



## **43<sup>rd</sup> EIFCA Statutory Meeting**

*To be held online video conferencing via Microsoft Teams in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (Statutory Instrument 2020 no.392).*

**Wednesday  
10<sup>th</sup> March 2021**

**1030 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



Meeting: **43<sup>rd</sup> Eastern IFCA Meeting**

Date: 10<sup>th</sup> March 2021

Time: 1030hrs

Venue: Online video conferencing via Microsoft Teams in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (Statutory Instrument 2020 no.392). Members of the public who wish to attend as spectators should contact Eastern IFCA on 07385 769305 or via e-mail: [mail@eastern-ifca.gov.uk](mailto:mail@eastern-ifca.gov.uk)

### Agenda

- 1 Welcome - *Chair*
- 2 To accept apologies for absence - *Chair*
- 3 Declaration of Members' interests – *Chair / Senior IFCO (Regulation) (pg4)*

### Action items

- 4 To receive and approve as a true record, minutes of the 42<sup>nd</sup> Eastern IFCA Meeting, held on 9<sup>th</sup> December 2020 – *Chair (pg14)*
- 5 Matters arising (including actions from previous meeting) – *Clerk*
- 6 To receive a report to consider Health and Safety risks and mitigation – *Hd Operations (pg27)*
- 7 To receive a report on the meeting of the Finance and HR sub-committee held on 2<sup>nd</sup> February 2021 - *Hd Finance & HR (pg34)*
- 8 Review of the Constitution and Standing Orders – *CEO (pg37)*
- 9 Strategic Assessment and Business Plan 2021-26 – *CEO/Senior IFCO (Regulation) (pg45)*
- 10 Wash Fishery Order replacement – *CEO (pg66)*
- 11 Wash Cockle and Mussel Permit Byelaw 2021 – *Senior IFCO (Regulation) (pg93)*
- 12 Quarterly review of annual priorities and Risk Register - *CEO (pg)165*

### **Information items**

- 13 CEO update – *CEO (pg186)*
  - a. Various (verbal)
  - b. Association of IFCA
- 14 Head of Operations update (*pg191*)
  - a. Marine Protection Quarterly report
  - b. Marine Science Quarterly report

### **Any other business**

- 15 To consider any other items, which the Chairman is of the opinion are Matters of Urgency due to special circumstances, which must be specified in advance.

J. Gregory  
Chief Executive Officer  
23<sup>rd</sup> February 2021

### Vision

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## Action Item 3

### 43<sup>rd</sup> Eastern Inshore Fisheries and Conservation Authority meeting

10<sup>th</sup> March 2021

**Report by:** Luke Godwin, Senior IFCO (Regulation)

#### **Disclosable Pecuniary Interests**

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

To present proposals for dispensations under s.33 of the Localism Act 2011 (c.20) to enable participation in discussions where members have disclosable pecuniary interests (DPIs).

##### **Recommendations**

Members are recommended to:

- **Note** the revised list of Disclosable Pecuniary Interests (DPIs) for MMO appointees (Appendix 1) and the assessment of DPI conflicts with Authority Business (Appendix 2);
- **Agree** to grant dispensations from s.31(4) of the Localism Act 2011 (c.20) to MMO Appointees, as set out in Appendix 2, to allow participation in discussions of matters for which they have a DPI for the period of four years or until their term of service is expired (whichever is first)

##### **Background**

Section 31(4) of the Localism Act 2011 (the Act) requires that any members who have a Disclosable Pecuniary Interest (DPI) in a matter at a meeting cannot participate in the associated discussion or vote on the matter. Section 33 of the Act enables the Authority to grant dispensations from this requirement to enable participation in discussions and/or voting on a matter.

Dispensations are granted for a period of up to four years or until their term ends. Where members are reappointed or the dispensation period ends, dispensations are reconsidered. In addition, where existing members DPIs change, these are considered in the context of potentially causing a conflict with matters arising.

## **Report**

Mr Steven Williamson (MMO appointee) has reported an additional DPI in relation to fishing for two additional species of fish (crab and lobster), directorship of an additional limited company (shrimp Producers Organisation Ltd) and an additional Vessel (FIVE J's, BN435). These are set out in an amended registry of DPIs at Appendix 1.

### Summary of assessment of DPIs against matters considered at EIFCA meetings

DPIs are considered against the 'types' of matters which are considered at Authority meetings with as much specificity as possible to identify conflicts. Such conflicts include, for example, where a shrimp fisherman is present for the consideration of shrimp management measures. The potential for members to unfairly influence such discussions is mitigated by the Eastern IFCA Standing Orders and Code of Conduct which sets out that members must not seek to favour their own interests and that such instances may be subject to investigation.

An assessment of the potential for conflicts to occur, the potential impacts and mitigation and whether a dispensation under s.33 of the Localism Act is at Appendix 2.

In summary, the additional species (crab and lobster) added to Mr Williamson's DPIs are likely to be in conflict with matters arising at Authority meetings. The other additions do not introduce conflicts beyond those already associated with previously declared DPIs.

As with previous assessments, it is considered beneficial to the Authority for members with DPIs to partake in discussions. Mr Williamson would be able to provide insight in the effectiveness of proposed management measures for species in which he has a relevant DPI. The expertise of members in their related fields will generally add a robustness to decisions made and help Members consider 'real-world' consequences of decisions. It is therefore recommended that a dispensation is appropriate for Mr Williamson's participation in matters relating to the additional species.

It is well-established within the Authority's practices that those with a DPI in a matter do not vote in relation to that matter. The exception is in relation Tania Davey's DPI for voting on matters relating to agreeing management measures. This was on the basis that the sector represented by Ms Davey is limited within the Authority's membership. The same has previously been considered not to be the case in relation to those in the fishing industry, as membership from this sector is greater. As such, it is recommended that no such dispensation is granted to Mr Williamson for voting on matters relating to his DPIs.

### **Legal implications**

Legal risk associated with DPIs is mitigated through the application of due process in accordance with the Localism Act 2011 and the Eastern IFCA Constitution and Standing orders.

### **Financial implications**

None identified

## **Appendices**

- 1. Updated Disclosable Pecuniary Interests for MMO appointees**
- 2. Consideration of granting dispensations for members with Disclosable Pecuniary Interests under section 33 of the Localism Act 2011**

**Appendix 1 - Revised Disclosable Pecuniary Interests for MMO appointees (March 2021)**

**Eastern IFCA - Register of Pecuniary Interests  
Non-elected members (MMO appointees)**

<b>Register of Pecuniary interests.</b> Under section 30 of the Localism Act (2011) the following Disclosable Pecuniary Interests have been declared by non-elected members including those relating to a husband / wife / spouse or civil partner or person with whom the member is living as if they were civil partners.						
<b>Name of non-elected member</b>	<b>1. Employment</b>	<b>2. Sponsorship</b>	<b>3. Contracts</b>	<b>4. Land or licences</b>	<b>5. Corporate tenancies</b>	<b>6. Securities</b>
Mr Keith Shaul	Fisher (specifically Crabs, Lobsters and Whelks) and Market trader / Sala Seafoods	None	None	None	None	Ownership of shares in the following fishing vessels: SARAH NAOMIE (PLN: YH333), SARAH S
Dr Stephen Bolt	Secretary of State appointee to the Broads national park authority / member of the Broads National park planning committee	None	None	None	None	None
Stephen Worrall	None	None	None	None	None	None

Mr Rob Spray	Self Employed (photography, marine monitoring, recording and training)	None	None	None	None	None
Mr Shane Bagley	Fisher (specifically cockles, mussels and brown shrimps)	None	None	Boston Quay	Wash Fishery Order Shellfish Lay	Ownership of shares in the fishing vessel LILI MAE (PLN: BN439) / Boston and Fosdyke Fishing Society Limited
Mr John Davies	Fisher (specifically Crabs, Lobsters, whelk, bass, finfish) / Director and Secretary of JJ and CAS Davies Limited	None	None	None	None	JJ and CAS Davies Limited / ownership of shares in fishing vessel RICHARD WILLIAM (PLN: YH3)
Ms Tania Davey	Lincolnshire Wildlife Trust (conservation), Caistor Grammar School (education)	None	None	None	None	None

Mr Roy Brewster	Fisher (specifically cockles, mussels and brown shrimps) / Director of Tricia B Shellfish Ltd / R A Brewster and Sons	None	None	None	2 Wash Fishery order Lays	Tricia B Shellfish Ltd / R A Brewster and Sons / ownership of shares in three fishing vessels: VICKY ELLEN (PLN: BN86), RUBY DOO (PLN: BN3), PATRICIA B (PLN: 438)
Mr Paul Garnett	R. J Garnett and Sons Limited (Director) / Fisher (specifically cockles, mussels, whelks, brown shrimps, crabs and lobsters)	None	None	None	None	R. J. Garnett and Sons Limited / King's Lynn Fishing Industry Co-Operative Limited / ownership of shares in two fishing vessels: NORTHERN ISLE (PLN: WY28) and ELIZABETH MARY (PLN: LN84)
Mr Mike Warner	A passion for Seafood Ltd (Support activities for crop production, Environmental activities, activities of business and employers membership)	None	None	None	None	A passion for Seafood Ltd

	organisations, fish wholesaler including wet fish, shellfish).					
Mr Steven Williamson	Director of J and J Shellfish Ltd / Director of Lynn Shellfish Ltd / Director of Shrimp Producers Organisation Ltd / Owner of Donaldsons (specifically cockles, mussels, whelks, brown shrimps, crabs and lobsters)	None	None	Lynn Shellfish Ltd (processing factory)	Wash Fishery Order Lays	J and J Shellfish Ltd / Lynn Shellfish Ltd / Donaldsons/ Shrimp Producers Organisation Ltd / ownership of shares in the following vessels: PORTUNUS (LN91), SEAGULL (LN22), SEASWALLOW (LN20), LYNN PRINCESS (LN175), BOY NEIL (LN126), ABBIE JAYNE (LN454), WASH PRINCESS (LN161), JOHN WILLY (LN465), MATTY JAY (LO541), GEORGIE FISHER (LN474), JALETO (MT105), SUNNY MORN (LN475), DOG FISH (LO119), MOLLY P (BN444), FIVE J's (BN435)

## Appendix 2 – Consideration of granting dispensations for members with Disclosable Pecuniary Interests under section 33 of the Localism Act 2011

### Consideration of matters which may conflict with DPIs

This assessment considers the following additional DPIs in relation to Mr Steven Williamson (MMO appointed member) as follows:

- Fishing for crab and lobsters
- Directorship of Shrimp Producers Organisation Ltd; and
- Ownership of shares in the fishing vessel FIVE J's (BN435)

Authority business is centred around Eastern IFCA's main duties i.e. the management of fishing activity in relation to industry viability, fisheries sustainability and environmental protection. The main 'types' of matters for which a conflict is likely are summarised below.

- Fishery management measures – where the Authority considers issuing, varying or revoking management measures there will likely be economic impacts on fishers including Authority members with related DPIs. This includes a range of fisheries (e.g. cockle fisheries, crab and lobsters etc.). In addition, members employed by a conservation body have a DPI in 'conservation';
- Leasing private Rights to fisheries in the Wash – The Wash Fishery Order 1992 enables Eastern IFCA to lease portions of seabed in The Wash to fishers, including some Authority Members, for the purpose of Aquaculture;
- Agreeing to contracts to undertake work on behalf of the Authority - Members have previously agreed to contract out works (specifically research work) to fishers. Where such matters are under consideration and discussed, Members may have related DPIs.

Section 33 of the Localism Act sets out that, in considering whether to issue dispensations, the Authority must consider 'all relevant circumstances.' Mr Williamson's DPIs in relation to matters relating to Authority business are set out in Table 1 (below) which also sets out potential conflicts.

Table 1 – circumstances where Mr Williamson's <b>additional DPIs</b> may come into conflict with matters arising at Authority meetings. DPIs identified include those relating to the spouse / civil partner of the non-elected member.		
<b>MMO Appointee</b>	<b>DPIs which relate to Authority Business</b>	<b>Matters for which a DPI is relevant (in addition to existing DPIs)</b>
Mr Steven Williamson	<u>Employment</u> – Fishing (specifically crabs and lobsters) and as director of Shrimp Producers Organisation Ltd  <u>Securities</u> – Ownership of shares in fishing vessel FIVE J'	Agreeing to management measures for crab and lobsters and brown shrimps.

The Shrimp Producers Organisation operates to manage the shrimp fishery under the voluntary agreement established as a means to gain Marine Stewardship Council accreditation of shrimp fisheries within the Eastern IFCA District. Shrimp fisheries were already recorded as a DPI in Mr Williamson's name, as is his shrimp processing business which is part of the same accreditation and so the addition does not materially change his associated DPI. The additional vessel operates in the same fisheries as those already listed on the registry and is therefore also immaterial.

#### Consideration of the benefits of granting dispensations

The MMO appoints Members to IFCA's in accordance with Defra guidance<sup>1</sup> and in particular to ensure that '*members appointed by the MMO are representative of and/or hold knowledge and experience relevant to the economic, social and environmental needs of that IFCA's district and will be selected for the relevant expertise that they will bring to the Committee*'.

In doing so an Authority is able to meet the aim of the Marine and Coastal Access Act 2009 in modernising the management of the entire marine environment by achieving an appropriate balance between commercial exploitation and stock and habitat protection.

MMO appointees are required to impart their local knowledge and expertise to provide insight into the potential outcomes of Authority decisions. Such decisions (and in particular those relating to the implementation of fisheries management) are likely to have much wider ranging effects than only directly on fishermen (for example fisheries related jobs such as factory workers, tourism and cultural impacts). Benefits in relation to each identified 'type' of matter are summarised below:

- Fishery management measures – Those employed within the fishing industry will have an insight into the potential impacts of recommended management measures and can use their experience and knowledge of the industry to 'sense-check' measures and associated Impact Assessments.
- Leasing private Rights to fisheries in the Wash – The Wash is a dynamic marine environment and fishers with on-the-ground experience provide an insight into the potential impacts of granting private fisheries.
- Agreeing to contracts to undertake work on behalf of the Authority - Members employed within the fishing industry will be able to provide insight into the practicality and logistical issues associated with new research projects where the industry may be asked to participate.

#### **Recommended Dispensations**

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<sup>1</sup> Guidance to the Marine Management Organisation (MMO) on the appointment of committee members to Inshore Fisheries and Conservation Authorities (IFCA's), April 2010 - [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/347493/ifca\\_appointments\\_guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/347493/ifca_appointments_guidance.pdf)

Dispensations under s.33(2) – participation in discussions for matters in which a member has a DPI

It is recommended that dispensation should be granted in relation the additional conflicts identified in Table 1 (i.e. management measures relating to crab and lobster fisheries) with regards to participating in discussions. It is considered in the interest of persons living within the district and to ensure that the Authority has fully considered the potential impacts of decisions. Such benefits fall within the scope of s.33(2) of the Localism Act and as such dispensations are considered appropriate. It is also recommended that the dispensations are granted for the maximum period allowed within the Localism Act (2011) of four years or until their term of service is expired (whichever is first) so as to align MMO appointee full term appraisals with the consideration of granting dispensations.

Dispensations under s.33(2) – voting on matters in which a member has a DPI

It is recommended that, in relation to the DPI conflicts regarding those involved within the fishing industry and specific fisheries, dispensations to vote do not fulfil the requirements of s.33(2) of the Localism Act. This is primarily because there is sufficient representation from various parts of the fishing industry to mitigate the loss of a vote on a specific matter.

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## 42<sup>nd</sup> Eastern IFCA Meeting

A meeting of the Eastern IFCA took place on Wednesday 9<sup>th</sup> December 2020 at 1030 hours via Zoom video conferencing in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (Statutory Instrument 2020 no.392).

### Members Present:

Cllr D Skinner	(Chair)	Lincolnshire County Council
Cllr T FitzPatrick	(Vice Chair)	Norfolk County Council
Shane Bagley		MMO Appointee
Stephen Bolt		MMO Appointee
Roy Brewster		MMO Appointee
Cllr P Coupland		Lincolnshire County Council
Tania Davey		MMO Appointee
John Davies		MMO Appointee
Paul Garnett		MMO Appointee
Cllr T Goldson		Suffolk County Council
Georgina Roberts		NE Representative
Justin Rowley		MMO Representative
Keith Shaul		MMO Appointee
Rob Spray		MMO Appointee
Cllr M Vigo Di Gallodoro		Suffolk County Council
Mike Warner		MMO Appointee
Stephen Williamson		MMO Appointee
Stephen Worrall		MMO Appointee

### Eastern IFCA (EIFCA) Officers Present:

Andrew Bakewell	Head of Finance and HR
Jon Butler	Head of Operations
Imogen Cessford	Project Officer
Luke Godwin	Senior IFCO (Regulation)
Julian Gregory	Chief Executive Officer (CEO) & Clerk
Sammy Hormbrey	Marine Science Officer
Ron Jessop	Senior Marine Science Officer
Judith Stoutt	Senior Marine Science Officer
Stephen Thompson	Marine Science Officer

### Minute Taker:

Jodi Hammond

### **EIFCA20/35 Item 1: Welcome**

Cllr Skinner opened the meeting. Both Georgina Roberts (NE Representative) & Justin Rowley (MMO Representative) were welcomed as new members to the Authority.

### **EIFCA20/36 Item 2: Apologies for Absence**

Apologies for Absence were received from Cllr Chenery of Horsbrugh (NCC), and Dr I Hirst (EA Representative (MMO Appointee)). Cllr Vigo Di Gallidoro would be joining the meeting slightly late.

### **EIFCA20/37 Item 3: Declarations of Members Interest**

Members were advised that 5 members had been reappointed in October, consequently their DPI's had been reviewed, in addition a further member had a change in circumstances which also reflected a change in DPI.

As a result of the review three were found to have conflicts of Interest for which they would have a dispensation to contribute to discussion but not the vote.

Following the preparation of the meeting papers a further change had been notified, however, as this was just a change of vessel it would not change that members current DPI.

**Members Agreed to Note the revised list of Disclosable Pecuniary Interests (DPIs) for MMO Appointees (Appendix 1) and the assessment of DPI conflicts with Authority Business (Appendix 2).**

**Members Resolved to grant dispensations from s.31(4) of the Localism Act 2011 (c.20) to MMO Appointees, as set out in Appendix 2, to allow participation in discussions of matters for which they had a DPI for the period of four years or until their term of service is expired (whichever is first).**

**Proposed: Cllr Goldson**

**Seconded: Mr Worrall**

**All Agreed**

### **EIFCA20/38 Item 4: Minutes of the 41<sup>st</sup> EIFCA Meeting, held on 9<sup>th</sup> September 2020**

It was noted that in Item 10 on the minutes Ms Davey's surname was incorrect.

**Members Agreed the minutes were a true record of the meeting.**

**Proposed: Mr Worrall**

**Seconded: Cllr Coupland**

**All Agreed**

## **EIFCA20/39 Item 5: Matters Arising**

EIFCA20/21 WFO 1992 REPLACEMENT: The CEO advised that the Fisheries & Conservation Management Working Group had discussed the replacement of the WFO. It was anticipated the replacement Byelaw should be reasonably straight forward. The key issue would be access to the fishery, a new policy would have to be established to address this. An overall aim and series of objectives had been produced which had gone out to the industry for consultation. Due to restrictions as a result of Covid-19, online meetings were being held with fishing associations to gather the industry's views.

It was apparent there were very strong views among the industry that the Order should be replaced with another Order rather than a byelaw as there was a misconception, they would automatically retain current licence entitlement rights under a new Order. This was not the case, all current rights expire with the Order. Changes in legislation had come into force since the WFO was put in place including the MaCAA which gave IFCA's the power to use a Byelaw rather than a Regulating Order. Legal advice had been sought to ensure a byelaw was the best route to go down, the result of which was that there was no clear rationale that would stand scrutiny to having another Order. It was the CEO's intention to bring the proposed Byelaw to the next Authority meeting.

Mr Williamson expressed the concern of what he felt was 90% of the industry that they would prefer to retain a Regulating Order. Mr Brewster advised that industry members had raised concerns and questions but had not received answers to these questions. He acknowledged the CEO expressed concerns about current licences being rented out, which Mr Brewster disputed was happening and was happy to discuss this separately with the CEO. He also expressed concern about the possibility of increasing the number of permits available to the fishery and the uncertainty of how access to the fishery would be governed. He was particularly concerned following the CEO's alleged comment that he would "pull names out of a hat", this was not acceptable as fishermen would not be able to draw up Business Plans on that basis. Mr Brewster expressed concern for the longevity of the Industry and how any mistakes made now could affect it.

Mr Worrall noted the concern among the industry and suggested it may be possible to allay some of their concerns if the table displaying the decision-making process was circulated.

The CEO did not agree with Mr Brewster and advised that officers had asked Boston fishermen what their concerns were about a Byelaw replacing the Order and they had been addressed and

confirmed by legal advice. Unfortunately industry did not appear to accept this, and he suspected that the fears felt by the industry could not be allayed until the policy making process began but due process had to be followed.

Cllr FitzPatrick reminded members the decision to go down the route of a byelaw had been made by the Authority, he suggested looking at the comparisons again, and legal advice which had been given. He emphasised the need to work together for the good of the industry.

*At this point Mr Brewster advised he was leaving the meeting, he felt he was not given the opportunity to respond to the CEO and despite having been a member for 22 years at this point he was not proud to be on the Committee.*

#### **EIFCA20/40 Item 6: Health & Safety risks and mitigation**

During the previous quarter only one minor incident had been reported, which was a bump on the head.

Following the Head of Operations attending a training course it seemed there may be a need to address shock mitigation.

Covid-19 continued to affect every day working lives. Officers were still working from home. Any who had to go to the office, Unit A or the Vessels were required to scan the QR code on entering.

**Members Agreed to note the content of the report.**

#### **EIFCA20/41 Item 7: Report of the Finance & HR Meeting held on 3<sup>rd</sup> November 2020**

The Head of Finance & HR advised the Internal Audit report had been received from Norfolk County Council, all controls were found to be acceptable. The full report would be provided at the next Finance & HR Meeting

**Members Agreed to note the content of the report.**

#### **EIFCA20/41 Item 8: Budget and levies 2020-21 and Budget Forecast to 2025**

Members were provided with the detailed figures for both the 2020-21 levies and the Forecast to 2025. There remained uncertainty around New Burden Funding, so figures had been prepared showing the effect with and without New Burden Funding. It was apparent that without the funding Reserves would run out fairly quickly.

**Members Resolved to Approve:**

- the Budget 2021/22
- the Levies for 2021/22
- the Forecast for the following 4 years to 2025/26

**Proposed: Cllr Goldson**

**Seconded: Mr Worrall**

**All Agreed**

#### **EIFCA20/42 Item 9: Authority Meeting Dates 2021/22**

Members were provided with a schedule of meeting dates which followed the standard procedure.

Unfortunately the Finance & HR Meeting on 4<sup>th</sup> May would clash with local elections, it was therefore agreed to move this meeting to 27<sup>th</sup> April 2021.

Mr Davies also advised he would not be able attend the FCMWG meeting in January. He also advised that 1030 was not a good time for these meetings, if they were held later in the day it would allow fishers to get a day's work in before the meeting. It was agreed to change them to afternoon meetings.

**Members Resolved to Approve the list of Meeting dates, subject to the agreed amendments.**

**Proposed: Cllr Skinner**

**Seconded: Mr Davies**

**All Agreed**

#### **EIFCA20/43 Item 10: Whelk Permit Conditions Review**

*It was noted that for this item of business Messrs Garnett, Williamson, Shaul, Warner & Davies, and Ms Davey had a DPI, they would be able to contribute to discussion but not vote.*

The Senior IFCO Regulation advised members that data analysis had found effort was too high in certain areas, however, there had also been some incorrect data recorded as a result of inaccurate catch returns so further analysis would be carried out.

In addition, some issues around non-compliance had arisen which needed to be addressed. It was proposed that four Whelk Permit Conditions should be introduced, subject to consultation and legal advice.

These conditions related to:

- Prohibition of fishing and ineligibility for a permit when convicted of an offence or if a Financial Administrative Penalty has been accepted for non-compliance.
- Requirement to separate catch caught inside the District from that caught outside the District.

- Requirement for catch returns to be completed within 24 hours of fishing.
- Prohibition on fishing when catch returns are more than a month in arrears.

There were other issues to be addressed such as use of edible crab for bait and use of cheap plastic whelk pots which could be contributing to marine plastics, but these needed further exploration.

In order to show due diligence, there was a legal process to follow before the permit conditions could be put in place, this included seeking legal advice, formal consultation, and an impact assessment before a final decision would be made by CEO.

Questions were raised re the riddling of whelk as often they may be too fat to pass through the riddle but too short to meet the MLS. Members were advised that the riddle remained the best method of measuring and Officers used discretion when inspecting catch. It was also explained that prior to determining catch was undersized a bucket sample would be taken to ascertain the percentage undersized, if it was found to be a high percentage a further sample would be taken and assessed.

Mr Garnett was concerned that as EIFCA were not able to prevent poaching in the Wash it would not be possible for Officers to ensure unmarked gear was not being worked. He also questioned how Officers were able to state that stocks were low when it could be that they were at a low point in a cycle which may be about to encounter a natural increase.

There was also discussion into the positioning of escape holes, the potential for even expensive plastic whelk pots to contribute to marine plastics, the difficulties with labelling gear from inside and outside the District separately, and recording of landings within 24 hours – this was thought to be acceptable as it was not expected that a return be sent in within 24 hours.

**Members Agreed to note the content of the report.**

**Members Resolved to:**

- **Agree in principle and subject to legal advice to introduce the Whelk Permit Conditions and eligibility criteria at Appendix 1 and 2 respectively.**
- **Direct officers to undertake consultation with whelk permit holders in accordance with Schedule 1 of the Whelk permit Byelaw 2016.**

- **Agree to delegate authority to the CEO, in consultation with the Chair and Vice-Chair to:**
  - **make amendments to the proposed permit conditions and eligibility criteria which do not substantially alter their intention;**
  - **consider finalised permit conditions, eligibility criteria, impact assessment and representations made during consultation; and**
  - **to make the final decision with regards to introducing the permit conditions.**

**Proposed: Mr Worrall**

**Seconded: Mr Bolt**

**All Agreed**

*At this point Senior IFCO-Regulation advised that Mr Williamson had informed him that his DPI now applied to crab and lobster, fortunately the following two items did not decide management measures, therefore, there should be no conflict for the duration of this meeting so Mr Williamson would be able to contribute to discussion.*

#### **EIFCA20/44 Item 11: Crab & Lobster Fisheries Improvement Plan**

MSO Hornbrey advised members that the Marine Conservation Society had downgraded the rating for the Southern North Sea crab and lobster fishery in their Good Fish Guide. It's current rating of four suggested that the 'stock should not be considered sustainable, and the fish is likely to have significant environment issues associated with its production'. As a consequence some buyers were no longer sourcing Southern North Sea stock, resulting in substantial economic concerns.

It was thought the best way forward for this fishery was a Fisheries Improvement Plan (FIP). This would require active participation across the supply chain. The process began in February, a scoping assessment had been completed and a proposal for the FIP had been developed which identified the key objectives to address sustainability issues.

It was noted the project was industry led, with EIFCA taking a supportive role.

Cllr Goldson felt the lack of supermarket buyers may not be down to the sustainability of the market, it could be down to price. He also enquired what evidence there was that stocks were declining as they are well known to move around the coast.

It was explained that the EIFCA District falls into the much larger region know as the Southern North Sea. Cefas had carried out surveys on the area as a whole and found declining stock levels.

In addition to this EIFCA's own assessments suggested levels were at or very close to the Maximum Sustainable Yield.

Mr Davies acknowledge he would like to see the rating change, but he was concerned that how ever much effort was made to improve the fishery, it wouldn't be enough unless the District was assessed as a different category. The CEO advised that for the MCS to look closely at the EIFCA District fishery could be a double-sided coin as they may dispute the different MLS within the district compared to the national MLS.

The CEO felt that because the rating related to the southern North Sea and because EIFCA had no influence on a regulatory basis outside district boundaries, the FIP may be the best way to bring in voluntary measures to support the industry and maintain sustainability.

Cllr Goldson queried whether other areas would be adhering to any voluntary measures to ensure a level playing field. It was advised that both KEIFCA and NEIFCA were being closely liaised with, and the MMO would hopefully agree to a joint approach for stock outside 6nm. It was hoped that once the industry realised non-compliance may affect their earning they would agree to a voluntary scheme.

**Members Agreed to note the content of the paper.**

#### **EIFCA20/45 Item 12: Cromer Shoal Chalk Beds MCZ Update**

Members were advised that NE had provided advice that potting was having an impact on the subtidal chalk beds. It seemed that active potting, lost pots and storing of pots in the area were all impacting on the outcropped chalk.

It was suggested an Adaptive Risk Management approach would be the key to moving forward, with collaboration from fishermen, EIFCA, NE, University of Essex and Agents of Change, working towards a management plan with full consultation with the industry.

Cllr Goldson was concerned NE were making this suggestion with no evidence, he could not support a scheme with no evidence. The industry had been fishing this area for 100's of years and it had been sustainable, he wanted to see the practical, physical, visible evidence.

Members were advised NE had received photographic evidence and commissioned a study to look at the condition of the chalk in relation to shanks of pots on the seabed. NE had spent a year collecting evidence and had published a report (which was

available on EIFCA website), taken legal advice and hoped to work in partnership with EIFCA and the Industry.

Mr Warner questioned what the photographic evidence was based on, was there some historical data or was this evidence just setting the baseline. Having recognised the importance of the fishery Mr Warner had contacted Seafish who were prepared to carry out a full economic assessment of the fishery. He had also contacted the SAGB, he would like to see both bodies included in discussions going forward. He felt conservation mattered across the whole sphere, not just the ecosystem but the heritage as well.

The CEO advised that EIFCA had got the information from NE and had done their own research. It had to be accepted that damage could be irreparable, but it needed to be ascertained if this was the case, was the damage damaging the functioning of the site. It needed to be ascertained what was an acceptable level of damage.

Mr Spray believed there had been sufficient access to the evidence this finding was based on. He added that divers and conservationists had been concerned for a long time, he had raised the issue at previous Authority meetings, but it had not been well received. He was pleased to see NE had stepped in.

Mr Shaul expressed concern about the data being used by NE when he enquired how they are arrived at 10,000 pots being worked in the area, the response was that they had counted the buoys, which he calculated equated to 650 shanks for which there was not sufficient space.

Mr Davies also felt there were holes in the report, no account had been taken on weather activity, nature had a large impact on the grounds.

*Cllr Vigo Di Gallidoro joined the meeting*

Ms Davey felt it might be beneficial to provide members with NE reports and the matter could be discussed at the next FMCWG, although she would not want the establishment of a Steering Group to be delayed.

Cllr FitzPatrick emphasised the importance of the Cromer Crab fishery and felt members need to do something more than 'note' the report.

The CEO advised members the intention of the paper was to advise members this was going on and that officers would report back to a future meeting with a clearer picture and any proposals.

He advised that if Adaptive Risk Management could not be agreed on then NE advised that EIFCA would need to take a precautionary approach, which could have a greater impact on potting activity.

Mr Bolt reminded members that whilst EIFCA had Statutory Responsibilities so did NE, and if insufficient evidence is gathered the precautionary principle would have to be applied.

Members felt strongly that this matter needed to be discussed in more detail and requested the recommendation of the paper be amended.

**Members Resolved to propose an alternative recommendation to that in the prepared paper, which was to direct Officers to engage in the proposed Adaptive Risk Management approach, to engage with the FCMWG and to bring the matter back to the Authority at an appropriate point.**  
**Proposed: Cllr FitzPatrick**  
**Seconded: Cllr Skinner**  
**All Agreed**

**Members Resolved to direct Officers to engage in the proposed Adaptive Risk Management approach, to engage with the FCMWG and to bring the matter back to the Authority at an appropriate point.**

**Proposed: Cllr FitzPatrick**  
**Seconded: Cllr Skinner**

#### **EIFCA20/46 Item 13: Mussel Survey 2020**

SMSO Jessop gave members a brief synopsis of the mussel fishery trends over the previous 30 years. During the 1990s the stock had improved from an all time low to a level where it was possible to have an annual fishery. In 2010 there was a massive decline, subsequent to this decline there had been constant problems with mussel stocks, largely due to very high mortality of young mussels.

The gradual decline meant that in 2019 there were less than 8,000t which was well down from the 12,000t required to meeting the Conservation Objective.

This year it seemed growth of older mussels had increased the biomass by approximately 3,000t. It had not been possible to carry out surveys on 4 beds, three of which were small and it was estimated would have a total of 200t between them and the third was estimated to have 500t, even with these beds it would still be below the threshold to enable a fishery.

The Welland Bank was treated as a separate fishery due to its location and the fact it was very difficult to over fish.

The proposal was that there should be no intertidal fishery, but the Welland Bank fishery would remain open.

*At this point Mr Warner left the meeting*

Mr Garnett enquired whether the increase in mussel stocks would mean there would be no effect on the cockle TAC. SMSO Jessop advised that there may be slightly less reliance on the cockles, however, as the Bird Food Model was being revised this may change.

Mr Bagley, having noted NE were looking into funding for the Cromer Shoal Area, queried whether they could do the same for the mussel fishery. Ms Roberts agreed this was something that could be looked into.

SMSO Jessop advised that EIFCA had started a study with CEFAS, 5 departments were looking into the cause of mortality in mussels, and cockles would be added to the study in March. He added that once the results were known additional funding may be required.

Mr Williamson advised that if there was any thought that adding seed mussel to the fishery could be beneficial, he could provide details of where to source them.

**Members Resolved to:**

- **Note the findings of the 2020 Mussel surveys.**
- **Note there was not an opportunity to open the intertidal mussel beds to the 202/2021 fishery without having an adverse impact on the site features.**
- **Agree to maintain the Welland Wall mussel fishery as open to relaying and harvestable fisheries.**
- **Agree to issue the licence conditions and adopt the enforcement policy as at Appendices 1 and 2 in relation to the Welland Wall mussel fishery.**
- **Agree to delegate authority to the CEO to vary and/or revoke management measures for the Welland Wall mussel fishery as may be required.**

**Proposed: Cllr Fitzpatrick**

**Seconded: Mr Worrall**

**All Agreed**

#### **EIFCA20/47 Item 14: Quarterly review of annual priorities and Risk Register**

This paper showed members progress against business priorities.

The CEO felt the paper was self-explanatory. The highest risk was that the replacement for New Burden Funding for 2021-22 had yet to be confirmed by Defra. The CEO noted that whilst Defra had secured a modest overall increase to their own funding, EU exit may have an effect on their internal budgets.

**Members Agreed to note the content of the report.**

#### **EIFCA20/48 Item 15: CEO Update**

Members were advised that the Evaluation of IFCA had been completed and was awaiting publication

Association of IFCA Minutes were included for information.

Three members had completed the maximum allowable membership of an IFCA in October 2020, due to current circumstances these had been extended for a further 6 month period whilst the MMO actively recruited new members.

**Members Agreed to note the content of the report.**

#### **EIFCA20/49 Item 16 – Head of Operations Update**

Having read through the papers in advance members were content with the information provided.

**Members Agreed to note the report**

#### **EIFCA20/50 Item 17 – Any Other Business**

Cllr Goldson acknowledged it was late notice but having seen Mr Brewster leave the meeting the way he had Cllr Goldson enquired whether it was possible to reach a compromise by showing the industry the current policies compared to future policies so they could see there was no difference.

The Chair thought it was possible to exhibit a draft policy, but it was not possible to guarantee this would be the final policy.

The CEO felt this was difficult to produce as there was a process to follow which would inform the development of the policy. He was continuing to get the views of individuals rather than the collective in an attempt to get a full understanding of industry

perspective. It was however Agreed it was possible to summarise the decisions taken to far and re-circulate the comparison tables.

In terms of developing the policies it was agreed consultation would take place with the industry.

It was a delicate balance in making sure the Industry felt consulted whilst also meeting the Authority's obligations.

There being no other business the meeting closed at 1400 hours.

## Vision

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## Action Item 6

### 43<sup>rd</sup> Eastern Inshore Fisheries and Conservation Authority meeting

10<sup>th</sup> March 2021

#### Health and Safety update

**Report by:** Jon Butler, Head of Operations

#### **Purpose of report**

The purpose of this report is to update members on health and safety activity and incidents, risks and associated mitigation over the last reporting period

#### **Recommendations**

It is recommended that members:

- **Note** the contents of this report

#### **Background**

H&S law requires employers to assess and manage risks and, so far as is reasonably practicable, ensure the health, safety and welfare of all its employees and others affected by workplace activities.

The Authority has a declared intent to promote and nurture an appropriate health and safety culture throughout the organisation.

#### **Incidents**

The table in *Appendix 1* summarises the incidents that have occurred since the last authority meeting:

**One incident has been reported in this period.**

#### **Risks/Mitigation**

**COVID-19** continues to impact on the way we work. As an authority we have continued to ensure our assessments, policies and practice are kept up to date to ensure we remain COVID compliant. Since the last meeting we are asking officers that are required to work away from home to undertake twice weekly Rapid Flow Tests, these can either be undertaken at a local pop-up site or through self-testing we have arranged through Norfolk County Council. To date only 3 staff members have tested positive for COVID 19 and have all returned to work. It is not believed the contracted COVID through work.

Officers have also begun to receive COVID vaccinations based on government guidance.

We continue to work from home and in 'team bubbles' where possible with appropriate PPE.

Officer wellbeing continues to be a focus especially with staff working in isolation from home. We have again engaged Norfolk CC Wellbeing service to administer a wellbeing survey which we carry out on a biannual basis, from the feedback a report will be produced and the management team will consider any actions they feel are required.

In addition a wellbeing online workshop has been arranged for all staff with Norfolk and Suffolk NHS wellbeing service.

**Appendix 1**

<b>Date</b>	<b>Nature of incident</b>	<b>Injury / damage occurred</b>	<b>Action Taken</b>	<b>RIDDOR MAIB Y/N</b>	<b>Investigation complete Y/N</b>	<b>Name of investigating Officer</b>	<b>Follow-up action required Y/N. If Y then what?</b>
01/02/2021	Vessel, officer overbalanced when washing samples	No	Non required	No	Yes	Lee Torrice	Riddles and buckets purchased to wash samples.

