

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



43rd Eastern IFCA Meeting

A meeting of the Eastern IFCA took place on Wednesday 10th March 2021 at 1030 hours via Microsoft Teams 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 Chenery of Horsbrugh		Norfolk County Council
Cllr D Collis		Norfolk 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
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

Minute Taker:

Jodi Hammond

EIFCA21/01 Item 1: Welcome

Cllr Skinner opened the meeting at 1030 hours. He advised members that according to the planned meeting dates this would be the last meeting for three MMO Appointees. Messrs Brewster, Spray and Worrall were all presented with an engraved brass

compass to commemorate the time they had spent on the Authority.

EIFCA21/02 Item 2: Apologies for Absence

Apologies for Absence were received from Cllr Coupland (LCC) and Dr I Hirst (EA Representative)
Mr Warner had advised he would join the meeting slightly late.

Prior to the meeting Agenda being addressed Cllr Stevens, who was attending as a member of the public, asked to be given an opportunity to speak on behalf of the Boston fishing industry. Members were advised the industry had expressed concern about replacing the WFO 1992 with a byelaw. Cllr Stevens asked questions on why the byelaw decision had been taken, and advised the industry were not in agreement with the decision. It was asked if a meeting could be convened with the fishing industry, Defra, MPs and EIFCA to attempt to reach a consensus of opinion, the Chair felt the process was not at this stage yet and it was important to follow due process. The CEO advised there had been two informal consultations since December, the responses to which would inform the way forward and allay some of the fears. He was however happy, in principle, to have a meeting.

EIFCA21/03 Item 3: Declarations of Members Interest

Messrs Garnett, Bagley, Williamson and Brewster all declared an interest in items 8, 10 and 11 on the agenda. Mr Davies declared an interest in item 8.

The Senior IFCO Regulation advised members of the need for DPIs under the Localism Act and the need for members to update the Authority of any changes. In line with this it was noted that Mr Williamson had requested to add two species to those listed, crab and lobster, for these species he would be granted a dispensation to speak but not vote. Both Messrs Garnett and Williamson had advised of changes of vessel, these would not change their DPI status.

Members agreed to Note the revised list of Disclosable pecuniary Interests for MMO Appointees and the Assessment of DPI conflicts with Authority Business.

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 have a DPI for the period of four years or until their term of service is expired (whichever is the first).

Proposed: Mr Worrall

Seconded: Cllr Chenery of Horsbrugh

All Agreed

EIFCA21/04 Item 4: Minutes of the 42nd EIFCA Meeting, held on 9th December 2020

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

Proposed: Cllr Goldson

Seconded: Mr Worrall

All Agreed

EIFCA21/05 Item 5: Matters Arising

EIFCA20/43 WHELK PERMIT CONDITIONS REVIEW: The CEO advised the consultation had closed, responses would be reviewed and a report made to the Authority.

EIFCA20/44 CRAB & LOBSTER FISHERIES IMPROVEMENT PLAN: The CEO advised that whilst the Fisheries Improvement Plan was ongoing there were indications that only a small number would be approved.

EIFCA 20/45 CROMER SHOAL CHALK BEDS MCZ: In line with achieving an Adaptive Risk Management approach it was noted that a collective steering group had been established with EIFCA, Natural England and Industry Representatives.

EIFCA21/06 Item 6: Health & Safety Update

The Head of Operations advised the Authority continued to operate in a safe manner, although Covid remained an issue. Officers were taking Lateral Flow Tests prior to spending time at sea together, these were currently being carried out at local testing centres but would hopefully be carried out in house.

Members Agreed to note the content of the report.

EIFCA21/07 Item 7: Report of the Finance & HR Meeting held on 2nd February 2021

Members were advised this paper was a matter for noting, it summarised the actions of the previous meeting.

Members Agreed to note the content of the report.

EIFCA21/08 Item 8: Review of EIFCA Constitution and Standing Orders

The CEO advised this was the annual review of Standing Orders. There was some confusion of the date of the previous review as a result of a typing error. A substantial review had been undertaken in 2019, which included changes to the scheme of delegations and

the discontinuation of three sub-committees. The annual review in 2020 had not been fully completed due, in part at least, to the Covid pandemic. Consequently this year they were given a full review with advice taken from NpLaw.

