors and from Natural England. Defra requires assurance that these activities do not pose a risk to the integrity of European Marine Sites, through damage or disturbance to protected habitats or species. In order to provide this assurance, the Authority must ascertain the nature and scale of these activities, and identify the areas in which they occur, or could potentially occur.

Initial investigations made by Authority officers during development of the Protected Areas byelaw and its supporting Impact Assessment identified that a variety of rights in common (i.e. for different types of activity) are held by individuals based around the Norfolk coast, that the level of activity occurring as a result of individuals exercising these rights is minimal, and subsequently that the risk of these activities damaging the integrity of the European Marine Site is very low. This conclusion was supported by Natural England's site manager for the North Norfolk Coast reserves, who – based on long-term experience of managing these areas and understanding the nature and scale of activities undertaken within them – advised that there is no conservation requirement to restrict rights in common. It was considered that the small scale of these activities meant that restricting rights in common would contradict the principles of good regulation, particularly the need to target action against risk, and exercise proportionality. Natural England also advised that activity monitoring undertaken within the north Norfolk reserves is sufficient to ensure any increase in levels of activity (that could result in threats to protected species and habitats) is identified and communicated for appropriate action.

The Protected Area Byelaw contains an exemption for holders of rights in common whilst exercising their rights on registered common land. Whilst the full extent of such areas throughout the District is not fully understood due to difficulties in researching them, it is not thought to represent a significant risk in relation to the protection of EMS. In the event that an individual claims the exemption the matter will be investigated to ensure that the individual concerned is entitled to the exemption. This is likely to include research of the register maintained by the relevant local authority.

Section 6, Impact Assessment of Measures to Protect Marine Protected Areas from Damaging Fishing Activities, Eastern IFCA, February 2014

Authority officers have undertaken to identify the number of registered rights in common held within Lincolnshire, Norfolk and Suffolk. Attempts were also made to identify which



of these rights were activity being used, but to date this information has not been found. The following data were extracted from Defra’s national register of common rights:

County	Lincs	Norfolk	Suffolk
Total number of registered parcels of Common Land	89	345	224
Total area (hectares) of registered parcels of Common Land	300.66	4420.39	1793.04
Total number of known piscary rights	0	406	16
Total area (hectares) with known piscary rights	0	1954.53	47.8

To better understand the risk (created by the exemption of rights in common activities from the Protected Areas Byelaw) to the integrity of European Marine Sites across the Eastern IFCA district, it is proposed that Eastern IFCA undertakes a more detailed assessment of these activities under the 2015/16 Research & Environment programme. This will include an attempt to identify the level of active rights compared with the number of registered rights, the quantification of current and potential levels of activity, and the location of these activities compared with European Marine Site features.

The consideration of rights in common will be included in the issue or review of regulatory notices under the Protected Areas byelaw, at the evidence gathering, consultation, Impact Assessment and Habitats Regulations Assessment stages.

### **Risks to the Authority**

Publication of the procedure document should serve to enhance the reputation of the Authority by increasing transparency and demonstrating principles of better regulation. Assessing rights in common activities could expose the Authority to criticism from holders of rights in common who could perceive this action as a precursor to future restrictions. It will be important to clearly communicate the requirement for and purpose of the assessment with these parties.

### **Financial implications**

The commitment to undertake an assessment of rights in common throughout the Authority’s district will require dedicated resources during 2015/16, and will impact on officer time available for other work planned for the research and environment team. The exact requirement is not known, however the difficulties experienced in obtaining even the basic data on this subject during the current period suggests that a reasonable resource should be reserved for this work. At this stage it is suggested that 20 officer days are allocated to this project, although the final allocation will be decided when the 2015/16 Research & Environment Plan is finalised in March 2015.

### **Background documents**

1. Eastern IFCA Protected Areas Byelaw  
<http://www.eastern-ifca.gov.uk/documents/EMS%20Byelaw%20april%202014.pdf>

2. Impact Assessment of Measures to Protect Marine Protected Areas from Damaging Fishing Activities, Eastern IFCA, February 2014.

Protected Areas Byelaw - Regulatory Notice issue and review procedure