## Appendix 2

### Eastern IFCA Health and Safety risks

Risk	Intervention	Residual Risk	Risk rating* (Current)	Risk rating* (Previous)
1. Failure to develop a full suite of risk assessments to cover the range of activity undertaken by Eastern IFCA officers	<ul style="list-style-type: none"> <li>• Introduction of revised management system (policies and process)</li> <li>• Managers tasked to review and develop the suite of risk assessments</li> <li>• Training session on risk assessments for first line managers</li> </ul>	<ul style="list-style-type: none"> <li>• New or unusual activities may be overlooked and not have a risk assessment in place</li> </ul>	<b>Tolerate</b>	<b>Treat</b>
2. Unreported incidents/unilateral decisions with little regard for safe working practices.	<ul style="list-style-type: none"> <li>• Leadership</li> <li>• NCC H&amp;S officer led review of policy and procedure</li> <li>• Training</li> <li>• Equipment</li> <li>• Management systems to capture incidents</li> <li>• Routine agenda items at all meetings at all levels of Authority</li> </ul>	<ul style="list-style-type: none"> <li>• Injury to personnel as a result of failure to acknowledge or adhere to H&amp;S direction and guidance</li> </ul>	<b>Tolerate</b>	<b>Treat</b>
3. Inappropriate conduct of vessels at sea	<ul style="list-style-type: none"> <li>• Leadership</li> <li>• Briefings</li> </ul>	<ul style="list-style-type: none"> <li>• Death/injury of personnel/third parties through un-seamanlike</li> </ul>	<b>Tolerate</b>	<b>Treat</b>

	<ul style="list-style-type: none"> <li>• Formal training and assessment</li> <li>• Periodic review of performance</li> <li>• Record of personal training inc. refreshers maintained</li> </ul>	operation of vessels at sea		
4. Whole Body Vibration	<ul style="list-style-type: none"> <li>• Risk awareness training to manage impacts.</li> <li>• Health monitoring process to be developed.</li> </ul>	<ul style="list-style-type: none"> <li>• Personal injury from boat movement owing to lower resilience as a result of individual physiology</li> </ul>	<b>Treat</b>	<b>Treat</b>
5. Lone working operations	<ul style="list-style-type: none"> <li>• Management scrutiny of any proposal for lone working.</li> <li>• Introduction of electronic support means</li> </ul>	<ul style="list-style-type: none"> <li>• Failure of devices to give requisite support.</li> <li>• Personnel interventions render devices unreliable or unworkable.</li> </ul>	<b>Tolerate</b>	<b>Tolerate</b>
6. Staff injury/long term absence through inappropriate posture at office work stations	<ul style="list-style-type: none"> <li>• Information.</li> <li>• Training.</li> <li>• Risk assessment.</li> <li>• Provision of suitable bespoke equipment where reasonable.</li> <li>• Access to NCC H&amp;S team.</li> </ul>	<ul style="list-style-type: none"> <li>• Individual failure to adhere to guidance</li> </ul>	<b>Tolerate</b>	<b>Tolerate</b>

	<ul style="list-style-type: none"> <li>Occupational health assessment</li> <li>KLWNBC H&amp;S specialist advice</li> </ul>			
7. Staff stress through exposure to unacceptable behaviour of stakeholders	<ul style="list-style-type: none"> <li>Introduction of Unacceptable Behaviour policy</li> <li>Stakeholder engagement plan and activity delivered in pursuit of corporate communications strategy.</li> <li>Dialogue with Stakeholders to ensure appropriate tone of communications</li> <li>Conflict resolution training for “front line” Officers</li> </ul>	<ul style="list-style-type: none"> <li>No change in behaviour of some stakeholders.</li> <li>Long term sickness caused by stakeholder hostility</li> </ul>	<b>Tolerate</b>	<b>Tolerate</b>
8. Damage to vehicles, trailers and/or equipment through inappropriate operation.	<ul style="list-style-type: none"> <li>Formal trailer training for unqualified officers</li> <li>Refreshers for those with previous experience</li> <li>Periodic vehicle maintenance checks training</li> </ul>	<ul style="list-style-type: none"> <li>Failure to adhere to training</li> <li>Mechanical failure of vehicle or trailer</li> </ul>	<b>Tolerate</b>	<b>Treat</b>

	<ul style="list-style-type: none"> <li>In-house assessment for drivers using unfamiliar vehicles (crew transport, 4x4)</li> </ul>			
9. Physical fitness of personnel to undertake arduous duty	<ul style="list-style-type: none"> <li>Staff briefing</li> <li>Management overview to ensure rostered duties are appropriate and achievable</li> <li>Reasonable work adjustments</li> <li>Routine periodic medical assessment (ML5)</li> </ul>	<ul style="list-style-type: none"> <li>Individual health fragilities</li> <li>Individual lifestyle choice</li> </ul>	<b>Tolerate</b>	<b>Tolerate</b>
10. COVID 19	<ul style="list-style-type: none"> <li>Information</li> <li>Guidance</li> <li>Staff Briefing</li> <li>Risk Assessments</li> </ul>	<ul style="list-style-type: none"> <li>Developing understanding of COVID 19 and rapidly changing guidance</li> </ul>	<b>Treat</b>	<b>N/A</b>

\*

<b>Risk Rating</b>
High
Medium
Low

<b>Risk Treatment</b>	
<b>Treat</b>	Take positive action to mitigate risk
<b>Tolerate</b>	Acknowledge and actively monitor risk
<b>Terminate</b>	Risk no longer considered to be material to Eastern IFCA business
<b>Transfer</b>	Risk is outside Eastern IFCA ability to treat and is transferred to higher/external level

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### Action Item 7

## 43<sup>rd</sup> Eastern Inshore Fisheries and Conservation Authority meeting

**Report by:** Andrew Bakewell – Head of Finance & HR

### Meeting of the Finance & HR Sub-committee held on 2<sup>nd</sup> February 2021

#### **Purpose of report**

To inform members of the key outputs and decisions from the Finance & HR Sub-Committee meeting held on 3<sup>rd</sup> November.

#### **Recommendations**

Members are asked to:

- **Note** the content of the report.

### F&HR 21/04 Minutes of the F&HR Meeting

- Signed as a true record

### F&HR21/05 Matters Arising

- Members were advised that the contract to complete the Wash Fisheries Economic Assessment had been awarded to the highest of the two bids received after detailed analysis of the service offered.

### Finance Matters

#### **Re minute F&HR 21/06 Quarter 3 Payments and Receipts**

- Head of Finance reported that payments and receipts included a £300,000 transfer to the salaries account to cover the next quarter's salary and related payments. Expenditure of £4.9k on an Oystercatcher Study (to inform the bird food model) and £13.5k for electronic research equipment ultimately to be fitted on the new vessel.
- Income included EMFF grant funding of c.£41k for Operation Blake and c.£5k for IVMS units for authority vessels.

Members Agreed to:

- **Note** the content of the report

### **Re minute F&HR 21/07 Quarter 3 Management Accounts**

- Continued salary savings due to vacancies
- Savings currently £20k.

Members Agreed to:

- **Note** the content of the report.

### **Re minute F&HR 21/08**

- Head of Finance reported that the Internal Audit completed by NCC had concluded that all processes and controls were acceptable. They reported a minor issue (not material) with two petty cash items.
- The joint statement had been signed and submitted to the external auditors for scrutiny.

Members agreed to:

- **Note** the content of the report

### **Re minute F&HR 21/09 Appointment of Auditors**

The Head of Finance reported that it was a requirement to appoint auditors for the current year.

Members resolved to:

Appoint NCC Audit Services to complete the Internal Audit and PKF Littlejohn to complete the External Audit.

### **Re minute F&HR 21/10 Credit Card Purchases**

The Head of Finance presented a report recommending a change to a more streamlined procedure for credit card purchases of items up to £250. Stressing that checks and balances were included in the process including sign off by card holders and verification by the Head of Finance. The temporary change would be monitored before permanent adoption.

Members resolved to:

Approve the amended procedure.

### **Re minute F&HR 21/11 Payment of Expenses to MMO appointees**

The Head of Finance recommended that payment of expenses to MMO appointees be approved for the next financial year. Pointing out that the amount budgeted for the current year would be unlikely to be used and a similar budget was included for the coming year.

The MMO appointed members of the F&HR sub-committee declared an interest.

The other members resolved to:

Approve the payment of expenses to MMO appointees for the coming financial year.

### **Re minute F&HR 21/12 Exclusion of the Public**

Members resolved:

- That members of the public be excluded under Section 100(a)(4) of the Local Government Act 1972 Paragraph 1 of Schedule 12A of the Act.

### **Re minute F&HR 21/13 Vessel Procurement update**

Members were advised:

- that the contract for the build of a new vessel had been awarded following a detailed evaluation of the 3 received tenders
- the vessel would be of GRP construction
- the specification was for a 16 mtr vessel
- the start date for the build would be hopefully November 2021
- member concerns regarding potential price increases were addressed by the CEO who reported that this was a Fixed Price Contract
- issues concerning engine availability were discussed

Members Agreed to:

- **Note** the content of the report

### **Re minute F&HR 21/14 HR Update**

Head of Finance and HR reported:

- The Project Officer (fixed term) had been made permanent
- The organization would shortly have 3 vacancies
- Recruitment of a replacement Project Officer (fixed term) would be extended to two years

Members Agreed to:

- **Note** the content of the report

### **Background Documents**

Unconfirmed minutes of the Finance and HR sub-committee meeting held on the 2<sup>nd</sup> February 2021

### Vision

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### Action Item 8

## 43<sup>rd</sup> Eastern Inshore Fisheries and Conservation Authority meeting

10<sup>th</sup> March 2021

### Review of Eastern Inshore Fisheries and Conservation Authority (IFCA) Constitution and Standing Orders

**Report by:** J. Gregory, CEO

#### **Purpose of report**

The purpose of this report is to report the outcome of the annual review of the Eastern IFCA constitution and to seek approval for relatively minor changes.

#### **Recommendations**

It is recommended that members:

- **Agree** to the proposed changes to the Constitution and Standing Orders.

#### **Background**

Eastern IFCA adopted the current Constitution and Standing Orders on 31<sup>st</sup> October 2012 with a requirement for it to be reviewed annually. The Constitution and Standing Orders are the embodiment of the requirement for the Authority to ensure that it has sound governance.

A full review of the structure of the Authority and the Constitution and Standing Orders was undertaken during 2018-19, which resulted in a number of recommendations, which were all approved at the 39<sup>th</sup> meeting of the full Authority held in March 2019.

The overall objectives were to provide a more coherent approach to dealing with Authority business, to make best use of the skills, experience and accountabilities of members and to make meetings more meaningful and productive.

The changes included discontinuing three sub-committees and moving functions to the full Authority in order to engage the full Authority membership in the core business of the Authority, such as the strategic policy and planning framework and fisheries and conservation management decisions.

In order to remove duplication, the functions undertaken by the Finance and HR sub-committee were expanded to include all financial matters with the exception of approving the annual budget and levy, which remained the preserve of the full Authority on recommendation from the Finance and HR sub-committee. In recognition of the expanded remit of this sub-committee it was agreed that the Chair and Vice-Chair of the Authority undertake the same functions on the sub-committee.

The Fisheries and Conservation Working Group was established to enable greater participation of members in the development of management measures. This enables issues to be identified and more discussion before formal proposals are prepared for consideration by the full Authority.

The Constitution and Standing Orders was not reviewed in 2020

### **Report**

The Constitution and Standing Orders have been reviewed by nplaw, who concluded that there have not been any changes in law that affect Eastern IFCA.

Some relatively minor amendments are proposed and are set out in Appendix A. The full Constitution and Standing Orders can be found on the Authority's website at [2019 05 15 EIFCA Constitution 2019 Final.pdf \(eastern-ifca.gov.uk\)](#)

### **Financial implications**

The only financial implications are charges for the assistance and advice drawn from nplaw.

### **Legal implications**

It is a legal requirement for the Authority to keep abreast of revised legislation for the operation and conduct of public business. Np Law have advised on the revisions to the Constitution and Standing Orders.

### **Conclusion**

The Constitution and Standing Orders as adopted remain fit for purpose and require only the adjustments listed. The Clerk will continue to hold them under review and will bring any futures changes to the Authority meeting in March annually unless there is a pressing need to make changes more urgently.

### **Appendices**

Appendix A – Proposed Revisions to the Constitution and Standing Orders

### **Background documents**

Papers and minutes of the 39<sup>th</sup> meeting of the full Authority held on 11<sup>th</sup> March 2019.

Eastern IFCA Constitution and Standing Orders

[2019 05 15 EIFCA Constitution 2019 Final.pdf \(eastern-ifca.gov.uk\)](#)

## Appendix A

<b>Proposed Revisions to the Constitution and Standing Orders</b>			
<b>Ref</b>	<b>Original Text</b>	<b>Revised Text</b>	<b>Rationale</b>
Page 10 para 9.11	9.11 A member may put forward a motion for debate at any meeting. The motion may propose the resolution contained in a paper for an item on the agenda, or a resolution formulated at the meeting if the paper contains options or no specific proposals, or it may propose an amendment to a resolution.	9.11 A member may, unless they have an associated Declared Pecuniary Interest, put forward a motion for debate at any meeting. The motion may propose the resolution contained in a paper for an item on the agenda, or a resolution formulated at the meeting if the paper contains options or no specific proposals, or it may propose an amendment to a resolution.	To be in line with the voting restriction on members with a DPI
Page 23 para 9	9. I will not take part in any discussions at a meeting of a matter for which I have a disclosable pecuniary interest (as set out in paragraph 4 above) except in accordance with any dispensation which has been granted to me.  When, under the authority of a dispensation, I am participating in discussions of a matter that directly or indirectly affects something in which I have a declared interest, I will ensure that my contributions relate only to the specialist knowledge or experience for which I was appointed to the Eastern IFCA, and do not improperly seek to favour my own interests or those of anyone connected with me.	9. I will not raise a motion at a meeting that has not been previously included in the agenda or within a particular paper or take part in any discussions at a meeting of a matter for which I have a disclosable pecuniary interest (as set out in paragraph 4 above) except in accordance with any dispensation which has been granted to me.  When, under the authority of a dispensation, I am participating in discussions of a matter that directly or indirectly affects something in which I have a declared interest, I will ensure that my contributions relate only to the specialist knowledge or experience for which I was appointed to the Eastern IFCA, and do not improperly seek to favour my own	To reflect the amendment above

	I agree to accept the advice of the Chair on whether I can participate in a discussion at a meeting on a matter in which I have declared an interest.	interests or those of anyone connected with me. I agree to accept the advice of the Chair on whether I can participate in a discussion at a meeting on a matter in which I have declared an interest.	
Page 28 para 6(e)	6(e) <u>Matters Which it is the Responsibility of the Full Authority to Discharge</u> 6. Managing an environmentally acceptable, sustainable and viable fishery under the Wash Fishery Order 1992, including: (e) Agreeing annual management measures for each fishery	(e) Agreeing annual management measures and associated decisions for each fishery are delegated to the CEO in conjunction with the Chair or Vice-Chair and are to be reported to the full Authority.	To cater for changes in the timing of full Authority meetings that may not enable early opening of the cockle fishery
P30	<u>Matters Which it is the Responsibility of the CEO to Discharge</u> <u>Protection and Conservation</u> Being ultimately responsible for all fisheries management matters that have not been reserved to the full Authority or delegated to a Sub-Committee.	Insertion of new section: <u>Fisheries Management</u> 10. Being ultimately responsible for all fisheries management matters that have not been reserved to the full Authority or delegated to a Sub-Committee. 11. In conjunction with the Chair or Vice-Chair, approving annual management measures for cockle and mussel fisheries within the Wash in accordance with the Fisheries Management Plans and Formal Operating Procedures. This includes introducing, varying or revoking management measures and opening and closing part or all of the fisheries as may be required for the protection of the Wash Marine Protected	Creation of new section for ease of reference. Existing wording retained for general fisheries management and new section on Wash cockle and mussel fishery management that reflects current practice agreed at Authority meetings

		Areas or for fisheries management purposes, including the sustainability or viability of the fisheries. Such decisions may be implemented without 7 days' notice (as per the Cockle Charter) if it is judged necessary to do so to meet the conservation objectives of the Wash Marine Protected Areas or for the sustainability or viability of the fisheries	
<b>Financial Regulations 2021</b>			
Page 33 para 2.2	The Finance and Personnel Sub-Committee shall review the estimates and make a recommendation to the Authority not later than the end of January in each year on the precept to be levied for the ensuing financial year.	The Finance and HR Sub-Committee shall review the estimates and make a recommendation to the Authority not later than the end of December in each year on the precept to be levied for the ensuing financial year.	To reflect the changes to the scheme of delegation agreed in 2019
Page 33 para 3.2	The RFO shall when requested provide the Authority with a statement of income and expenditure to date under each head of the approved annual revenue and capital budgets.	The RFO shall at each quarterly meeting of the Finance and HR sub-committee provide a statement of income and expenditure to date under each head of the approved annual revenue and capital budgets.	To reflect the changes to the scheme of delegation agreed in 2019
Page 33 para 3.3	The RFO may incur expenditure on behalf of the Authority which is necessary to carry out any repair, replacement or other work which is of such extreme urgency that it must be done at once, whether or not there is any budgetary provision for the expenditure. The RFO shall report the action to the Authority as soon as practicable thereafter.	The RFO may incur expenditure on behalf of the Authority which is necessary to carry out any repair, replacement or other work which is of such extreme urgency that it must be done at once, whether or not there is any budgetary provision for the expenditure. The RFO shall report the action to the Finance and HR sub-committee as soon as practicable thereafter.	To reflect the changes to the scheme of delegation agreed in 2019

Page 34 para 3.6	No expenditure shall be incurred in relation to any capital project and no contract entered into or tender accepted involving expenditure on capital account unless the Authority or sub-committee concerned are satisfied that it is contained in the rolling capital programme and that the necessary capital funds are available.	No expenditure shall be incurred in relation to any capital project and no contract entered into or tender accepted involving expenditure on capital account unless the Finance & HR sub-committee are satisfied that it is contained in the rolling capital programme and that the necessary capital funds are available.	To reflect the changes to the scheme of delegation agreed in 2019
Page 34 para 4.2	The RFO shall be responsible for completing the annual accounts of the Authority as soon as practicable after the end of the financial year and shall submit them to and report thereon to the Finance and Personnel Sub-Committee by no later than 30 <sup>th</sup> June in any one year. The Finance and Personnel Sub-Committee is responsible for the approval of the annual Statement of Accounts prior to submission to the Authority at the July Authority meeting.	The RFO shall be responsible for completing the annual accounts of the Authority as soon as practicable after the end of the financial year and shall submit them to and report thereon to the Finance and HR Sub-Committee by no later than 31 <sup>st</sup> May in any one year. The Finance and HR Sub-Committee is responsible for the approval of the annual Statement of Accounts prior to submission to the external auditors.	To reflect the changes to the scheme of delegation agreed in 2019
Page 34 para 5.1	The Authority's banking arrangements shall be made by the RFO and approved by the Authority. A Current Account shall be maintained at the bank, to cover general expenses and a Salary & Wages Account to cover payroll. In addition to these the RFO is authorised to operate such bank accounts he/she may consider necessary in order to optimise income from interest bearing accounts.	The Authority's banking arrangements shall be made by the RFO and approved by the Finance & HR sub-committee. A Current Account shall be maintained at the bank, to cover general expenses and a Salary & Wages Account to cover payroll. In addition to these the RFO is authorised to operate such bank accounts he/she may consider necessary in order to optimise income from interest bearing accounts.	To reflect the changes to the scheme of delegation agreed in 2019

Page 34 para 5.2	A schedule of payments made, and monies received shall be prepared by the RFO and presented to the Authority at their Meetings. If the schedule is in order it shall be authorised by a resolution of the Authority, and minuted, with such minutes signed/initialled by the Chair or Vice Chair.	A schedule of payments made, and monies received shall be prepared by the RFO and presented to the Finance and HR sub-committee at their Meetings. If the schedule is in order it shall be authorised by a resolution of the members, and minuted, with such minutes signed/initialled by the Chair or Vice Chair.	To reflect the changes to the scheme of delegation agreed in 2019
Page 35 para 9.3	Any bad debts shall be reported to the Authority.	Any bad debts shall be reported to the Finance and HR sub-committee.	To reflect the changes to the scheme of delegation agreed in 2019
Page 36 para 10.1	An official order or letter shall be issued for all work, goods and services unless a formal contract is to be prepared or an official order would be inappropriate e.g. petty cash purposes. Copies of orders issued shall be maintained.	An official order or letter shall be issued for all work, goods and services unless a formal contract is to be prepared or an official order would be inappropriate e.g. petty cash or low value purposes. Copies of orders issued shall be maintained.	Minor clarification adding 'or low value'
Page 36 para 11.1 (a)	(a) Every contract whether made by the Authority or by a Sub-Committee to which the power of making contracts has been delegated shall comply with these procedures, and no exception from any of the following provisions of these procedures shall be made otherwise than by direction of the Authority or in an emergency by such a sub-committee as aforesaid provided that these procedures shall not apply to contracts which relate to items (i) to (v) below:	(a) Every contract whether made by the Authority or by a Sub-Committee to which the power of making contracts has been delegated shall comply with these procedures, and no exception from any of the following provisions of these procedures shall be made otherwise than by direction of the Finance & HR sub-committee provided that these procedures shall not apply to contracts which relate to items (i) to (v) below:	To reflect the changes to the scheme of delegation agreed in 2019

Page 36 para 11.1 (c)	Where it is intended to enter into a contract for major capital expenditure relating to e.g. new vessels and or their replacement, buildings etc. the RFO shall invite tenders from at least three appropriate firms.	Where it is intended to enter into a contract for major capital expenditure relating to e.g. new vessels and or their replacement, buildings etc. the RFO shall instigate a competitive tendering process if anticipated that expenditure will exceed thresholds that apply under Public Contract Regulations. Where such thresholds are unlikely to be exceeded the RFO shall invite tenders from at least three appropriate firms.	To reflect legislative requirements
Page 38 para 11.1 (e)	Every exception made by a Sub-Committee to which the power of making contracts has been delegated shall be reported to the Authority and the report shall specify the emergency by which the exception shall have been justified.	Deleted	This paragraph reflected the situation prior to the revisions made in 2019 and is no longer relevant because full authority for such matters now falls to the Finance & HR sub-committee
Page 37 para 12.3	Any variation to a contract or addition to or omission from a contract must be approved by the RFO in writing, the appropriate sub-committee being informed where the final cost is likely to exceed the financial provision.	Any variation to a contract or addition to or omission from a contract must be approved by the RFO in writing, the Finance & HR sub-committee being informed where the final cost is likely to exceed the financial provision	To reflect the changes to the scheme of delegation agreed in 2019
Page 38 para 13.2	No asset exceeding the £10,000 de-minimis level recommended by District Audit shall be sold, leased or otherwise disposed of without the authority of the Authority	No asset exceeding the £10,000 de-minimis level recommended by District Audit shall be sold, leased or otherwise disposed of without the authority of the Finance & HR sub-committee	To reflect the changes to the scheme of delegation agreed in 2019

### 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



## Action Item 9

### Eastern Inshore Fisheries and Conservation Authority Meeting

10 March 2021

### 2020-21 Strategic Assessment and 2021-26 Business Plan

**Report by:** J. Gregory, CEO

#### **Purpose of Report**

The purpose of this report is to present the Strategic Assessment for 2021 and the Business Plan for 2021-26 for note and approval.

#### **Recommendations**

It is recommended that members:

- **Note** the content of the Strategic Assessment, including the priorities for 2021-22
- **Approve** the content of the Business Plan, including the priorities and plans for 2021-22

#### **Background**

An annual assessment of Eastern IFCA fisheries is undertaken each year. The Strategic Assessment is used to identify the highest risk elements of all the fisheries in the district, including fisheries sustainability, industry viability and environmental impacts.

This assessment was introduced in 2014 and each iteration of the assessment has been subject to update and development to ensure outputs are relevant and consider all the available evidence.

The Strategic Assessment draws on a data driven analysis (the initial assessment) and contextual knowledge of officers (the contextual assessment) to identify potential work-streams and assign a priority based on the risk. This is used to inform the annual priorities set out in the rolling five-year Business Plan.

A rolling five-year Business Plan was developed and introduced in April 2016, bringing together all elements of activity undertaken by the organisation.

The plan is intended to project five years in advance with annual reviews to update the strategic and financial context and to prioritise and plan for each financial year.

The planning model is intended to provide a longer term and more cohesive approach to business planning by drawing together all elements of activity in a single plan.

To reduce the level of printed paper both the Business Plan and Strategic Assessment discussed in this paper are cited in the appendices below where there are links to view the documents on the Eastern IFCA website.

## **Report**

### Development of the Strategic Assessment

No further criteria were identified this year. The criteria used reflect the main duties of the Authority and are as follows:

- *Evidence base* – an assessment of the available evidence for each species in relation to fishing effort, landings, stock health and presence of spawning and nursery areas.
- *Current Regulation* – assesses species based on measures currently in place in relation to protection of pre-spawning individuals, gear management or specification and effort restrictions.
- *Ecosystem impacts* – assessment considers the potential ecosystem level impacts of the main gears associated with each species (e.g. by-catch, habitat damage).
- *Fisheries performance* – considers the landed weight and value of catch from within the Eastern IFCA district, any detectable trends in landed catch, landings from within the district as a proportion of the UK total and available ICES advice.
- *Presence or absence of spawning and nursery grounds* – scores were assigned to each fishery to reflect a higher risk where spawning and nursery grounds are present.
- *EIFCA landings in a UK context* – landed weights from within the Eastern IFCA district were reflected as a proportion of UK total landings for each species. Scores were assigned which reflect a higher risk where fisheries had greater national importance.
- *Fisheries trends* – landed weights were analysed to detect positive or negative trends in landed weights over time. Scores were assigned which reflect a higher risk where a strong positive or negative trend was detected.

Risk scores have continued to be related to fisheries performance and the scoring system has remained simpler following changes from previous years.

The 2021 assessment sets out the high priority work, key 'business as usual' work-streams, and identifies future work and priorities. 'Business as usual' priorities relate to established work-streams responsible for maintaining a lower risk score for certain fisheries. These include, for example, the annual cockle stock survey, without which, the risk associated with the cockle fishery would increase. These are set out to reflect the full suite of demands on Eastern IFCA. Identification of future priorities and work streams relate to risks identified within the assessment which are considered less of a priority. It is important to highlight these potential work streams as they may inform

future Strategic Assessments or, opportunities may present during the year which enable these workstreams to be completed.

Additional consideration was given to key messages received from stakeholders throughout the year. These messages are routinely recorded through message forms, patrol reports and correspondence libraries. This information is included in a dedicated section in the assessment as it allows for careful consideration of the issues and concerns raised by our stakeholder's whilst setting the annual priorities.

#### Outputs of the Strategic Assessment 2020

Annual priorities reflect the work which is the focus during the financial year rather than distinct, annual projects. Whilst the priorities identified during the 2020 Strategic Assessment have been progressed, most of these work-streams require continued development and completion. This is reflected in the outputs from the 2021 assessment which has indicated that the key priorities are those carried over from 2020-21. New priorities are set out below (Appendix 3) and, in the full assessment (Appendix 2), which can be read via the link below.

#### The Business Plan

The Business Plan (Appendix 1) provides the strategic framework within which Eastern IFCA operates and describes our ability to deliver against our vision and priorities. This is demonstrated by setting out factors such as effective leadership arrangements; the strength of the team in terms of experience, qualifications, and skills; being appropriately equipped; operating effectively and effective financial management.

An important element of this approach is to demonstrate that the work of Eastern IFCA is an investment in the local marine environment and to develop a narrative that would lead contributing authorities to view funding in that context rather than simply being another demand on hard pressed finances.

The plan shows a clear linkage to Defra's vision and strategy, including the 25-Year Environment Plan. Although IFCAs are not Defra bodies, they do deliver into the Defra remit and understanding the link demonstrates synergy between the work of Eastern IFCA and the national framework. Defra has previously produced a Single Department Plan which sets out Defra's objectives and how they will achieve them, this plan also guides the work of Eastern IFCA. Defra intend to produce a new Outcome Delivery Plan but at the time of writing the plan this work has not commenced so the section in the Business Plan on the Strategic Landscape will be reviewed when the new Defra plan is published.

#### **Priorities 2021-22**

The overall priorities for 2021-22 have been identified by the annual Strategic Assessment (Appendix 2) and are set out in Appendix 3. Most priorities are carried over as work in progress from previous years. New priorities are set out below:

## **New High Priority work 2021-22**

- Bivalve Molluscs
  - Replacement of Several Order
  - Continued development of WFO policies.
  - Replacement of WFO 1992 with permit byelaw
  - Continuation of review in relation to access to the fisheries, primarily in relation to the WFO replacement.
  - Investigation into mussel die off
- Crustaceans
  - Assessing the impact of fishing activities on the Cromer Shoal Chalk Beds (MCZ) and delivering management measures (if required).
- Shrimps/Prawns
  - Effort Monitoring within the Wash SAC including implementation of new catch returns system.

## **New Business as Usual Critical work streams 2021-22**

Workstreams previously identified as high priority, but that are now well established are now included in this section as follows:

- Shrimp fishery management
- Monitoring of district wide biosecurity risk
- Whelk Fisheries Management and Research
- Partnership working

The Enforcement Plan is set out in Appendix 4 and follows a similar format to previous years.

The Communications and Engagement Plan is set out in Appendix 5. It sets out an approach of focusing our engagement around ongoing regulatory workstreams.

## **Risk**

### The Business Plan

The risk matrix is set out in Appendix 1 of the Business Plan and reflects the most significant strategic risks to the Authority which demand management action. The key risk to Eastern IFCA remains the uncertainty of future funding due to New Burdens funding being discontinued in its current format.

### The Strategic Assessment

The risk associated with the assessment is that it does not detect a priority workstream. This is mitigated by the further development of the assessment as set out above. In addition, the Strategic Assessment is a live document, which is intended to be updated to reflect new evidence and changing contextual needs.

## **Financial Implications**

None

**Legal Implications**

None

**Appendices**

Appendix 1 – Business Plan 2021-26 (link to read the full plan online)

Appendix 2 – Strategic Assessment 2020-21 (link to read the full assessment online)

Appendix 3 – Eastern IFCA Priorities 2021-22

Appendix 4 – Eastern IFCA Communication and Engagement Plan 2021-22

Appendix 5 – Enforcement Plan 2021-22

**Background Documents**

Not Applicable

## **Appendix 1**

### Business Plan 2021-26

The full Business Plan for 2021-26 can be viewed on our website at:

<https://www.eastern-ifca.gov.uk/business-plans/>

Direct link: [https://www.eastern-ifca.gov.uk/wp-content/uploads/2021/02/2021\\_01\\_13\\_Business\\_Plan\\_Final\\_draft.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2021/02/2021_01_13_Business_Plan_Final_draft.pdf)

## **Appendix 2**

### Strategic Assessment 2020-21

The full Strategic Assessment for 2020-21 can be viewed on our website at:

<https://www.eastern-ifca.gov.uk/publications/>

Direct link: [https://www.eastern-ifca.gov.uk/wp-content/uploads/2021/02/2021\\_01\\_14\\_Strategic\\_Assessment\\_final\\_draft.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2021/02/2021_01_14_Strategic_Assessment_final_draft.pdf)

## Appendix 3

### Eastern IFCA Priorities 2021-22

The table below sets out the work-streams which were identified as of high priority by the Strategic Assessment 2021. Each work-stream has been assigned a supplementary priority. Where resource limitations call for work-streams to be re-prioritised, these are used to inform which work should be the focus of available resources.

Priorities for 2021-22	Priority
1. To ensure that the conservation objectives of Marine Protected Areas in the district are furthered by: <ul style="list-style-type: none"> <li>a) Development of management measures for 'red-risk' gear/feature interactions in the Inner Dowsing, Race Bank and North Ridge SCI,</li> <li>b) Assessing the impact of fishing activities on the Cromer Shoal Chalk Beds (MCZ) and delivering management measures (if required).</li> <li>c) Development of priority Monitoring and Control plans as identified by the strategic assessment.</li> <li>d) Completion of amber/green gear/feature interactions. Development of management measures where required.</li> <li>e) Effort Monitoring within the Wash SAC including implementation of new catch returns system</li> </ul>	High High Medium High Medium
2. To develop management of the fisheries regulated under the WFO (regulated and several fishery) <ul style="list-style-type: none"> <li>a) Replacement of Several Order.</li> <li>b) Social/Economic study of Wash Cockle Fishery viability.</li> <li>c) Continued development of WFO policies.</li> <li>d) Replacement of WFO 1992 with permit byelaw</li> <li>e) Continuation of review in relation to access to the fisheries</li> </ul>	High High High High High
3. Industry Viability <ul style="list-style-type: none"> <li>a. Investigation into mussel die off</li> </ul>	High
4. Obtaining better fisheries data <ul style="list-style-type: none"> <li>a) Implementation of I-VMS for all fisheries specifically the Wash Shrimp fishery (dependent on partnership working with MMO led project).</li> </ul>	High

### 'Business as Usual' – Critical Work-streams 2021-22

The Strategic Assessment indicates where risks in relation to a fishery or species are mitigated because of established work streams. The cessation of such work streams has the potential to increase risk associated with a fishery. Such identified work streams are set out below to provide context for the identified 'new' priorities identified through the Strategic Assessment.

## **SWEEP Study of the Wash Embayment, Environment and Productivity**

Monitoring continues as is required for the Habitat regulation assessment utilising new sondes that have been purchased to facilitate this monitoring regime.

### **WFO surveys and Management**

Annual surveys of cockle and mussel stocks within The Wash are a significant undertaking. These surveys do, however provide a level of fisheries evidence which is not reflected in any other fishery within the district. There is currently a review ongoing regarding the type and extent of sampling regime required. Extensive HRA's are also completed annually in order to open this fishery.

Further development of the cockle and mussel fishery management plans may be required. Work includes formal consultation with WFO licence holders and other concerned and potentially impacted stakeholders in relation to proposed measures and implementation pending consent from the Minister (including production of engagement material for fishers).

### **Shrimp fishery management**

The shrimp fishery is of high economic importance and is a nationally important fishery. Work includes development of management measures in consultation with the industry (including outputs from the MSC accreditation scheme), development of impact assessments and formal consultation with the industry. The priority of the work may be influenced by outputs of the MSC accreditation scheme – if the adopted voluntary measures are successful, the requirement on Eastern IFCA may be reduced. Eastern IFCA to monitor effort in line with effort limitation model. Eastern IFCA will also continue to work with the MSC accreditation regarding issuing gear certification.

### **Risk of conflicts with other marine users**

The present assessment focusses on sustainability issues which are within Eastern IFCA's envelope of influence. Other marine users also compete for space and resource within the marine environment and such activity is increasing over time.

Eastern IFCA is a consultee within the Marine Licencing System. Where new plans or projects are proposed within the district, Eastern IFCA highlights potential conflicts. One conflict which Eastern IFCA regularly reports is the issues of windfarm cables and the impacts of these on electrosensitive species.

### **Enforcement**

Enforcement activity is primarily driven through the Compliance Risk Register and Tactical Coordinating Group meetings (which considers intelligence, emerging issues, fishing trends and the monthly risk profile). Enforcement activity is influenced by the outputs of the Strategic Assessment as this identifies the fisheries most at risk of sustainability issues (and by extension, those potentially most vulnerable to negative impacts through non-compliance).

### **Complete HRAs in relation to ‘unplanned’ fisheries**

Mussel fisheries (sub-tidal seed mussel fisheries in particular) have the potential to occur throughout the year. Where such a fishery is detected by fishers, officers have a limited amount of time to develop management measures and a HRA for the fishery (particularly in sub-tidal fisheries which are ephemeral). In the event one does occur, the economic benefit of the fishery is relatively high (as mussel is usually used in local aquaculture).

### **Monitoring of district wide biosecurity risk**

A monitoring plan for biosecurity has now been implemented and officers are briefed regarding reporting biosecurity concerns. Furthermore, officers undertake engagement with stakeholders to increase awareness and understanding as appropriate. It is recognised that the spread and control of Invasive non-native species is outside of Eastern IFCA’s remit and we may be limited to reactionary actions only, but this is not a primary function. Work in relation to ensuring compliance with WFO lease conditions primarily putting on and removing shellfish and education and engagement work is going in relation to biosecurity and the transfer of Invasive non-native species.

### **Whelk Fisheries Management and Research**

Conditions related to improving compliance in the fishery have been approved by the authority and are now subject to formal consultation. Further permit conditions to be developed in relation to sustainability concerns. Research in relation to size of maturity focusing on areas where there has been a lack of sampling is ongoing. The focus will be for an increased scope of research project and voluntary gathering of whelk samples.

### **Partnership working**

In previous Strategic Assessments various workstreams that are ongoing with other agencies (primarily the MMO) provide mitigation to risk scores and factor into the contextual scoring. Primarily these are:

- Under 10m catch recording
- Landing Obligation
- Inshore Vessel Monitoring Systems

Whilst Eastern IFCA do not specifically lead on these projects, they support Eastern IFCA aims, and as such continue to form part of business as usual activities. Further to these primary projects Eastern IFCA also contribute to the following ongoing workstreams:

- Reporting through the national intelligence project
- Evidence and information gathering for partner agencies (where appropriate)

### Identification of future priorities 2021-22

Given the finite resources of the IFCA, workloads are prioritised. Table 5 (below) sets out work streams relating to risks identified within the assessment which are considered less of a priority. It is important to highlight these potential work streams as they may inform future Strategic Assessments or, opportunities may present during the year which enable additional benefit from existing or partner projects for which, these should be considered.

<b>Future Priorities</b>
<ul style="list-style-type: none"><li>1) Obtaining better fisheries data<ul style="list-style-type: none"><li>a) Development of relationships with RSA to obtain more fisheries data.</li><li>b) Continue dialogue with MMO and other partner organisations to develop 'joined-up' approach to gathering fisheries data from fishers.</li><li>c) Gather information regarding recreational hand gathering.</li><li>d) If required re-assess need to deliver 'unregulated netting' in the context of BNA.</li><li>e) Implementation of electronic/app-based returns system (to be incorporated with MMO under 10's catch returns if possible.</li><li>f) Investigate requirement/applicability of Netting permit.</li></ul></li></ul>
<ul style="list-style-type: none"><li>2) Delivering fisheries management in relation to fisheries in MPAs<ul style="list-style-type: none"><li>a) Review the Humber estuary cockle byelaw (inherited from North Eastern Sea Fisheries Committee)</li></ul></li></ul>
<ul style="list-style-type: none"><li>3) To ensure that sea fisheries resources are exploited sustainably and in accordance with MSFD requirements.<ul style="list-style-type: none"><li>a) Development of management measures in relation to crab and lobster fisheries sustainability</li></ul></li></ul>

## Appendix 4 Eastern IFCA Enforcement Plan 2021-22

### Introduction

Compliance activity is undertaken in accordance with the Regulation and Compliance Strategy with the emphasis being upon the principle of endorsing compliance. This provides that clarity on regulation together with guidance and advice is 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.

To ensure that compliance and enforcement activity is proportionate and to make best use of limited resources a risk-based approach is taken, and this is informed by the Compliance Risk Register.

### Method

The inshore fisheries sector is dynamic and as such compliance and enforcement activity can change from week to week. To ensure a cohesive approach operational activity is planned and co-ordinated using a clear process. A Tasking and Co-ordinating Group (TCG) considers information from the Annual Compliance Risk Register via a monthly Risk Profile, which combined with analysis of previous activity, intelligence and emerging issues, is used to agree priorities for the month. A weekly Operations Meeting manages activity to address the priorities agreed at the TCG meeting.

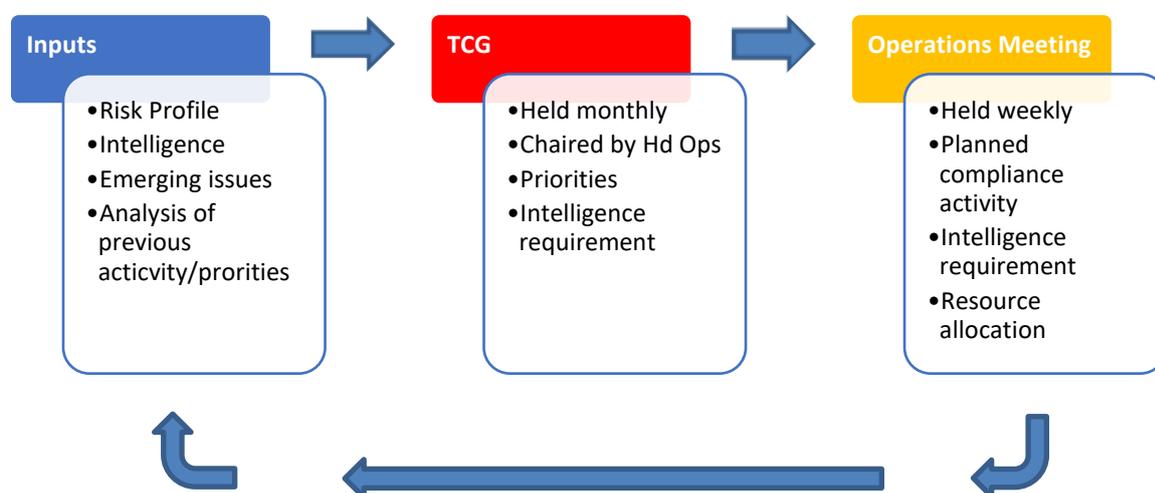


Fig. 1: The TCG process

### Tactical Activities

Compliance and enforcement activities are conducted both at sea and ashore and can be categorised under six primary themes (see below). Activity may comprise one or all the following themes at any one time:

### 1. **High Profile Visible Presence**

Being present in the environment in which fishers operate is the foundation upon which all compliance activity is built. At a basic level, it provides credibility through operating both at sea and ashore, reassurance to the majority who comply with regulations and a deterrent effect for those that may be tempted to flout regulations. It also provides the opportunity for information and intelligence gathering as well as engagement and education.

### 2. **Monitoring Activity**

Monitoring activity enables Eastern IFCA to understand the level, nature and impact of fishing activity and the potential for regulations to be breached. It also helps Eastern IFCA to meet its legal obligation to prevent damage to European Marine Sites from fishing activity e.g. in some cases, fisheries regulations exist for protecting these sites and in these cases, Eastern IFCA monitors compliance.

### 3. **Engagement and Education**

As provided by the Regulation and Compliance Strategy the primary approach is to encourage compliance with regulation. This is best achieved through engagement with the fishing industry to provide clarity on regulation and to assist compliance through education and the sharing of best practice. Engagement is also important in developing and maintaining strong and constructive relationships with both the commercial and recreational fishing sectors.

### 4. **Information, Intelligence and Evidence Gathering**

Information, intelligence and evidence are key to Eastern IFCA's approach to fisheries management, regulation and compliance. Fisheries involve people, vessels, fish and markets, all of which are dynamic (e.g. people are compliant or non-compliant; vessels move; the emergence of fish is highly dependent on the environment; and markets go up or down). Understanding these factors is essential to Eastern IFCA's ability to operate effectively. The distinction between information, intelligence and evidence in this context is important:

Information takes many forms, but it includes local knowledge, anecdotal information and information gleaned from any source that may be of relevance to fisheries management. The dynamic nature of the marine environment means that fishing activity will vary from year to year and this form of evidence gathering is crucial to being reactive to changes in a dynamic inshore fisheries sector and it can help to inform compliance activities in the short term. It may also indicate gaps in our current data or evidence base and be used to direct further investigation.