Mr Davies questioned why the review did not take place after the review of the WFO Item as the proposed changes to the Constitution and Standing Orders would preclude members with a DPI from making a proposal. Members were advised that making a proposal at a meeting on a matter for which the member had a DPI may not be in accordance with the Nolan principles of public life and members Terms and Conditions of Appointment. The amendment was intended to avoid members making an error and potentially putting themselves in jeopardy and bringing the Authority into disrepute.

The CEO advised the changes fell into three categories, the first related to DPIs, the second management of the cockle fishery, and the third was largely administrative changes to the Financial Regulations.

Members spent time discussing the proposed changes and whether or not the changes to DPIs meant the role of MMO Appointees would become worthless. Mr Williamson advised that he was distinctly unhappy with the proposals. Despite assurances that the changes did not stop MMO Appointees from providing opinion on matters affected by their DPIs, agreement could not be reached to agree to the changes.

Referring to the changes related to the management of the cockle fishery there was concern about decisions being made solely by the CEO, Chair and Vice Chair rather than decisions being made by the Authority. Although this process had effectively been operating in recent years there was concern that a change in CEO could mean wrong decisions being made due to lack of experience.

Having exhausted the discussion Dr Bolt proposed the recommendations as set out in the paper, this was seconded by Cllr Collis. As discussion had been so passionate it was agreed to have a recorded vote, the result was as follows:

Votes in Favour	Votes Against
Cllr Chenery of Horsbrugh	Mr Davies
Cllr FitzPatrick	Mr Shaul
Mr Rowley	Cll Vigo Di Gallidoro
Mr Spray	Mr Warner
Dr Bolt	Mr Garnett
Mr Worrall	Mr Brewster
Ms Davey	Mr Bagley

Cllr Collis	Mr Williamson
	Cllr Goldson
	Cllr Skinner

Ms Roberts Abstained.

As the proposal was not carried members were asked to vote for an alternative motion.

Members were asked if they would like to vote for a revised recommendation to remove all recommended changes which did not relate to Financial Regulations listed on pages 41-44 and to agree to the proposed changes to Financial Regulations
Proposed: Chair
Seconded: Mr Williamson
All Agreed.

Discussion highlighted there was no agreement for the proposed amendments to DPIs or management of the Wash Fishery Order. It was questioned why MMO Appointees could not vote, and Councillors could. It was explained that a DPI meant there was potentially a chance of personal benefit, which Councillors would not have, and all their decisions would be made in the best interest of EIFCA.

Following discussion the CEO advised members if the amendment to the cockle fishery management was not made it would mean that he did not have delegated authority to open the 2021 fishery before the next Authority meeting in June.

Members Resolved to remove all recommended changes which did not relate to Financial Regulations listed on pages 41-44. It was Resolved to Agree to the proposed changes to Financial Regulations.
Proposed: Chair
Seconded: Cllr Goldson
All those able to vote Agreed

EIFCA21/09 Item 9: 2020-21 Strategic Assessment and 2021-26 Business Plan

The CEO reminded members the Authority operated a 5 year rolling Business Plan with an Annual refresh.

Having been circulated the Plans in advance of the meeting Members Resolved to:

- **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**

Proposed: Chair

Seconded: Mr Shaul

All Agreed

At this point (1232 hours) the meeting broke until 1300 hours to allow a comfort break.

EIFCA21/10 Item 10: Wash Fishery Order Replacement

The CEO reminded members of their DPIs and formally recorded that members had been lobbied for the next two items on the Agenda.

Part of the lobbying included a document circulated to members the key points of which had been picked out and a response prepared for Members.

Senior IFCO Regulation provided a presentation relating to the document providing advice on the pertinent points. Members were advised MaCAA specifically allowed byelaws to be used to enable IFCA's to manage inshore fisheries. It was also noted that unlike the industry belief that a byelaw had no longevity a byelaw does not in fact expire and whilst they do have to be reviewed every 6 years, they can remain in place for any number of years. Byelaws were also considered to be the modern way to manage fisheries as they can easily be amended or revised rather than the long winded process to review an Order.