Intelligence relates primarily to enforcement and is information that has been evaluated to assess provenance and reliability to make informed use of it in compliance and enforcement activity.

Evidence in this context relates to quantifiable information that can be used to support fisheries management and regulation. This will include fisheries data, which is quantitative evidence gathered in such a way as to understand its confidence. For example, quantities landed and fishing effort. Generally, evidence is not used to support short-term responses to dynamic changes, but it informs the strategic management of fisheries and their regulations. This form of data is of crucial importance to designing and assessing the suitability of management measures.

## 5. Inspection

An important element in ensuring compliance with sea fisheries regulations is undertaking inspections (e.g. measuring catch and inspecting fishing gear) both at sea and ashore in ports, harbour, creeks and beaches. Such inspections are risk based and the objective is to operate a proportionate regime that achieves the right balance between achieving compliance and managing the regulatory burden on commercial fishers and the level of intervention into the activities of recreational fishers.

Not only do inspections provide confirmation of compliance or evidence of transgression but they also enable engagement and education and the opportunity to gather intelligence and information.

Eastern IFCA works in partnership with the Marine Management Organisation and the Environment Agency as well as other organisations. As such, evidence is collected and passed onto partner organisations for offences which are not necessarily enforceable by Eastern IFCA (e.g. quota restrictions).

## 6. Enforcement

Whilst the primary objective is to achieve compliance through engagement and education there will be occasions where it is appropriate to undertake operations to identify offending and to apply sanctions to deter, punish and remove any benefit from non-compliance in line with the Enforcement Policy. Operations and investigations can take many forms, but the key elements are to employ appropriate tactics to identify offending; to secure and gather evidence; and to prepare case files to support the appropriate sanction.

## Partnership Working

Whilst Eastern IFCA are responsible for managing the fisheries out to six miles at sea there are some shared and complimentary areas of responsibility with both the Marine Management Organisation (MMO) and the Environment Agency (EA). Not only is co-ordination of effort between organisations important for stakeholders it also provides opportunities for sharing resources and reducing workloads.

Therefore, partnership working, particularly with the MMO, is a key element of Eastern IFCA's approach to achieving compliance. Key mechanisms to achieve this are set out below:

- **Attendance at TCG:** MMO officers attend the monthly Eastern IFCA TCG and *vice versa*. This enables shared priorities to be identified and information relevant to determining such to be shared.
- **Attendance at Operational meetings:** As with the above, attendance at operation meetings is undertaken to ensure that opportunities to share resources are identified and actioned.
- **Shared intelligence:** IFCA's and the MMO pool intelligence so as to ensure relevant information can be actioned by the relevant body. Officers from either organisation will gather intelligence relevant to the MMO, IFCA or other partner organisation.

This collaborative approach has resulted in more efficient deployment of officers to undertake inspections and an increased pool of information from which operational, tactical and strategic decisions can be made. Further collaboration is planned over the next financial year to include standardisation of approaches, training and sharing best practice. Moving forward Eastern IFCA will continue to develop partnerships to further enhance working relationships between the Border Force, local police and Broads Authority.

### Objectives

Whilst the method employed to deploy resources via the TCG process (ante) means that it is necessary to retain the ability to be flexible, it is appropriate to set benchmark objectives for some activities to ensure that resources are not unintentionally directed toward one fishery or area. This includes the potential to surge and draw-back on levels of activity on a seasonal and risk-based approach. It is also appropriate to have an established intention in relation to vessel sea time to provide a high-profile presence as a minimum and to enable other compliance activities.

**Table 1. Seaborne Compliance Activity**

Objective	Quantity	Comments
Sea patrol days (primary enforcement)	50+	50 dedicated enforcement sea patrols to establish high profile visual deterrent to non-compliance. The impact of sea-borne patrols is augmented through the use of social media to emphasise presence across the district. This objective in the context of a balanced and proportionate approach to compliance where the intention is not to over-burden fishers unnecessarily. (as set out in the Regulation and Compliance strategy).
Sea patrol days (secondary enforcement)	40+	In addition to the above dedicated enforcement patrols, IFCOs function as crew aboard research and survey activities at sea. The level of activity is not driven by enforcement priorities however IFCOs still perform enforcement functions (monitoring, engagement etc.) and activity will be reprioritised to focus on compliance where necessary.

**Monitor MPA closed areas** 100% All areas closed under the Marine Protected Areas Byelaw 2016 will be monitored throughout the year on a risk-based approach managed via the TCG.

**Table 2. Shore Based Compliance Activity**

Objective	Quantity	Comments
<b>Port visits</b>	1 x per month (min)	High profile visible presence augmented through the use of social media. A minimum level of effort ensures intelligence gathering and fishing trends monitoring is undertaken evenly across the district in the absence of risk-based drivers.
<b>Monitoring MPA closed areas</b>	1 x per month (min)	All areas closed under the Marine Protected Areas Byelaw 2018 will be monitored throughout the year on a risk-based approach managed via the TCG.
<b>Officers to engage with the owner/skipper of all vessels which have recently entered the district</b>	100%	Engagement and education to ensure that persons unfamiliar with the district are aware of the relevant restrictions and regulations.

**Table 3. Partnership Working**

Objective	Quantity	Comments
<b>Attendance at MMO Area TCG meeting</b>	100%	Monthly meetings that provide the opportunity to harmonise activity and plan joint work.
<b>Joint patrols/inspections/operations with the Marine Management Organisation</b>	24 (min)	Joint patrols represent a resource saving enabling greater coverage of the district.

## Indicators

To understand resource usage and outcomes it is necessary to capture data that will provide indicators on activity and performance. Reporting metrics are set through the National Inshore Marine Enforcement Group (NIMEG) which will also be reported through the Annual Report. This information is used to assess the effectiveness of enforcement actions, the spread of our activities and to identify any gaps.

<b>Table 4. NIMEG reporting metrics</b>		
Category	Metric	Detail required
Inspections at sea	Vessel patrols	Count any patrol by a patrol vessel or survey vessel (mother/daughter boat combination counts as one patrol)
	Fishing vessel boarding	Count fishing vessels (including unregistered/unlicensed) inspected at sea, where boarding was in pursuit of any relevant duty
	Fishing gear inspections	Count store-pots, tiers/strings etc of fishing gear found deployed in the sea, where inspection was in pursuit of any relevant duty. Do not count gear inspected on board a vessel

Inspections ashore or in port	Shore patrols	Excursion/visit of any length to any part of the coast for an inspection or observation of fishing related activity
	Port visits	Individual port/cove/beach visits within a shore patrol
	Premises inspections	Markets, merchants, refrigerated units, retailers, food producers/outlets etc
	Fish/shellfish landing inspections	First-hand observations of fish/shellfish as it was landed ashore from a vessel. Do not count inspections of fish laid out on a market or in a storage facility unless the landing of that fish was observed
	Other inspections	Count vessel gear/fish checks in port/ashore, diver and shore angler catches, vehicle contents, shellfish on lay areas etc

Eastern IFCA collects additional information to help inform our progress with the targets set out above. These are set out below.

#### Partnership Working

- Attendance at MMO TCG meetings
- Joint patrols/inspections/operations with the MMO
- Joint Patrols and collaboration with Border Force, Norfolk, and Lincolnshire Police, Environment Agency and Broads Authority

#### Enforcement

- Verbal warnings
- Advisory letters
- Official written warnings
- Financial Administrative Penalties
- Prosecutions

## **Appendix 5**

### **Eastern IFCA Communication and Engagement Plan 2021-22**

#### The importance of communication and engagement

Effective communication and engagement are essential to fulfilling our duties under MaCAA effectively. The three key objectives of communication and engagement are:

- Transparency and clarity to build trust with stakeholders;
- Educate stakeholders to aid compliance with management measures by improving an understanding of the importance of these measures;
- Draw on the expertise and local knowledge of stakeholders to inform management decisions.

#### Focus in 2021-22

Two key factors influence the plan for this financial year:

#### **COVID-19**

The Authority's officers have over the years built a rapport with fishery stakeholders in particular with in-person visits to quaysides, processing factories, markets and other premises – face to face dialogue has always been the most effective method for engagement. The emergence of the global pandemic and the introduction of social distancing measures and 'lockdowns' necessitated changes to how we engage. In particular, the situation has precluded in-person meetings and workshops which had become a favoured method for seeking views of stakeholders. The key risk being that consultation is less effective as stakeholders find it difficult to engage in unfamiliar ways.

#### **Timescales to deliver key workstreams**

The Authority has a significant workload with pressing deadlines. In particular, the replacement of the Wash Fishery Order 1992 and protection of the Cromer Shoal Marine Conservation Zone require significant dialogue with industry. The Authority is also progressing more 'business as usual' engagement for management measures including revised whelk and shrimp permit conditions.

Planned engagement in relation to the above was delayed in the 2020-21 financial year as a result of the COVID-19 situation which has compounded the issue of pending deadlines. This has led to a situation where there is a significant amount of engagement needed within a short space of time. The key risk being that a large volume of consultation with industry can lead to 'consultation fatigue' whereby stakeholders disengage and / or become disoriented, making the feedback less productive and reducing the likelihood of stakeholder involvement.

The focus for the coming period seeks to deliver the required engagement during the period and mitigate as much as possible against the identified risks. This will be achieved in the following ways:

### **Utilising multiple formats**

The Authority recognises that stakeholders have varying preferences for communication and seeks to engage using all available media (letters, emails, telephones, website, and social media).

Typically, though, there is still a reliance on meetings / workshops with larger groups which is not as feasible in the current circumstances. Internet conferencing facilities (such as Zoom and Microsoft Teams) replicate the meeting environment to but are still a relatively new format to many stakeholders which can lead to lower levels of uptake and less effective meetings. To remedy this, additional support is provided to those who do wish to get involved and alternatives (typically one-to-one phone calls) are offered to those who are unable to use this facility.

### **Planning**

To mitigate over-burdening stakeholders, the consultations will be planned to take place at the most effective times, minimising overlap between consultation and taking into account fishery seasonality where possible.

In addition, stakeholders will be informed of these timings in advance, providing clarity to avoid confusion between consultations.

### **Clear and transparent communication**

The matters for consultation often have complex legislative and scientific detail. However, engagement material should not reflect this and will be the largest representation of the pertinent facts and key consideration to help stakeholders provide feedback. Consultation summaries will be provided on up to two sides of A4 and further information will be available for stakeholders who would like it.

### **Seeking input into each stage of development**

The Authority invests a significant amount of time into dialogue with industry which goes above and beyond that which is 'required'. That is because it is of benefit to the workstreams, particularly when developing management measures, as the intricacies of the local situation can be better reflected. It also increases stakeholders' investment in the outcomes, improving understanding of our intentions and improving compliance with any resultant measures.

### **Informed by Community Voice Method**

The Authority invested in The Common Ground project in 2016 to identify what our stakeholders' value about our coastal environment. The project used novel engagement techniques (Community Voice Method) to give an equal voice to a wider range of invested stakeholders. Through the application of this technique, the project

was able to identify key actions to improve engagement between Eastern IFCA and our stakeholders<sup>2</sup>.

Table 1 shows how the key actions are addressed within communication and engagement work.

<b>Table 1 Engagement plan actions</b>	
<b>Action</b>	<b>Rationale</b>
Maintain and improve a professional and up-to-date website. With regularly updated content (2 new news items per month)	CVM participants highlighted the need for regular effective communication of news and updates which they have a vested interest in, therefore the focus is to have regular updates and news items and this will be reflected in project planning.
Social media sites to be regularly updated; use social media posts in conjunction with website updates, to deliver key updates to the community	<p>Social media will be used to 'add value' to content published on the website. This will include posting links to the website, adding photos and engaging/having dialogue with partner organisations to improve visibility and reach.</p> <p>Officers will include social media updates into their weekly plans to ensure platforms are updated with the required frequency. The required frequency will be one social media update per team per week. In addition to posting updates, officers will use available analytical tools to assess and improve on successful posts and engagement.</p>
Engagement with key stakeholders around consultations	This year a high number of consultations are planned. Both with groups that are regularly consulted with and those that are not. Therefore, additional work (on top of resource that is usually invested on getting meaningful engagement) will be completed to learn the preferences of these new groups. Specific improvements planned are:

<sup>2</sup> <https://wnnmp.co.uk/wp-content/uploads/sites/29/2017/12/Common-Ground-final-report.pdf>

	<ul style="list-style-type: none"> <li>• Immediate feedback/dialogue with disparate stakeholders so that views/opinions can be included in a meaningful way.</li> <li>• Follow up calls/visits to individuals who may have not involved themselves with initial consultation but may have a view/opinion they want to express.</li> <li>• During consultation periods deploy properly briefed and equipped staff (through the TCG process) to gather information and views.</li> </ul>
Establish working groups on key fisheries issues	To facilitate engagement with key stakeholders, Eastern IFCA will set up working groups, with representative stakeholders, to ensure that they have input during the regulatory process. Working groups will be established for key regulation projects throughout the year, where a need is identified.
Maintain the stakeholder database	Maintaining an up-to-date stakeholder database is crucial to stakeholder engagement. Some of the most important messages are still passed on to fishers through personal engagement or through letter. Whilst Eastern IFCA aims to promote electronic engagement with stakeholders, fair and comprehensive engagement can only be achieved through utilising all available tools.
Key engagement messages reflected in officer duties	The Marine Protection Team utilise monthly risk profiles to set priorities both in enforcement and engagement at the TCG meeting each month. Given the level of exposure IFCOs get with stakeholders (particularly fishers), the utilisation of IFCOs to deliver key messages represents a key mechanism for engagement. Guidance for IFCO's documents to be produced for each consultation so officers are aware of key messages to communicate. All officers to utilise established message system to log stakeholder comments centrally.
Review outputs of CVM to inform and develop how the organisation engages and communicates with stakeholders	The CVM project provides some information and data explaining stakeholder preference regarding engagement and communication. This information will be retained and further reviewed to inform future activities.

Joint work with partner organisations	<p>Officers are often approached to join in with partner organisation events (e.g. Eastern IFCA attendance at Suffolk Coastal Forum conference). These events have been some of the most successful we have attended as they use a lower amount of resource for the organisation and coordination, have a promotional effect and allow closer links and working relationships with key partners. It is also a key action highlighted by CVM. Where possible officers will identify and participate in such events, to add value to the ongoing engagement and communication themes, and as such preference will be given to events that link with ongoing consultations and will work with social media streams.</p>
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### 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



## Action Item 10

### Eastern Inshore Fisheries and Conservation Authority Meeting

10 March 2021

#### Wash Fishery Order Replacement

**Report by:** Julian Gregory, CEO

#### **Purpose of Report**

To update members on key concerns from fishing industry members about replacing the Wash Fishery Order with a Byelaw, to provide responses to those concerns and to propose a way forward in developing policies associated with managing access to the Wash cockle and mussel fisheries.

#### **Recommendations**

It is recommended that members:

- **Note** the content of the report;
- **Agree** to the Overall Policy Objective for the replacement of the Wash Fishery Order 1992 as set out in the report;
- **Agree** to the proposed approach to engaging with industry in reviewing the management of access to the fishery and developing a new management regime, including the adoption of an Aim and Objectives to guide this work;
- **Agree** in principle and subject to further research by officers and consultation, that access to the cockle and mussel fisheries in the Wash will be restricted to a finite number of primary permit holders, notwithstanding that there may be provision for modest increases for new entrants or other agreed purposes;
- **Agree** in principle and subject to further research by officers and consultation, that business continuity, including the principle that permits will be issued annually to those that meet the eligibility criteria, will be prioritised when developing policies under the proposed Wash Cockle and Mussel Byelaw 2021;

#### **Background**

The Sea Fisheries (Shellfish) Act 1967<sup>3</sup> (hereafter the 'Shellfish Act') makes provision for the Minister to grant the right of regulated and several (i.e. private) fisheries by way of making an Order. Eastern Sea Fisheries Joint Committee (as

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<sup>3</sup> [Sea Fisheries \(Shellfish\) Act 1967](#)

was) made application for such an Order which would grant both the right of a regulated and several fisheries in 1987. The Wash Fishery Order 1992<sup>4</sup> (WFO) came into force on the 4<sup>th</sup> of January 1993. The rights established under the WFO were transferred from the Joint Committee to Eastern IFCA by way of transitional and saving provisions<sup>5</sup> in 2011.

The WFO enables the Authority to manage specified public shellfish fisheries (i.e. cockles, mussels, clams, scallops, queens and oysters) as a regulated fishery including through prohibiting access without a licence issued by the Authority and setting restrictions and regulations. The WFO also enables the Authority to administer private aquaculture in The Wash as a several fishery (i.e. 'the lays').

Orders made under the Shellfish Act can apply for a maximum of 60 years, though it is more common that Regulating Orders are made for 20 to 30 years. The WFO was made to have effect for only 30 years and as such it expires on the 3<sup>rd</sup> January 2023.

Under the WFO 1992 persons were entitled to apply for an annual licence if they had been active participants in the commercial fishery prior to the implementation of the Order, and to subsequent annual licences so long as they held one within the previous 24 months (Wash Fishery Order 1992 section 8(8a) and (8b)). This entitlement provides the security of continued access to the fishery. The use of the term 'entitlement' has been and continues to be used interchangeably with 'licence' informally and formally in policy and dialogue with industry. 'Entitlement holders' refers to persons who hold a licence in the fishery. Entitlement holders may also nominate a representative on their licence to fish on their behalf. The conditions of entitlement are directly relevant to the Order and therefore expire along with the expiration of the Order in 2023. However, where reasonable, prioritising the legitimate continuation of current businesses is critical to the development of the new Byelaw. The detail of how the Byelaw will provide the security of continued access to the fishery, principally using eligibility criteria and permit conditions, is subject to ongoing consultation with industry.

At the 39<sup>th</sup> meeting of the full Authority held on 11<sup>th</sup> March 2020 members agreed to replace the regulated fishery element of the WFO with a byelaw based permit scheme and to replace the several fishery element of the WFO with a new several Order under the Shellfish Act.

The decision was based upon detailed analysis of the provisions of the Shellfish Act and the WFO, and IFCA byelaw making powers under the Marine and Coastal Access Act 2009. This concluded that the latter could be used to effectively manage the fisheries in much the same way as an Order but would provide more flexibility to the Authority.

The decision was taken in the knowledge that there had been strong representation from existing WFO 'entitlement holders' not to replace the WFO with a Byelaw but, instead, to extend the WFO or to apply for a new Regulating Order.

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<sup>4</sup> [The Wash Fishery Order 1992](#)

<sup>5</sup> [The Marine and Coastal Access Act 2009 \(Transitional and Savings Provisions\) Order 2011](#)

## Report

Since the decision was taken to manage the Wash cockle and mussel fisheries under a Byelaw upon expiry of the WFO, there has been considerable discussion and correspondence with industry members in response to and mitigation of their concerns. This has not reached a successful conclusion and opposition has grown to the extent that a solicitor has been employed to represent the majority of current WFO 'entitlement holders.' More recently, complaints have been made, which have been copied to our three funding authorities, Defra and the MMO. There has also been engagement with national and local politicians, which resulted in the Chair and CEO participating in a meeting with local MPs and District Councillors from Boston, together with some industry members to discuss and address concerns expressed by existing WFO 1992 'entitlement holders.'

It is understandable that existing 'entitlement holders' will be concerned that there may be a risk of losing something that they currently have exclusive access to. However, given the expiry of the WFO 1992 it is incumbent on the Authority to review the management regime to ensure that it will be equitable and fit for purpose into the future.

Consultation to review the WFO as it expires would necessarily take place irrespective of whether a Byelaw or an Order (including extending the existing Order) were used to replace the WFO 1992. Such consultation should include those that do not currently have access to participate in the fishery.

Continued concern regarding the use of a Byelaw to replace the WFO has, unfortunately, impeded constructive dialogue with industry. However, engagement through correspondence, meetings and informal consultation on the proposed Aim and Objectives to guide the development of policies (post) has resulted in a good understanding of the primary concerns expressed by current 'entitlement holders.' The key issues are reflected at Appendix A together with responses to each of them. It should be noted that there is some duplication with Appendix B, but the key points are replicated for ease of reference.

Engagement is a crucial element in developing management measures and constructive dialogue with fishery stakeholders is likely to lead to more effective measures that are better equipped to address the realities of the situation. Cognisant of the level of concern from industry and the gravity of the workstream which is the replacement of the WFO, engagement with the industry has been carefully structured and the proposed approach is summarised below.

### Dual approach

The byelaw to replace the WFO is intended to be a flexible tool for managing the fishery, enabling the Authority to introduce, vary and revoke management measures in a manner consistent with our approach to annual fisheries management under the WFO. Established management measures (for example, the vessel length restriction) and licence fees are intended to be carried over having been recently reviewed. The proposed byelaw is at Agenda item 11 and if approved will be the subject of formal consultation and dialogue with industry and further review by the Authority before the final version is sent for approval by Defra.

Access to fisheries is managed by policies and eligibility criteria introduced under the byelaw, rather than being within the byelaw itself. This is, for the most part, in

keeping with the WFO itself although, whilst the Order does provide details of those initially entitled to a licence and how that entitlement could continue, this is still subject to provisions<sup>6</sup> that enable the Authority to increase or reduce the number of licences issued. Because of the potential longevity of a byelaw it would not be appropriate to include permit 'entitlements' on the face of the byelaw itself because it is important for the Authority to have the ability to revise this as circumstances change over time. This will ultimately be of overall benefit to industry.

In recognition of the time that it can take for a byelaw to be implemented, which can be up to two years, work to develop the wording of the byelaw is being undertaken in parallel with work to review and replace measures for managing access to the fishery.

This approach was adopted for the Shrimp Permit Byelaw 2018 and this being possible is, perhaps, an illustration of the suitability of the byelaw for review and revision where necessary.

It is proposed that this dual approach is guided by an overall Policy Objective which is set out below.

*To replace the Wash Fishery Order 1992 with a contemporary management regime to manage cockle and mussel fisheries in The Wash that:*

- *Facilitates the conservation objectives of The Wash and stock sustainability*
- *Enables access to the fishery that is equitable*
- *Supports the viability of varying business models*
- *Provides appropriate safeguards for fishing industry members, including business continuity*
- *Provides flexibility and agility for the Authority in effectively discharging its duties*
- *Provides an appropriate degree of consistency with other fisheries management throughout the District*

This Policy Objective is intended to encompass all aspects of managing the cockle and mussel fisheries including the byelaw provisions, restrictions and management of the access to the fishery. It is recommended that members approve the overall policy objective to provide clarity to stakeholders and guide officers in developing the measures required to achieve it.

#### *Reviewing and renewing management of access*

Under the WFO, access to the fishery is managed primarily through policies. These have been under review for several years. In 2017, a partial review of the 2008 management policies was undertaken which resulted in the implementation of interim policies that year. The intent of these policies was to modernise the language to contemporary standards and formalise an existing moratorium that prevented the acquisition of lays, and licences by those without an Entitlement unless in exceptional circumstances. The 2017 interim policies were intended to be temporary in advance of a full review and Members directed Officers to review the policies,

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<sup>6</sup> Sections 8(50 and 8(6) Wash Fishery Order 1992

including via consultation with industry (Action Item 14c, 27<sup>th</sup> Eastern IFCA meeting, 15<sup>th</sup> February 2017).

It was intended that engagement with industry in relation to reviewing the policies would commence in early 2020 with industry meetings, however, the COVID-19 pandemic and associated social contact restrictions necessitated a revision of the plan. An outline of the revised approach is as follows:

1. Develop an Aim and Objectives to guide the development of policies on access to the fisheries. The aim and objectives (below) set out an aspirational framework for the fishery in terms of managing access. They are also intended to reflect the obligations to fairness and transparency incumbent on us as a public Authority.

The draft **aim** for management of access to the fisheries:

*'To achieve a level of access to the fishery that is equitable, and which supports the viability of varying business models, the conservation objectives of The Wash and stock sustainability.'*

The draft **objectives** for management of access to the fisheries:

- i. To limit access to the fishery to a number of persons which will meet the aim
- ii. To provide clarity and transparency to support effective business planning and continuity
- iii. To enable a range of legitimate business arrangements that are compatible with known business models operating within the fishery
- iv. To prioritise the continuity of active participants and business models that can provide evidence for best practice and legitimate business practices
- v. To facilitate new entrants into the fishery by enabling appropriate turnover and infrastructure to log suitability to enter the fishery
- vi. To cater for standard business practices and issues which arise in operating within the fishing industry (such as vessel breakdowns and replacements)
- vii. To prevent the permit from having its own value or becoming a tradable commodity

In developing a draft **aim** and **objectives** the concerns of industry, as understood from dialogue and our experience with the WFO, were taken into account. They were discussed at the Fisheries and Conservation Management Working Group (F&CMWG) in October 2020 before going out to fishery stakeholders for their views. The outcomes of this consultation are set out in the report entitled *Wash Fishery Order replacement, Informal Consultation December 2020: outcome* at Appendix B and will be used to finalise the draft Aim and Objectives to guide the development of measures to manage access to the fishery.

2. Develop draft policies for managing access to the fishery. The agreed aim and objectives will guide the proposed detail of how access would be managed,

and it will be an iterative process involving dialogue with industry, including the Solicitor representing the majority of current 'entitlement holders' and involvement of the F&CMWG. Ultimately a draft will be provided to fishery stakeholders for comment.

3. Independent Economic Assessment – in parallel to step 2, an economic assessment of the WFO fisheries (cockles and mussels) has been commissioned. The assessment is intended to inform policy development with insight into; the resilience of the different business models of The Wash, the interdependencies between the WFO fisheries and other fisheries prosecuted by Wash fishermen and ultimately to inform on the appropriate level of access the Wash can sustain from a socio-economic perspective.
4. Agree measures to manage access. Taking into account the feedback from industry consultation and the economic assessment, a set of policies and eligibility criteria will be further refined and presented to the Authority for agreement. Once agreed, these will be formally consulted on.

The overall objective is to provide opportunity for stakeholder involvement in the development of the measures to a greater degree than would ordinarily be the case, recognising the historically collaborative development of management of the Wash fisheries and the importance of considering the perspective and expertise of our stakeholders.

It is acknowledged that a perceived lack of clarity about the Authority's intentions are of major concern to existing 'entitlement holders' and there is a strong desire for some guarantees to be provided quickly. However, no firm commitments can be made until all views have been reasonably heard and considered against our duties. The aim and objectives were intended, in part at least, to mitigate these frustrations through providing a direction of travel but it is acknowledged that they do not provide the detail necessary on individual policies to provide firm assurances.

#### Addressing Key Concerns

Whilst our approach has been to not discount any outcome to consultation, limiting access to the cockle and mussel fisheries in The Wash and enabling business continuity are likely to be necessary.

Restricting access to the fisheries reflects that they are comparatively easily accessed. No specialised equipment is needed (for a hand-work fishery) and the Authority provides the location and density of target species on charts (which reduces the need to an extent for expert knowledge and experience within the fishery). In addition, it is known that there is significant drive for additional access to the fishery (as per the waiting list). Given also that the fishery is managed via a total allowable catch (i.e. a finite resource), an open access system would likely result in socio-economic impacts on those who access it as the proportion of the resource diminishes. That should be balanced against the legitimate concern from those who are disadvantaged by not currently having access to the fisheries. This will be further understood via consultation, and our duties as a public authority (for example, in relation to guidance from the Competition and Markets Authority) are to be clarified via further research.

Business continuity is acknowledged to be of critical importance to industry viability and in particular, certainty in being able to take out a permit each year. Whilst there are likely to be caveats to this, as is currently the case under the WFO 1992, there is a clear case for providing surety to those that meet the eligibility criteria for a permit.

In order to help address these two key concerns it is proposed that the following are agreed by Members in principle, but subject to further research by officers and consultation:

- That access to the cockle and mussel fisheries in the Wash will be restricted to a finite number of primary permit holders, notwithstanding that there may be provision for modest increases for new entrants or other agreed purposes.
- That business continuity, including the principle of permits ordinarily being issued annually to those that meet the eligibility criteria, will be prioritised when developing policies under the proposed Wash Cockle and Mussel Byelaw 2021.

These commitments in principle are intended to provide some degree of surety to existing 'entitlement holders' whilst still enabling appropriate consideration of alternative perspectives that may arise during consultations. It is hoped that this will move the relationship with industry towards a more constructive place, so that meaningful dialogue on the contents of the new management measures can begin in earnest.

#### Next steps

The next step is to finalise the Aim and set of Objectives in light of feedback from the informal consultation so that these can be used to provide a foundation upon which to develop the measures to manage access to the fishery. These effectively establish that this review of access to the fishery is not intended to negatively impact on business models currently operating within the Wash, but rather to seek a fair and equitable system for access to the fishery.

In parallel, it is intended that formal consultation on the byelaw is undertaken, subject to a decision by members in that regard (at Action Item 11).

#### **Financial Implications**

Financial implications associated with replacement of the Wash Fishery Order relate primarily to officer time and the cost of legal advice. The cost of the Economic Assessment has been approved by the Finance & HR sub-committee and is accounted for in budget planning.

#### **Legal Implications**

There is the potential for challenge by way of judicial review, but this is mitigated by the Authority having followed its standard procedures and legal advice confirming that consultation was not required on the decision to replace the WFO 1992 with a byelaw. Legal advice also confirms that because the WFO 1992 was always time limited there is no legitimate expectation that any benefits derived from the Order will continue beyond its expiry. The last point is made only to clarify the legal position and does not reflect the way forward proposed in this paper.

## **Conclusion**

The key issues raised by current 'entitlement holders' have been given careful consideration and there does not appear to be anything new that was either not considered in the original analysis that underpinned the decision to use a byelaw, or that materially calls that decision into question.

However, the understandable concerns of current 'entitlement holders' about the potential for changes to management that may represent a potential risk to business continuity are understood.

With this in mind the proposed approach is intended to take those concerns into account by providing assurance that provisions will be made, through policy, eligibility criteria and permit conditions, to ensure reasonable business continuity while also outlining that review of current management is required irrespective of legislative decisions (as agreed in 2017).

By establishing an Aim and Objectives as guiding principles it can be seen that legitimate concerns will be considered but importantly, that they enable consideration of the fishery in the round and can reflect the perspective of those who are currently excluded from access to the fishery in their own right. Such perspectives are often underrepresented and at risk of being overlooked. This will ensure that the future management of the fishery is equitable and sustainable into the future.

The proposed Byelaw is at agenda item 11 and this has been the subject of information gathering, including informal consultation with industry, and will be the subject of formal consultation when it is 'made' by the Authority.

## **Appendices**

Appendix A - Current 'Entitlement Holders' Key Points

Appendix B - Wash Fishery Order 1992 Replacement - Informal Consultation

December 2020: Outcome

## **Background Documents**

Minutes and associated papers from the 27<sup>th</sup> Eastern IFCA meeting, held on 15<sup>th</sup> February 2017

Minutes and associated papers from the 39<sup>th</sup> Eastern IFCA meeting held on 11<sup>th</sup> March 2020

## Appendix A

<b>Current 'Entitlement Holders' Key Points</b>	
<b>Issue</b>	<b>Explanation</b>
<p>Eastern IFCA should have consulted on what the replacement for the WFO 1992 should be.</p>	<p>Because the choice of 'legal mechanism' to replace the WFO 1992 was not considered to be of any detriment to industry and was seen as a matter for the Authority it was not the subject of consultation. Subsequent to this being queried by industry, officers sought legal advice, which confirmed that consultation was not required.</p> <p>It is noted that some industry members feel very strongly that they should have been consulted but this is, perhaps, a moot point because there was effectively a de facto consultation because officers have been open about the potential to use a Byelaw to replace the WFO 1992 and as a consequence industry representatives wrote to object to the proposal. This was brought to the attention of Authority members when considering the issue and making their decision.</p>
<p>The WFO 1992 should be extended or replaced with a new Order with the same provisions</p>	<p>The Wash Fishery Order 1992 expires after its 30-year term in January 2023 and therefore must be replaced. Any replacement, be it another Order or a Byelaw, would involve a review because much has changed in fisheries activity and management since 1992. This does not necessarily imply that there will be wholesale change, but some degree of change is likely, and it is appropriate that the management of the fishery is reviewed.</p> <p>Within Action Item 10, (39<sup>th</sup> Eastern IFCA meeting, 11 March 2020), it was reported that Defra had advised that Regulating Orders were not being extended; this was on the basis of personal correspondence with the Defra lead officer for Several and Regulating Orders.</p> <p>The same officer later clarified that, although this was based on a recent rejection of an extension to an order, this was not a general Defra policy but that, whilst Orders may be extended, it was unlikely that this would be the case without amendment to</p>

	<p>the wording because fisheries management has changed since the Orders had been in place. Therefore, it is likely that the wording would have to be reviewed and changed as in the case of proposing a new Order in any case.</p> <p>The Defra officer further advised that the process for extending an Order was the same as for replacing it with a new Order and crucially, because an order grants access to the fishery at the exclusion of others, consultation is required.</p> <p>Therefore, whilst the position of Defra has been revised, this revision would not have changed the recommendation of officers as, the extension of the WFO would have been regarded as having the same benefits and drawbacks of replacing it with a new Order.</p>
<p>The WFO 1992 should not be replaced with a Byelaw</p>	<p>When the WFO1992 was introduced Sea Fisheries Committees (SFCs) had Byelaw making powers under the Sea Fisheries (Regulation) Act 1966 that were more restricted than is currently the case. Therefore, the use of a Regulating Order under the Sea Fisheries (Shellfish) Act 1967 was favoured as it provided the advantages of more flexibility compared with powers under the 1966 Act. The 1967 Act allowed the ESFJC to make regulations which could, to an extent, be altered and tailored more easily than a Byelaw and covered a slightly wider range of regulatory powers than a Byelaw.</p> <p>However, under the Marine and Coastal Access Act 2009 IFCA's have a much wider remit than the SFCs and their ability to manage fisheries is increased because of the range of specific provisions for which they can make Byelaws. In particular, so-called 'flexible Byelaws' are able to provide rules for a fishery and also provide a procedure by which the IFCA can review and alter the functioning of the Byelaw, without having to remake the whole Byelaw. It provides a more flexible approach and allows the IFCA to be more "fleet of foot" in terms of reacting to changes and pressures on the fishery over time.</p>
<p>An Order provides more rights and protections for fishermen than a Byelaw</p>	<p>Legal advice was sought on this point.</p>

	<p>The advice is clear that there are no differences. The new byelaw-making powers and the flexible nature of the byelaws are in effect a replacement for the provisions of the 1967 Act so far as IFCA's are concerned. Any stakeholder who wishes to challenge the operation of the Byelaw by the IFCA has the same suite of options available to it as under an Order, those being, consultation and participation in the Byelaw making process, and the ability to challenge by way of judicial review, or through the criminal courts if prosecuted for an infringement.</p> <p>The advice suggests that it could be argued that under the provisions contained in Byelaws for the review of flexible byelaw conditions, which are prescriptive, there is more opportunity to challenge than under an Order. It is clear that there are certainly no less powers and rights for stakeholders, and arguably there are more under a Byelaw compared to an Order.</p> <p>It could be said that the WFO provides certainty with regard to being able to hold a licence, but this is not something that would necessarily be replicated in a new Regulating Order because that is counter to the flexibility that will enable the Authority to effect change over time, should it be necessary. It is envisaged that the policies developed under the Byelaw will provide clarity for industry members.</p>
<p>A permit system could create more loopholes and legal challenges for Eastern IFCA.</p>	<p>Legal advice was sought on this point.</p> <p>The advice is clear that any stakeholder who wishes to challenge the operation of a Byelaw has the same suite of options available to them as under an Order. The rights of the individual are no different as between the two methods of management.</p> <p>Therefore, there is no additional capacity for challenge under a Byelaw than there is already under an Order.</p> <p>Final wording of the Byelaw will be the subject of scrutiny to mitigate the risk of creating any unintended loopholes or consequences.</p>

<p>Fisheries Orders provide protection against conservation objectives.</p>	<p>Legal advice was sought on this point.</p> <p>Wherever possible the Authority will seek to balance conservation objectives with the ongoing sustainability and viability of industry, but an Order does not provide protection against environmental conservation measures.</p> <p>Eastern IFCA is a "public body", and consequently a "competent authority" for the purposes of reg. 7 of the Conservation of Habitats and Species Regulations 2017/1012. As a result we are under a duty to comply with reg. 9 of the 2017 regulations and to exercise our functions so as to secure compliance with the Directives. This obligation is confirmed in the guidance issued to IFCA's under section 153 of MACA 2009.</p> <p>As a grantee of an Order we would still be bound by these statutory requirements in exercising our functions as grantee because reg.9(2)(j) of the 2017 Regulations refers to functions exercised by a competent authority under the "Sea Fisheries Acts", which includes the Sea Fisheries (Shellfish) Act 1967.</p> <p>Similarly, under section 154 of the Marine and Coastal Access Act, the conservation duties of an IFCA must sometimes take precedence over fisheries management.</p> <p>It is relevant to note that our management of the Wash cockle and mussel fisheries already accounts for conservation issues and if it did not the fisheries would not be able to take place.</p>
<p>A Permit Byelaw will result in unrestricted access to the fisheries</p>	<p>A Byelaw will enable the Authority to restrict the number of permits that are issued, effectively creating the ability to replicate the 'entitlement' system under the WFO 1992 if that is what is decided to be appropriate. It should be noted that the WFO contains a provision that enables the Authority to issue licences, subject to any directions given by the Minister, in such numbers and to such persons, as the Committee may determine and as such is access to the fishery not restricted to existing 'entitlement holders' by the WFO 1992.</p>

<p>A Permit Byelaw will not guarantee that a permit will be issued every year</p>	<p>A Byelaw will enable the Authority to include permits being issued year on year in the eligibility criteria. A concern remains that the Authority could decide not to issue a number of permits in any year, but this provision currently exists. Whilst the WFO 1992 does state that licences will continue to be issued to individuals as long as one is taken out every 24 months, it also provides that subject to any directions given by the Minister, licences may be issued in ‘...such numbers and to such persons as the Authority determines...’ and in any year, following consultation the Authority ‘...may place a limitation on the number of licences issued in any one year having particular regard to scientific advice on the desirability of limiting the level of exploitation.’</p>
<p>A Regulating Order is more permanent than a Byelaw</p>	<p>An Order will be for a specified period, which is likely to be for decades, so it does provide a degree of certainty for industry members. A Byelaw must be reviewed, with the maximum period between reviews being six years. A review does not mean that the Byelaw expires and is effectively a check to ensure that it is still necessary and is fit for purpose and any changes would only be made if they were necessary. It is suggested that the latter is more appropriate as it ensures that regulation remains current and up to date and in theory at least, a Byelaw could remain in place in perpetuity. The proposed Byelaw at Agenda item 11 would facilitate this because important provisions such as eligibility criteria for a permit will be capable of revision under a process set out in the byelaw.</p>
<p>A Byelaw will put unlimited control in the hands of Eastern IFCA, which in practice means the Chair and CEO.</p>	<p>The Marine and Coastal Access Act 2009 established IFCA and provided the tools to manage inshore fisheries at local level, so it could be said that using a Byelaw to manage the Wash fisheries in the same way that it manages any other fishery is entirely consistent with this.</p> <p>There is a perception amongst some industry members that the CEO and Chair of the Authority effectively take most decisions. The basis for this appears to be that the majority of recommendations made by officers are agreed by the Authority. This</p>

	perception is not accurate and is, perhaps, indicative of an under appreciation of the level of work that underpins recommendations and the checks and balances provided by Defra guidance and the Constitution and Standing Orders.
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## Appendix B

# Wash Fishery Order 1992 Replacement

## Informal Consultation December 2020: Outcome



This document presents the outcome to the informal consultation on the proposed aim and objectives for the future management of access to bivalve fisheries in The Wash. This consultation ran from 5<sup>th</sup> November to 18<sup>th</sup> December 2020.

This work was part of the early stages of the development of the new Byelaw that will replace the current management of the Wash Fishery Order 1992, when it expires in January 2023.

### We asked

We consulted on our proposed aim and objectives for managing access to bivalve fisheries in The Wash. Under a management mechanism (a Byelaw or an Order) access to fisheries is managed by policies, eligibility criteria (who is eligible for a permit to fish) and permit conditions (restrictions on fishing activity). Our purpose was to establish a broad aim and set of objectives for management, together with stakeholders, as a framework to develop the new measures to manage access to the fishery.

We asked for views on our proposed **aim** for management of the fisheries:

*‘To achieve a level of access to the fishery that is equitable, and which supports the viability of varying business models, the conservation objectives of The Wash and stock sustainability.’*

We also asked for views on our proposed **objectives** for management of the fisheries:

1. To limit access to the fishery to a number of persons which will meet the aim
2. To provide clarity and transparency to support effective business planning and continuity
3. To enable a range of legitimate business arrangements that are compatible with known business models operating within the fishery
4. To prioritise the continuity of active participants and business models that can provide evidence for best practice and legitimate business practices
5. To facilitate new entrants into the fishery by enabling appropriate turnover and infrastructure to log suitability to enter the fishery
6. To cater for standard business practices and issues which arise in operating within the fishing industry (such as vessel breakdowns and replacements)
7. To prevent the permit from having its own value or becoming a tradable commodity

## You said and our response

58 responses to the consultation were received from stakeholders, 50 of these were duplicated responses, or signatories to the duplicated response, written in representation of their clients by a solicitor. Some stakeholders represented by the solicitor also additionally provided a more detailed response to the consultation.

The responses included comments and questions that were about the aim and objectives that were the subject of this consultation. We also received comments about the replacement of the Order with a Byelaw more broadly and whilst this was not the purpose of the consultation we have, nonetheless, responded to the points raised. Read what was said and our responses in the table below.

The following summarised key points from responses are highlighted:

You Said	Our Response
<p>Security needs to be given to fishermen about future access, this needs to involve stable tenure of licences that support the vessels and crews throughout the year. Due to their insecurity, permit Byelaws cause more economic disruption for fishermen. Security also includes being able to pass licences on to close family to preserve traditions within communities.</p>	<p>This concern has emerged as a priority for industry throughout the consultation. In simple terms a permit Byelaw is able to provide the same degree of security as an Order if that is what we agree to do. We recognise the critical importance of providing economic and other securities and the impact that uncertainty has on the livelihoods and wellbeing of our stakeholders. We also recognise and celebrate the fisheries importance socially and economically across the generations of fishermen that The Wash has supported. We agree that it is important to maintain this into the future and this is reflected in objective 2 for the new management policies.</p> <p>Any security provided under the WFO 1992, such as being able to pass licences to close relatives, is contained in policies that were developed in consultation with industry by the ESFJC, rather than being written into the Order itself. Therefore, there is no additional protections or securities provided to industry that cannot be replicated under a Byelaw.</p> <p>Following the outcome of this consultation officers will draft a set of proposed policies and permit conditions. These will be able to be scrutinised by</p>

	industry in consultation later this year (2021).
Eastern IFCA should reconsider Objective 3 – it is unacceptable for Eastern IFCA to specify what types of business practices are legitimate, and it makes unnecessary speculations of industry.	<p>We will revisit the wording of this objective.</p> <p>The intention of this objective was to emphasise the current prohibitive effect of the WFO policies on enabling what would, in non-fisheries circumstances, be legitimate business models, such as shared ownership or partners. The difficulty facing the Authority in designating 'legitimacy' and thereby illegitimacy is acknowledged and will be reflected upon.</p>
Eastern IFCA should reconsider objective 3 and 7, which are in contradiction of each other. If individuals can partner with another on a licence, and retire from the partnership, Eastern IFCA would be enabling the sale of licences that it seeks to prevent.	<p>The aim and objectives are intended as a set of principles that will guide the development of policies for management of the fisheries. It is acknowledged that some may be contradictory, and it was intended that feedback would help establish what elements to prioritise, for example, if there a preference to enable passing on of access over and above preventing access from being a 'tradable commodity'?</p> <p>These issues will be reflected upon.</p>
Eastern IFCA should reconsider objective 6. This objective is not necessary and creates the potential for abuse and dishonesty. The maintenance of the vessel should be the responsibility of the skipper and vessel owner. Flexibility needs to be afforded by Eastern IFCA when issues arise, but this needs to be on a case-by-case basis.	<p>This objective relates to a flexible response to issues that arise as a matter of course within the fishing industry. The WFO and associated policies have been prohibitive at times and this objective seeks to establish, so far as may be possible, a desire to enable such practices where appropriate. The associated policy or eligibility criteria would seek to enable flexibility but remove opportunity for abuse and dishonesty.</p>
<p>Allowing new entrants to the fishery will shorten the fishing season with the risk of losing skilled crew members.</p> <p>New entrants to the fishery, if they are allowed under the Byelaw, will have high overheads that require increased</p>	<p>It is an essential part of fisheries sustainability that it is possible for new entrants to enter the fishery in some capacity. It is recognised however that, within the Wash bivalve fisheries, this would benefit from being balanced with restrictions on the number of permits to</p>

<p>fishing effort. This could have an impact on the stocks and environment.</p>	<p>also ensure the sustainability and viability of the fisheries as a whole.</p> <p>It is therefore not considered accurate that new entrants will inevitably lead to shorter seasons, or increased effort and we will seek to ensure that this does not happen. The appropriate level of access, from an industry viability perspective, will be informed by the economic assessment of the fishery that has been commissioned by the Authority.</p>
<p>New entrants have access to the fishery by buying shares in a vessel.</p> <p>New entrants to the fisheries should be supported, those who demonstrate experience should be given access</p>	<p>It is understood that while buying shares in a vessel can provide a way for some to access the fishery, there is little certainty or realistic timescale or availability to have their own permit. The degree to which this provides equitable access is a subject of consideration as part of this review and consultation. This is largely due to the failure of current policy in reallocating licences.</p> <p>As is evident in the second of these points, members of industry have also represented that financial barriers to access, such as buying shares in a vessel, can itself lead to economic insecurity due to lack of access to legitimate lenders to be able to establish their own business. The intention is to enable equitable access to the fishery for active fishermen, within the required parameters that will ensure that the fishery remains viable.</p>
<p>New entrants should be prioritised to local fishermen with experience in The Wash and with the relevant safety training.</p>	<p>It is not considered appropriate to allocate fishing opportunities on the basis of a vessels home port and it is, perhaps, relevant to note that this is specifically mentioned in s.23(4) of the Fisheries Act 2020.</p> <p>We do, though, acknowledge the importance of supporting local economies and communities.</p> <p>The Wash is a complex and environmentally sensitive site to navigate and fish in and we recognise this by requiring a degree of experience before</p>

	<p>being able to be a named representative on a cockle WFO licence.</p> <p>We are seeking to develop a more formalised and robust approach to this in all Wash fisheries to ensure that experience as a Wash fisherman is a pre-requisite to having a permit allocated.</p> <p>It is important to ensure that these requirements do not disadvantage fishermen working at a smaller scale and, as the policies and permit conditions are developed industry will have opportunities to share their views.</p>
<p>Eastern IFCA should not be solely responsible for determining who is eligible to enter the fishery – local fishing associations should be involved.</p>	<p>Whilst we recognise the role of fishing associations in assisting with knowledge of track record, it is important that decisions on the allocation of permits are both independent and objective. Such decisions will be informed by policies that will be developed in consultation with industry, but any decisions on the allocation of permits must ultimately rest with the Authority.</p>
<p>Eastern IFCA has licences available that it could issue.</p>	<p>There is a moratorium on the issuing of new licences which was put in place some time ago. The original objective was to manage the number of licences down to what was thought to be a sustainable level and of late, it was not considered desirable to increase the number of licences prior to the review of management of the fishery that expiry of the WFO1992 would bring about. Importantly, the economic assessment will inform on the appropriate limit on access to the fishery.</p>
<p>Permits should be issued to the fishermen rather than the vessel. There should only be one permit per person.</p>	<p>To whom the permit is issued will be considered further and will be subject to further consultation with industry as draft policies are prepared.</p>
<p>Permits should not be transferrable or have value under any circumstances.</p>	<p>As outlined in objective 7, we recognise the importance of continuing to prevent permits from having value or being</p>

	<p>transferrable, as is currently the case under the WFO1992.</p> <p>This does however need to be balanced against enabling normal business practices. The contradictory nature of these elements is acknowledged and the feedback from the consultation will help inform how best to prioritise these objectives.</p>
<p>The current licence system provides progression to gradual retirement for fishermen, providing them with income from the use of their licence by family members in later years.</p>	<p>It is understood that there are some members of the fishery for whom their licence is considered as part of their retirement. It is also understood that this practice is not supported by all members of industry, with some considering that the holding of licences beyond active participation restricts the involvement of new fishermen as licences are returned and re-issued. This issue will be considered as replacement policies are developed.</p>
<p>Eastern IFCA needs to spend more time considering the needs of all the different business models in The Wash and balance the needs of smaller scale businesses with larger businesses.</p>	<p>We recognise the need to meet the requirements of all fishing activity in the Wash, at all scales, and this will be a consideration in the development of policies.</p>
<p>The Wash Fishery Order should not be changed; it should be given credit for what it has achieved. If it is to be replaced it should only be adjusted, rather changed completely. Changes to fisheries management can end up with the same issues or worse in a new system. Eastern IFCA needs to make clearer to industry why a permit Byelaw would be better than an Order.</p>	<p>The Wash Fishery Order 1992 expires after its 30-year term in January 2023 and therefore must be replaced. Any replacement, be it another Order or a Byelaw, would involve a review because much has changed in fisheries activity and management since 1992 and because we must take into account the views of those presently denied access to the fishery.</p> <p>When the WFO1992 was introduced Sea Fisheries Committees (SFCs) had Byelaw making powers under the Sea Fisheries (Regulation) Act 1966 that were more restricted than is currently the case. Therefore, the use of a Regulating Order under the 1967 Shellfish Act was an attractive prospect as it provided the advantages of more flexibility compared with powers under</p>

	<p>the 1966 Act. The 1967 Act allowed the ESFJC to make regulations which could, to an extent, be altered and tailored more than a Byelaw, and covered a slightly wider range of regulatory powers than a Byelaw.</p> <p>However, under the Marine and Coastal Access Act 2009, IFCAs have a much wider remit than the SFCs and their ability to manage fisheries is increased because of the range of specific provisions for which they can make Byelaws. In particular, so called 'permit Byelaws' are able to provide rules for a fishery and also provide a procedure by which the IFCA can review and alter measures, without having to remake the whole Byelaw. It provides a more flexible approach and allows the IFCA to be more "fleet of foot" in terms of reacting to changes and pressures on the fishery.</p> <p>A byelaw would provide consistency for fisheries management throughout the district, enhancing transparency. In addition, whilst byelaws require review at least every six years, they do not expire (as does an Order) and are more readily amended (albeit via consultation and with the consent of the Secretary of State) to suit the needs of a fishery at any given time.</p> <p>The aims and objectives of the Regulating Order can now be achieved just as well under the Authority's modern powers pursuant to the 2009 Act, and it is for these reasons that the Authority decided to replace the Order with a Byelaw.</p> <p>We agree that while adjustments are required, it is not necessary to change all aspects of the current management regime under the new Permit Byelaw. It is also noteworthy that the Authority directed Officers to review the policies which underpin access to the fishery prior to the decision to use a byelaw mechanism in the context that the</p>
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	<p>current system (under the WFO) had flaws and limitations, not least those highlighted by the industry. With this in mind the revised WFO 1992 regulations will be incorporated in the Byelaw and the Fisheries Management Plans, which are a significant contributory factor in the success of the fisheries, will remain in place.</p> <p>We also recognise the challenges in making changes to fisheries management regimes and we will seek to avoid introducing new problems.</p>
<p>Eastern IFCA has delayed the application of an Order and now there may be insufficient time remaining.</p>	<p>The Authority carefully considered the matter and decided to replace the Order with a Byelaw. As such there has been no delay in applying for an Order because it is not intended to do so.</p> <p>The Byelaw process can take time to progress through the MMO and Defra, and with this in mind it is intended to make the Byelaw as soon as possible to avoid any gap upon expiry of the WFO 1992.</p> <p>Discussions on the policies, eligibility criteria and permit conditions that will sit under the Byelaw will be continued in the coming months.</p>
<p>If the Several Order managing the mussel lays is being renewed, so too should the Regulating Order.</p>	<p>There is no other management mechanism that can suitably recreate the management of the lays under the Several Order, therefore the Authority is pursuing a replacement Several Order for the lays. Under this Several Order, as with the regulated fishery, the policies and lease conditions will be guided to the same aim and objectives as are agreed here.</p>
<p>A permit system could create more loopholes and legal challenges for Eastern IFCA.</p>	<p>Due to this concern being raised during industry meetings, we sought legal advice as to whether this would be the case.</p> <p>That advice is clear that any stakeholder who wishes to challenge the operation of a Byelaw has the same suite of options available to them as under an Order.</p>

	<p>The rights of the individual are no different as between the two methods of management.</p> <p>Therefore, there is no additional capacity for challenge under a Byelaw than there is already under an Order.</p>
<p>Fisheries Orders provide protection against conservation objectives pushed by government and wealthy businesses; these protections are being further eroded by permit schemes.</p>	<p>Wherever possible the Authority will seek to balance conservation objectives with the ongoing sustainability and viability of industry, as written in to our <a href="#">vision statement</a> , but an Order does not provide protection against environmental conservation measures.</p> <p>Eastern IFCA is a "public body", and consequently a "competent authority" for the purposes of reg. 7 of the Conservation of Habitats and Species Regulations 2017/1012. As a result we are under a duty to comply with reg. 9 of the 2017 regulations and to exercise our functions so as to secure compliance with the Directives. This obligation is confirmed in the guidance issued to IFCA's under section 153 of MACA 2009.</p> <p>As a grantee of an Order we would still be bound by these statutory requirements in exercising our functions as grantee because reg.9(2)(j) of the 2017 Regulations refers to functions exercised by a competent authority under the "Sea Fisheries Acts", which includes the Sea Fisheries Shellfish Act 1967.</p> <p>Similarly, under section 154 of the Marine and Coastal Access Act, the conservation duties of an IFCA must sometimes take precedence over fisheries management.</p> <p>It is relevant to note that our management of the Wash cockle and mussel fisheries already accounts for conservation issues and if it did not the fisheries would not be able to take place.</p>
<p>An Order provides more rights and protections for fishermen than a Byelaw</p>	<p>In order to address concerns expressed during meetings, legal advice was also sought on this point.</p>

	<p>The advice is clear that there are no differences. The new byelaw making powers and the flexible nature of the byelaws are in effect a replacement for the provisions of the 1967 Act so far as IFCA's are concerned. Any stakeholder who wishes to challenge the operation of the Byelaw by the IFCA has the same suite of options available to it as under an Order, those being, consultation and participation in the Byelaw making process, and the ability to challenge by way of judicial review, or though the criminal courts if prosecuted for an infringement.</p> <p>The advice suggests that it could be argued that under the provisions contained in Byelaws for the review of flexible byelaw conditions, which are prescriptive, there is more opportunity to challenge than under an Order. It is clear that there are certainly no less powers and rights for stakeholders, and arguably there are more under a Byelaw compared to an Order because a Byelaw specifies a requirement to consult with stakeholders and take into account the impacts of any the associated measures.</p>
<p>Eastern IFCA should increase communication with industry, through ongoing meetings, more regular updates, or an email newsletter.</p>	<p>As we have acknowledged in objective 2, we understand the importance of ongoing communication with industry and will seek to continue to prioritise this in future work. We welcome any suggestions from industry on how to improve our communication in this regard.</p> <p>The development of a newsletter is planned and there is now the option to subscribe to a mailing list on the front page of our website.</p> <p>As industry are aware and have accommodated, we have adapted to new ways of working at Eastern IFCA because of the Covid-19 pandemic—such as hosting meetings online that would otherwise have been attended in person. We hope to resume in-person meetings when the circumstances allow.</p>

	Until that time we will utilise technology available to us to ensure that communication is maintained.
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Further comments and observations were made in response to the consultation and [brief responses](#) are provided:

- Industry requires more certainty on the policies and permit conditions before the permit Byelaw can be considered as a viable option for management.
  - [We understand this but we are unable to provide certainty at this stage because to do so would invalidate the consultation process on the aim and objectives for the fishery. We are optimistic that when we get to the stage of providing draft policies many of the concerns of industry will be allayed. It should be noted that the same review of policies would be taking place if a replacement Order were being pursued.](#)
- The economic assessment that Eastern IFCA is undertaking to better understand the economic viability of the fishery, that will help to inform the number of licences the fishery can support, is not relevant as an assessment of the fishery was conducted 10 years ago and recommended that the number of licences be reduced.
  - [The previous assessment referred to was undertaken by a consultancy named Marinx and was not an economic assessment but was instead a review of cockle and mussel policies. It did refer to issues associated with 'sleeping licences' and the desirability of reducing these in the context of developing the fishery but no specific number was recommended. A new economic assessment will provide up to date information to help inform decisions.](#)
- The wording of the aim and several objectives should be revisited for clarification and purpose.
  - [The purpose of this consultation was to seek views on the aim and objectives, and they will be reviewed in light of the consultation responses.](#)
- Support should be prioritised to active fishermen, from whose support processors and shore-based businesses will benefit. To support the latter over the former is often the outcome attained at the expense of the fishermen themselves.
  - [As previously outlined, it is important that we consider all business models operating in the fishery and seek to achieve the right balance.](#)
- The CEO suggested that access to the fishery could be decided by drawing lots. This suggests that Eastern IFCA is not aware of the implications.
  - [The CEO did not suggest that this would be a viable option but said it during a discussion on management options with industry members, in order to highlight the challenges involved if the number of permits were](#)

to vary in line with the TAC each year. This context has not been reflected and as such the CEO has been misquoted.

- If the Order is not to be renewed it is accepted that it would be probably possible to produce a Byelaw or set of Byelaws which replicate accurately the full effect of the WFO, however these should be able to be scrutinised by industry.
  - We are in agreement that a Byelaw can provide what a Regulating Order can provide. We also agree that industry should be consulted on the Byelaw and associated policies.

## Outcome

As documented in the table above, we reviewed all responses to the consultation and will undertake the following:

- Review the wording of the aim and objectives for clarity and purpose.
- Use the better formed understanding of industry priorities learned through this consultation to inform the development of the new policies and permit criteria.
- Continue to consult with industry on the policies, the Byelaw, and the Several Order for the lays, as they are developed.
- To seek to improve communication with industry, prioritising prompt responses and clear discussion.
- To mitigate the current uncertainty felt by fishermen by prioritising the security and continuity of fishing activity in The Wash through the development of the new policies and Byelaw.

## Next Steps

The Authority will seek to make the Byelaw at its meeting on 10<sup>th</sup> March 2021 and the views expressed by industry will be considered in this process. As discussed in this consultation, the key elements relating to access to the fisheries will be addressed in policies, eligibility criteria and permit conditions that will sit under the Byelaw. These are being consulted on separately to the consultation on the making of the Byelaw. As such, the Byelaw making process does not need to be delayed, reducing any risk of a gap when the WFO expires, and dialogue can continue to seek appropriate solutions.

The development of the Several Order to manage the lays will also be progressed in the coming months and external consultants will be talking to industry as part of the economic assessment of the Wash fisheries that has been commissioned by the Authority.

We recognise the burden that this amount of consultation places on industry. Your continued engagement is critical to the development of a Byelaw and associated policies that will best suit the needs of industry. Thank you for your engagement with this work so far.

You can find out more about the ongoing work of reviewing and replacing the Wash Fishery Order 1992 and future consultation work, for this Byelaw and other ongoing management work in our district, on our website: [www.eastern-ifca.gov.uk](http://www.eastern-ifca.gov.uk)

### 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



## Action Item 11

### Eastern Inshore Fisheries and Conservation Authority Meeting

10 March 2021

#### Wash Cockle and Mussel Byelaw 2021

**Report by:** Luke Godwin (Senior IFCA – Regulation)

#### **Purpose of Report**

The purpose of this report is to present the Wash Cockle and Mussel Byelaw 2021 and the associated justification and seek agreement to make the byelaw.

#### **Recommendations**

It is recommended that members:

- **Note** the contents of the report, including the justification for making the byelaw, the identified impacts on stakeholders and the feedback received from such stakeholders.
- **Agree** to make the Wash Cockle and Mussel Byelaw 2021.
- **Direct** Officers to undertake formal consultation on the byelaw and to present the results and any recommended changes to the Byelaw at a subsequent Authority meeting.

#### **Background**

The background to this paper is reflected in Action Item 10 (Wash Fishery Order Replacement).

#### **Report**

The Wash Cockle and Mussel Byelaw is at Appendix 1. Please note, the byelaw proposed at Appendix 1 has been amended compared to the version provided via the notification of intention to make a byelaw (sent 24<sup>th</sup> of February 2021).

Amendments are highlighted within the report below and include changes recommended as a result of feedback from industry.

#### Justification for the Byelaw

The molluscan bivalve fisheries of The Wash, which have been only cockle and mussel fisheries for over a decade, are of high economic importance, particularly in their local context, and occur within a heavily designated Marine Protected Area (MPA). The Authority undertakes annual Habitat Regulation Assessments, as part of

our obligation to protect site integrity from the impacts of fishing activity. These assessments identify a continual need to implement management measures to mitigate risks to the MPAs, including in relation to ensuring stock sustainability.

The risk posed by the fishing activity to the MPAs of The Wash, and to the sustainability of stocks leads to the need for a regulatory approach. Non-regulatory measures are not considered to adequately mitigate risks to the site and a “do nothing” option is similarly not considered appropriate.

With regards to the most appropriate legal mechanism to replace the Wash Fishery Order 1992 (WFO), this was the subject of a decision by members at the 39<sup>th</sup> Eastern IFCA meeting (11<sup>th</sup> March 2020, Action Item 10). In summary, a byelaw is the preferred method as it reflects the most contemporary and appropriate legislative tool, noting that the Marine and Coastal Access Act 2009 (MaCAA) provides powers for IFCAs to manage inshore fisheries. The proposed Byelaw will provide consistency with management throughout the District and is capable of delivering the same manner of management as an Order but with the added benefit of affording more flexibility and enabling the Authority to be more responsive to change over time.

#### Policy Objectives and intended outcomes

The proposed Byelaw is intended to replace the Order and has been drafted to enable management of the fishery in a manner consistent with the established cockle and mussel fisheries management plans<sup>7</sup>.

The proposed Byelaw is intended to have the following effects in pursuance of achieving the intended outcome (above):

- Prohibit access to cockle and mussel fisheries within the Wash without a permit;
- Enable the Authority to limit and manage access (using eligibility criteria), having consulted with impacted stakeholders and taken into account the impacts of such restrictions, so as to balance the needs of MPAs, stock sustainability and viability in inshore fishing interests;
- To cancel a permit where a person is convicted of an offence under the Byelaw or accepted a Fixed Administrative Penalty for the same (N.B. the period that the cancellation has effect is determined by permit conditions);

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<sup>7</sup> For mussels: [https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO\\_Shellfish\\_management\\_policies\\_2008.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO_Shellfish_management_policies_2008.pdf) and for cockles: [https://www.eastern-ifca.gov.uk/wp-content/uploads/2019/07/2019\\_07\\_WFO\\_cockle\\_fishery\\_management\\_plan\\_draft1.3.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2019/07/2019_07_WFO_cockle_fishery_management_plan_draft1.3.pdf)

- Charge a fee for issuing permits to recover approximately fifty percent of the costs to the Authority for administering the permit scheme, which is in accordance with current practice under the WFO;
- Enable the Authority to flexibly manage the fishery by introducing, varying or revoking operating times (i.e. the times fishing is permitted), measures introduced as permit conditions, and the opening and closing of fisheries, following consultation with industry and consideration of the impacts of such, so as to balance the needs of MPAs, stock sustainability and viability in inshore fishing interests;
- Require catch returns for the fishery so as to gather data at a spatial resolution to enable the effective management of cockles and mussels in The Wash and at a frequency which enables dynamic management of the fishery;
- Prohibition on using any fishing gear unless it has been certified by the Authority;
- To implement established management measures currently in place within the fisheries under the WFO including:
  - Vessel length limitation of 14 metres with an exemption for those with established track record of operating within the fishery with a vessel greater than 14 metres;
  - Daily catch restrictions;
  - Mussel dredge restriction (number of dredges and width of opening);
  - Requirement that any catch sorted is returned immediately to the sea or seabed;
  - Prohibition on transshipping catch;
  - Requirement to land catch after it is removed from the fishery (save for that returned as a result of sorting);
  - Restricting on fishing for cockles or mussels if these have been removed from any other fishery during the same calendar day;
  - Requirements to land catch within bags of a specified size;

- Restriction on using an anchor in the process of ‘prop-washing’ and requirement to redistribute any cockles (or mussels) disturbed using this method after the daily quota has been removed;
- Restriction on the size of any tender carried aboard or towed by a vessel operating within the fishery.
- To amend other Eastern IFCA byelaws which make reference to the Wash Fishery Order and to reflect the use of this Byelaw to manage the associated cockle and mussel fisheries

The proposed Byelaw is not intended to apply within the area of the le Strange Estate (within The Wash) or to persons collecting five kilograms or less of cockles or mussels from The Wash for recreational purposes.

The intended effects of each provision are set out in further detail in the description documents at Appendix 2.

### Key provisions

For the most part, the provisions of the proposed Byelaw reflect those within the Wash Restricted Area Byelaw 2019 and are intended to enable management of cockle and mussel fisheries in a manner consistent with the WFO.

Some provisions reflect a deviation from the situation under the WFO and these are described below.

#### *Applicable fisheries*

The proposed Byelaw relates only to hand-work cockle fisheries and dredge or hand-work mussel fisheries.

Whilst the WFO applied to a wider range of species, none of these other fisheries have existed in the past decade or more. The cockle fishery is the mainstay for the WFO licence holders whilst mussel fisheries have declined, with only ‘relaying’ fisheries being available in recent years (where juvenile mussel is taken and relayed). The proposed Byelaw considers these species in isolation as a reflection of their importance.

It is intended that a separate byelaw is made which would enable management of any other bivalve fishery in The Wash or elsewhere in the District.

#### *Issuing of permits*

The proposed Byelaw enables the Authority to issue permits (paragraphs 2 and 3), to set a limit on the number of permits it may issue (paragraph 14) and to set eligibility criteria for a permit (paragraph 21). Any limit on the number of permits or the introduction, variation, or revocation of eligibility criteria are subject to consultation and the Authority must take into account any impacts which arise as a result of these measures. These are the same provisions

which exist within the Whelk Permit Byelaw 2016 and the Shrimp Permit Byelaw 2019.

There are two main differences with the provisions in the proposed Byelaw compared to under the WFO. The first, is that neither limiting the number of permits nor the setting of eligibility criteria requires the Authority to notify the Minister or act in accordance with any direction in that regard. Modern byelaw making powers extend to providing the Authority with decision making powers on both matters, albeit subject to consultation with stakeholders likely to be impacted.

The second key difference is that there is no 'entitlement' to further permits written into the proposed Byelaw, whereas such is written within the WFO itself. It is important to note that the 'entitlement' provision within the Order is subject to any limit placed on the number of licences, which can be lower than the number of 'entitlements'. 'Entitlement' under the order is also subject to the provision which removes the 'entitlement' following a conviction of two offences within 24 months.

The 'entitlement' provision has not been included within the proposed Byelaw. This is to enable the Authority to use the discretion provided by byelaws under MaCAA to use eligibility criteria to manage access as best suits the fishery over time. Eligibility criteria could, in practice, replicate the effect of the "entitlement" in any case, if that is found to be the most effective way to manage access. Crucially, using eligibility criteria would provide the Authority the ability to be fleet of foot and flexible into the future – because eligibility criteria can be reviewed more easily than could an entitlement provision within the byelaw.

It is the 'entitlement' provision within the WFO which enables circumvention of the current limit on the issuing of licences<sup>8</sup>. It ties the Authority's hands with regards to issuing a licence where a vessel changes into the legal ownership of a licence holder (i.e. renting out of licences) and enables others to retain the licence after they have ceased fishing so as to draw an income from others using the licence. Officers' review of access to the fishery, which we are required to undertake on expiry of the WFO regardless of the mechanism which replaces it (including an extension), seeks to find the most equitable system. However, conditions change over time and any system relevant now may well be less relevant in the future and so flexibility is considered beneficial.

By way of example, at the Statutory meeting of the Joint Committee (as was) of the 29<sup>th</sup> of January 2003, a review of the provision of licence entitlements for 24 months was considered following concerns raised by industry following allegations that resulted in the forfeiture of a licence entitlement. At this time, it was considered whether the 24-month holding period of an entitlement should

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<sup>8</sup> Via the interim policies - [https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/2017\\_02\\_15\\_WFO\\_Interim\\_Policy.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/2017_02_15_WFO_Interim_Policy.pdf)

be reduced to 12 months. Ultimately, following direction from Defra on the issue, it was concluded that as this was written into the WFO itself the change could not be made without a full review of the WFO involving ministerial consent (to the effect of re-writing the whole order). This was a barrier that was not viable to overcome and therefore the change was not implemented, despite it being supported by the Authority and industry in the main. This is a clear example of where the inflexibility of a Regulating Order prevented legitimate adaptations to the betterment of the fishery. With a byelaw, should such an issue arise in the future, the flexibility of the legislation would enable the Authority to make effective decisions.

It is noteworthy that more modern Regulating Orders do not contain the entitlement provision. Examples include the Dee Estuary Cockle Fishery Order 2008, (which uses a 'points system' for allocating licences which is implemented under the discretion of the grantee) and the Fal Fishery Order 2016. Similarly, most IFCA byelaws do not contain a provision within the byelaw itself which provides for further permits to be issued.

In addition, given that a byelaw has no expiry date, inclusion of an 'entitlement' provision could potentially enable access to the fishery in perpetuity with potentially longer-term unintended consequences. As above, the Authority has in the past sought to vary its management of access to the fishery but has been unable to as a result of the 'entitlement' provision being written on the face of the legislation. Omitting the 'entitlement' provision seeks to provide the Authority with the flexibility it has sought in the past and will likely need in the future.

This is, however, a deviation from what has been the norm in The Wash cockle and mussel fisheries since the WFO came into effect and there is strong feeling amongst the industry that they would like to retain the sense of security provided by this provision (this is reflected in the recent informal consultation on the proposed Byelaw and as a result of ongoing dialogue with industry). However, even under the entitlement provision applied under the WFO, there has never been a 'guarantee' of further licences given that the Authority could reduce the number issued, as discussed above. If, under the WFO, a reduction in licences had been implemented it would then be at the Authority's discretion as to which Entitlements would be preserved; under which circumstances a process similar to eligibility criteria would be used. Instead, it has been as a result of the application of the Authority's *policy* to not to actively reduce the number of licences issued and to preserve 'entitlements' which has provided the sense of security for current entitlement holders. It is suggested that under the proposed Byelaw, this security can be provided via eligibility criteria and through the adoption of policy.

#### *Transferring permits*

The WFO does not make reference to the transfer of licences in the legislation itself; this issue is dealt with under the WFO policies.

The Byelaw contains a provision which enables the transfer of a permit using eligibility criteria. In this way it is more similar to the WFO than other permit

byelaws. This reflects the intention to enable normal business practices where this is possible. It is beneficial to enable this under flexible eligibility criteria as, ultimately, any measures may over time become less relevant or become exploitable.

#### *Cancelling permits*

Under the WFO, at the authority's discretion, a person may not be named on a licence if they have been convicted of an offence (under the WFO or any Eastern IFCA Byelaw) on two or more occasions within 24 months. The entitlement provision is subject to this provision. This would in effect permanently remove a person's ability to gain a licence, given the Authority's policy to only issue licences to those with an entitlement.

The associated provision in the proposed Byelaw would cancel a permit on a single offence in relation to the Byelaw (including in relation to offences in relation to officers e.g. obstruction under s.262 of MaCAA). The provision as originally proposed applied to the acceptance of a Financial Administrative penalty (FAP) in addition to the conviction by a court but this has been amended following the informal consultation (see below). This provision is intended to increase the deterrent effect of the provision compared to the Order. This reflects the high sensitivity of the site and that the Authority receives reports each year in relation to non-compliance within the fishery which is of understandable concern and frustration to the majority who are compliant. This is also in-keeping with the Authority's Enforcement Policy which seeks that "*no person 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*".

The length of time that this would prevent issue of further permits would be determined under eligibility criteria but is provisionally proposed to be 12 months subject to consultation. Whilst only a single offence is required to 'trigger' the provision, the impacts of the provision are lesser than the associated provision within the WFO because it would not prevent access back into the fishery thereafter.

In addition, the Authority's Enforcement Policy is clear that use of FAPs and prosecution is proportionate, and that compliance is sought through education and engagement in the vast majority of cases. Higher level enforcement actions are not frequent and typically reflect circumstances of multiple offences (where lower level enforcement actions have not resulted in compliance) or in cases of serious breaches.

#### *Two categories of permits*

The proposed byelaw enables the Authority to issue a permit for any one of the three fisheries (hand work cockle, hand work mussel, or dredge mussel fisheries) under two separate categories. It is intended that the Category One permit is the main permit issued to reflect the main fisheries.

A Category Two permit is included to enable the Authority to allow access to the fishery under a different set of rules and conditions if the situation presents itself. The intention is to enable flexibility in permit allocation into the future, a tool which was not available under the WFO. The need for flexibility has been highlighted in the dialogue with industry, with representation to the effect that our system of access should be able to accommodate different scales of activity or to be available to stakeholders operating smaller scale businesses who require less frequent, but nonetheless consistent, access to the fishery to suit their business activity.

Such could also include, for example, allowing a limited number of limited Category Two permits to be issued as a way of eventually gaining access to the main fishery (under a Category One permit).

Ultimately, recommendations on its use (including that it is not used) would be made after further consultation with fishery stakeholders on the matter and the consideration of the implication of the permit on industry viability, stocks and the MPAs of The Wash.

#### *Prohibition on fishing where catch returns are in arrears*

A provision is included which prohibits fishing where permit holders are notified that they are two weeks in arrears with catch returns and that such have not been received by the Authority within seven days of such notice.

No such provision is included within the WFO and so this provision could create an additional burden to fishery stakeholders. However, it is considered to be appropriate to the level of risk posed by late catch returns, given that the fishery is managed via a Total Allowable Catch primarily via data provided by catch returns. Exceeding the Total Allowable Catch could result in impacts on site integrity and risk stock sustainability. Compliance with the requirement under the WFO is poor, with hundreds of days' worth of missing returns being commonplace. It is recommended that this provision will provide an extra deterrent and reduce the risk posed.

#### *Exemptions*

The proposed byelaw contains an exemption in relation to fishing within the le Strange Estate (as was the case under the WFO). However, reference to the spatial applicability of the byelaw reflects the ruling of the court with regard to the definition of the boundary, including how such may change with time, instead of referring to a fixed set of coordinates. This will enable the 'boundary' of the byelaw to alter in accordance with that ruling instead of needing revision, as was the case under the WFO.

In addition, the byelaw includes an exemption for small quantities of cockle and mussel to be removed by hand for recreational purposes. This was not provided within the WFO but is considered appropriate given the limited risk posed by the removal of small quantities. However, this is subject to a Habitats Regulation Assessment and agreement with Natural England.

### Feedback from informal consultation

The views of fishery stakeholders were sought via an informal consultation on the draft Byelaw provisions, which closed on 23<sup>rd</sup> February 2021. The consultation was intended to further inform a decision by members regarding the proposed byelaw, in addition to the feedback received as a result of dialogue since the decision to use a byelaw to replace the WFO on expiry.

20 responses were received to the consultation, representing the views of 31 stakeholders. Most of the views of the industry are represented by a letter drafted on their behalf by a solicitor. A response was received from the National Federation of Fishermen's Organisations.

The feedback received is set out in Appendix 3. The most substantive elements of the feedback are set out below.

#### *Use of a Regulating Order vs a Byelaw*

This issue is addressed in Action Item 10 but in summary, the use of a byelaw is the preferred method as it reflects the most contemporary and appropriate tool (noting that the byelaw making powers are provided under MaCAA for IFCA's to use to manage inshore fisheries). The byelaw will provide consistency with management throughout the district and is capable of managing the fisheries in the same manner as under an Order, but with the added benefit of affording more flexibility and enabling the Authority to be more responsive to change over time, as evidenced throughout this paper. In addition, where concerns were raised that a byelaw is less appropriate these have been either subject to further consideration (i.e. in addition to that presented in March 2020) and / or the subject of legal advice to confirm our understanding is correct. The concerns raised by industry have not identified any legitimate risk to the use of a byelaw and therefore have not given cause to change the recommendation of its use.

#### *Inclusion of an 'entitlement' provision*

There has been strong representation to the effect that current entitlement holders wish to retain the security provided by the 'entitlement' provision which is currently in the WFO. As discussed above, it is acknowledged that the byelaw itself will not provide the same level of guarantee for future access to the fishery as is written in to the WFO. Instead, security and business continuity is intended to be achieved, and prioritised, under the byelaw through eligibility criteria and policy (both of which can be revised at the discretion of the Authority). Indeed, the draft aim and objectives (Agenda Item 10) for managing access to the fishery include an objective to "*prioritise the continuity of active participants and business models that can provide evidence for best practice and legitimate business practices*".

That said, any policy will be the subject of consultation before being agreed and implemented by the Authority.

However, as above, modern Regulating Orders and most IFCA permit byelaws do not include an 'entitlement' provision. This enables the Authority

to exercise the discretion afforded to it under MaCAA to manage access to fisheries in a manner befitting the situation at a given time. It is intended that application of this discretion will enable equitable access to the fishery.

On balance, it is considered that omitting the 'entitlement' provision is the most appropriate option to enable the Authority to put into practice the most appropriate measures to manage access as may be the case at any given time and to avoid the issues which have arisen out of the same provision within the WFO.

#### *Flexibility in relation to eligibility criteria*

Feedback received highlights that, in addition to the omission of an 'entitlement' provision, the use of flexible eligibility criteria to determine access also creates a degree of uncertainty. Whilst flexibility and the ability of the Authority to exercise discretion is beneficial to the management of fisheries, the drawback in the view of the industry is that this hinders effective business planning.

As a reflection of this concern, the proposed provisions relating to use of eligibility criteria have been amended as follows:

- Use of the provision to introduce, vary or revoke eligibility criteria is limited to use by either the full Authority or an appropriately constituted sub-committee (paragraph 21);
- The process for introducing, varying or revoking eligibility criteria, or the review thereof, is set out in a separate schedule from other flexible measures (schedule 5); and
- The process sets out that consultation will last for at least for four weeks and will include written invitation to permit holders to contribute (Schedule 5).

It is hoped that these changes (compared to the version of the byelaw which was provided by way of notification of intention to make a byelaw) will increase clarity and transparency and having a standalone process (with a defined consultation period) reflects the importance of these and the potential for changes to impact industry.

It is further proposed that a stand-alone 'formal operating procedure', which is required under the associated schedule and details how the eligibility criteria will be reviewed, is developed which would again, reflect their importance.

#### *Cancellation of permits*

The consultation returned strong representation to the effect that the provision to cancel a permit after the acceptance of a FAP or on conviction of a single offence is disproportionate. The concerns about including acceptance of FAPs include a concern that this will increase the likelihood that those so offered would be less likely to accept a FAP, leading to an increase in prosecutions. While the intention of this provision is to increase the deterrent effect of the byelaw, on balance, it is considered that this is achieved by way of reference

to a single conviction by a court only (rather than two convictions in two years), and the reference to a FAP has been removed from the draft byelaw (amendment to paragraph 22).

As above, the wording of this provision varies from that within the WFO but overall, the impact on industry is regarded as less than the associated WFO provision.

Some feedback suggested that the provision of the WFO is retained, i.e. that on two offences within two years a licence is cancelled, whereas others have called for the matter to be left out entirely.

The intention of this provision is to increase the deterrent effect of the regulations, noting (as above) the sensitivity of the site to impacts from non-compliance. For these reasons, an increase in the deterrent effect of the measures is considered justifiable.

Please note that the byelaw at Appendix 1 includes three further changes (in addition to those referred to above) made subsequent to the Notification of Intention to make the Byelaw as follows:

- Paragraph 20 (as per the original version) – this made reference to the ability to set a maximum number of nominated representatives which can be named on a permit. This separate provision has been removed and instead, the ability to restrict this is added to the process for issuing, varying or revoking eligibility criteria for ease of reading;
- Paragraph 45 – addition to amendments section to amend Byelaw 3: Molluscan Shellfish Methods of Fishing to refer to a permit issued under the proposed byelaw and remove reference to the WFO (with the effect of making it apply within The Wash, except where a permit is issued under the Wash Cockle and Mussel Byelaw 2021); and
- Addition of a commencement provision (paragraph 46) such that the Byelaw does not come into effect prior to the expiry of the WFO.

### Impacts

A draft Impact Assessment is at Appendix 4.

The main monetised costs associated with the byelaw reflect the permit fee (impact on individuals/businesses) and the cost of administering the permit scheme (on the Authority).

The proposed permit fees reflect the revised licence fees agreed at the 35<sup>th</sup> Eastern IFCA meeting (Action Item 13, 30<sup>th</sup> January 2019). These fees seek to recover 50% of the costs to the Authority for the administering of the fisheries (including stock surveys, Habitat Regulation Assessments, administration and compliance costs).