The opportunity was taken to explain to members the meaning of a hybrid Order which had been referred to. This was in fact the title given to an order which combined a Regulating and Several Order in the same area, both orders were still separate mechanisms.

Referring to replacing an Order with a Byelaw, Officers had found a byelaw could replicate an Order which had been confirmed by legal advice.

Original advice from Defra was that Orders were not being extended but this advice had subsequently been revised. However, because an extension would require review and consultation it would be effectively the same as making a new Order. It was noted that a key element of the WFO 1992 is the 'Entitlement provision and that more recently implemented Orders did not have such a provision.

The concern expressed by industry about legal advice being sought, as an alternative to consulting them, about the necessity to consult on whether or not to use a Byelaw or Order to manage the Wash fisheries was addressed,. It was clarified that this advice had been

sought subsequent to the decision being made. It had been sought following challenges from industry, to check whether the view that the legal mechanism used was a matter for the Authority was correct. The advice had confirmed this.

The CEO also provided a presentation providing an overview of the process in place to replace the WFO 1992. This involved a dual approach, with a byelaw being progressed alongside work to develop new policies for access to the fisheries and an economic assessment to better understand the viability of the fisheries.

Members were being asked to 'make' the byelaw in the next agenda item but it was important to understand that this was in fact the start of the process and would inevitably involve changes being made following formal consultation before the final version of the byelaw was ready to be signed off.

Members were advised that informal consultation had already taken place with regard to the Aim and Objectives to guide the development of new policies. It was clear that there the majority would prefer a new regulating order as opposed to a byelaw, with two key concerns being about maintaining limited access to the fisheries and providing business continuity under a permit scheme. It was hoped these concerns would be addressed by two of the recommendations in the paper and the development of policies that were timetabled to run in tandem with the byelaw process, which could take up to two years to get in place.

Members were advised the next steps in the process were to:

- Finalise the Aim and Objectives
- Develop draft policies
- Formal Consultation for the Byelaw
- Economic Assessment – which will inform the decision making process.

All of which would need to be completed whatever the mechanism to be put in place.

Following the presentation Mr Brewster expressed opinions of how the industry felt about the process to replace the WFO 1992, and their frustration at not having been consulted about the decision to take the route of a Byelaw rather than a replacement Order. He felt this was contrary to the EIFCA policy to communicate with stakeholders. Mr Brewster expressed concern about limiting those who can fish, and also about the ability to give as many permits in a year as the surveys may suggest there were stocks for, rather than fishers knowing they would be able to take out a licence in any year if they had an Entitlement to do so. Mr Brewster advised feeling amongst the industry was so great that over 100 letters had been sent in, others hadn't felt able to write for fear of repercussions.

At this point Tania Davey left the meeting

Mr Brewster spoke passionately about the almost 30 year run under the WFO and how working with the Industry, EIFCA and NE things were going well under the Order, he expressed concern that this would be different under a byelaw which would be subject to review every 6 years and with permit numbers eligible to be changed on an annual basis. Members were advised the industry had asked several times for a meeting with the CEO to discuss the concerns but instead the CEO took legal advice and didn't consult the industry.

Mr Worrall understood the industry had concerns but also pointed out it was not possible to continue with the existing Order as it was, even under a new Order changes would take place and the current entitlement process may not form part of a new Order. It was important the new mechanism was robust enough to provide for the industry, the fishery and the environment in the future. He felt post Covid one of the main priorities for EIFCA should be ensuring face to face discussions take place with stakeholders so they could be reassured their views were being listened to.

There was heartfelt discussion and debate regarding the current WFO, transfer of entitlements, the possibility of too many fishers taking part in the fishery during good stock years, lack of fishing opportunity due to reduced permits in lean years and the possibility of compromising by having a new Order with new attachments in it. Mr Spray felt it was time the industry accepted the Authority had an obligation to advance and they would be better placed ensuring new legislation met the needs of the industry rather than debating the name of the legislation.