The monetised costs to busines are not considered to risk busines continuity overall given that they reflect between an estimated 3.3 and 8.5% of the first sale value of the fishery. However, the results of the economic assessment commissioned by the Authority and the feedback from stakeholders during the formal consultation will be incorporated into the final Impact Assessment.

Key non-monetised costs relate to the introduction, variation or revocation of flexible management measures.

In addition, there would be an impact on individuals whose permit is cancelled as a result of non-compliance with the byelaw, if eligibility criteria are used to prevent a further licence being issued for a specified period of time. The scale of impact on an individual could be high in this circumstance, given that the level of reliance on the cockle fishery is generally high.

### **Financial Implications**

None identified

### **Legal Implications**

There is an inherent risk of challenge in making byelaws and this is mitigated through implementation of due process, as per Defra guidance and through well-informed, justifiable, and reasonable decisions. Given the strength of feeling surrounding this byelaw, there may be an increased likelihood of legal challenge from stakeholders.

For the avoidance of doubt, the ‘making’ of a byelaw is not the Authority’s final approval of the byelaw. It is acknowledged that the procedural term of a byelaw being ‘made’ by the Authority is often misunderstood by stakeholders a final decision. In fact, after being ‘made’ by the Authority, a byelaw is subject to formal consultation and it is commonplace for changes to be made to a byelaw (sometimes resulting in further, formal consultations) as part of the byelaw’s development and to take into account the feedback of that consultation prior to a final decision and submission for formal Quality Assurance by the MMO.

Members will be aware that there has been ongoing dialogue with industry regarding the eventual replacement of the WFO for several years, and over the last year engagement has focussed on the management of access to the fishery and the provisions of the byelaw. This is in keeping with Defra guidance to engage with industry when developing a byelaw even before it is ‘made’ and has informed the development of the byelaw.

As such, whilst there is potentially an increased likelihood of challenge, the risk that such challenge would be successful at this stage is no greater than would ordinarily be the case in the byelaw making process and has been mitigated through the adoption of due process and Defra guidance.

## **Conclusion**

On balance, having taken into account the feedback received by stakeholders and the identified impacts on them, it is recommended that members agree to make the Wash Cockle and Mussel Byelaw 2021 as at Appendix 1 and that officers are directed to undertake formal consultation on the wording of the byelaw and present this to the Authority at a subsequent meeting to take into account the representations received.

## **Appendices**

Appendix 1 – Draft Wash Cockle and Mussel Byelaw 2021

Appendix 2 – Description and intention: Draft Wash Cockle and Mussel Byelaw 2021

Appendix 3 – Feedback from informal consultation: Draft Wash Cockle and Mussel Byelaw 2021 provisions

Appendix 4 – Impact Assessment: Draft Wash Cockle and Mussel Byelaw 2021

## **Background Documents**

Minutes from the Statutory Meeting of Eastern Sea Fisheries Joint Committee on 29<sup>th</sup> January 2003

Minutes and associated papers from the 35<sup>th</sup> Eastern IFCA meeting held on 30<sup>th</sup> January 2019

Minutes and associated papers from the 39<sup>th</sup> Eastern IFCA meeting held on 11<sup>th</sup> March 2020

## Appendix 1 - Draft Wash Cockle and Mussel Byelaw 2021



**Eastern  
Inshore Fisheries and Conservation Authority**  
**MARINE AND COASTAL ACCESS ACT 2009 (c. 23)**  
**Wash Cockle and Mussel Byelaw 2021**

The Authority for the Eastern Inshore Fisheries and Conservation District in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009 (c.23) makes the following byelaw for the District.

### **Interpretation**

1. In this byelaw:
  - a) “the Authority” means the Eastern Inshore Fisheries and Conservation Authority as defined in Articles 2 and 4 of the Eastern Inshore Fisheries and Conservation Order 2010 (SI 2010/2189);
  - b) “the District” means the Eastern Inshore Fisheries and Conservation District as defined in Articles 2 and 3 of the Eastern Inshore Fisheries and Conservation Order 2010;
  - c) “fishery” means the description of a targeted set of cockles or mussels which includes reference to at least the species targeted, the fishing method used and a spatial description of the area targeted;
  - d) “person” means a natural person only;
  - e) “the le Strange Estate” means the area as defined in the judgement of Mr David Halpern QC sitting as a deputy High Court judge and handed

down by the High Court on the 27<sup>th</sup> July 2018 with the reference John Henry Loose -v- Lynn Shellfish and others: Neutral Citation Number:{2018] EWHC 1959(Ch);

- f) “permit” means a Category One or Category Two:
- i. a hand-work cockle permit;
  - ii. a hand-work mussel permit;
  - iii. a mussel dredge permit;
- Issued under paragraph 11 of this byelaw.
- g) “fishing” includes:
- i. “prop-washing” which is the practice of turning a vessel in tight circles to aid the removal of cockles;
  - ii. digging for bait;
  - iii. the shooting, setting, towing and hauling of fishing gear;
  - iv. gathering sea fisheries resources by hand or using a hand operated implement; and
  - v. catching, taking, transporting or removing sea fisheries resources;
- h) “The Wash” means the area set out in Schedule 3 (The Wash area);
- i) “fishing gear” means any nets, pots, ropes, anchors, surface markers, lines, dredges, grabs, rakes or other implements used for the purposes of, or facilitating, fishing;
- j) “certificate of gear approval” means the document issued under paragraph 9 of this byelaw;
- k) “vessel” means a ship, boat, raft or watercraft of any description and includes non-displacement craft, personal watercraft, seaplanes and any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) and a hover craft or any other amphibious vehicle, used or capable or being used as a means of transportation on water;
- l) “named representative” means a person who has been granted permission to fish under the authority of a permit issued under this byelaw, on behalf of the permit holder;

- m) “flexible permit conditions” means any of the conditions attached to permits in accordance with paragraph 23 of this byelaw;
- n) “catch return form” means a form issued by the Authority pursuant of paragraphs 35 to 39 of this byelaw;
- o) “marine protected area” means any of the sites specified in section 158(6) of the Marine and Coastal Access Act 2009;
- p) “operating times” mean the time periods that a fishery is open to fishing activities as determined by the Authority under paragraphs 32 and 33 of this byelaw;
- q) “total allowable catch” means the quantity of cockles or mussels that the Authority has determined can be removed from a fishery;
- r) “cockle” means any bivalve mollusc belonging to the genus *Cerastoderma*;
- s) “mussel” means any of the species belonging to the genus *Mytilus*;
- t) “harvestable mussel fishery” means a mussel fishery, the flexible permit conditions for which, allow for mussels fished for, taken or removed from the fishery to be sold directly to a market;
- u) “relaying mussel fishery” means a mussel fishery, the flexible permit conditions for which do not allow mussels to be sold directly to market but instead, must be relayed for the purpose of aquaculture;
- v) “prop-washing” means the practice of turning a vessel in tight circles to aid the fishing of cockles;
- w) “bottom-towed-gear” means any fishing gear designed to be towed, dragged or pushed through the water whilst in contact with the seabed;
- x) “recreational purposes” means fishing which is not for sale or reward.

## **Prohibitions**

2. A person must not fish for, take or remove any cockles or mussels unless that person is:
  - a. the holder of a valid permit relevant to that fishery; or

- b. a named representative of the holder of a valid permit relevant to that fishery.
3. Subject to paragraph 4, a person must not fish for, take or remove cockles or mussels using a vessel, or to carry on board any cockles or mussels caught from within the Wash unless:
  - a) that vessel is named on a permit; and
  - b) either the permit holder or named representative is the skipper of that vessel.
4. Paragraph 3 does not apply where a person is fishing under the written agreement of the Authority and in accordance with any conditions of that agreement. Such agreement may be given in circumstances where the permit holder, nominated representative or the named vessel, are unable to put to sea.
5. A person must not fish for, take or remove from the fishery any cockles or mussels from within The Wash except in accordance with any restrictions set out in Schedule 2 (Restrictions in The Wash) of this Byelaw.
6. A person must not fish for, take or remove cockles or mussels from a fishery, or parts thereof, which is closed under paragraphs 29 and 31 of this byelaw or outside of the operating times issued under paragraph 32 and 33 of this byelaw.
7. Subject to paragraph 8 (below), a person must not fish for, take or remove from the fishery cockles or mussels under the authority of a permit using fishing gear unless:
  - a) a certificate of gear approval has been issued by the Authority for that fishing gear; and
  - b) a tag provided by the Authority is affixed to the gear with a reference number which is associated with the certificate of gear approval.
8. Paragraph 7 (above) does not apply in relation to any fishing gear for which there are no restrictions, specification or requirements under this byelaw or under permit conditions issued under this byelaw.
9. For the purpose of paragraph 7 above, a certificate of gear approval will;

- a) only be issued if the fishing gear has been inspected by an Officer of the Authority who determines the fishing gear meets the restrictions, specifications or requirements under this byelaw or under permit conditions issued under this byelaw;
- b) be invalid if the fishing gear is modified in any way after the certificate of gear approval has been issued;
- c) be valid for the period the associated permit is valid.

10. A person must not fish under the authority of a permit except in accordance with any conditions attaching to a permit.

## **Permits**

11. The Authority may issue a Category One or Category Two:

- a) hand-work cockle permit authorising a person to fish for, take or remove cockles from a hand-work cockle fishery;
- b) hand-work mussel permit authorising a person to fish for, take or remove mussels from a hand-work mussel fishery;
- c) mussel dredge permit authorising a person to fish for, take or remove mussels from a dredged mussel fishery.

12. Permits are:

- a) valid for a specified period and for a maximum of 12 months after the date of issue;
- b) subject to paragraph 13 (below), not transferable between persons or vessels.

13. Paragraph 12(b) does not apply where such is permitted via eligibility criteria.

14. For the purpose of paragraph 12, 'specified' means specified on the permit.

15. The Authority may restrict the number of permits issued under this byelaw in accordance with the procedure set out in Schedule 4.

16. Only one of each of the permits in paragraph 11 may be issued in respect of each vessel which is named on a permit or to each person issued a permit without a vessel and a person cannot hold a permit on which a vessel is named and a permit on which no vessel is named.

## **Permit fees**

17. A fee will be charged for each permit which must be paid prior to the issuing of that permit.
18. The fee payable for a permit will be determined in accordance with Schedule 1.

## **Eligibility for a permit**

19. An application for a permit must be made by completing forms available from the Authority which will require information and evidence in relation to:
  - a) applicant details;
  - b) details of any named representatives;
  - c) vessel details, documentation and certification;
  - d) business or financial information.
20. The Authority may issue, vary or revoke criteria to restrict:
  - a) eligibility to hold a permit;
  - b) eligibility to be a named representative on a permit;
  - c) the maximum number of named representatives who may fish under the authority of a permit;
  - d) eligibility to fish under the authority of a permit;
  - e) eligibility to skipper a vessel named on a permit for the purposes of fishing under the authority of that permit;
  - f) eligibility to name a vessel on a permit; and
  - g) eligibility to transfer a permit from one person or vessel to another.

in accordance with the procedure set out in Schedule 5.

21. For the purposes of paragraph 20 (above), 'the Authority' means either the full Authority, at a statutory meeting or members of an appropriately delegated sub-committee only.

22. Where a person fails to comply with:

a) this byelaw; or

b) section 292 of the Marine and Coastal Access Act 2009 where Inshore Fisheries and Conservation Officers, or persons authorised on their behalf, are carrying out relevant functions in relation to this byelaw;

and any enforcement action leads to a conviction by a court the permit associated with the failure to comply will be withdrawn.

### **Flexible permit conditions**

23. The Authority may attach to permits flexible conditions which fall within one or more of the following categories;

a) vessel design restrictions;

b) catch restrictions;

c) fishing gear restrictions;

d) fishing effort restrictions;

e) spatial restrictions;

f) time restrictions;

g) vessel monitoring device restrictions;

h) experience requirements;

i) catch returns; and

j) permitted number of persons who can fish under the authority of a permit as a named representative;

24. The Authority may issue, vary or revoke flexible permit conditions following a review conducted in accordance with the procedure set out in Schedule 4.

25. The Authority may, with no less than 12 hours' notice, issue, vary or revoke flexible permit conditions if:

- a) there is a risk to stocks;
- b) there is a risk to site integrity in relation to any marine protected areas that a fishery is situated within;
- c) such would facilitate effective prosecution of the fishery or detection or prevention of non-compliance.

26. Any action by the Authority under paragraph 25 will be reviewed in accordance with Schedule 4 within two months of the date of such action being taken.

27. Any failure to comply with a flexible permit condition constitutes a contravention of this byelaw.

### **Opening and closing fisheries**

28. The Authority may open a fishery, within specified areas, for specified species, using specified fishing gears and for a specified time in accordance with Schedule 4.

29. The Authority may, with no less than 12 hours' notice, open or close a fishery or parts thereof if

- a) there is a risk to stocks;
- b) there is a risk to site integrity in relation to any marine protected areas that a fishery is situated within;
- c) such would facilitate effective prosecution of the fishery or detection or prevention of non-compliance.

30. Any closure under paragraph 29 (above) shall be reviewed in accordance with Schedule 4 within two months after the date of such closure unless the closure is rescinded.

31. The Authority may close a fishery or parts thereof if the total allowable catch has been exhausted or as a result of a review undertaken under paragraph 30 or to enable a stock survey in relation to the associated fishery.

## **Operating times**

32. The Authority may issue, vary or revoke operating times following a review conducted in accordance with the procedure set out in Schedule 4.
33. The Authority may, with no less than 12 hours' notice, issue, vary or revoke operating times if:
- a) there is a risk to stocks
  - b) there is a risk to site integrity in relation to any marine protected areas that a fishery is situated within;
  - c) such would facilitate effective prosecution of the fishery or detection or prevention of non-compliance.
34. Any action by the Authority under paragraph 33 (above) shall be reviewed in accordance with Schedule 4, within two months after the date of such action being taken.

## **Catch returns**

35. A person must not fish for, take or remove any cockles or mussels using a vessel unless they have on board catch return forms for the fishery they are operating in which will be provided by the Authority.
36. Return forms must be completed with such information as is required by the Authority within 24 hours of fishing for, taking or removing from the fishery any cockles or mussels.
37. Return forms relating to the previous weeks fishing must be submitted to the Authority by the Wednesday of the week following fishing activity unless otherwise specified in the flexible permit conditions for that fishery.
38. A person must not fish for, take or remove from the fishery any cockles or mussels under the authority of a permit after seven days of being notified by the Authority that return forms are more than fourteen days in arrears unless they have been further notified that the Authority has received the return forms which were the subject of the first notification. Any such notification shall be in writing.
39. The information referred to in paragraph 35 to 38 may include:
- a) spatial information;
  - b) information on fishing effort;

- c) catch data;
- d) by-catch information;
- e) gear information;
- f) date and time information;
- g) vessel information.

### **Exemptions**

- 40. This byelaw does not apply in relation to fishing for, taking or removing from the fishery, less than five kilograms of cockles or mussels for recreational purposes, per person, within one calendar day.
- 41. This byelaw does not apply to the area of the le Strange Estate or in relation to any area which is the subject of an Aquaculture Production Business Certificate.

### **Revocations**

- 42. The byelaw with the title 'Byelaw 4: mussels (*Mytilus edulis*) – minimum size', made by the Eastern Sea Fisheries Joint Committee is revoked.

### **Amendments**

- 43. The Minimum Sizes Byelaw 2019 which was made by the Authority on the 11<sup>th</sup> December 2019 is amended as follows:
  - a) after paragraph 1(e), insert: '(f) "The Wash" means the area set out in Schedule 2";
  - b) within paragraph 6(b), after 'Queen scallop (*Chlamys spp.*)', insert: "mussels (*Mytilus edulis*) caught within The Wash 45 millimetres" and, "mussels (*Mytilus edulis*) caught outside of The Wash 50 millimetres"; and
  - c) after the Schedule 1, insert with the title "Schedule 2 – The Wash Area" schedule 3 of this byelaw.

44. The Closed Area Byelaw 2020 is amended as follows:

Within paragraph 5, after 'Paragraph 2 does not apply to fishing under the authority of a...' substitute 'licence issued under Article 8 of the Wash Fishery Order 1992 in Restricted areas 1 to 13' for "permit issued under the Wash Cockle and Mussel Byelaw 2021 in Restricted areas 1 to 13".

45. The byelaw with the title 'Byelaw 3: Molluscan Shellfish Methods of Fishing' made by the Eastern Sea Fisheries Joint Committee is amended as follows:

Substitute "within that part of the District contained within the boundaries of the Wash Fishery Order 1992, under the provisions of a licence issued under the said byelaw" for "under the authority of a permit issued under the Wash Cockle and Mussel Byelaw 2021"

**Commencement**

46. The byelaw will come into force not before the 4<sup>th</sup> of January 2023.

I hereby certify that the Wash Cockle and Mussel Byelaw 2021 was made by Eastern Inshore Fisheries and Conservation Authority at their meeting on 10 March 2021.

Chief Executive Officer

Eastern Inshore Fisheries and Conservation Authority

6 North Lynn Business Village, Bergen Way, King's Lynn, Norfolk PE30 2JG

*The Secretary of State for Environment, Food and Rural Affairs in exercise of the power conferred by section 155 (3) and (4) of the Marine and Coastal Access Act 2009 confirms the Wash Cockle and Mussel Byelaw 2021 made by the Eastern Inshore Fisheries and Conservation Authority on 10 March 2021.*

Date:

A Senior Civil Servant for, and on behalf of, the Secretary of State for Environment, Food and Rural Affairs.

## **Schedule 1**

### **Permit fees**

1. The fee referred to in paragraph in paragraph 19 of this byelaw is determined as follows:
  - a. for the first permit issued between the 1<sup>st</sup> April and 31<sup>st</sup> March in any year, the fee is the sum of £757.75 and,
    - i. for a hand-work cockle permit, £339.57;
    - ii. for a hand-work mussel fishery, £101.39;
    - iii. for a mussel dredge fishery, £162.48
  - b. for any subsequent permit issued during the same period;
    - i. for a hand-work cockle permit, £339.57;
    - ii. for a hand-work mussel fishery, £101.39;
    - iii. for a mussel dredge fishery, £162.48subject to paragraphs 2 and 3 of this schedule.
2. The fee for each permit will vary on the 1<sup>st</sup> April each year in accordance with latest release available of the Consumer Prices Index including occupiers' housing costs 12-month inflation rate issued by the Office of National Statistics .
3. The Authority may vary permit fees otherwise in accordance with paragraph 2 of this schedule, in accordance with the following conditions and procedures:
  - a. the Authority will consult in writing with commercial permit holders;
  - b. the fee will not be changed for any permit already issued;
  - c. the fee will not be increased more than the equivalent value of 50%:
  - d. the Authority will make a decision whether to vary the permit fee taking into account:
    - i. the responses from the consultation under paragraph 3 (a)
    - ii. expenditure arising from the administration of permits and processing permit holder data required by the Authority
    - iii. any regulatory impact assessments associated with this byelaw
    - iv. Authority expenditure to conduct any survey activities that support the implementation of permits
    - v. Authority costs associated with arranging and attending meetings with permit holders
    - vi. any relevant Authority expenditure incurred by implementation of this byelaw.

## Schedule 2

### Restrictions in The Wash

The following restrictions apply in relation to fishing for, taking or removing from the fishery, cockles or mussels from within The Wash in accordance with paragraph 5 of this byelaw.

#### **Vessel length restrictions**

1. Subject to paragraph 2 (below), a person must not fish for, take or remove from the fishery cockles or mussels using a vessel which is more than 14 metres in overall length.
2. Paragraph 1 above does not apply to the effect that an exemption existed immediately preceding this byelaw Regulation 7 (vessel length restrictions) of the Wash Fishery Order (SI 1992/3038) and only to the effect that that exemption applied.
3. Any change in beneficial or legal ownership of a vessel exempt under paragraph 2 shall cause the exemption to end unless ownership is transferred within existing business arrangements and with the agreement of the Authority.

#### **Daily catch restrictions (cockles)**

4. A person must not, in any one calendar day, fish for, take (save for doing so with the intention of riddling or otherwise sorting catch in accordance with paragraph 12) or remove from the fishery more than 2000 kg or the maximum weight or volume of cockles specified in the permit conditions by hand.
5. For the purpose of determining the weight of catch no allowance will be given for the weight of any containers or sand or other material.

#### **Daily catch restrictions (mussels)**

6. A person must not, in any one calendar day, fish for, take (save for doing so with the intention of riddling or otherwise sorting catch in accordance with paragraph 12) or remove from the fishery:
  - a. More than 4000 kilograms of mussels during a harvestable mussel fishery; or
  - b. More than 8000 kilograms of mussels during a relaying mussel fishery.

unless otherwise specified in permit conditions.

7. For the purpose of determining the weight of catch no allowance will be given for the weight of any containers or sand or other material.

8. A person must not fish for, take or remove from a fishery any mussels from a harvestable mussel fishery if, during the same calendar day, that person has fished for, taken or removed from the fishery mussels from a relaying mussel fishery.
9. A person must not fish for, take or remove from the fishery any mussels from a relaying mussel fishery if, during the same calendar day, that person has fished for, taken or removed from the fishery mussels from a harvestable mussel fishery.

### **Mussel dredge restrictions**

10. A person must not fish for, take or remove from a fishery mussels using a mussel dredge with an inside opening of more than one metre unless otherwise specified in permit conditions.
11. A person must not fish for, take or remove from a fishery mussels using more than two mussel dredges at any one time unless otherwise specified in permit conditions.

### **Sorting of catch**

12. Any material rejected through the sorting of catch of any bivalve mollusc must be returned immediately to the sea or seabed, as near as possible to the place from which it was taken and spread thinly and evenly over that area.

### **Transshipping prohibition**

13. A person must not tranship or otherwise relocate any of the cockles or mussels, or containers of any description containing any of the prescribed species, fished from the Regulated Fishery from one vessel to another.

### **Requirement to land (cockles)**

14. A person fishing for cockles must:
  - a. take any cockles fished for straight to port;
  - b. land such cockles immediately; and
  - c. not leave cockles on the sand or deposited in the water in bags or any other container for later collection.
15. A person must not land cockles on more than one occasion during one calendar day.

## **Dual fishing prohibition**

16. A person must not fish for, take or remove from within a fishery any cockles or mussels under the authority of a permit if, on the same calendar day that person fishes for, takes or removes cockles or mussels under the authority of a separate permit issued under this byelaw or in relation to fishing for cockles and mussels except under the authority of a permit issued under this byelaw.
17. A person must not have on board any bottom-towed-gear which could be used to fish for, take or remove from the fishery any cockles or mussels when fishing for, taking or removing from the fishery any cockles or mussels from a hand-work fishery.

## **Standard bags**

18. A person must not land mussels or cockles unless such are contained in a bag which must:
- a. be of the following dimensions:
    - i. 120 centimetres or 60 centimetres in height;
    - ii. 97 centimetres in depth;
    - iii. 97 centimetres in width: and
  - b. have the words 'Wash Fishery' written on at least two sides with lettering which is at least 10 centimetres tall.

## **Prop-washing**

19. A person fishing for cockles must not use an anchor which affixes the vessel to the bottom of the seabed during the practice of prop-washing;
20. A person must spread any cockles dislodged from prop-washing thinly and evenly over the ground, as nearly as possible to the area from which they were dislodged before leaving the area fished.

## **Tenders**

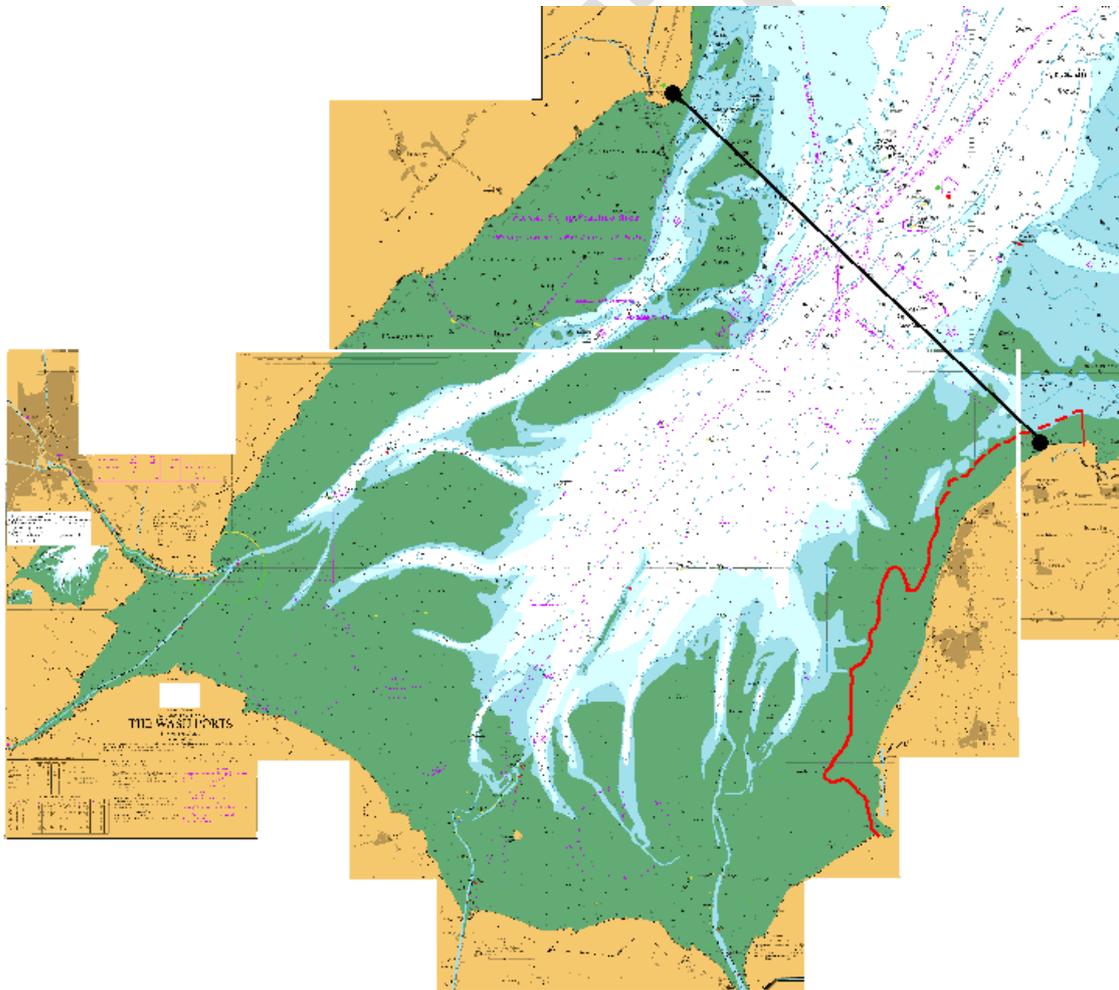
21. A vessel must not carry or tow a tender which is greater than six metres in overall length.

### Schedule 3

#### The Wash area

The Wash is defined as the area of the District landward of a line drawn connecting the two points listed in the table below and as set out in Chart 1 for illustrative purposes.

Point	Latitude	Longitude
1	53° 05.70' N	00° 19.89' E
2	52° 58.55' N	00° 32.27' E



## Schedule 4

### **Procedure for flexible management measures: limiting the number of permits issued, permit conditions, opening and closing fisheries and operating times**

1. The procedure referred to in paragraphs 15, 24, 26, 28, 30, 32 and 34 (in this Schedule, 'the proposed changes') must include the following steps:
  - a) acquisition of relevant available evidence including:
    - 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;
    - ii. advice given by Natural England or other external authorities, organisations, persons or bodies as the Authority thinks fit; and
    - iii. information from any other relevant source including that which is relevant to effective enforcement;
  - 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 the proposed changes;
  - c) undertaking an impact assessment relating to the proposed changes;
2. The Authority shall review flexible permit conditions and restrictions on the issuing of permits no less frequently than every four years after the date that a flexible permit condition or restriction on the issuing of permits has taken effect.
3. The review of flexible permit conditions or restrictions on the issuing of permits will be in accordance with a formal operational procedure agreed by the Authority and will include the steps set out in paragraph 1 of this schedule.
4. Where restrictions on the issuing of permits or flexible permit conditions are issued, maintained, varied or revoked permit holders will be notified in writing.

## Schedule 5

### **Procedure for flexible management measures: setting eligibility criteria**

1. The procedure referred to in paragraph 20 (in this Schedule, 'the proposed changes') must include the following steps:
  - a. consultation as follows:
    - i. inviting comment on proposals for no less than four weeks; and
    - ii. advertisement by such means as the Authority considers appropriate and through written means (either letter or email) to existing permit holders.
  - b. undertaking an impact assessment relating to the proposed changes.
2. The Authority shall review eligibility criteria no less frequently than every four years after the date that an eligibility criterion has taken effect.
3. The review of eligibility criteria will be in accordance with a formal operational procedure agreed by the Authority and will include the steps set out in paragraph 1 of this schedule.
4. Where eligibility criteria are maintained, varied or revoked, permit holders will be notified in writing.

**Appendix 2 – Description and intention: Draft Wash Cockle and Mussel Byelaw 2021**

**Wash Cockle and Mussel Byelaw 2021**

Description of provisions

Paragraph (and sub-paragraph)	Title of provision	Description and intention
1	Definitions (key definitions only)	<p>Person as a ‘natural person only’ to exclude interpretation including a ‘business’</p> <p>Fishing to include ‘prop-washing’ and transporting – this is to provide clarity that a vessel is considered to be used in a hand-worked fishery under the byelaw.</p> <p>Total allowable catch – edited this definition to be broader so as not to limit how we set the TAC.</p>
2	Prohibition on fishing without a permit	<p>Sub-para a) refers to being a permit-holder and b) to a nominated representative.</p> <p>Covers fishing for, taking or removing cockle and mussel within the Wash (note, there is an exemption in the exemptions section regards recreational fishing for up to 5kg per person, per day).</p> <p>This provision enables fisheries which may be prosecuted without a vessel as per the WFO. Whilst there are no fisheries which operate from the shore and no persons with licences without a named vessel at present, it is intended that his provision is carried over for future proofing.</p> <p>There is no requirement that the holder of a permit must be the owner of a vessel as in other permit byelaws and as per the WFO. The intention is to include that as an eligibility criteria if as required following consultation on managing access.</p>
3	Prohibition on using vessels unless named on permit	<p>Prohibition on using a vessel to fish, and on carrying on board any catch from a fishery unless the vessel is named on a permit. Sub-para b) also prohibits anyone other than the permit holder or nominated rep being the skipper of a vessel.</p>

4	Exemption in relation to vessel being named on permit	Allows for a written exemption to vessel being named on a permit where a vessel or person cannot put to sea.
5	Prohibition on fishing in The Wash except in accordance with the restrictions at Schedule 1.	As per title.
6	Prohibition on fishing within an area closed under this byelaw or outside of specified operating times	As per title.
7	Prohibition on using gear which is not certified.	Prohibits the use of any fishing gear which has not been certified and does not have a tag affixed with certificate reference.  Intention is to replace the gear certification provisions within the WFO regs and <i>Byelaw 3: molluscan shellfish methods of fishing</i> such as they were applicable within The Wash.
8	Removes requirement for gear certification where there are no gear based restrictions	Intention is to remove the need to certify gear if we have not set restrictions. In particular, under this byelaw, 'rakes' would be classed as fishing gear and it is not intended that certification is needed for this but, the provision would allow for that if needed (i.e. if a permit condition is introduced which puts requirements on hand-rakes e.g. minimum spacing between teeth, then a certificate would be required).
9(a)	Process for gear certification	Describes process for gear certification – requires that fishing gear meets any conditions set out in the permit conditions (or a provision of the byelaw itself e.g. the restrictions in Schedule 2 of the byelaw).
9(b) and (c)	Process for gear certification	Sets out that gear certification is invalid if the gear is modified or the associated permit is invalidated (e.g. because it expires or it is lost due to non-compliance etc.).  Intention is to prevent impacts as a result of gear modification after the certificate is issued. Enables any gear changes to be monitored.
10	Prohibition on fishing except in	As per title – standard provision to link permit conditions to an offence

	accordance with permit conditions	
11	Permits	<p>Sets out that the Authority can issue a Cat 1 or Cat 2 type of permit for the three fisheries covered (HW Cockle, Dredge Mussel and HW mussel).</p> <p>Intention is to have two types of permit for each fishery to enable two differing sets of conditions and eligibility criteria to enable, if appropriate, a separate route to access the fishery e.g. to allow limited access to a fishery in a year where there is a surplus of stock or to enable limited access as a means of meeting criteria for a category 1 permit.</p>
12	Permit validity	<p>Sub-para a) sets validity for up to 12 months and as specified on a permit.</p> <p>Sub-para b) sets out that permits are not transferable, subject to the next provision.</p>
13	Transfer of permits	<p>Enables permits to be transferred between persons or vessels in accordance with eligibility criteria.</p> <p>Intention is to enable flexibility as may be required but to set out that as a default, permits cannot be transferred.</p>
14	'specified'	Sets out that reference to 'specified' in earlier paragraphs means specified on the permit – provision copied from Sussex IFCA shellfish permit byelaw (and applied more generally)
15	Restricting the number of permits	Provision for the Authority to restrict the number of each of the six permits which will be issued. The provision requires that the Authority undertakes a process as set out in Schedule 4 which requires consultation with industry and taking into account any impacts.
16	Number of permits per person	<p>Intention is to limit the number of permits issued to each person so as to avoid multiple permits being issued. It is intended to prevent more than one permit being issued per vessel named on the permit or per person issued a permit without a vessel.</p> <p>It also restricts a person from holding a permit with a vessel named on it in addition to a permit without a vessel named on it.</p> <p>It permits that one of each of the permits can be issued to each person, i.e. a hand-work cockle permit and a mussel dredge permit.</p>

17	Requirement to pay a fee	As per title
18	Permit fees	Refers to Schedule 1 to determine permit fees – removed from the face of the byelaw for ease of reading
19	Application	<p>Requires that an application form is completed to apply for a permit.</p> <p>Includes reference to provision of evidence and documents required in an application form. The intention is to ensure we can require evidence in relation to vessel ownership via the different documents generated as a result of their sale etc. This is intended to enable the Authority to address concerns raised about changes in vessel ownership being used to circumvent rules under the WFO.</p>
20	Eligibility criteria	<p>Enables the Authority to set eligibility criteria for a permit which includes the holding of a permit, fishing under the authority of a permit, eligibility to skipper a vessel named on a permit, maximum number of persons who can be nominated representatives, eligibility to name a vessel on a permit and criteria for the transferring of permits between persons or vessels.</p> <p>Intention is to widen the use of eligibility criteria and provide clarity about what can be restricted.</p> <p>Sets out that introducing, varying or revoking eligibility criteria are subject to the process at Schedule 4 which requires consultation and the production of an impact assessment.</p>
21	Eligibility criteria 2	Restricts the ability to issue, vary or revoke eligibility criteria to either Authority members at a full Authority meeting or via an appropriately authorised sub-committee
22	Relevant offences	Sets out that where there is non-compliance resulting in a conviction or acceptance of a FAP, the associated permit is cancelled.
23	Flexible permit conditions	Sets out the categories of flexible permit conditions which can be issued, varied or revoked.

		Intention is to cover all manner of management measure to enable the flexible management of fisheries as per the WFO.
24	Flexible management process	<p>Sets out that introducing, varying or revoking permit conditions are subject to the process at Schedule 4 which requires consultation and the production of an impact assessment.</p> <p>The intention is to enable a flexible approach to managing the fisheries as per the WFO but that this is done in a transparent way and takes into account the impacts on stakeholders.</p>
25	Temporary changes to management measures 1	<p>Enables changes to flexible permit conditions with only 12 hours notice and no consultation (i.e. outside of the process set out in schedule).</p> <p>The criteria for using this provision are in relation to identifying a risk to stocks or the MPAs within The Wash or to facilitate the effective prosecution of the fishery (e.g. where we identify that a permit conditions is hindering effective fishing) or to detect or prevent non-compliance.</p>
26	Temporary changes to management measures 2	<p>Requires that any temporary measures are reviewed within two months of issue.</p> <p>This is intended to restrict the effect of the measures made in this way without having undertaken the process set out in Schedule 4 including consultation with industry and consideration of impacts.</p>
27	Failure to comply – permit conditions	Provision required to make it an offence to breach permit conditions.
28	Opening a fishery	Enables the Authority to open a fishery in accordance with the process in the schedule (i.e. after consultation, NE and other scientific advice etc.).
29 & 30	Quick opening or closing	<p>Enables the Authority to open or close a fishery with 12 hours' notice where there is an identified risk to stocks or site integrity or to facilitate a fishery or prevent or detect non-compliance.</p> <p>Any such closure or opening is subject to review within two months via the procedure in Schedule 4.</p>

		<p>Intention is to enable fisheries or beds to be closed quickly to mitigate risks of changes in behaviours or impacts to the site which may arise as a result of changes in fishing practices of non-compliance. In addition, it is intended to enable the opening of a fishery at short notice where this is in the interest of industry viability. It replicates the situation under the WFO.</p> <p>It is noteworthy that the opening of a fishery even under this provision would still be subject to our obligations to ensure site integrity of the MPAs which have separate to this byelaw.</p>
31	General closure	Sets out the reasons the Authority can close a fishery i.e. exhaustion of a TAC, to allow for a survey or in relation to a ratified temporary closure.
32	Operating times 1	General ability to implement operating times in accordance with the procedure in Schedule 4.
33 & 34	Flexible operating times	<p>Enables changes to operating times with no less than 12 hours notice in the same manner as the 'quick open / closure' provisions.</p> <p>As per above, intention is to be able to respond to changes in the fishery but restrict its application without consultation with industry and consideration of impacts as per the procedure in Schedule 4.</p>
35	Catch returns on board	<p>Requirement to keep catch returns on board the vessel when fishing for cockles or mussels.</p> <p>Intention is to reduce instances of inaccurate information being provided as a result of returns being completed well after the fishing activity and / or by people other than the fishermen. Intended to allow for the book to be taken off the vessel for where fishermen are provided assistance in completing forms.</p>
36	Forms completed within 24 hours of fishing	Requires that catch returns must be completed within 24 hours of having undertaken fishing activity. As above, it is intended to reduce instances of inaccurate data being entered on catch returns by ensuring that they are completed soon after fishing activity.
37	Submission of forms	Requires forms to be submitted weekly by default unless otherwise stated in permit

		<p>conditions – e.g. daily for mussel seed fisheries, weekly for cockle fisheries as is the current situation under the WFO.</p> <p>Catch returns are needed for these fisheries as MMO data collection is insufficient to monitor fishery to manage within an MPA (poor spatial resolution) and in some cases, are not even required to be completed. In order to meet Habitat Regulations, bivalve fisheries typically need to be managed at the ‘bed’ level, at a much higher resolution than is provided by MMO returns (ICES statistical rectangle).</p>
38	Prohibition re return forms	<p>Prohibits a person from fishing if they have been notified by the Authority of being more than 14 days in arrears unless they receive further notification that they can fish when we get the returns.</p> <p>Intended to reduce instances of non-compliance with catch return requirements by increasing deterrent effect.</p>
39	Data required	Sets out the categories of data to be required in return forms.
40	recreational exemption	Exempts fishing activity which is undertaken at a small scale i.e. less than 5 kg per person per day for recreational purposes only.
41	Le Strange estate and other area exemptions	<p>Exempts the Le Strange Estate on the basis that the fishery there is managed via an agreement between the right holders and Natural England. In addition, exempts any aquaculture authorised by virtue of an Aquaculture Production Business Certification (which would include WFO lays).</p> <p>The intention is to maintain the status quo in this regard noting that other aquaculture is managed (including in relation to Habitat regulations) by the Fish Health Inspectorate.</p>
42	Revocation	Revokes Byelaw 4 ( <i>mussels (Mytilus edulis) – minimum size</i> ).
43	Amendments 1 – mussel size	Amends the Minimum Sizes Byelaw 2019 to include the minimum size for mussels within the Wash and then rest of the district
44	Amendment 2 – Closed area Byelaw 2020	Amends the reference to ‘Wash Fishery order Licenses’ made within the CAB 2020 byelaw which exempts activity in relation to closure over mussel beds.

45	Amendment 3 – Byelaw 3: molluscan shellfish methods of fishing	Amends the exemption within the byelaw which refers to the boundary of the WFO to a reference to refer to a permit issued under the Wash Cockle and Mussel Byelaw.  This has the effect of making the byelaw apply in the Wash in relation to oysters, clams, scallops and queens (i.e. the species which are also covered by the WFO but for which there has not been a fishery for at least a decade).
Schedule 1 (1)	Permit fees for Wash fisheries	Sets out permit fees in accordance with recent review of WFO fisheries.
Schedule 1 (2)	Annual increases	Sets out an annual increase in fees based on the inflation rate. The permit fee will be set on April 1 <sup>st</sup> of each year and will use the latest available 12-month CPIH annual rate released by the Office of National Statistics.
Schedule 1 (3)	Process for varying and setting permit fees	Intended to enable fee variations. Limits fee increases to up to 50% of previous value and sets out the process for varying and setting permit fees.
Schedule 2	General note on items not included	Intended to implement WFO regulations without including all within the face of the byelaw for ease of reading.  Some regulations have been included within the face of the byelaw itself and are not include here. These include:  4. bottom towed gear approval – now covered by gear certification process within byelaw.  10. Mussels minimum size –included as an amendment to the Minimum sizes byelaw  11. seed movement – can be dealt with under permit conditions and or Application and Exemptions byelaw. The provision would benefit from flexibility and has limited effect in any case (refers only to vehicle registration being provided as part of the application process).  12. weekly catch returns – covered in byelaw (with reference to permit conditions)  18. revocations – not relevant
Schedule 2	General note on items included	The restrictions included either reflect the wording of the revised WFO Regulations

		<p>(2018) or an adaptation on their wording. Where the wording has varied from the Regulations, this is noted here.</p> <p>1 to 3. Vessel length restrictions – adapted from the current regulations and includes ability to retain exemption in certain circumstances where vessel ownership is transferred within a business.</p> <p>4 to 7 – daily catch restrictions, as per the WFO regs but include flexibility to enable changes via permit conditions.</p> <p>8 and 9 – replicate provisions included in revised WFO regs which prevent fishing in other cockle or mussel fisheries (including private fisheries) on the same calendar day as fishing within the permitted fisheries.</p> <p>10. Mussel dredge opening restriction – replicates WFO regulations and includes flexibility via permit conditions.</p> <p>11. Restricts the number of dredges which can be used to two and includes flexibility via permit conditions.</p> <p>16. Adapted from revised WFO regs, intention is to limit a person to fishing under the authority of only a single permit per day or if they have fished for cockles or mussels where a permit isn't required on that day.</p> <p>21. tenders – this is adapted from WFO regulations but it is noteworthy that this regulation is still subject to a decision from Defra and its inclusion would be dependant on that outcome.</p>
Schedule 3	Area of the Wash	<p>Defines the whole area of the Wash (including that covered by most of the le Strange estate noting that the area is exempt under the exemptions section). Defined the Wash without separating out the le Strange Estate because some of the boundary is subject to change by accretion (as per the court order) and so definition in coordinates within the schedule could lead to gaps and / or a need to amend the byelaw.</p>

Schedule 4	all	Follows same procedure as agreed with MMO for Wash Restricted Areas Byelaw 2019 for flexible management measures including reference to an operating procedure.
Schedule 5	all	An adaptation of the 'normal' procedure for issuing, varying and revoking flexible management measures specifically relating to eligibility criteria. It is intended to provide more clarity with regards to the process for such.

DRAFT

### Appendix 3 – feedback from informal consultation

Feedback from consultation	Consideration
<p>The Byelaw is intended to strip away the protections for the industry contained within the WFO</p>	<p>Modern byelaw making powers provide for IFCA's to manage inshore fisheries through the use of permitting schemes and such are in existence for the Whelk fishery within the Eastern IFCA District, is intended to come into effect with regards to the shrimp fisheries and is represented throughout other IFCA's along the coast.</p> <p>The proposed byelaw is intended to enable flexible management of the fishery in a manner consistent with our current approach which includes dialogue with industry and consideration of the impacts of management decisions. In practical terms, the annual management of the fishery is likely to reflect the current situation with regards to determining open areas, operating times and any additionally required management measures through consultation with industry. The 'protections' in this regard with respect of a the WFO are improved given that the byelaw requires such consultation and consideration of impacts where this is not the case under the WFO.</p> <p>The key difference with respect to 'protections' under the Order compared to a byelaw, is the absence of an 'entitlement' to further permits once one is issued. This change reflects the benefits of the Authority having discretion in this regard and is further reflected in other permit byelaws and other modern Orders for managing shellfish within the UK (e.g. the Dee Estuary Cockle Fishery Byelaws 2000 and the Fal Fishery order 2016).</p>
<p>The rights of licence holders to fish are protected by law from arbitrary cancellation (e.g. by lottery) or reduction by enabling others to enter the fishery. Rights include those accrued 'within the environmental sphere', those enjoyed by fishermen generally in UK law and, rights</p>	<p>Advice has been provided to the effect that rights to fish within the Wash Fishery order 1992 and legitimate expectation in regards to the continued exclusive rights to fish therein, expire with the Order. This is because the Order, which provides access to the fishery under a licence, expires as set out in that Order (on 4 January 2023).</p> <p>Under the proposed Byelaw, the provisions which enable restricting access to the fishery, by setting a limit on the number of permits and via eligibility criteria, also require due process to be undertaken which includes consultation and an impact assessment. In addition, regardless of the powers provided under a byelaw, the Authority has duties</p>

<p>provided by Article 8 of the European Convention of Human Rights</p>	<p>to make reasonable and justifiable decisions in that regard and would be held accountable, for example, by way of Public Inquiry under the under powers provided to the Secretary of State.</p>
<p>There is no clear policy objective for the byelaw or the management of access to the fishery.</p>	<p>Whilst the engagement with fishery stakeholders did intend to provide clarity as to the policy objectives of the proposed byelaw, it is a recommendation of Action Item 10 that further clarity is provided by agreeing to a recommended 'Policy Objective' which can be referred to during further consultation.</p> <p>The Aim and Objectives for managing access to the fishery have been subject to consultation with fishery stakeholders as it was felt that engagement at the earliest stage would be of benefit to the development of proposals and to provide transparency to those potentially impacted. It is noteworthy that feedback was received to the effect that there is a preference for the details of our proposals rather than the higher level Aim and objectives.</p>
<p>There is no driver or need for additional flexibility to manage the fishery</p>	<p>Fisheries and their prosecution adapt and change over time. Significant changes have been seen within the Wash based fisheries since the WFO came into effect, including the adoption of a TAC. The revised approach to management of fisheries within MPAs and the establishment of a hand-work only cockle fishery.</p> <p>Orders are, compared to byelaws, more cumbersome and less flexible to amend as the process includes such amendments going before parliament. Modern byelaws are more readily amended, albeit through the same process as is required to make a byelaw in the first instance. In this way, the Authority can, if required and in consultation with industry and confirmation by the Secretary of State (for the Environment, food and Rural affairs), amend a byelaw to address any such changes.</p>
<p>No impact assessment was undertaken</p>	<p>An impact assessment is required to inform the Authority's decision to make a byelaw and is generally informed by informal consultation. The impact assessment for the byelaw is presented as an appendix to this item.</p>
<p>Due process with regards to flexible management of the fisheries needs to be set out in the byelaw</p>	<p>The process for introducing, varying or revoking flexible management measures is set out in the provisions of the byelaw. These include permit conditions, eligibility criteria, limits on the number of permits issued, operating times and open / closure of the fisheries.</p>

	<p>The process requires consultation with industry and consideration of the impacts such management measures have on stakeholders.</p>
<p>There is no over-arching policy context to what the byelaw is intended to achieve.</p>	<p>The policy context for the byelaw is developed as part of the byelaw making process, taking into account the views of industry and which are informed through informal engagement, which has been ongoing for several years.</p> <p>For the most part, the policy objective is to manage the Wash cockle and mussel fisheries in a manner consistent with the established fisheries management plans for cockles and mussels in The Wash.</p> <p>The vast majority of measures which are used to manage the fishery are established within the WFO and have recently been reviewed. It is intended that these are carried over into the proposed byelaw.</p> <p>The remaining issue to be reviewed is access to the fishery, and an Aim and set of Objectives has been produced and consulted on with industry which is intended to guide the development of the management measures to access the fishery. Additionally, it is a recommendation of Action Item 10 that further clarity is provided by agreeing to a recommended 'Policy Objective' which can be referred to during further consultation.</p>
<p>It is not appropriate to increase the level of access (in terms of number of entrants) into the fishery.</p>	<p>The level of access into the cockle and mussel fishery is presently the subject of review which has included dialogue with the industry and the commissioning of an independent economic assessment.</p>
<p>A byelaw which enables the Authority to decide who can access the fishery is against the rights of fishermen.</p>	<p>As above, the byelaw is drafted using modern legislation which provides the Authority discretion in issuing of permits to access a fishery.</p>
<p>The byelaw should manage all fished bivalve species which for the time being are present within the fishery.</p>	<p>The cockle and mussel fisheries are the only bivalve mollusc species which have been subject to a fishery within The Wash for at least a decade. It is intended that a separate byelaw will enable management of other molluscan bivalve species in The Wash and throughout the district.</p>

	<p>The distinction being that there is an established fishery and associated fisheries management plans for the cockle and mussel fisheries which is not the case for other bivalve molluscs in The Wash.</p>
<p>The cancellation of a permit and 12 month suspension is not proportionate and risks the livelihood of individual fishermen.</p>	<p>It is acknowledged that this provision could have impacts on individuals within the fishery if they are excluded for a period of time. The overall effect of the provision is less than that under the WFO, given that exclusion is not intended to be permanent (as is currently the case under the WFO). The intended effect is an increase in deterrent effect, given that acceptance of a FAP or conviction by a court of a single offence would trigger its application. This is a reflection of the sensitivity of the Wash to impacts of fishing activity. However, higher level enforcement actions are not routinely used and compliance is sought via education and engagement in the first instance.</p>
<p>A Category 2 permit would allow access to 'all others' to the detriment of fisheries sustainability and industry viability. There is no need for them.</p>	<p>The inclusion of a Category 2 permit is intended to be used as a tool as may be required as part of the Authority's management of access to the fishery. There are no firm plans on how to use the permit, but it is recognised that a separate permit, which can have separate and distinct rules and restrictions attached, may be of benefit in addressing the issue of 'new entrants' into the fishery, a commonly raised complaint by industry with regard to the WFO.</p> <p>It is intended that its use is informed as part of the ongoing consultation with industry regarding the Aim and Objectives for managing access to the fishery.</p> <p>It is acknowledged that the ebb and flow of the cockle and mussel stocks provide 'good years' which make up for years where less stock is available and that the use of the Category 2 permits to enable additional, temporary access would impact negatively on the ability of established permit holders to make up for the poorer years. It is not intended that it would be used for this purpose.</p>
<p>The provision which entitles people to further permits (as per the 'entitlement' provision in Article 8(8) of the WFO)</p>	<p>It is recognised that the exclusion of an entitlement provision is a change compared to the situation under the WFO and this is understandably causing concern amongst industry, who fear that this could result in their access to the fishery being removed from them.</p>

<p>should be included to provide industry security and enable business continuity.</p>	<p>It is intended that a level of security can be provided through adoption of policy and eligibility criteria, but it is also acknowledged that the intended reliance on policies and flexible eligibility criteria do not provide the same level of security as a provision on the face of the byelaw would.</p> <p>Further, it is acknowledged that the Entitlement provision effectively enables a 2-year grace period whereby fishermen can choose not to fish but still be entitled to access subsequently and that this is in-keeping with the general principle of the need for inshore fishermen to diversify.</p> <p>The byelaw is intended to provide a flexible mechanism for the Authority to use to manage the fisheries in the long-term. Inclusion of an 'entitlement' provision would restrict the Authority's ability to alter the management of access to the fishery and, as has been the case with its inclusion in the WFO, can lead to a 'closed shop' which cannot be addressed without revision of the byelaw itself. Whilst the byelaw is itself more readily amended than an Order, this does not detract from the reasoning that such a provision can have unintended impacts into the future.</p> <p>It is also noteworthy that other byelaws and more modern Orders do not contain an 'entitlement' provision and MacAA allows for the IFCA's to manage access via permit schemes.</p> <p>On balance, it is considered appropriate that the Authority retains its discretion to revise how best to manage access to the fishery by not including an 'entitlement' because this will enable more adaptive management of the fishery. The management of access to the fishery is subject to its own review, which is also subject to engagement with industry and an economic assessment.</p>
<p>The byelaw should / should not enable transfer of permits</p>	<p>Both for and against arguments were received in relation to enabling the transfer of permits.</p>

	<p>The Byelaw includes a provision which will enable the Authority to enable the transfer of a permit via eligibility criteria, which will be subject to consultation with industry and consideration of any associated impacts.</p> <p>It is recognised that normal business practices have at various times under the policies of the WFO been hampered due to the management of access to the fishery. The intention is that eligibility criteria can be used to address this issue which are also flexible and can be amended to address changes over time.</p>
<p>Vessel owners should be the holder of a permit and this should reflect 'real' (or beneficial) ownership of a vessel rather than just majority share holding.</p>	<p>The byelaw does not specify that the owner of a vessel on which a permit is named must be the owner of the vessel.</p> <p>Instead, it is intended that the issue of vessel ownership and its relation to a permit can be addressed via eligibility criteria and which can be informed by the ongoing dialogue with industry regards the management of access to the fishery.</p>
<p>The provisions to introduce, vary or revoke management measures with 12 hours' notice and with no consultation is not proportionate and provides opportunity for the Authority to change things without due process.</p>	<p>The byelaw contains provision to introduce, vary or revoke management measures (including permit conditions, opening / closing of fisheries, and operating times) with no less than 12 hours' notice.</p> <p>Any such measures must however be reviewed within two months of coming into effect which must include consultation with industry and consideration of the impacts on them. This is included to mitigate concerns regarding implementing management without having consulted with the industry.</p> <p>This provision is included as it provides the Authority with the ability to react to emerging issues which risk the continuation of the fishery because it could impact on the site integrity of the Wash MPAs. Reference to the Authority having identified a 'risk' further restricts the use of these measures to only justifiable circumstances. In practice, the Authority will continue to engage where management measures are required in a short time frame, as is the case under the Order.</p>
<p>The byelaw has to be reviewed every 6-years, this provides less certainty</p>	<p>Byelaws must be reviewed every 6 years to ensure that they are fit for purpose and are achieving the policy objectives as required. This is also in-keeping with Defra byelaw making guidance.</p>

<p>than an Order which can last for up to 60 years.</p>	<p>A review does not mean that a byelaw will expire. Unlike an Order, byelaws do not have to set expiry dates and so in that sense, they can provide more security than an Order.</p>
<p>Providing weekly catch returns is too much of a burden on industry.</p>	<p>The byelaw requires that catch returns are submitted on a weekly basis as a minimum and this mirrors the current situation under the licence conditions of WFO cockle licences.</p> <p>Mussel seed fisheries, which have operated under a much smaller TAC have been subject to daily catch return requirements.</p> <p>The frequency of data return reflects the management of the fishery in accordance with a TAC. Returns are required on a weekly basis so as to monitor uptake of the fishery and prevent the TAC from being exceeded. Often, this is required for stock management purposes and to prevent impacts on site integrity of the MPAs within The Wash.</p>

## Appendix 4 – Impact Assessment

<b>Title:</b> Wash Cockle and Mussel Byelaw 2021  <b>IA No:</b> EIFCA010  <b>Lead department or agency:</b> Eastern Inshore Fisheries and Conservation Authority (IFCA)  <b>Other departments or agencies:</b> Marine Management Organisation (MMO), Department for Environment, Food and Rural Affairs (Defra)	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 22/02/2021
	<b>Stage:</b> Development/Options
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary Legislation
	<b>Contact for enquiries:</b> Julian Gregory, CEO, 01553 775321, Eastern IFCA, 6 North Lynn Business Village, Bergen Way, King's Lynn, Norfolk, PE30 2JG; tel:01553 775321, email: mail@eastern-ifca.gov.uk
<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> N/A

Cost of Preferred (or more likely) Option (in 2021 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
£-1,245,230.40	£-619,499.70	£-71,970.50	Non-qualifying provision

### What is the problem under consideration?

Eastern Inshore Fisheries and Conservation Authority (IFCA) manages certain bivalve mollusc fisheries within The Wash under the Wash Fishery Order (WFO) 1992 which expires in January 2023. The Wash hosts economically important cockle and mussel fisheries and is a Marine Protected Area (MPA).

### Why is government action or intervention necessary?

The byelaw is required to enable Eastern IFCA to manage the fishery to ensure that fishing activity does not negatively impact on cockle or mussel stock sustainability or the conservation objectives of the Wash.

### What are the policy objectives of the action or intervention and the intended effects?

To enable sustainable cockle and mussel fisheries in The Wash which do not impact on the conservation objectives of MPAs concurrent with the fishery.

It is intended that the byelaw will enable flexible management for cockle and mussel fisheries, in-keeping with the established fishery management plans for The Wash. Fishing will be prohibited without a permit which must be undertaken in accordance with any permit conditions or restrictions within the byelaw.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 0 – “do nothing”

Option 1 – Wash Cockle and Mussel Byelaw 2021 – Implement a byelaw under the Marine and Coastal Access Act 2009 (c.23) which enables the implementation of the fisheries management plans for cockle and mussel fisheries in The Wash.

Option 2 – Regulating Order – As per Option 1 using a Regulating Order under the Sea Fisheries (Shellfish) Act 1967 (c.83).

Option 3 – As per Option 1 using voluntary measures.

Option 1 (Wash Cockle and Mussel Byelaw 2021) is the preferred option because it will enable flexible management, using contemporary legislative mechanisms which will be consistent with other management throughout the Eastern IFC District, which enables the Authority to manage the fisheries of The Wash in a local context. A regulatory approach is preferred to address the level of risk associated with the fisheries in relation to sustainability and protection of MPAs.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 03/2027

Is this measure likely to impact on international trade and investment?		Yes		
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded:</b> N/A		<b>Non-traded:</b> N/A

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible SELECT SIGNATORY: \_\_\_\_\_ Date: \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year 2021	• PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£)		
			Low: -826,600	High: -1,495,704	Best Estimate: -1,203,121

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.0	£-174,205.6	£-1,495,703.7
High	0.0	£-96,274.6	£-826,599.9
Best Estimate	0.0	£-140,128.3	£-1,203,121.1

#### Description and scale of key monetised costs by 'main affected groups'

The permit fees represent the key monetised costs to busines. Other costs associated with the byelaw represent a continuation of management measures in place under the existing Wash Fishery Order 1992. Costs to Eastern IFCA relate to the administering of the permit scheme i.e. stock surveys, Habitat Regulation Assessments, administration, compliance activity and are offset by the permit fee with an intention to achieve approximately 50% cost recovery

#### Other key non-monetised costs by 'main affected groups'

Key non-monetised costs relate to the adaptation of management for the fisheries to reflect the flexible approach and Wash cockle and mussel fisheries management plans.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

#### Description and scale of key monetised benefits by 'main affected groups'

None identified

#### Other key non-monetised benefits by 'main affected groups'

The key non-monetised benefit is the continuation of the cockle and mussel fisheries in The Wash in the context of them occurring within an MPA. Without implementation of measures which mitigate the potential for impacts on the conservation objectives of the site, the fisheries could not continue.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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Costs associated with the administering of a permit scheme are likely to vary as are estimated costs to business which assume a consistent number of permits issued each year.

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £:			Score for Business Impact Target (qualifying provisions only) £:
Costs: 69536.7	Benefits:	Net: 69536.7	
			N/A

# Evidence Base

## Problem under consideration and rationale for intervention

The Wash is part of a heavily designated marine protected area (MPA) and holds the following designations: special area of conservation (SAC) special protection Area (SPA), site of special scientific interest (SSSI), Ramsar site and national nature reserves.

The Wash also hosts important cockle (*Cerastoderma edule*) and mussel (*mytilus edulis*) stocks. The cockle fishery has an estimated average annual market value circa £2.5 million. Mussel stocks within the Wash have been in decline for the past decade and have resulted in only limited mussel relaying fisheries (where juvenile mussel is removed and then set within private aquaculture) but historically represented significant fisheries.

Eastern IFCA currently limits access to the fishery, with 61 persons at present eligible to obtain a licence (under Eastern IFCA policies<sup>1</sup>) to fish for cockles or mussels. The majority of the licence holders rely heavily or entirely on access to the cockle fishery in particular. In addition, the fisheries have wider economic importance within the Eastern IFC District in relation to the processing of cockles and mussels. The economic importance of the Wash cockle and mussel fisheries are currently the subject of an economic assessment.

Eastern IFCA has managed certain bivalve mollusc fisheries, including cockles and mussels, within The Wash (Norfolk & Lincolnshire) through the Wash Fishery Order (WFO) 1992 (hereafter, the Order), since the Order came into effect in January of 1993. The Order has enabled the implementation of flexible management of the Wash fisheries to mitigate potential impacts on site integrity of the MPAs concurrent with the fisheries and to ensure fisheries are sustainable to safeguard the economic importance of the fisheries.

The risk to the fishery, fisheries stakeholders and the MPA is considered sufficient to require regulatory management. This is evidenced by in the annual Habitat Regulation Assessments which are undertaken in relation to the fishery and which conclude that fishing activity would have an adverse effect on the MPA without the application of mitigation in the form of management measures.

IFCAs have a duty to ensure that fish stocks are exploited in a sustainable manner, and that any impacts from that exploitation on designated features in the marine environment are reduced or suitably mitigated, by implementing appropriate management measures.

Fishing activities can potentially cause negative outcomes as a result of market failures. These failures can be described as:

1. Public goods and services – a number of goods and services provided by the marine environment such as biological diversity are ‘public goods’ (no-one can be excluded from benefiting from them but use of the goods does not diminish the goods being available to others). The characteristics of public goods, being available to all but belonging to no-one, mean that individuals do not necessarily have an incentive to voluntarily ensure the continued existence of these goods which can lead to under-protection/provision.
2. Negative externalities – negative externalities occur when the cost of damage to the marine environment is not fully borne by the users causing the damage. In many cases no monetary value is attached to the goods and services provided by the marine environment and this can lead to more damage occurring than would occur if the users had to pay the price of damage. Even for those marine harvestable goods that are traded (such as wild fish), market prices often do not reflect the full economic cost of the exploitation or of any damage caused to the environment by that exploitation.
3. Common goods - a number of goods and services provided by the marine environment such as populations of wild fish are ‘common goods’ (no-one can be excluded from benefiting from those goods however consumption of the goods does diminish that available to others). The characteristics of common goods (being available but belonging to no-one, and of a diminishing quantity), mean that individuals do not necessarily have an individual economic incentive to ensure the long-term existence of these goods which can lead, in fisheries terms, to potential overfishing. Furthermore, it is in the interest of each individual to catch as much as possible as quickly as possible so that

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<sup>1</sup> [https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/2017\\_02\\_15\\_WFO\\_Interim\\_Policy.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/2017_02_15_WFO_Interim_Policy.pdf)

competitors do not take all the benefits. This can lead to an inefficient amount of effort and unsustainable exploitation.

IFCA byelaws aim to redress these sources of market failure in the marine environment through the following ways:

Management measures to conserve designated features of MPAs will ensure negative externalities are reduced or suitably mitigated.

Management measures will support continued existence of public goods in the marine environment by conserving the range of biodiversity in the sea of the Eastern IFC District.

Management measures will also support continued existence of common goods in the marine environment by ensuring the long-term sustainability of shrimp stocks in the Eastern IFC District.

## **Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)**

The key drivers for management of cockle and mussel fisheries are well established within annual Habitat Regulation Assessments and the Fisheries management plans for the fisheries<sup>2</sup>.

In considering the scale of economic impact from the measures (which is primarily via the permit fee), only low confidence data is used as obtained through consultation with industry. It is intended that this is mitigated via the completion of an independent economic assessment of the fishery. However, the impacts of the permit fee is not considered to be a significant risk to business continuity.

Other impacts are not known as they will arise out of flexible management of the fishery which includes the implementation of technical measures (e.g. gear specification, catch restrictions) and the issuing of permits. In particular, setting eligibility criteria for a permit and the number of permits to be issued is a key concern of the fishery stakeholders. To mitigate this risk, the byelaw requires that consultation with impacted stakeholders must take place and that consideration of the impacts on them is taken into account when introducing, varying or revoking any such measures. This is in keeping with the established processes under IFCA permit byelaws.

## **Description of options considered**

### Option 0 – “do nothing”

This option is not considered appropriate on the basis that the fishery occurs within an MPA and which would impact site integrity without implementation of mitigation measures. In addition, the fisheries are economically important, particularly in a local context, and failure of the fisheries risks business continuity in relation to the 61 persons presently provided access (under the Order) and associated businesses (including the three processing facilities within the Eastern IFC District).

### Option 1 - Wash Cockle and Mussel Byelaw 2021 (preferred option)

Option 1 would be to implement a byelaw under the Marine and Coastal Access Act 2009 (hereafter MaCAA).

The byelaw would prohibit access without a permit issued by the Authority and would enable flexible management of the fisheries, subject to due process, in a manner consistent with the fisheries management plans for the cockle and mussel fisheries. It would include restrictions which are

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<sup>2</sup> For mussels: [https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO\\_Shellfish\\_management\\_policies\\_2008.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO_Shellfish_management_policies_2008.pdf) and for cockles: [https://www.eastern-ifca.gov.uk/wp-content/uploads/2019/07/2019\\_07\\_WFO\\_cockle\\_fishery\\_management\\_plan\\_draft1.3.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2019/07/2019_07_WFO_cockle_fishery_management_plan_draft1.3.pdf)

established mitigation measures under the Order and provide for additional measures to be introduced via permit conditions. Access to the fishery would be determined via eligibility criteria and through application of due process (consultation and consideration of impacts) as a means of mitigating over-fishing and industry viability. It is judged that a Byelaw will enable the Authority to be more responsive over time than would be the case with a new Regulating Order.

### Option 2 – Regulating Order

Option 2 would be to implement a Regulating Order under the Sea Fisheries (Shellfish) Act 1967 (hereafter, 'the Shellfish Act'). This would enable flexible management of the fisheries in a manner consistent with the fisheries management plans and in a manner similar to a byelaw.

A Regulating Order does not represent the most contemporary method for managing inshore fisheries and reflects a less flexible mechanism than a byelaw under MaCAA. Introduction of an Order (including one which extends the current Order for up to a further 30 years as per the Shellfish Act) would not enable the Authority to be as 'fleet if foot' as a byelaw when responding to developments affecting the fisheries. In addition, the provisions of MaCAA which enable management of fisheries by IFCAs are a preferred option given that they were introduced for that reason and would provide consistency with fisheries management throughout the district.

### Option 3 – Voluntary measures

Option 3 would be to implement management via non-regulatory agreements with fishing industry.

This option is not preferred as it does not adequately address the risk posed to the MPAs, stock sustainability or industry viability.

## **Policy objective**

The intended outcome of the preferred option (Wash Cockle and Mussel Byelaw 2021) is sustainable and economically viable cockle and mussel fisheries within The Wash which do not hinder the conservation objectives, or impact site integrity of, the MPAs concurrent with the fisheries.

The key indicators of success would be the economic outputs of the fishery and favourable condition assessments for the MPAs concurrent with the fishery (in so far as they relate to fishing activity).

## **Summary and preferred option with description of implementation plan**

The preferred option will come into effect via secondary legislation being a byelaw under section 155 of MaCAA which enables management of the fisheries in a manner consistent with the established fisheries management plans<sup>3</sup>.

The fisheries management plans are currently put into effect via the Order and a transition from the Order to a byelaw would include a review of the management of access to the fishery. The fishery management plan for cockles, key management measures (i.e. Regulations under the Order) and licence fees (under the Order) have been reviewed with the intention of adoption in the replacement to the Order (albeit subject to consultation in relation to the implementation of a byelaw).

Consideration of the transition in terms of access is being considered via consultation with fishery stakeholders and is intended to be implemented via a combination of policy, eligibility criteria (under the proposed byelaw) and a limitation on the number of permits issued (under the proposed byelaw). It is intended that this is informed by consultation with fishery stakeholders, which is ongoing.

It is intended that the proposed byelaw will come into effect on the expiry of the Order, in January of 2023.

After implementation, the management of the fishery via the byelaw will be the responsibility of the Authority, with accountability to the Secretary of State via MaCAA.

The proposed byelaw is intended to have the following effects in pursuance of achieving the intended outcome (above):

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<sup>3</sup> For mussels: [https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO\\_Shellfish\\_management\\_policies\\_2008.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO_Shellfish_management_policies_2008.pdf) and for cockles: [https://www.eastern-ifca.gov.uk/wp-content/uploads/2019/07/2019\\_07\\_WFO\\_cockle\\_fishery\\_management\\_plan\\_draft1.3.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2019/07/2019_07_WFO_cockle_fishery_management_plan_draft1.3.pdf)

- Prohibit access to cockle and mussel fisheries within the Wash without a permit;
- Enable the Authority to limit and manage access (using eligibility criteria), having consulted with impacted stakeholders and taken into account the impacts of such restrictions, so as to balance the needs of MPAs, stock sustainability and viability in inshore fishing interests;
- To cancel a licence where a person is convicted of an offence under the byelaw or accepted a Fixed Administrative Penalty for the same;
- Charge a fee for issuing permits to recover approximately fifty percent of the costs to the Authority for administering the permit scheme, which is in accordance with current practice under the WFO;
- Enable the Authority to flexibly manage the fishery by introducing, varying or revoking operating times (i.e. the times fishing is permitted), measures introduced as permit conditions, and the opening and closing of fisheries, following consultation with industry and consideration of the impacts of such, so as to balance the needs of MPAs, stock sustainability and viability in inshore fishing interests;
- Require catch returns for the fishery so as to gather data at a spatial resolution to enable the effective management of cockles and mussels in The Wash and at a frequency which enables dynamic management of the fishery;
- Prohibition on using any fishing gear unless it has been certified by the Authority;
- To implement established management measures currently in place within the fisheries under the WFO including:
  - Vessel length limitation of 14 metres with an exemption for those with established track record of operating within the fishery with a vessel greater than 14 metres;
  - Daily catch restrictions;
  - Mussel dredge restriction (number of dredges and width of opening);
  - Requirement that any catch sorted is returned immediately to the sea or seabed;
  - Prohibition on transshipping catch;
  - Requirement to land catch after it is removed from the fishery (save for that returned as a result of sorting);
  - Restricting on fishing for cockles or mussels if these have been removed from any other fishery during the same calendar day;
  - Requirements to land catch within bags of a specified size;

- Restriction on using an anchor in the process of ‘prop-washing’ and requirement to redistribute any cockles (or mussels) disturbed using this method after the daily quota has been removed;
- Restriction on the size of any tender carried aboard or towed by a vessel operating within the fishery.
- To amend other Eastern IFCA byelaws which make reference to the Wash Fishery Order and to reflect the use of this byelaw to manage the associated cockle and mussel fisheries

The byelaw is not intended to apply within the area of the le Strange Estate (within The Wash) or to persons collecting five kilograms or less of cockles or mussels from The Wash for recreational purposes.

## **Monetised and non-monetised costs and benefits of each option (including administrative burden)**

### Option 0 – “do nothing”

The costs and benefits associated with this option cannot be monetised as there is too high a degree of uncertainty.

The costs on the Authority are not removed via this option as Eastern IFCA has a duty under MaCAA and the Conservation of Habitats and Species Regulations (2017) as amended (hereafter, ‘the Habitat Regulations’) to ensure that the MPAs within the site are not impacted by fishing activity and so “do nothing” is not a possible option. If a means to manage a fishery was not implemented, the fishery would have to be closed given it is known to impact site integrity without implementation of mitigation measures which would incur a cost.

Costs to industry would range from none, as there is no cost of a permit or any costs associated with complying with mitigation measures, to loss of the fishery entirely as it closes (to comply with the Habitat Regulations) and / or becomes unsustainable and stocks collapse.

### Option 1 – Wash Cockle and Mussel Byelaw 2021

The main monetised costs relate to the fee associated with a permit to fish, the costs to comply with mitigation measures and the costs to the Authority of administering the permit scheme.

Permit fees are proposed to follow on from those in place under the Order which were revised in 2018 and as such would not constitute an additional or new cost. The fee is variable depending on the fishery targeted and gear method used and reflect the intention to recover approximately cost recovery at fifty percent of the costs incurred by the Authority for administering the permit scheme. Key non-monetised costs reflect costs of complying with any additional mitigation measures implemented through permit conditions.

Costs to the Authority will vary annually and include undertaking stock surveys, undertaking Habitat Regulation Assessments, administration (physical issuing of permits, data entry, correspondence) and compliance activities. Whilst these costs can be monetised, the flexible approach to management of the fisheries regularly requires additional activities on the part of the Authority which would be in addition to this and cannot be monetised due to high variability. These costs are also consistent with the management of the fishery under the current Order.

Benefits cannot be monetised but non-monetised benefits include the continuation of the fisheries and the flexible management of the fisheries to minimise any costs associated with delays in implementation with management. Often, management measures need to be introduced, varied or revoked within days or weeks to ensure the MPA and stock is not impacted and / or to enable the effective prosecution of the fishery, this flexibility is required to effectively manage the cockle and mussel fisheries in The Wash.

The key benefit with regards to use of a byelaw instead of an Order (as per option 2) is that the byelaw making powers within MaCAA provide a modern legislative mechanism which would be in keeping with

management of the other fisheries throughout the district. They are also subject to review more often (in accordance with Defra policy), ensuring that they reflect the current situation and can be amended through a streamlined process compared to an Order, making them more efficient and less costly to keep fit for purpose. Ultimately, the mechanism is provided for in MaCAA as it is considered an appropriate model for IFCAs to use. The use of a byelaw also provides additional transparency and clarity to stakeholders via requirements to consult on flexible measures.

### Option 2 – Regulating Order

The monetised costs and benefits associated with an Order would be the same as in Option 1.

No non-monetised benefits are identified compared to using a byelaw. Also, whilst an Order affords the IFCA a greater degree of sub-delegated power, the flexibility of an Order can be matched with that of an byelaw whilst an Order provides less obligation to consult with industry regards the introduction, varying or revoking of flexible measures and less consistency (and thus transparency) with other fisheries throughout the district.

### Option 3 – voluntary measures

The costs to the Authority would be still constitute the administering of a permit scheme as these would be necessary to inform what voluntary measures would be needed. This cost would no however be mitigated by cost recovery (via permit fees) under options 1 and 2.

There are no identified monetised costs to busines under this option.

## **Direct costs and benefits to business calculations**

There are three key fisheries within the Wash; the hand-work cockle fishery (being the main fishery over the last ten years), and the hand-work and dredge mussel fisheries.

Eastern IFCA undertakes annual cockle and mussel stock surveys. The annual cost of these is estimated as £92,439.53, having sought cost saving changes in 2016<sup>4</sup>.

In addition, there is a delivery cost associated with each individual fishery. These are set out in table 1 (below).

The proposed permit fee is made up of two elements; the first being the cost recovery in relation to cockle and mussel stock assessments (which at fifty percent cost recovery totals £46,219.75 annually) and the second in relation to the costs for delivery of each fishery (the total cost being set out in table 1).

At the time of the review of licence fees under the Order, 62 separate licences were eligible for issuing annually. The proposed permit fees reflect this level of access. i.e. a total of the survey cost and the delivery fee of a fishery divided by 62.

Table 1. estimated annual costs of delivering fisheries within the Wash and reflection of fee element within permit fees.			
<b>Cost element</b>	<b><i>Hand-work cockle fishery</i></b>	<b><i>Hand-work mussel fishery</i></b>	<b><i>Dredge mussel fishery</i></b>
Compliance requirements	£37,288.43	£7,753.47	£15,329.69
Habitat Regulation Assessments	£1,873.05	£1,873.05	£1,873.05

<sup>4</sup> <http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/02/35th-EIFCA.pdf> pages 51 to 65

Administration of licences and catch returns	£1,203.64	£1,203.64	£1,203.64
Planning and development	£1,741.64	£1,741.64	£1,741.64
<b>Total cost</b>	£42,106.76	£12,571.80	£20,148.02
<b>Contribution by licence holders at 50% cost recovery</b>	£21,053.38	£6,285.90	£10,074.01
<b>Endorsement fee at 50% cost recovery</b>	<b>£339.57</b>	<b>£101.39</b>	<b>£162.48</b>

The variations in cost associated with each fishery reflect the different compliance approaches necessary to mitigate risk in each fishery. Further detail is provided in Action Item 13 of the 35<sup>th</sup> Eastern IFCA meeting (30/01/2019)<sup>5</sup>.

The scale of the impacts of costs on busines are not considered to risk busines continuity. The permit fee is estimated to represent between 3.3% and 8.5% of the first sale value of the fishery on an annual basis<sup>6</sup>.

## Risks and assumptions

The key risks associated with the proposed byelaw relate to the protection of the MPAs within the Wash, the sustainability of the cockle and mussel stocks within The Wash and industry viability in relation to businesses which currently prosecute or rely on the fisheries.

The proposed byelaw is intended as a regulatory mechanism to implement the established fisheries management plans for cockle and mussel fisheries. The cockle fishery management plan, regulations and fees have been reviewed in consultation with industry and Natural England (with regards to mitigating impacts on the MPAs within The Wash). The remaining element of management to be reviewed is in relation to managing access to the fishery. This is the subject of ongoing consultation with fishery stakeholders and has identified concerns regards the continuity of businesses currently allowed access to the fishery. This is being considered in the context of ensuring that access to the fishery is managed in a fair, equitable, and transparent way and through continued dialogue with industry.

The costs in relation to licence fees are not consisted to risk busines continuity based on currently available data<sup>7</sup>, however, it is intended that Impacts on industry as a result of the measures will be further informed by an independent economic assessment of the fisheries, commissioned by the Authority.

## Impact on small and micro businesses

The majority of businesses operating within the fishery are small or micro businesses and cannot be exempted whilst achieving the intended outcomes of the proposal. The application of the fisheries management plans for cockle and mussel fisheries dictates for the most part the impacts and costs as a result of these measures (i.e. the management measures) and these have been in place for between five

<sup>5</sup> <https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/02/35th-EIFCA.pdf> (pg 66 to 87)

<sup>6</sup> <https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/02/35th-EIFCA.pdf> (pg 66 to 87)

<sup>7</sup> Which is set out in <https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/02/35th-EIFCA.pdf> (pg 66 to 87)

and 28 years (some since the implementation of the order, some being more recent). As such, the restrictions implemented will not be new burdens.

An economic assessment of the fishery has been commissioned to inform this assessment further.

### **Wider impacts (consider the impacts of your proposals)**

The key wider impact of the proposal relates to access to the fishery. The proposed byelaw will enable the Authority to manage access to the fishery by setting a limit on the number of permits issued to participate in each and setting eligibility criteria to determine who may have access.

The system currently in place under the Order and the associated policies limits access to those with an 'entitlement' to a further licence, under the Order. It is assumed that an open access fishery would likely reduce the viability of the fishery to each individual additional persons would seek to enter into it and this is a view shared by those within the fishery presently. However, limiting access in the manner established under the Order has led to concerns from the industry about monopolisation, circumvention of rules and an inability for new entrants to enter the fishery. In addition, limiting access in this way reduces competition which may lead to lower productivity<sup>8</sup>. As such, this element of management is the subject of ongoing review which includes an independent economic assessment of the viability of the fishery and the level of access it can support whilst remaining 'viable' and dialogue with industry. It is intended that the management of access to the fishery is determined under the mechanisms of the byelaw and the review is undertaken in parallel with the making of the proposed byelaw. In addition, the inclusion of a mechanism to introduce, vary or revoke management of access will enable the Authority to adapt to changes in market forces and guidance from the Competition and Markets Authority.

The proposed byelaw is in keeping with the East Inshore Marine Plan a full assessment is at Appendix 1.

### **A summary of the potential trade implications of measure**

None identified

### **Monitoring and Evaluation**

The impacts and success of the measures will be reviewed in accordance with Defra guidance<sup>9</sup>. The key measures will be the assessment of impacts on the cockle and mussel stocks and the conservation objectives of the MPAs within the site, and the continuation of fishing activity within the Wash fisheries.

The productivity of the fishery will be monitored via catch returns and stock assessments. The Impacts on conservation objectives and site integrity will be monitored via habitat regulation assessments (which are also informed by stock assessments).

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<sup>8</sup> According to Competition and Markets authority guidance;

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/460784/Competition\\_impact\\_assessment\\_Part\\_1\\_-\\_overview.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/460784/Competition_impact_assessment_Part_1_-_overview.pdf)

<sup>9</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/182343/ifca-byelaw-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/182343/ifca-byelaw-guidance.pdf)

**Appendix 1 - Assessment of proposed intervention in relation to the Marine Policy Statement.**

**Marine Plan: Eastern Inshore Marine Plan**

Marine Plan Policy	Policy Text	Policy screened in or out from assessment	Assessment of plan policy
<b>Policy AGG1</b>	Proposals in areas where a licence for extraction of aggregates has been granted or formally applied for should not be authorised unless there are exceptional circumstances.	Out	Does not apply.
<b>Policy AGG2</b>	Proposals within an area subject to an Exploration and Option Agreement with The Crown Estate should not be supported unless it is demonstrated that the other development or activity is compatible with aggregate extraction or there are exceptional circumstances.	Out	Does not apply.
<b>Policy AGG3</b>	Within defined areas of high potential aggregate resource, proposals should demonstrate in order of preference: a) that they will not, prevent aggregate extraction b) how, if there are adverse impacts on aggregate extraction, they will minimise these c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the application if it is not possible to minimise or mitigate the adverse impacts	Out	Does not apply.