Mr Williamson supported the views of the Wash fishermen but was saddened that the Chair had stated the decision had already been made in March 2020 to go down the route of a byelaw and there was no chance of an amicable restart to the process. At this point Mr Williamson announced he was resigning from the Authority as he had failed to get his point across, he believed he had failed to represent the industry.

At this point Mr Williamson left the meeting

Mr Davies felt this was a sad event and there was a need to look at the proposals differently, there needed to be compromise on both sides. He felt discussions were going round in circles and it may be best to end the meeting and convene a special meeting at a later date.

Dr Bolt agreed there was no progress being made but whilst he accepted the industry had put forward reasonable and understandable concerns, he could see no evidence they were

listening to the responses they were being given. Dr Bolt failed to understand why the industry wanted to hang on to outdated legislation rather than moving to modern flexible management.

The main issue for Mr Brewster remained the lack of consultation with industry prior to taking legal advice. He felt if the industry had been approached first there wouldn't be the problems being faced at this point. This was countered by the CEO who had received many letters about the matter, which members were advised of prior to any decision being made by the Authority.

At this point Mr Warner left the meeting.

Cllr Goldson, felt the situation had deteriorated to a point where the Councillors had lost trust and credibility and EIFCA were also losing credibility with the Industry. He felt there was a need to regroup and make sure the industry could see the vision the Officers had to allay the fears they had for the sustainability of their business plans, they needed to see it in writing, he felt it was necessary to jump forward a stage and then comeback. The Chair advised this was not possible as there was a legal process to follow.

The CEO advised that if the decision was made to reconvene to discuss this matter it would stall the process, particularly taking local elections and purdah into account, which would impact on the timescale for getting the byelaw in place before the WFO1992 expired. He remained confident that in time the industry's fears would be allayed and the process would be back on track but that due process needed to be followed. It was not possible to give guarantees in advance of research and consultation because to do so would effectively invalidate consultation. The CEO advised that if progress was wanted on policy making that was what this paper was aimed at and it contained various reassurances to industry that their concerns were being taken seriously. However, if a decision was not made at this meeting it was likely no decision would be made until the Authority meeting in June after the County Council elections, which alongside changes in MMO appointed members, could potentially may mean significant changes in overall Authority membership. The CEO had grave concerns about delaying the decision of this item as it may mean a replacement would not be ready in time.

At the point of voting Mr Bagley requested it be minuted that Wash fishermen were not able to vote even though it was a policy for two years hence. He asked members to remember people had their houses on the line based on the old model and a new model could jeopardise that.

A recorded vote was requested.

Members Resolved to:

- **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 would 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 would be issued annually to those that meet the eligibility criteria, would be priorities when developing policies under the proposed Wash Cockle and Mussel Byelaw 2021.**

Proposed: Ms Roberts

Seconded: Dr Bolt

Result of the recorded vote was:

Votes in Favour	Votes Against
Cllr Chenery of Horsbrugh	Mr Davies
Cllr Skinner	
Cllr FitzPatrick	
Mr Rowley	
Mr Spray	
Dr Bolt	
Mr Worrall	
Cllr Collis	
Mr Shaul	
Cll Vigo Di Gallidoro	
Ms Roberts	
Cllr Goldson	

At the point Dr Bolt left the meeting

EIFCA21/11 Item 11: Wash Cockle and Mussel byelaw 2021

Cllr Goldson queried if it was possible to delay this item for a couple of weeks to attempt to build some bridges with the industry and allow them to put forward 3 or 4 suggestions of what they would like to see in the new legislation. The CEO felt a meeting of the industry and authority would be a huge meeting that would achieve little. Cllr Goldson suggested representatives from the industry come back with 3 or 4 crucial matters that the industry wanted addressed, which could be discussed and considered for inclusion in the byelaw. He felt it was important to rebuild credibility.

Mr Shaul felt this was covered in 'Next Steps' which was part of the next process for the previous item. Cllr Goldson still felt the decision to make the byelaw should be held back until some of the next steps had been completed.