<p><b>Policy AQ1</b></p>	<p>Within sustainable aquaculture development sites (identified through research), proposals should demonstrate in order of preference:</p> <p>a) that they will avoid adverse impacts on future aquaculture development by altering the sea bed or water column in ways which would cause adverse impacts to aquaculture productivity or potential</p> <p>b) how, if there are adverse impacts on aquaculture development, they can be minimised</p> <p>c) how, if the adverse impacts cannot be minimised they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>✓</p>	<p>Proposals will not impact on aquaculture development.</p>
<p><b>Policy BIO1</b></p>	<p>Appropriate weight should be attached to biodiversity, reflecting the need to protect biodiversity as a whole, taking account of the best available evidence including on habitats and species that are protected or of conservation concern in the East marine plans and adjacent areas (marine, terrestrial).</p>	<p>✓</p>	<p>The proposed byelaw will not impact on biodiversity. The measures are intended to reduce the likelihood of impacts on cockle and mussel stock sustainability targeted by fishing activity which will ultimately prevent reduction in biodiversity (through overfishing).</p> <p>In addition, the measures ensure that fishing activity is managed in such a way so as to prevent impacts on site integrity of MPAs within The Wash which</p>

			will also lend towards protecting biodiversity.
<b>Policy BIO2</b>	Where appropriate, proposals for development should incorporate features that enhance biodiversity and geological interests.	✓	Where the measures act to ensure stock sustainability, they will have the effect of enhancing biodiversity which would otherwise be lost due to overfishing or impacts on the environment where fishing occurs.
<b>Policy CAB1</b>	Preference should be given to proposals for cable installation where the method of installation is burial. Where burial is not achievable, decisions should take account of protection measures for the cable that may be proposed by the applicant.	Out	Does not apply.
<b>Policy CC1</b>	Proposals should take account of: <ul style="list-style-type: none"> <li>• how they may be impacted upon by, and respond to, climate change over their lifetime and</li> <li>• how they may impact upon any climate change adaptation measures elsewhere during their lifetime</li> </ul> Where detrimental impacts on climate change adaptation measures are identified, evidence should be provided as to how the proposal will reduce such impacts.	✓	Managing the cockle and mussel stocks within The Wash will increase resilience to climate change and will enable the impacts of climate change to be taken into account in their management (via flexible measures).

<b>Policy CC2</b>	Proposals for development should minimise emissions of greenhouse gases as far as is appropriate. Mitigation measures will also be encouraged where emissions remain following minimising steps. Consideration should also be given to emissions from other activities or users affected by the proposal.	Out	Does not apply.
<b>Policy CCS1</b>	Within defined areas of potential carbon dioxide storage,(mapped in figure 17)proposals should demonstrate in order of preference: a) that they will not prevent carbon dioxide storage b) how, if there are adverse impacts on carbon dioxide storage, they will minimise them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	Out	Does not apply.
<b>Policy CCS2</b>	Carbon Capture and Storage proposals should demonstrate that consideration has been given to the re-use of existing oil and gas infrastructure rather than the installation of new infrastructure (either in depleted fields or in active fields via enhanced hydrocarbon recovery).	Out	Does not apply.
<b>Policy DD1</b>	Proposals within or adjacent to licensed dredging and disposal areas should demonstrate, in order of preference a) that they will not adversely impact dredging and disposal activities b) how, if there are adverse impacts on dredging and disposal, they will minimise these c) how, if the adverse impacts cannot be minimised they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	Out	Does not apply

<b>Policy DEF1</b>	Proposals in or affecting Ministry of Defence Danger and Exercise Areas should not be authorised without agreement from the Ministry of Defence.	Out	Does not apply
<b>Policy EC1</b>	Proposals that provide economic productivity benefits which are additional to Gross Value Added currently generated by existing activities should be supported.		No additional benefits are identified as a result of the proposed byelaw as it effectively maintains the protective effect of measures which were in place prior to an amendment of Technical Conservation Regulations. The proposals do make negative impacts on economic productivity as a result of impacts on fish and shellfish stock sustainability less likely.
<b>Policy EC2</b>	Proposals that provide additional employment benefits should be supported, particularly where these benefits have the potential to meet employment needs in localities close to the marine plan areas.	In	The byelaw includes the ability to limit access to the fishery and apply eligibility criteria to determine such access. The intention of the ongoing review of access to the fishery is to determine the appropriate level of access so as to ensure a viable industry.
<b>Policy EC3</b>	Proposals that will help the East marine plan areas to contribute to offshore wind energy generation should be supported.	Out	Does not apply.

<p><b>Policy ECO1</b></p>	<p>Cumulative impacts affecting the ecosystem of the East marine plans and adjacent areas (marine, terrestrial) should be addressed in decision-making and plan implementation.</p>	<p>In</p>	<p>The proposed measures will support a healthy marine habitat by enabling the Authority to manage cockle and mussel fisheries within the Wash in accordance with the associated Fisheries management plans. This in turn should have a benefit on the wider ecosystem by, for example, ensuring appropriate food resource is available for protected over-wintering bird species and habitats on which fisheries occur are not damaged to the extent that they impact site integrity of the Wash MPAs.</p>
<p><b>Policy ECO2</b></p>	<p>The risk of release of hazardous substances as a secondary effect due to any increased collision risk should be taken account of in proposals that require an authorisation.</p>	<p>Out</p>	<p>No additional collision risk identified as a result of the proposed byelaw.</p>

<b>Policy FISH1</b>	<p>Within areas of fishing activity, proposals should demonstrate in order of preference:</p> <p>a) that they will not prevent fishing activities on, or access to, fishing grounds</p> <p>b) how, if there are adverse impacts on the ability to undertake fishing activities or access to fishing grounds, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with their proposal if it is not possible to minimise or mitigate the adverse impacts</p>	In	It is the intention of the byelaw to enable sustainable cockle and mussel fisheries.
<b>Policy FISH2</b>	<p>Proposals should demonstrate, in order of preference:</p> <p>a) that they will not have an adverse impact upon spawning and nursery areas and any associated habitat</p> <p>b) how, if there are adverse impacts upon the spawning and nursery areas and any associated habitat, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised they will be mitigated</p> <p>d) the case for proceeding with their proposals if it is not possible to minimise or mitigate the adverse impacts</p>	In	It is the intention of the byelaw to enable sustainable cockle and mussel fisheries by applying principles from the associated cockle and mussel fisheries management plans which include protection of juvenile and spawning stocks.
<b>Policy GOV1</b>	Appropriate provision should be made for infrastructure on land which supports activities in the marine area and vice versa.	Out	Does not apply.
<b>Policy GOV2</b>	Opportunities for co-existence should be maximised wherever possible.	Out	Does not apply.

<b>Policy GOV3</b>	Proposals should demonstrate in order of preference: a) that they will avoid displacement of other existing or authorised (but yet to be implemented) activities b) how, if there are adverse impacts resulting in displacement by the proposal, they will minimise them c) how, if the adverse impacts resulting in displacement by the proposal, cannot be minimised, they will be mitigated against or d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts of displacement	In	No adverse impacts identified.
<b>Policy MPA1</b>	Any impacts on the overall Marine Protected Area network must be taken account of in strategic level measures and assessments, with due regard given to any current agreed advice on an ecologically coherent network.	In	It is intended that the byelaw will enable the management of fisheries to the effect that they do not impact the MPAs of The Wash, as per the established Fisheries Management Plans.
<b>Policy OG1</b>	Proposals within areas with existing oil and gas production should not be authorised except where compatibility with oil and gas production and infrastructure can be satisfactorily demonstrated.	Out	Does not apply.
<b>Policy OG2</b>	Proposals for new oil and gas activity should be supported over proposals for other development.	Out	Does not apply.
<b>Policy PS1</b>	Proposals that require static sea surface infrastructure or that significantly reduce under-keel clearance should not be authorised in International Maritime Organization designated routes.	Out	Does not apply.

<p><b>Policy PS2</b></p>	<p>Proposals that require static sea surface infrastructure that encroaches upon important navigation routes (see figure 18) should not be authorised unless there are exceptional circumstances. Proposals should:</p> <ul style="list-style-type: none"> <li>a) be compatible with the need to maintain space for safe navigation, avoiding adverse economic impact</li> <li>b) anticipate and provide for future safe navigational requirements where evidence and/or stakeholder input allows and</li> <li>c) account for impacts upon navigation in-combination with other existing and proposed activities</li> </ul>	<p>Out</p>	<p>Does not apply.</p>
<p><b>Policy PS3</b></p>	<p>Proposals should demonstrate, in order of preference:</p> <ul style="list-style-type: none"> <li>a) that they will not interfere with current activity and future opportunity for expansion of ports and harbours</li> <li>b) how, if the proposal may interfere with current activity and future opportunities for expansion, they will minimise this</li> <li>c) how, if the interference cannot be minimised, it will be mitigated</li> <li>d) the case for proceeding if it is not possible to minimise or mitigate the interference</li> </ul>	<p>Out</p>	<p>Does not apply.</p>
<p><b>Policy SOC1</b></p>	<p>Proposals that provide health and social well-being benefits including through maintaining, or enhancing, access to the coast and marine area should be supported.</p>	<p>Out</p>	<p>Proposed byelaw does not relate to access to the marine environment.</p>

<p><b>Policy SOC2</b></p>	<p>Proposals that may affect heritage assets should demonstrate, in order of preference:</p> <p>a) that they will not compromise or harm elements which contribute to the significance of the heritage asset</p> <p>b) how, if there is compromise or harm to a heritage asset, this will be minimised</p> <p>c) how, where compromise or harm to a heritage asset cannot be minimised it will be mitigated against or</p> <p>d) the public benefits for proceeding with the proposal if it is not possible to minimise or mitigate compromise or harm to the heritage asset</p>	<p>n/a</p>	<p>Does not apply.</p>
<p><b>Policy SOC3</b></p>	<p>Proposals that may affect the terrestrial and marine character of an area should demonstrate, in order of preference:</p> <p>a) that they will not adversely impact the terrestrial and marine character of an area</p> <p>b) how, if there are adverse impacts on the terrestrial and marine character of an area, they will minimise them</p> <p>c) how, where these adverse impacts on the terrestrial and marine character of an area cannot be minimised they will be mitigated against</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>✓</p>	<p>Does not apply.</p>
<p><b>Policy TIDE1</b></p>	<p>In defined areas of identified tidal stream resource (see figure 16), proposals should demonstrate, in order of preference:</p> <p>a) that they will not compromise potential future development of a tidal stream project</p> <p>b) how, if there are any adverse impacts on potential tidal stream deployment, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>✓</p>	<p>Does not apply.</p>

<b>Policy TR1</b>	<p>Proposals for development should demonstrate that during construction and operation, in order of preference:</p> <p>a) they will not adversely impact tourism and recreation activities</p> <p>b) how, if there are adverse impacts on tourism and recreation activities, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	✓	Does not apply.
<b>Policy TR2</b>	<p>Proposals that require static objects in the East marine plan areas, should demonstrate, in order of preference:</p> <p>a) that they will not adversely impact on recreational boating routes</p> <p>b) how, if there are adverse impacts on recreational boating routes, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	n/a	Does not apply.
<b>Policy TR3</b>	<p>Proposals that deliver tourism and/or recreation related benefits in communities adjacent to the East marine plan areas should be supported.</p>	✓	<p>The proposed measures will reduce the risk of negative impacts on fish and shellfish stocks. Commercial and recreational fishing activities are considered important culturally within communities around the Eastern IFC District generating important tourist activity. Most notably the North Norfolk Coast.</p>

<p><b>Policy WIND1</b></p>	<p>Developments requiring authorisation, that are in or could affect sites held under a lease or an agreement for lease that has been granted by The Crown Estate for development of an Offshore Wind Farm, should not be authorised unless</p> <ul style="list-style-type: none"> <li>a) they can clearly demonstrate that they will not compromise the construction, operation, maintenance, or decommissioning of the Offshore Wind Farm</li> <li>b) the lease/agreement for lease has been surrendered back to The Crown Estate and not been re-tendered</li> <li>c) the lease/agreement for lease has been terminated by the Secretary of State</li> <li>d) in other exceptional circumstances</li> </ul>	<p>n/a</p>	<p>Does not apply.</p>
<p><b>Policy WIND2</b></p>	<p>Proposals for Offshore Wind Farms inside Round 3 zones, including relevant supporting projects and infrastructure, should be supported.</p>	<p>n/a</p>	<p>Does not apply.</p>

### 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



## Action Item 12

### 43<sup>rd</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

10 March 2021

**Report by:** J. Gregory, Chief Executive Officer

#### **Review of Annual Priorities and Risk Register**

#### **Purpose of report**

The purpose of this report is to update members on progress against 2020-21 priorities and to review the Risk Register

#### **Recommendations**

Members are recommended to:

- **Note** the content of this report

#### **Background**

Eastern Inshore Fisheries and Conservation Authority is mandated to produce an annual plan each year to lay out the expected business outputs for the year ahead.

With effect from 2016-17 the Authority adopted a model for business planning which uses a rolling five-year Business Plan incorporating annual priorities informed by the annual Strategic Assessment. The plan incorporates the high-level objectives agreed with Defra.

A rolling five-year business plan reflects the need to engage in longer term planning in the context of high levels of demand and the requirement to be flexible with priorities to reflect the dynamic nature of inshore fisheries, the marine environment and the policy landscape.

The Risk Register is contained within the Business Plan and it captures key issues that are judged to pose potential risks to the organisation. The matrix sets out the magnitude of the risk to Eastern IFCA from an organisational viewpoint, incorporating amongst others reputational and financial risks. It also sets out the likelihood of an identified risk occurring.

#### **Report**

This update encompasses the period from the last update to the end of February 2021.

The tables at Appendix 1 detail the progress against the key priorities for 2020-21, as set in the Business plan for 2020-25.

The Risk Register is set out at Appendix 2 and the current status of each risk area is shown at Appendix 3. The only item of note is that New Burdens funding in its current format will not continue beyond this financial year but the IFCA Chief Officer Group have been working with Defra colleagues to bid for a replacement funding stream in Spending Review 2020. It is now clear that there will be a single year budget settlement for Government departments for 2021-22 and the outcome of this is awaited to see if some element of funding for IFCAs will continue.

### **Appendices**

Appendix 1 – Update on priorities set for 2020-21

Appendix 2 – Risk Register

Appendix 3 – Update on Risk Register

### **Background documents**

Eastern Inshore Fisheries and Conservation Authority Business Plan 2020-25.

## APPENDIX 1 - Progress against Annual Priorities – October 2020 to February 2021

5 key priorities are established for 2020-21.

Financial Year 2020-21		
Priorities 2020-21	Progress	Comment
<p>1. To ensure that the conservation objectives of Marine Protected Areas in the district are furthered by:</p> <p>a) Development of management measures for 'red-risk' gear/feature interactions in the Inner Dowsing, Race Bank and North Ridge SCI, and the Haisborough, Hammond &amp; Winterton SCI.</p> <p>b) Assessing the impact of fishing activities on the Cromer Shoal Chalk Beds (MCZ) and delivering management measures (if required).</p> <p>c) Development of priority Monitoring and Control plans as identified by the strategic assessment.</p>		<p>1a. <b>Ongoing.</b> <i>Haisborough, Hammond &amp; Winterton</i>: Marine Protected Areas Byelaw 2019 agreed by Authority provides protection of "red risk" features in this site. The management measures for the site have been agreed but the Byelaw is yet to be implemented following completion of an assessment evaluating impact of additional small-scale fishing activity not identified during byelaw development (albeit outside of the HHW site), and subsequent submission of byelaw to the MMO for formal QA. Evaluation and consultation with Natural England is ongoing.</p> <p><i>Inner Dowsing, Race Bank &amp; North Ridge</i>: Closed Areas Byelaw 2020 agreed by Authority in September 2020 provides protection of "red risk" feature in this site. Officers are continuing to scrutinise feature evidence to inform a decision whether to restrict activity in additional areas via a future iteration of this byelaw.</p> <p>1b. <b>Ongoing.</b> Officers are finalising an assessment of the impact of non-potting fisheries on Cromer Shoal Chalk Beds MCZ– including new information on activity supplied to the Authority after the initial assessment had been completed. Management of bottom towed fisheries within MCZ has been agreed in the form of the Marine Protected Areas Byelaw 2019. To better understand the significance of impacts from potting fisheries on site features, an Adaptive Risk Management (ARM) approach is being taken that will enable further research alongside the development of appropriate</p>

d) Completion of amber/green gear/feature interactions. Development of management measures where required.

management measures. Collaboration with local fishermen, Natural England and research partners (University of Essex) is ongoing to help inform management in this site. As current evidence indicates the long-term effects from lost/stored gear can have the severest impacts, management measures are being developed in close collaboration with affected stakeholders to minimise this risk.

As a crucial part of the ARM approach, a Cromer Shoal Permit Byelaw under MaCAA s.157 is being considered. The context and content of this byelaw was presented to members at the Fisheries and Conservation Management Working Group in January 2021. So far successful informal dialogue between industry and officers along the coast to discuss the ARM approach in more detail, including the consideration of the byelaw, is ongoing. Alongside informal engagement, in late February 2021, the first cross-organisational steering group was held to establish the next steps for the development of management of potting activity.

1c. **Ongoing.** This work has not progressed since the last update. A monitoring and control plan for shrimp beam trawling has been drafted. The plan sets out how the mitigation agreed for this fishery in the Wash and North Norfolk Coast SAC is applied. Work to develop monitoring and control plans for other fisheries in the district is ongoing.

1.d. **Ongoing.** Management agreed for "highest risk" amber/green gear/feature interactions, i.e. towed demersal fishing on subtidal sediment habitats. Amber/green

		<p>assessments to be completed for more recently designated MPAs and management developed if found to be required. Original suite of amber/green assessments to be finalised (lower risk work that had been put on hold to enable focus on red risk and higher risk ambers).</p> <p>Members agreed in principle to implement two further shrimp permit conditions at the 41<sup>st</sup> Eastern IFCA meeting. Consultation with industry on these additional measures, held together with the proposed additional management measures for whelk fisheries (discussed below in priority 2c), closed on 22<sup>nd</sup> February 2021. The responses to this consultation are now being reviewed.</p>
<p>2. To ensure that sea fisheries resources are exploited sustainably and in accordance with MSFD requirements:</p> <p>a) Development of management measures in relation to shrimp fisheries sustainability.</p>		<p>2a. <b>Ongoing.</b> The industry-led development of voluntary management measures under the Marine Stewardship Council accreditation scheme satisfies the Authority’s responsibility to ensure the shrimp fishery is exploited sustainably and in accordance with MSFD requirements. While further sustainability measures are not currently required, a Memorandum of Understanding (MoU) has been agreed between the Authority and the Industry, detailing tasks that each party needs to conduct in order to maintain the MSC certification. These include a commitment from the</p>

<p>b) Development of management measures in relation to crab and lobster fisheries</p>	<p>Authority to inspect nets and fishing gear used in the fishery, and to monitor where the fishing activities are occurring with respect to sensitive seabed features. Covid-19 restrictions have limited our capability to conduct the full range of vessel inspections this year and also limited the amount of vessel sightings data we have been able to capture. Our ability to provide accurate details of the fishery’s spatial extent has been hampered by delays in the national introduction of I-VMS.</p> <p>2b. <b>Ongoing.</b> Crab stock assessments conducted by the Authority indicate local stocks are not threatened by the current level of fishing activity. Development of regulatory measures for sustainability reasons has paused, therefore, while work focusses instead on management of the associated Cromer Shoal Chalk Bed Marine Conservation Zone.</p>
<p>c) Increase scope of research project and voluntary gathering of whelk samples and undertake stock assessment and assessment of size at sexual maturity sustainability</p>	<p>Following the downgrading of the Southern North Sea crab fisheries MCS Good Fish Guide’s rating, the Authority has been supporting the industry with the development of a Fisheries Improvement Project (FIP). A ‘needs assessment’ of the fishery has been completed, detailing areas where the fishery would benefit from management and which will inform the objectives of the FIP. This has been provided to the industry, who will lead on its further development, By its conclusion, the FIP should have addressed sustainability</p>

risks through the potential introduction of regulatory and/or voluntary measures.

**2c. Ongoing.** Whelk research has focused on analysing landings data provided from the whelk landings returns in order to monitor effort, landings and trends in Landings Per Unit Effort (LPUE) and determining the Size of Maturity (SoM) through bio-sampling. Initial analysis of landings data had revealed a large increase in effort over the past five years, most of which is focused in the Wash or along the North Norfolk Coast. In these two areas, LPUE values appeared to have passed a peak and had started declining, suggesting the stocks are now being fished at unsustainable levels. However, an issue with how catch caught outside of the District was being recorded in the returns forms has been identified, invalidating sections of the data. Work is ongoing to fully understand the impact of this will have on the overall results.

This issue does not affect the SoM data, which relied on biometric data rather than returns forms. This study indicated the MLS of 55mm is appropriate for The Wash but too small for Lowestoft and Sea Palling. The results from this study suggested whelks from Southwold mature at a smaller size, but there were insufficient samples for this to be conclusive. It was hoped over summer to collect further samples from Southwold to strengthen that data, and also

		<p>to sample more areas. Obtaining sufficient samples from these areas has been challenging throughout the study, however, and hasn't been possible with this year's Covid-19 restrictions. This aspect of the study has been paused until further samples can be obtained.</p> <p>Consultation was held with industry on additional measures proposed in the context of concerns about the level of effort identified as discussed above and concerns of non-compliance from stakeholders identified in the permit review. This consultation was conducted together with proposed additional measures for the Shrimp Permit Byelaw discussed above and closed in February 2021. The responses to this consultation are now under review.</p>
<p>3. To ensure that the marine environment is protected from the effect of exploitation by reviewing district wide biosecurity measures including management of invasive, non-native species by:</p> <p>a) Implementation of WFO Shellfish Lay lease conditions</p>		<p>a) <b>Ongoing.</b> No progress was made during Q3 &amp; 4 whilst development of the Wash Fishery Order was the priority (including planning engagement with industry).</p>
<p>4. To develop management of the fisheries regulated under the WFO (regulated and several fishery):</p> <p>a) Continued development of WFO policies.</p>		<p>4a. <b>Ongoing.</b> A review of policies to manage access to the fishery, which is considered to be the key remaining issue to address in the replacement of the WFO, was undertaken. From this review, a proposed aim and objectives were developed for what management of access would seek to achieve. The aim and objectives were presented to stakeholders through consultation which closed in December</p>



4c. **Ongoing.** The cockle fishery management plan has been developed and signed off by the Authority, following consultation with the Industry and Natural England. The measures contained within it have been used to guide the 2019 and 2020 cockle fisheries.

Work has not started on developing a new mussel fishery management plan until the causes of the on-going high mortalities and poor recruitment affecting the beds are better understood and can be appropriately managed. A joint-project with Cefas has commenced to study the die-offs. In the interim, management of the mussel fisheries are still guided by policies within the 2008 WFO 1992 Shellfish Policies.

Whilst there was further dialogue with Defra regarding the implementation of proposed WFO regulations, Defra have yet to confirm the proposed regulations. It is noteworthy that the confirmation of the Wash Restricted Area Byelaw is dependent on the confirmation of the WFO regulations which are referred to therein.



		<p>continue to support the FIP’s development throughout the process.</p> <p>5c. <b>Ongoing.</b> Work is underway with the selected consultant: MarFishEco Fisheries Consultants, to begin the economic assessment of the bivalve fisheries in the Wash. The work has experienced delays due to the ongoing concerns regarding engagement with industry over the replacement of the order; voluntary industry involvement with the assessment is required to ensure that a high level of data is obtained to deliver the best possible assessment and provide the best basis on which management can be made. Engagement work to be conducted independently by the consultant is anticipated to begin in March 2021.</p>
<p>6. Obtaining better fisheries data:</p> <p>a) Implementation of I-VMS for all fisheries</p>		<p><b>Ongoing.</b> The national roll-out of I-VMS is still ongoing but delayed as a result of the COVID-19 pandemic and Brexit preparation. Recent indications are that the project will start to gather momentum in the coming months.</p>

**Key:**

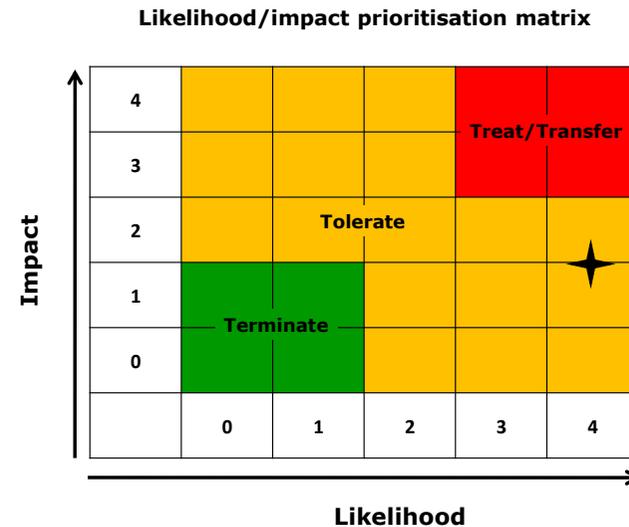
	<b>Complete</b>
	<b>In progress</b>
	<b>Progress stalled</b>

## APPENDIX 2 - Risk Register

The risk matrix sets out the magnitude of the risk to Eastern IFCA from an organisational viewpoint incorporating amongst others reputational and financial risks. The matrix also sets out the likelihood of an identified risk occurring. Mitigation which is in place or to be introduced is identified. Risk is ranked on an arbitrary scale from 0 (low risk - coloured green) to 4 (high risk - coloured red). The average of the combined financial and reputational risk is taken and plotted on to the matrix below, the likelihood of that risk occurring is also plotted. Mitigation action is noted. It should be noted that in most cases there are already many actions being undertaken as part of routine working practices to reduce the risks to the Eastern IFCA.

The four actions that can be applied are:

<b>Treat</b>	Take positive action to mitigate risk
<b>Tolerate</b>	Acknowledge and actively monitor risk
<b>Terminate</b>	Risk no longer considered to be material to Eastern IFCA business
<b>Transfer</b>	Risk is out with Eastern IFCA's ability to treat and is transferred to higher level.



### Risk matrix with worked example

Risk A poses a financial threat (2) to the organisation and a reputation threat (1) generating a combined impact level of 1.5. The likelihood of the threat occurring is determined as 4. The resultant risk to Eastern IFCA is therefore plotted using the matrix and is identified as a risk that should be tolerated.

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Eastern IFCA fails to secure funding to replace assets	CEO/FPSC	Substantial reduction in Eastern IFCA mobility particularly seaborne activities with consequential inability to fulfil full range of duties	4		2 Finance Directors agreed to annual capital contributions from 2019-20 onwards to cater for the cost of asset replacement as an alternative to requests for a lump sum amounts as assets are replaced. No guarantees were given or implied. Eastern IFCA will explore all avenues for funding.		<ul style="list-style-type: none"> <li>• Current level of reserves provides a short-term buffer to cover replacement of <i>RV Three Counties</i></li> <li>• EMFF funding for a new open RHIB was secured</li> <li>• Seek efficiencies and promote cost effectiveness.</li> <li>• Demonstrate value for money.</li> <li>• Advertise/promote Eastern IFCA output and effectiveness to funding authorities through regular engagement with Council leaders and Financial Directors.</li> <li>• Engage with partner agencies to identify alternative funding sources</li> <li>• Explore asset sharing initiatives</li> <li>• Agreement in place with funding authorities for capital funding contributions each year. Confirmed at the annual meeting with representatives of the Finance Directors on Thursday 7th November 2019.</li> </ul>	Tolerate
			<b>Reputation</b>	<b>Financial</b>				
			4	4				
			Drive for savings may impact County Councils' decisions regarding Eastern IFCA funding. Visible presence reduced, enforcement and survey activities compromised.	Inability to generate sufficient reserves to meet asset replacement schedule would threaten Eastern IFCA's ability to function.  Closure costs could result.				

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Impact of EU exit on Eastern IFCA duties and the wider economic environment	CEO/FPSC	Potential changes in several areas, including: - regulatory framework - fisheries management methodology - regulations (enforcement) - environment conservation	<b>3</b>		<b>3</b>		<ul style="list-style-type: none"> <li>Monitor EU exit developments – Defra lead on development of the post-EU exit landscape</li> <li>Engage in national fora to help inform and influence developments (e.g. IFCA Chief Officers Group, Association of IFCAs)</li> <li>Continue “business as usual”</li> <li>Prepare for change</li> <li>Ensure Eastern IFCA is “match fit”</li> <li>Maintain communication with partners</li> <li>Eastern IFCA is fully engaged with the MMO in terms of operational readiness for a ‘no deal scenario. MoA in place for the provision of vessels and joint patrols. Also engaged with Cefas to support the export of live shellfish.</li> <li>Officers engaged in future of inshore fisheries management work with Defra and other stakeholders. Officers are also seeking engagement with the REAF initiative.</li> </ul>	<b>Transfer</b>
			<b>Reputation</b>	<b>Financial</b>	EU exit will have an inevitable but currently unpredictable impact. Eastern IFCA responsibilities unchanged in the short term to medium term			
			<b>3</b>	<b>3</b>	Eastern IFCA may be affected by developments beyond their control (fisher’s expectations are high and may not be met). Blame for change and or lack of change.  Grant funding from EU not replaced. Market for fishers catch affected. Fee/licence income reduced. Operating costs increased.			

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Eastern IFCA fails to maintain relevance amongst partners	CEO/PCSC	If Eastern IFCA fails to maintain relevance amongst partners Eastern IFCA's utility will come under scrutiny potentially resulting in re-allocation of duties	4 <b>Reputation</b> 4	Financial 4	2 Possible – Whilst positive relationships have been established the existence of disparate partner aspirations introduces complexities which may drive perceptions of bias or inefficiency.		<ul style="list-style-type: none"> <li>Provide a leadership function.</li> <li>Be proactive and identify issues early.</li> <li>Engage with all partners routinely.</li> <li>Use Business Plan to prioritise and communicate outputs, Measure progress/deliver outputs</li> <li>Represent community issues to higher authorities</li> <li>Effective business planning process in pace. Leading role where appropriate e.g. Op Blake. Proactive approach to raising issues with Defra (e.g. Bass management, proposals for effort management trial). Participation in Parliamentary Review 2019.</li> </ul>	Tolerate
Negative media comment	CEO/PCSC	Negative perceptions of Eastern IFCA utility and effectiveness created at MMO/Defra Loss of Partner confidence Media scrutiny of individual Authority members	3 <b>Reputation</b> 4	Financial 2	2 Possible – disenfranchised partners seek to introduce doubt as to Eastern IFCA professionalism, utility and effectiveness		<ul style="list-style-type: none"> <li>Actively and regularly engage with all partners including media outlets.</li> <li>Utilise full potential of social media and web-based information.</li> <li>Embed professional standards and practices.</li> <li>Deliver change efficiently and effectively.</li> <li>Promote activity</li> <li>Assure recognition and understanding through community events</li> <li>Routine updating of news items on website.</li> <li>Active on social media with demonstrable improvements in 'reach'. Parliamentary Review (above).</li> </ul>	Tolerate

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Degradation of MPAs due to fishing activity	CEO/RCSC	Loss or damage of important habitats and species within environmentally designated areas Potential for European infraction nationally resulting in significant financial penalties at the local level.	3.5		2	Possible - Eastern IFCA's approach to managing sea fisheries resources considers environmental obligations	<ul style="list-style-type: none"> <li>Proposed fishing activities authorised by Eastern IFCA are assessed per Habitats Regulations</li> <li>Eastern IFCA is fully engaged in national fisheries/MPA project, prioritising management of highest risk fisheries in MPAs and implementing new management measures</li> <li>Effective monitoring of fishing activity and enforcement of measures</li> <li>Adaptive co-management approach to fisheries management – i.e. engagement with fishing and conservation interests in the development of management measures, and appropriate review of measures to respond to changing environmental and socio-economic factors</li> <li>Ongoing, close liaison with Natural England regarding all conservation matters</li> <li>Review agreed Wash Cockle &amp; Mussel Policies</li> <li>Develop the use of iVMS as a management tool by the Authority</li> <li>Continue to progress research into the impact of fishing activities on MPA features to ensure the Authority has an up-to-date evidence base to inform its management decisions.</li> <li>MPA management has been a high priority since 2012 with substantial progress made. Current workstreams (e.g. Cromer Shoal MCZ, remaining 'red risk' sites) are a high priority and are being progressed.</li> </ul>	Tolerate
			Reputation	Financial				
			4	3				
			Eastern IFCA is not meeting statutory duties under EU & UK conservation legislation Eastern IFCA not achieving vision as champion of sustainable marine environment	Legal challenge brought against Eastern IFCA for failing to meet obligations under MaCAA and the Habitats Regulations				

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Shellfish and fish stocks collapse	CEO/MPASC		3		3		<ul style="list-style-type: none"> <li>Annual stock assessments of bivalve stocks in Wash</li> <li>Annual review of the level of threat via the Strategic Assessment</li> <li>Ability to allocate sufficient resources to monitoring of landings and effective enforcement</li> <li>Consultation with industry on possible management measures</li> <li>Use Project Inshore Phase 4 output to inform MSC pre-assessment review of fisheries and validate management measures</li> <li>Develop stock conservation measures for crab and lobster fisheries through engagement with Cefas and fishing industry</li> <li>SWEEP research into primary productivity levels within the Wash</li> <li>Regular engagement with the industry to discuss specific matters</li> <li>Continued research into the cockle mortality events</li> <li>Maintain whelk management measures</li> <li>Introduce shrimp management measures</li> <li>Consider bass management measures if necessary in light of EU/UK measures</li> <li>Annual surveys of Wash cockle and mussel stocks alongside innovative approach to management of the cockle fishery. Ongoing workstream to identify cause of mussel mortality. Closure of cockle fishery in Nov 2019 due to emerging findings of mussel surveys in order to mitigate impact on 2020 cockle fishery.</li> </ul>	Treat
			Reputation	Financial	Possible - Bivalve stocks have high natural variation; "atypical mortality" affecting stocks despite application of stringent fishery control measures			
			3	3	Crustacean stocks not currently subject to effort control			
		Loss in confidence of the Eastern IFCA ability to manage the sea fisheries resources within its district	Resources directed at protecting alternative stocks from displaced effort	Additional resources applied to research in to the cause of collapsed stocks and increased engagement and discussion with partners	Bass stocks nationally and internationally under severe pressure			
					Regional whelk and shrimp fisheries effort becoming unsustainable. Regional crab and lobster stocks being exploited beyond maximum sustainable yield			

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Failure to secure data	CEO/RCSC	Non-compliance with General Data Protection Regulations (GDPR) Prosecution casefiles compromised Loss of data in the event of fire or theft Breakdown in dissemination of sensitive information between key delivery partners	4		2		<ul style="list-style-type: none"> <li>All computers are password protected. Individuals only have access to the server through their own computer.</li> <li>Secure wireless internet</li> <li>Remote back up of electronic files</li> <li>Access to electronic files is restricted</li> <li>Up to date virus software installed on all computers</li> <li>Important documents secured in safes</li> <li>ICT equipment and policies provided by public sector provider – including encrypted laptops/secure governmental email system</li> <li>All Eastern IFCA personnel undergo DPA training</li> <li>Electronic backup of all Eastern IFCA documents held by ICT provider offsite</li> <li>Policies and processes developed to ensure compliance with GDPR.</li> </ul>	Tolerate
			Reputation	Financial	Possible - Limited staff access to both electronic and paper files Office secure with CCTV, keypad entry system and alarm			
			4	4				
		Partners no longer believe that confidential information they have supplied is secure Personnel issues arise over inability to secure information	Eastern IFCA open to both civil and criminal action regarding inability to secure personal information					
New Burdens Funding discontinued	CEO/RCSC	Substantial reduction in Eastern IFCA capability with consequential inability to fulfil full range of duties or additional burden on funding authorities.	4		2		<ul style="list-style-type: none"> <li>Association of IFCAs has consistently lobbied for the continuation of funding</li> <li>Association of IFCAs have engaged with Defra review of New Burdens funding during 2018-19 and submitted a paper in support of an increase nationally from £3m to £6m as part of the planned SR2019 (now on hold)</li> <li>Finance Directors representatives briefed and understand that in the event that the funding is discontinued there may be a desire to increase levies</li> </ul>	Tolerate
			Reputation	Financial	Defra have continued to roll over new Burdens funding in recognition of the value that IFCAs provide in meeting national policy objectives.			
			4	4				
		Inability to meet all obligations would have a significant impact upon reputation.	Circa 25% of the annual budget is provided by Defra under the New Burdens doctrine so its loss would have a significant impact.					

### Appendix 3 – Risk Register Update October 2020 to February 2021

Risk Description	Update
Eastern IFCA fails to secure funding to replace assets	Agreement in place with funding authorities for capital funding contributions each year. Confirmed that this will continue at the annual meeting with representatives of the Finance Directors on Tuesday 10 <sup>th</sup> November 2020.
Impact of EU exit on Eastern IFCA duties and the wider economic environment	<p>Whilst Eastern IFCA supported the MMO in terms of operational readiness for a ‘no deal’ scenario and in particular was prepared to provide sea patrols under a Memorandum of Understanding, planned patrols did not take place as a consequence of weather and a deal with the EU meaning that there was not a strong requirement for them. Officers continued to support Cefas (and the Fish Health Inspectorate) in engaging industry regarding export and import of shellfish and worked with North Norfolk District Council to facilitate registration of food ‘premises’ as a result of EU exit related changes to the requirements.</p> <p>Officers engaged in future of inshore fisheries management work with Defra and other stakeholders. Officers are also monitoring development of the REAF initiative.</p>
Eastern IFCA fails to maintain relevance amongst partners	<p>The data sharing agreement between MMO and The Authority was completed during Q2 and was signed off in Q4. This will aid collaborative work towards both organisations’ objectives. Engagement regards collaborative ‘mobile working’ has continued, which seeks to establish shared systems between MMO and IFCAs to further facilitate collaborative work.</p> <p>Effective business planning process in pace. Leading role taken where appropriate e.g. Op Blake. Proactive approach to raising issues with Defra (e.g. Bass management, proposals for effort management trial). Participation in Parliamentary Review 2019. Participation in the Fishing into the Future event in early 2020</p>
Negative media comment	<p>Routine updating of news items on website. Active on social media with demonstrable improvements in ‘reach’. Parliamentary Review (above). Engagement priorities set for IFCOs as part of the TCG process.</p> <p>The replacement of the WFO 1992 with a Byelaw has not been well received by industry and various means of expressing dissatisfaction are being employed, including the use of media. This is being monitored and explanatory information provided where possible and appropriate.</p>
Degradation of MPAs due to fishing activity	<p>MPA management has been a high priority since 2012 with substantial progress made. Current workstreams (e.g. Cromer Shoal MCZ, remaining ‘red risk’ sites) are a high priority and are being progressed.</p> <p>Natural England recently provided advice regarding impacts of pot-based fisheries (crab and lobster) on chalk features within the Cromer Shoal Chalk Beds MCZ in Q2 and work was started in relation to</p>

	<p>delivering our duties under MaCAA to ensure the conservation objectives of the site are furthered. This includes collaborative work with Natural England and Agents of Change. A Steering Group is being established to take work forward and will include representatives from the fishing industry.</p>
Shellfish and fish stocks collapse	<p>Annual surveys of Wash cockle and mussel stocks alongside innovative approach to management of the cockle fishery. Ongoing workstream to identify cause of mussel mortality. Closure of cockle fishery in Nov 2019 due to emerging findings of mussel surveys in order to mitigate impact on 2020 cockle fishery. Innovative approach to surveys enabled the 2020 Wash cockle fishery.</p> <p>The 2020 cockle fishery came to an end during Q2 after the full Total Allowable Catch was taken. The management measures implemented reduce the risk of sustainability issues and delivered a fishery in the context of the COVID-19 pandemic precluding the normal stock assessment.</p> <p>Consultation on proposed revisions to whelk permit conditions launched in Q3 following consideration by the Authority.</p> <p>Work to support industry in establishing a Fisheries Improvement Plan for crab and lobster ongoing.</p>
Failure to secure data	<p>Policies and processes developed to ensure compliance with GDPR.</p> <p>New polices developed as part of workstream to implement Data Sharing Agreements between the IFCA's and the MMO and all staff received training on data protection and cyber security during Q1 &amp; 2 this year.</p>
New Burdens funding discontinued	<p>Defra have advised that 2020-21 would be the last year that New Burdens funding will be paid in its current form. Defra and the IFCA's have been working on the 'co-design' of a replacement for New Burdens, which concluded that any funding would remain static at current levels, with the allocation to each IFCA unchanged. It was due to form part of SR 2020 but as a consequence of the Covid-19 pandemic there will be a single year funding settlement for 2021-22. Defra have included IFCA funding in their bid to Treasury and the Spending Review announcement of 25<sup>th</sup> November 2020 indicated that the overall Defra budget had not been reduced and was instead increased.</p> <p>Budget planning has accounted for the possibility that central funding may not be forthcoming or may be reduced and the three Finance Directors representatives were fully briefed at the meeting of the 10<sup>th</sup> November 2020.</p>

## 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



## Information Item 13b

### 42<sup>nd</sup> Eastern Inshore Fisheries and Conservation Authority meeting

10 March 2021

**Report by:** Julian Gregory, CEO

#### **CEO Update - Association of IFCA Minutes**

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

The purpose of this paper update members on the Association of IFCA quarterly meeting held on 8<sup>th</sup> December 2020.