Mr Worrall believed the previous item had deferred making the byelaw until some of the consultation of the policies had been started. He noted this would delay making the byelaw until June, what would happen if the new byelaw wasn't ready at the expiry of the order. Mr Brewster believed an Emergency Byelaw would be put in place. The CEO felt an Emergency Byelaw may not be appropriate as they are for unforeseen circumstances and by delaying it then it would be a foreseen circumstance, legal advice would be needed. Senior IFCO Regulation advised that by 'making the byelaw' at this meeting it did not make the process final, the next step would be consultation during which the byelaw could and most likely would be changed. Mr Garnett felt very wary of an Order but rather than delay a decision the byelaw process should begin with the understanding that if down the line an Order was considered the better option then there should be an agreement that a change would be made to an Order. Mr Garnett was aware there was only

about two years to get everything in place which for getting this legislation in place was not long, and left him with concerns if there was nothing in place, particularly as it could mean the fishery being open to hundreds of fishers from outside the area all getting a track record for fishing.

The CEO responded to the comments and concerns, he was not in a position to give a definitive opinion on whether or not an Emergency Byelaw would be an option. On the matter of making the byelaw today it would not commit to the content. In answer to a specific question he said that he thought that the byelaw process could be stopped if it were decided to apply for a new Order.

Mr Brewster said getting a meeting of representatives could be arranged. He also advised that the industry was prepared to go to court as so much hung in the balance, the confidence in the industry had been lost, and if the Authority were not prepared to listen then they would go to court.

At this point Roy Brewster acknowledged he didn't have long left as a member, but he was resigning from the Authority.

The CEO, acting as Clerk read a paragraph from the Constitution and Standing Orders relating to Authority members with DPs and how they should only provide specialist knowledge and not represent themselves or matters for a particular sector.

Cllr FitzPatrick expressed his appreciation for the common sense approach by Mr Garnett, and also his belief that the proposed delay would not be helpful. He suggested accepting the proposal put forward with the inclusion of three words at the end 'for a decision' so that members make the decisions. He hoped for goodwill on both sides and for the accusations to stop as they are not helpful.

Further discussion continued with regard to whether or not to move forward with the paper or put it on hold. Cllr Goldson had proposed putting it on hold but chose to withdraw that proposal for the presentation to take place.

Senior IFCO Regulation ran through the key points of the presentative before asking members for their comments.

Questions were asked about what was considered a severe offence which would result in the loss of a permit, specific examples could not be given but it was emphasised there would be a proportional approach to enforcement, with the aim being to get the industry compliant. Questions were also raised about retention of a permit in times when a fisher is unable to take out a licence in any period due to illness, buying a new vessel etc. Senior IFCO Regulation

advised the eligibility criteria would take into account such scenarios.

Members Resolved to:

- **Note the contents of the report, including the justification for making the byelaw, the identified impacts on stakeholders and the feedback received from such stakeholder.**
- **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 for a decision.**

Proposed: Mr Spray
Seconded; Cllr FitzPatrick

Results of a recorded vote were:

Votes in Favour	Votes Against
Cllr Chenery of Horsbrugh	
Cllr Skinner	
Cllr FitzPatrick	
Mr Rowley	
Mr Spray	
Mr Worrall	
Mr Davies	
Mr Shaul	
Cll Vigo Di Gallidoro	
Ms Roberts	
Cllr Goldson	

Cllr Collis was unavailable to vote

At this point Mr Rowley left the meeting

EIFCA21/12 Item 12: Review of Annual Priorities and Risk Register

The CEO advised progress was being made in line with the Annual Plan.

Referring to the Risk Register it was noted that there had still been no confirmation of New Burden Funding for the next financial year.

Members Agreed to note the report

EIFCA21/13 item 13: CEO Update

Association of IFCA Minutes were included for information.

Members Agreed to note the content of the report.

EIFCA21/14 Item 14 – Head of Operations Update

Members Agreed to note the report

EIFCA21/15 Item 15 – Any Other Business

There were no items of business to discuss but in light of members reaching the end of their maximum service and as County Council elections would be taking place before the next Authority Meeting the CEO took the opportunity to express his appreciation for the support of members and their valued support.

There being no other business the meeting closed at 1621 hours.