##### **Recommendations**

Members are asked to:

- **Note** the content of the report and the minutes of the AIFCA meeting held on 8<sup>th</sup> December 2020.

##### **Background**

The aim of the Association of IFCA is to assist and promote the regional IFCAs to ensure that the Authorities develop a leading and effective national role in fisheries and conservation management in line with the IFCA vision.

The Association is not a statutory body but was borne out of the previous Association of Sea Fisheries Committees and currently has ten Members (the ten IFCAs) plus two associate members, Guernsey and the Isle of Man. The Association has been set up as a private limited company and is governed by Articles of Association, which are periodically reviewed. The Association is governed by twelve Directors, nine Chief Officers from the IFCAs, plus the Chairman, the Vice Chairman and the Chief Executive Officer of the Association, which meet quarterly. The Association holds quarterly member's forum meetings at which the 9 IFCA Chairs and Chief Officers as well as representatives from associate members attend and are predominantly held in London. The Association is funded primarily by its membership with each IFCA making a £13,000 annual contribution and the associate members making a £750 contribution per year.

## **Report**

A quarterly meeting of the member's forum was held on 8<sup>th</sup> December 2020 and a copy of the draft minutes can be found at Appendix A.

## **Appendices**

Appendix A – Unconfirmed minutes of the meeting of the Association of IFCA held on 8<sup>th</sup> December 2020

## Appendix A

# AIFCA Members Forum Meeting

### DRAFT Meeting Notes

Date & Time: 8<sup>th</sup> December 2020 10:30

Venue: Videoconference

### Members Present

Dr Tom Hooper  
Cllr John Lamb  
Dr Will Wright  
Julian Gregory  
Dr Stephen Axford  
Les Weller (vice Chair)  
Dr Stephen Atkins  
Cllr Paul Williams  
Tony Tomlinson MBE (Chair)  
Sam Davis  
Prof Mike Williams  
Prof John Humphreys  
Ian Jones  
Stewart Harper  
Mat Mander

### Officers

Robert Clark

#### 1. Apologies for absence

Mike Hardy  
Cllr Andy Guy

#### 2. Declarations of Interest

None

#### 4. Minutes of the previous meeting.

Proposed by Paul Williams and Seconded by John Lamb. **The minutes were AGREED as a true record.** All were in favour. Thanks, were recorded to Sam Davis for production of the minutes.

#### 5. Progress Reports

##### a) Progress on the appointment of members to the IFCA's

The Forum heard from the Chief Officer that the national campaign to recruit IFCA members had commenced. Les Weller provided an overview of engagement with MMO in the process, and some of the frustrations experienced. Following a debate;

**The chairman asked the chief officer to draft a letter to the MMO highlighting that the chairs of the IFCA's needed to have greater involvement in the process of recruitment to ensure the needs of the authorities are met.**

Prof. Williams agreed to assist with the drafting identifying the IFCA's legitimate expectations and the possibility of extension beyond 10 years.

**b) National Lead Training Officer**

The Forum received an update on the recruitment progress; a second round of interviews are to be held shortly.

**c) Spending Review update**

The Forum received an update on the spending review. The Forum heard how a bid into the SR20 had been submitted and that bid had been reportedly put forward to treasury. The treasury announcement on the spending review, which is for one year, had identified that Defra's fisheries funding and s.31 funding would be maintained at current levels. Defra is considering its internal budgets spend and engagement continues. The matter will be raised at forthcoming AIFCA / Defra liaison meetings.

The IFCA's discussed their 2021/22 budgets.

**ITEMS FOR DECISION**

6. 'Evaluation of the Inshore Fisheries and Conservation Authorities commissioned by Defra' - an AIFCA position statement.

The Forum received a draft statement. It was proposed by John Humphreys, seconded by Mike Williams and all members **AGREED that the statement be adopted and published upon release of the evaluation.**

7. Budget Control

The Forum reviewed a report from Cllr Paul Williams on the AIFCA Budget figures for the AIFCA until the end of November 2020. The positive position presented described as being as a consequence of savings associated with employment and reduced travel. The members expressed their thanks to Paul Williams for his work. **The budget control statement was APPROVED** following a proposal from Les Weller, as seconded by Cllr Lamb and with all in favour.

**The chairman asked the Chief Officer to put in place suitable arrangements for future minute recording.**

8. Reserves Policy

The Chief Officer and Cllr Williams provided a summary of the Reserves policy and after a debate Cllr Lamb proposed and Prof Humphreys seconded, and all members **AGREED that the reserves policy be adopted.**

9. The AIFCA 2021/21 Subscriptions -

The Forum considered the AIFCA financial position. It was proposed by Paul Williams and seconded by Mike Williams that:

- a) The 2021/22 subscription for the AIFCA be £12,000
- b) That a one off payment of £500 per IFCA be made in current financial year to develop AIFCA strategy

All were in favour and **the subscriptions were AGREED**

## ITEMS FOR INFORMATION

### 10. The IFCA funding arrangements a discussion paper.

The members received a report on the IFCA's funding, from origin to today. Forum members debated the future of IFCA's funding.

**The chairman asked the Chief Officer to draft a letter to Defra to establish a common understanding of the New Burdens arrangements in the context of the ongoing demands upon Local Authorities.**

### 11. Chief Officers Report

The Chief Officers report was taken as read and he was thanked for the detailed report.

### 12. EU Exit & Covid-19

The members received an update from Will Wright on EU Exit and the role of IFCA's in the Covid response. Dr Wright was thanked for his report.

## ACTION TABLE

Who	What	When
Chief Officer	To draft a letter to the MMO highlighting that the chairs of the IFCA's needed to have greater involvement in the process of recruitment to ensure the needs of the authorities are met.	immediate
Chief Officer	the AIFCA statement on the 'Evaluation of the Inshore Fisheries and Conservation Authorities commissioned by Defra' be adopted	published upon release of the evaluation.
Chief Officer	to put in place suitable arrangements for future minute recording.	Next Forum meeting
Directors	that the Reserves Policy be adopted.	Next Directors meeting
Chief Officer	The 2021/22 subscription for the AIFCA be £12,000	March 2021
Chief Officer	That a one-off payment of £500 per IFCA be made in current financial year to develop AIFCA strategy	January 2021
Chief Officer	to draft a letter to Defra to establish a common understanding of the New Burdens arrangements in the context of the ongoing demands upon Local Authorities.	immediate

### Note on future meetings

It was agreed at the Oct. 20 meeting that the meetings of the AIFCA Members Forum shall be held on the following dates:

9th March 2021  
8th June 2021 (AGM)  
7th September 2021  
7th December 2021  
11th March 2022

It was agreed that for the foreseeable future that the meetings shall be held remotely using video-conferencing. Notwithstanding it is desirable to meet in person if possible and the situation will remain under review.

### 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



## Information Item 14a

### Eastern Inshore Fisheries and Conservation Authority Meeting

10 March 2021

#### Marine Protection Quarterly Report

**Report by:** Greg Brown – IFCO/Project Officer

#### **Purpose of Report**

To provide members with an overview of the work carried out by the Marine Protection team during the period of October, November and December 2020.

#### **Recommendations**

It is recommended that members:

- **Note** the content of the report

#### **Report**

#### **Enforcement and engagement priorities throughout district – overview**

##### October

The enforcement priorities during the month, were to focus on Whelk Permit Byelaw compliance, including at sea inspections and landing inspections. Also officers focused on carrying out inspections of vessels landing crab and lobster, and completing inspections and education and engagement of RSA's targeting bass. In terms of engagement priorities, officers focused on the completion of Shrimp return forms, the formal consultation for the closed areas byelaw 2020 and potential management measures within Cromer MCZ.

##### November

As with the previous month, one of the main compliance issues in the month was the Whelk permit byelaw, primarily in areas 2 and 3. Officers also focused on carrying out engagement and inspections in relation to Shrimp fishing and the MSC certification. In areas 3 and 4 one of the focus areas was bass fishing as well as carrying out vessel patrols and completing inspections of vessels targeting crab and lobster.

## December

The priorities for areas 1 and 2 were the same as the previous month. In areas 3 and 4 the focus moved from bass fishing to focus on crab and lobster and whelks.

### Enforcement Outcomes (district wide)

Various enforcement actions were undertaken throughout the period including written warnings, advisory letters and verbal warnings.

### **EMS monitoring**

Monitoring of 'restricted areas' under the Marine Protected Areas Byelaw 2018 was carried out throughout the reporting period. The following monitoring occurred:

Protected feature	Restricted areas	Number of separate patrols where one or more restricted areas was visited		
		October	November	December
<i>Intertidal biogenic reef</i>	1 to 13	3	4	2
<i>Subtidal biogenic reef: Sabellaria spp. (Ross worm), subtidal stony reef, subtidal mixed sediments, subtidal mud.</i>	14 – 29  (The Wash Central and Northern)	0	0	1
Intertidal seagrass beds, subtidal mixed sediments, subtidal mud.	30, 31, 32,33,34, 35  (North Norfolk Coast)	1	0	1
Eelgrass beds (Humber)	36	1	0	0

### **Area 1: West-North (Hail Sand Fort to Gibraltar Point) Fishing Trends**

#### October

Limited fishing activity reported during the month, with some effort targeting crab and lobster, with reports of Crabs only now starting to harden fully, this is thought to be due to warmer water temperatures than usually seen at this time of year.

#### November

No fishing trends reported.

#### December

No fishing trends reported.

## Metrics

Enforcement metric	Number completed		
	October	November	December
Shore Patrols	1	0	0
Port visits	1	0	0
Catch inspections (landings observed)	0	0	0
Catch Inspections (landing not observed)	0	0	0
Vehicle Inspections	0	0	0
Premises inspections	1	0	0
Enforcement actions/Offences	0	0	0
Intelligence reports submitted	0	0	0
Fishers engaged	2	0	0
Vessel Patrols	0	0	0
Boardings	0	0	0
Gear Inspections	0	0	0

### Engagement/ key messages received.

Access to Horseshoe point is currently poor, with the road being damaged and in poor condition. No other engagement reported during the period.

### Area 2: West-South (The Wash and North Norfolk Coast to Brancaster) Fishing Trends

#### October

There was a limited whelk fishery, with low numbers of fishers participating during the month, as is often expected at this time of year. The primary commercial fishery during the month was Shrimp's with many vessels working in the fishery since the closure of the Cockle fishery. Some netting has occurred from beach locations, primarily with catches of flat fish, whiting and herring, otherwise catches have been low. Some RSA catches of bass in the area. Limited RSA fishing was reported in this area.

#### November

The main fishery in the area was for shrimps, with the majority of active vessels working this fishery. Several fishers starting to target whelk and this is expected to be an increasing trend. No RSA or other commercial fisheries reported.

## December

The main fishery in the area was for shrimps, with the majority of active vessels working this fishery. Number of vessels targeting whelk increased as expected. No RSA or other commercial fisheries reported.

### **Metrics**

<b>Enforcement metric</b>	<b>Number completed</b>		
	<b>October</b>	<b>November</b>	<b>December</b>
Shore Patrols	6	10	5
Port visits	13	9	7
Catch inspections (landings observed)	2	4	0
Catch Inspections (landing not observed)	0	8	2
Vehicle Inspections	0	0	0
Premises inspections	3	0	0
Enforcement actions/Offences	0	1	0
Intelligence reports submitted	4	13	14
Fishers engaged	16	20	2
Vessel Patrols	6	4	4
Boardings	0	0	0
Gear Inspections	0	0	0

### **Engagement/ key messages received**

Engagement in this area primarily focused on the WFO replacement, Shrimp returns forms and MSC shrimp certification. Some fishers raised that they would like to see catch returns updated so they could be completed in an app.

### **Area 3: East-North (Brancaster to Great Yarmouth) Fishing Trends**

#### October

There was a drop in fishing effort for crab and lobster following storms in which many gear losses were reported. Much of the gear was brought ashore for repair and winter storage. Some fishers reported switching to whelk for the winter, whelk numbers generally improved, with some reported price increases also. Those that stayed fishing for crab reported good catches, but effort was much reduced. Some reports of a shortage of bait for potting.

RSA fishers reported poor catches, primarily catching Dabs and Whiting. Whiting in particular were caught in high numbers, other species caught included bass, sole, skate, cod and dogfish.

## November

Good bass catches were reported in the area during the month. Some good catches of Skate also. High amounts of herring caught, but low price at market reported. Issues reported with seals hampering net fishing.

Effort decreased in the crab and lobster fishery as is the usual trend for this time of year. There was an increasing trend in those fishing for whelk as is usual for the time of year, reports were generally of good catches.

## December

Effort decreased in the crab and lobster fishery, with lobster landings reported as very low, but crab remaining OK. Much of the effort was reduced due to weather and in anticipation of winter storms.

Recreational anglers reported good numbers of whiting being caught along the coast, mostly on a catch and release basis due to a high proportion of undersize fish, some flat fish also reportedly caught. Limited number of cod caught. Shortage of Lug for bait reported. Whelk fishing activity levels increased although some reports of poor yield were reported.

## **Metrics**

<b>Enforcement metric</b>	<b>Number completed</b>		
	<b>October</b>	<b>November</b>	<b>December</b>
Shore Patrols	18	16	13
Port visits	44	46	63
Catch inspections (landings observed)	30	11	11
Catch Inspections (landing not observed)	13	10	12
Vehicle Inspections	0	0	0
Premises inspections	0	0	1
Enforcement actions/Offences	2	0	1
Intelligence reports submitted	5	13	4
Fishers engaged	91	75	86
Vessel Patrols	0	2	1
Boardings	0	3	0
Gear Inspections	0	0	0

### **Engagement/ key messages received**

Extensive engagement was had throughout the month, primarily in relation to the Cromer MCZ and any required future management options. This will be reported on in other areas.

Concern related to registering vessels as food production areas with the council, with fishers having concerns regarding the implementation of this.

### **Area 4: East-South (Great Yarmouth to Harwich)**

#### **Fishing Trends**

##### October

RSA reported catches of primarily whiting and dab, which some other species including pout, eel, and dogfish. There were reports of the River Orwell fishing very well.

Commercial fishers reported bass and mullet moving out of the rivers but in general good catches, particularly of sole. Some reports of herring being landed throughout the area, but limited catches, due to inability to sell this species. No catches of cod reported during the month which would usually be expected, some catches of thornback ray, but fishers reported low market prices for this species. Generally effort and landings was reduced during the month due to poor weather and strong winds.

Crab and Lobster fishing effort reduced during the month, with many commercial fishers bringing in pots for storage over the winter period. General shortage of crab and lobster for sales.

##### November

Good catches of sole reported, however reduced price due to COVID restrictions in France and Belgium reported. High amounts of Herring available to catch, however very limited market demand. Good catches of Bass and Mullet reported. Good catches of thornback rays, but poor prices for these reported. Good catches of crab reported, especially for the time of year, but low catches of lobster. Recreational Anglers reported good catches during the month, primarily of whiting.

##### December

Commercial fishers targeting herring and sole with reportedly good catches. High numbers of Spurdog reported when long lining, making this an unviable activity, and requests were made for the fishery to be opened. High amount of whelk fishing activity, primarily outside of the Eastern IFCA district due to poor catches inside district. Recreational Anglers reporting regular catches of whiting, catches of other species limited, with some reports of cod being caught.

## Metrics

Enforcement metric	Number completed		
	October	November	December
Shore Patrols	17	18	13
Port visits	40	41	48
Catch inspections (landings observed)	8	42	33
Catch Inspections (landing not observed)	34	72	31
Vehicle Inspections	0	0	0
Premises inspections	15	18	13
Enforcement actions/Offences	1	3	1
Intelligence reports submitted	32	30	22
Fishers engaged	94	164	114
Vessel Patrols	0	2	2
Boardings	0	0	3
Gear Inspections	0	0	0

## Engagement/ key messages received

Concerns were raised by some within the industry that large scale whelk fishing offshore is causing damage to the wider ecosystem due to the amount of dead bait being used stopping fish going into the area. Fishers also raised that it appears that shoppers have changed habits and have a greater preference for fresh fish. This has had a positive influence on the local industry generally. Although some have ongoing concerns for business in relation to EU exit and COVID restrictions. Concerns raised about the high number of seals in the area, and impact on fishing and fish stocks.

## Financial Implications

None

## Legal Implications

None

## Appendices

Not Applicable

## Background Documents

Not Applicable

## Vision

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## Information Item 14b

### Eastern Inshore Fisheries and Conservation Authority Meeting

10 March 2021

#### Marine Science Quarterly Reports

##### Report by:

- Ron Jessop, Senior Marine Science Officer (Research)
- Judith Stoutt, Senior Marine Science Officer (Environment)

##### Purpose of Report

The Authority runs a year-round programme of research projects, fishery assessment and development advice. This work provides evidence to underpin the development of fisheries management measures and supports other marine regulators in planning and licensing decisions. This paper informs Members of key activities undertaken by the Authority's Marine Science team during the period October to December 2020, any issues that have arisen (through internal or external drivers), and an indication of up-coming developments that could require future actions.

##### Recommendations

It is recommended that members:

**Note** the contents of the report.

##### Background

The Marine Science team continues to progress workstreams for the assessment and management of fisheries in marine protected areas (the "revised approach"), and towards the sustainable exploitation of stocks. The ongoing COVID19 pandemic has required some adaptation to the programme of field surveys, quayside catch monitoring and measurement and laboratory analysis (set out in the Marine Science Plan) but it has been possible to continue most of the practical work and all desk work. Online meetings have enabled engagement with partner organisations and the Marine Protection Team at Eastern IFCA to continue. Provision of advice on marine licence applications and other marine developments remains an important role for the Science team because of the high number of developments affecting the Eastern IFCA district, although there was a significant fall in the number of cases requiring input during the quarter, thought to be a result of the pandemic.

After just over three years with Eastern IFCA, Marine Science Officer Elise Quinn resigned from her position for a career development opportunity. Ms Quinn had proved to be a valuable, capable and well-liked team member and made significant

contributions to many areas of the organisation's work including marine protected areas, biosecurity, Operation Blake, the mussel parasite project and SWEEP monitoring. The vacant Marine Science Officer post will not be filled immediately because of uncertainties around Defra "new burdens" funding, so her workload has been shared between other Marine Science team members, which has had some effect on delivery of work and will be more noticeable during the busier survey periods over spring and summer.

## Report

## Research

### *Mussel surveys*

Although Covid-19 precautions meant the team had to work in small discrete "bubbles", the annual inter-tidal mussel survey programme was conducted between September and November. In total, 17 beds plus the Welland Wall were sampled during this period, before a succession of trips had to be cancelled due to either inclement weather conditions or vessel breakdowns. This left 4 beds unsurveyed by the end, but earlier prioritisation of the surveys meant 3 of these were only very small beds that usually supported less than 100 tonnes each. The fourth, Herring Hill, had been estimated during the 2019 survey to support approximately 530 tonnes.

The previous survey in 2019 had found there had been significant die-offs on almost all of the beds, resulting in the lowest mussel biomass since the 1990's. In addition to preventing a mussel fishery from occurring, these low stocks also meant the size of the 2020 cockle fishery had to be restricted. It was good news, therefore, when the 2020 mussel surveys found the majority of the beds had increased in biomass from the previous year. These gains were not so much due to new recruitment, but to the growth of the surviving mussels exceeding the lower rates of mortality that have occurred this year. The total biomass of mussels on the 17 surveyed beds was estimated to be 10,986 tonnes. While this is a good recovery from the previous year, even if an optimistic 1,000 tonnes were added for the 4 unsurveyed beds, it is still below the 12,000 tonnes Conservation Objective threshold required to open a fishery.

### *Mussel mortality study*

Despite this year's increase in mussel biomass, all of the inter-tidal beds in The Wash are in critically poor condition. This is a result of a decade of unusually high mortalities among the younger mussel populations, coupled with lengthy periods of poor recruitment. This situation does not appear to be limited to The Wash. At a meeting held last month with other scientists and shellfish managers, similar deterioration was reported to be occurring to beds in Northumberland and Scotland.

We had originally considered an intestinal copepod parasite, *Mytilicola intestinalis*, known to be present in the Wash mussels, to possibly be a contributory factor in the die-offs. However, a project conducted during 2019 found no correlation between the presence of this parasite and mortalities. In March 2020, members of the science team met with scientists from Cefas to develop a project aimed at identifying factors that could be causing the unusually high mortalities. Rather than just focusing on

pathogens, this project will holistically incorporate pathology, physiology, chemistry and bio-chemistry fields in the hope of identifying factors that could be responsible for the die-offs. Sampling for this project was planned to commence last March, but Covid-19 restrictions meant Cefas were unable to conduct any non-essential laboratory work over the summer. The first batch of quarterly mussel samples were eventually collected for this project in October and a second batch in January. It is also planned to incorporate cockle samples into this project once the spring cockle surveys commence.

#### *Crab/lobster*

Precautionary Covid-19 restrictions have meant the team haven't gathered any biometric data for the crab and lobster projects this year. Instead of using these biometric data to inform Length Converted Catch Curve (LCCC) and Yield Per Recruit (YPR) population models, as we have trialled for the past four years, this year we have focused on studying annual trends in Landings Per Unit Effort (LPUE), the information for which can be collected from MSAR forms. A report for the crab fishery covering the period 2012-2019 is now complete. Whereas Cefas stock assessments indicate the Southern North Sea stock as a whole is under pressure, our own assessments indicate the local fisheries are relatively stable. As such, any potential management required to maintain the sustainability of this fishery will be considered holistically with bespoke measures that may result from the Cromer Shoal MCZ assessment that is currently being conducted.

A bespoke report will be produced for the lobster stocks shortly, covering the period 2012-2020.

#### *Crab and lobster Fisheries Improvement Plan (FIP)*

In 2020 the Marine Conservation Society reduced their Good Fish Guide rating for the Southern North Sea crab stock from a 3 to a 4. Because this change can affect sales to some of the larger markets, industry representatives approached the Authority to help develop a 'Fisheries Improvement Plan' (FIP) for the crab and lobster fisheries. Such projects are required to be industry-led, but the Authority has pledged support for the project. Having researched the process by which a FIP needs to be progressed, a member of the team has conducted a Needs Assessment and developed a proposal for the project that can be taken forward and led by industry members. The project is now in the industry's hands, but the Authority will continue to support the process when needed.

#### *Cromer Shoal Marine Conservation Zone (MCZ)*

Following Natural England's advice that potting activities are potentially having an adverse impact on the sensitive rugged chalk features present at Cromer Shoal, the Authority and Natural England have agreed an Adaptive Risk Management (ARM) approach towards assessing and managing the impacts of this fishery in the MCZ. This adaptive approach will require research to be conducted to further our understanding of the spatial extent of the sensitive features, the level of fishing activity occurring within those areas and the actual interaction between various parts of the potting gear and the chalk features. A research task and finish group, which will hopefully include fishery stakeholders, is being set up to plan and guide this work. In the past quarter, officers have been reviewing available data from Natural England,

Cefas and Environment Agency surveys, along with some imagery provided by Seasearch, to chart the extent of the rugged chalk features.

#### *EHO/biotoxin and SWEEP sampling*

The Authority has managed to continue collecting the EHO and biotoxin samples this quarter on behalf of the local councils, despite Covid-19 social distancing restrictions requiring us to make changes to how we crew the vessels and conduct the sampling during these trips. Some of the samples have shown elevated readings of *E.coli*, but this has potentially been as a result of heavy rainfalls washing nutrients down the rivers. The changes introduced for Covid-19 meant it was difficult to collect the SWEEP meat yield samples on the same trips through the summer, but these are now being collected once again. During one of the trips to deploy the buoy sonde following routine maintenance, the mounting collar on the buoy for the sonde was found to be damaged. Attempts have been made to repair the damage at sea, but on each occasion the weather proved too rough to work safely alongside the buoy. This has now been resolved as the Sonde has been deployed.

#### *Bird Food Model*

Bird food requirements and impacts of disturbance must be taken into consideration when managing the Wash cockle and mussel fisheries. In 2003 a bird food model was developed for The Wash to help estimate how much shellfish the overwintering wader populations would require each year. While this model has not replaced the traditional “rule of thirds” approach used in the management of the cockle fishery, it does provide us with a minimum threshold that stocks must not be fished below. Since the model was first developed, the understanding of bird feeding behaviour has improved, while significant annual mussel and cockle die-offs have changed the structure of the shellfish populations in The Wash. Natural England and the Authority have jointly commissioned Bournemouth University to update the model with this new information. It is envisaged the new model will be ready to inform the management of the 2021 cockle fishery.

When calculating the bird food requirement, the current model considers the shellfish stocks and the size of the oystercatcher population, but then assumes all birds in the population will have equal access to shellfish resources across the whole of The Wash. Studies have shown this is not the case, however, as there are energy costs associated with birds having to move across the site to exploit the most profitable patches of shellfish. Additionally, there could be benefits in terms of foraging efficiency and/or local dominance from being site faithful. So that site fidelity behaviour can be incorporated into the new model, a joint project has been commissioned between Natural England, the Authority and the British Trust for Ornithology (BTO) to improve our understanding of site fidelity among oystercatchers in The Wash. This project has involved the BTO tagging ten oystercatchers with small electronic GPS tags that record and transmit the bird’s position. It was hoped to tag birds captured from roosts both at Heacham and Friskney for this study, but technical difficulties resulted in only birds from Heacham being tagged. Data recovered from these birds have so far shown a strong preference to feeding at Heacham, but there have been occasions where some birds have been on Boston Main, and one instance of a bird flying to the Humber and back.

## Environment

### *Assessment and management of commercial fishing in Marine Protected Areas (MPAs) - "Revised Approach" work*

This work remains the key priority for the Marine Science team. It directly supports the fulfilment of obligations relating to marine protected areas, which cover 96% of the Eastern IFCA district. The Authority's Business Plan sets out six priority marine protected area projects. An overview of progress with these is set out in Appendix 1 of the Quarterly Progress Report.

Table 1 (below) outlines the fishing/feature interactions for which management has been required (to prevent adverse effects on marine protected areas), and the mechanisms in place or in development to deliver this management. Management has either been agreed and implemented (shaded green), or agreed and pending implementation (shaded amber), for all red risk interactions, and most amber risks. Management still in development (for some amber interactions) is shaded red.

The Marine Science team's MPA work during the quarter has focused on:

- Chalk/potting interactions in the Cromer Shoal Chalk Beds Marine Conservation Zone (MCZ);
- Small-scale shrimp fishery in the Cromer Shoal Chalk Beds MCZ;
- Assessment of push-netting throughout Eastern IFCA district;
- *Sabellaria* reef extent in the Inner Dowsing, Race Bank and North Ridge SAC

#### *Chalk/potting interactions in the Cromer Shoal Chalk Beds Marine Conservation Zone (MCZ)*

Work during the quarter has focused on scrutinising Natural England's advice regarding damage from potting on raised areas of subtidal chalk, a feature of this MCZ. Officers are also reviewing the supporting evidence in the report of the dive survey undertaken in 2019, which recorded damage to raised chalk in the vicinity of ropes and pots. The Natural England advice was presented to the Authority in December 2020, and following requests from Members for evidence, it was agreed to present the supporting evidence at the Fisheries & Conservation Management Working Group in January 2021.

Officers are working closely with fishery stakeholders and with Natural England to develop research to better understand interactions between potting and chalk, and to develop any management required to ensure the fishery does not hinder the conservation objectives of the MCZ. A key question under consideration is the significance of the identified level of damage to chalk in relation to the conservation objectives. It has been agreed with Natural England that the assessment of the potting fishery on the MCZ will be undertaken when the findings of this research are available.

Also required for the assessment are an understanding of the extent of the sensitive (raised) chalk feature within the MCZ. Officers have reviewed available data sources

(e.g. Natural England feature extent data, Cefas and Environment Agency surveys, and dive survey photos/video) to map the extent of the raised chalk. This work has highlighted some areas definitely known to be raised chalk, some areas definitely not raised chalk, and a few areas of uncertainty. Officers are seeking to identify whether some survey work could be undertaken to identify the habitat type in those areas of uncertainty.

Information on the location of potting activity (in relation to raised chalk) and intensity of potting will also be needed to inform the assessment. IFCOs have been engaging with fishermen (where possible although limited by Covid restrictions) to ascertain the best ways to gather such information. It is envisaged a new recording system will be implemented that will require fishermen to provide the information to the Authority. Officers are keen to avoid increasing the administrative burdens placed on fishermen wherever possible but note that the data will be crucial in developing appropriate management for this area.

#### *Small-scale shrimp fishery in Cromer Shoal Chalk Beds Marine Conservation Zone*

Officers have continued to progress the assessment of a small-scale shrimp trawl fishery in a small part of this MCZ. The findings of the assessment will inform whether it is appropriate to exclude this activity (in a specified area) from the Marine Protected Areas Byelaw 2019 (i.e. whether to allow the activity despite other types of towed demersal fishing being excluded from the majority of the MCZ area).

#### *Assessment of push-netting throughout Eastern IFCA district*

Officers completed an assessment of push-netting (a recreational fishing activity undertaken from beaches in very shallow water) and concluded that the activity at current levels and locations does not adversely affect marine protected areas. Natural England agreed with this conclusion. The assessment was required so that push-netting can be excluded from the Marine Protected Areas Byelaw 2019 – there had been ambiguity as to whether that byelaw is relevant to push-netting activity, so IFCA Project Officers have undertaken to reword the byelaw to remove the ambiguity.

The assessment identified that some small areas of eelgrass (seagrass) are present in the Orwell estuary. The Authority is required to ensure that fishing activity does not impact this feature, which is a supporting feature for the Stour and Orwell Special Protection Area. Officers will liaise with the Environment Agency who survey the eelgrass and will ensure this feature is considered (and where necessary, protected) in fisheries management within that estuary.

#### *Sabellaria reef extent in Inner Dowsing, Race Bank & North Ridge SAC*

The Authority agreed (September 2020) to introduce restricted areas to towed demersal fishing in some parts of this SAC to protect the *Sabellaria* reef feature. At that time, officers highlighted that there were additional areas advised by Natural England “to be managed as reef” but officers did not have sufficient confidence in the

supporting evidence to recommend these areas for management. Officers committed to further review of the evidence for these areas, in close collaboration with Natural England. This review process has been ongoing during the quarter. It was intended to present the findings of this review at the March 2021 Authority meeting, but because of staff changes and competing priorities (for both Natural England and Eastern IFCA) it has not been possible to complete the review at this point. Some progress has been made, and both parties have agreed a need to develop principles relating to the use of “core reef approach” for this site.

**Table 1.** Revised approach<sup>18</sup>: summary of progress of priority assessments and development of management.

Key: Green shading = management in place; amber = management agreed but pending implementation; red = management in development.

Revised approach category	Interaction		Site	Management mechanism and status					
	Fishing activity/ activities	Designated feature(s)		Protected Areas Byelaw 2014	Marine Protected Areas Byelaw 2016	Marine Protected Areas Byelaw 2018	Marine Protected Areas Byelaw 2019	Closed Areas Byelaw 2020	In development
Red risk	Towed demersal fishing	<ul style="list-style-type: none"> <li>• Biogenic reef: <i>Sabellaria</i></li> <li>• Subtidal stony reef</li> <li>• Eelgrass</li> </ul>	The Wash & North Norfolk Coast SAC	√	√	√	√	√	n/a
		<ul style="list-style-type: none"> <li>• Intertidal mussel beds</li> </ul>				√	√	√	
Red risk	Towed demersal fishing; bait collection; hand gathering	<ul style="list-style-type: none"> <li>• Eelgrass</li> </ul>	Humber Estuary SAC	√	√	√	√	√	n/a

<sup>18</sup> Revised approach: assessment and management of commercial fisheries in Marine Protected Areas

Revised approach category	Interaction		Site	Management mechanism and status					
	Fishing activity/ activities	Designated feature(s)		Protected Areas Byelaw 2014	Marine Protected Areas Byelaw 2016	Marine Protected Areas Byelaw 2018	Marine Protected Areas Byelaw 2019	Closed Areas Byelaw 2020	In development
Red risk	Towed demersal fishing	<ul style="list-style-type: none"> <li>Biogenic reef: <i>Sabellaria</i></li> </ul>	Haisborough, Hammond & Winterton SAC				√	√	n/a
							√	√	
Red risk	Towed demersal fishing	<ul style="list-style-type: none"> <li>Subtidal chalk</li> <li>Peat and clay exposures</li> </ul>	Cromer Shoal Chalk Beds MCZ				√	√	n/a
							√	√	
Red risk	Towed demersal fishing	<ul style="list-style-type: none"> <li>Biogenic reef: <i>Sabellaria</i></li> </ul>	Inner Dowsing, Race Bank & North Ridge SAC					√	√

Revised approach category	Interaction		Site	Management mechanism and status					
	Fishing activity/ activities	Designated feature(s)		Protected Areas Byelaw 2014	Marine Protected Areas Byelaw 2016	Marine Protected Areas Byelaw 2018	Marine Protected Areas Byelaw 2019	Closed Areas Byelaw 2020	In development
Red risk	Towed demersal fishing	<ul style="list-style-type: none"> <li>Intertidal biogenic reef: <i>Sabellaria</i></li> </ul>	The Wash & North Norfolk Coast SAC					√	n/a
Amber / Green risk	Towed demersal fishing	<ul style="list-style-type: none"> <li>Subtidal mixed sediment</li> <li>Subtidal mud</li> <li>Subtidal sand</li> </ul>	The Wash & North Norfolk Coast SAC			√	√	√	n/a
						√	√	√	
Amber risk	Static gear (potting)	<ul style="list-style-type: none"> <li>Subtidal chalk (rugged chalk)</li> </ul>	Cromer Shoal Chalk Beds MCZ						√

The agreement of the Closed Areas Byelaw 2020 (at 41<sup>st</sup> Authority meeting) resulted in management being agreed for all the priority MPA interactions set out in the table above. A new priority MPA interaction was added to the table following receipt of conservation advice on the impact of potting on chalk in the Cromer Shoal Chalk Beds MCZ in August 2020.

### *Partnership work and stakeholder engagement*

Eastern IFCA officers continue to participate in a range of partnership and stakeholder groups. These enable sharing of information and identification of best practice, effective communication and information-gathering to inform assessments and to support the development of appropriate management. Whilst all partnership working is important, significant focus is given to relationships with fishery stakeholders, Natural England and conservation NGOs.

Whilst face-to-face engagement was put on hold with COVID-19 restrictions ongoing throughout the quarter (including strict lockdown in November 2020), some partnership work was able to continue through remote working. Key highlights were:

- Remote meetings of the “Agents of Change” project, that promotes the conservation and fisheries value of the Cromer Shoal Chalk Beds Marine Conservation Zone. The work of this Marine Conservation Society-funded project has proven to be a strong link between regulators and stakeholders and the local community; officers continue to support and engage with this project.
- Southern North Sea Environment Group: officers participate in this group to exchange knowledge and work updates with a range of statutory bodies and NGOs with an interest in the southern North Sea.
- Wash & North Norfolk Marine Partnership: The Authority CEO chairs this group and has been closely involved in supporting changes to strengthen this partnership and develop a longer term vision. No Advisory Groups have met since the COVID-19 restrictions were introduced in March 2020, but online meetings have taken place during November 2020.
- Humber Coastal Conservation Partnership: this group formed in 2020 and is led by the Yorkshire Wildlife Trust. Eastern IFCA’s involvement is limited to the south bank of the Humber, east of Cleethorpes, where there is some interest in trialling seagrass and native oyster restoration. Similar trials in the Spurn Head area (north bank of Humber) have been successful. This work is in keeping with the current drive for restoration of coastal habitats, for biodiversity and wider environmental benefits (e.g. climate change and sea level rise mitigation). There is potential that the restricted area at Horseshoe Point (Closed Areas Byelaw 2020) could be a trial site for seagrass restoration.

### *Eastern IFCA input to consultations on marine developments*

The Eastern IFCA district is subject to multiple marine and coastal activities that are regulated through consents by authorities such as the Marine Management Organisation (MMO), the Planning Inspectorate, Environment Agency, Defra and the Authority itself. The Marine Policy Statement and East Marine Plans provide overarching context. The impact of activities on fishing and marine conservation interests is considered by Authority officers through the consultation process. IFCA's are regarded as primary advisors to the MMO on marine licensing issues.

As well as providing consultation input, officers record feedback on whether and how our comments are reflected in planning or licensing decisions. MMO notifications on licensing decisions show that EIFCA's input regularly forms part of MMO licence conditions.

In the period October to December 2020, the Eastern IFCA Marine Science team received seven consultation requests. This level is considerably lower than in previous years, likely because of COVID-19 delaying progress with external projects. The consultations related to a range of proposed activities or plans in the following fields: aquaculture (1), fisheries sustainability (2), coastal defences (1), river works (1), ports and marinas (1) and policy (1). In addition to these one-off consultations, officers continued involvement in "ongoing" consultations relating to Planning Inspectorate examinations for two offshore wind farms: East Anglia One North and East Anglia Two projects and the Sizewell C nuclear power station. Officers are keeping a watching brief but there are no matters under examination that relate directly to inshore fisheries.

Examples of consultations / engagement are set out below:

- Seaweed farm application, north Norfolk coast: comments made relating to need for early and continued fisheries liaison, potential spatial conflict with existing fisheries, need to ensure decommissioning would be undertaken should the venture fail, conservation aspects, and emphasis that at scale described the project is not likely to be of concern but if significantly expanded in future, problems could arise.
- Fisheries Improvement Plans (FIP): Good Fish Guide methodology guidance: comments made on general approach to create FIPs and answers provided to questions about guidance.

### *Derogations from Eastern IFCA byelaws*

The marine science team processes requests for derogations from Eastern IFCA byelaws. These typically relate to retention of undersized fish or shellfish, and/or operation of vessels within restricted areas for shellfish relaying or for scientific survey purposes. An increasing number of scientific survey requests are coming via the Foreign Commonwealth and Development Office (FCDO). As the majority of EIFCA's district (over 96%) has marine protected area designations, the process

involves liaison with Natural England, with the requirement to consider the likelihood of impacts occurring on protected habitats and species within these areas.

Between 1<sup>st</sup> October and 31<sup>st</sup> December 2020, four derogation requests were received. Following assessment, three required a derogation from Eastern IFCA byelaws.

Reference	Organisation	Details	Decision	NE consulted
2020_11_06_192	Cefas	For retention of undersized fish to support Observer bycatch programme	Granted	Yes
2020_11_06_193	Wageningen Marine Research	Activity outside EIFCA's district	Not required	No
2020_11_06_194	IFREMER (French Research Institute for Exploitation of the Sea)	IBTS - Demersal trawling (for stock assessment relating to sustainable fisheries management), within EIFCA's Byelaw 12 restricted area. Following communications via the FCDO the applicant agreed to remove a planned trawl in an area which the Authority have agreed to close for the protection of <i>Sabellaria</i> reef.	Granted	Yes
2020_11_06_195	EIFCA	Fishermen have recently reported finding lobsters bearing discoloured eggs. It is thought these discolorations could be the result of a pathogen. In order to identify what is causing the discolouration, CEFAS require a live berried lobster bearing discoloured eggs to examine. One fisherman has been granted a derogation from EIFCA byelaw 6 to provide the sample.	Granted	Yes

**Publicity**

Officers continue to publish work of the Marine Science team via the Authority's website and increasingly through social media. Followers of EIFCA continue to grow and officers endeavour to keep material fresh to encourage people regularly check for updates.

**Financial Implications**

This report is a summary of ongoing activities so has no financial implications.

**Legal Implications**

This report summarises ongoing work activities and does not have any legal implications. These would be highlighted in specific papers brought before the Authority if required.